

the Regulatory Flexibility Act (RFA) (September 19, 1980; Pub. L. 96-354), the Unfunded Mandated Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132 (August 1999, Federalism).

Executive Order 12866 (the Order), as amended by Executive Order 13258, directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize the benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in 1 year). We have determined that the final rule is consistent with the principles set forth in the Order, and we find that the final rule would not have an effect on the economy that exceeds \$100 million in any one year. In addition, this rule is not a major rule as defined at 5 U.S.C. 804(2). In accordance with the provisions of the Order, the rule was reviewed by the Office of Management and Budget.

It is hereby certified under the RFA that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule applies only to individuals with past-due debts owed to the United States.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure of in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million. As noted above, we find that the final rule would not have an effect of this magnitude on the economy.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed the final rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this final rule would not have substantial direct impact on States, or on the distribution of power and responsibilities among the various levels of government. As there are no Federalism implications, a Federalism impact statement is not required.

For purposes of the Paperwork Reduction Act, 44 U.S.C. chapter 35, this final rule will impose no new

reporting or record-keeping requirements on any member of the public.

#### List of Subjects in 45 CFR Part 31

Administrative practice and procedure, Taxes, Claims, and Debts.

■ For the reasons set forth in the preamble, HHS amends 45 CFR Subtitle A as follows: Revise part 31 to read as follows:

#### PART 31—TAX REFUND OFFSET

Sec.

31.1 Purpose and scope.

31.2 Definitions.

31.3 General rule.

31.4 Certification and referral of debt.

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31.6 Review of Departmental records.

31.7 Review of a determination that a debt is past-due and legally enforceable.

**Authority:** 31 U.S.C. 3720A, 31 CFR 285.2, E.O. 12866, E.O. 13258.

##### § 31.1 Purpose and scope.

(a) *Purpose.* This part prescribes the Department's standards and procedures for submitting past-due, legally enforceable debts to the Department of the Treasury for collection by tax refund offset.

(b) *Authority.* These standards and procedures are authorized under the tax refund offset provision of the Deficit Reduction Act of 1984, as amended by the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720A, and the implementing regulations issued by the Department of the Treasury at 31 CFR 285.2.

(c) *Scope.* (1) This part applies to all Departmental Operating Divisions and Regional Offices that administer a program that gives rise to a past-due non-tax debt owed to the United States, and to all officers or employees of the Department authorized to collect such debt. This part does not apply to any debt or claim owed to the Department of Health and Human Services by another Federal agency.

(2) Nothing in this part precludes the Department from pursuing other debt collection procedures, including administrative wage garnishment under part 32 of this title, to collect a debt that has been submitted to the Department of the Treasury under this part. The Department may use such debt collection procedures separately or in conjunction with the offset collection procedures of this part.

##### § 31.2 Definitions.

In this part, unless the context otherwise requires:

*Administrative offset* means withholding funds payable by the

United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

*Day* means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal legal holiday, in which case the next business day will be considered the last day of the period.

*Debt* or *claim* means an amount of money, funds, or other property determined by an appropriate official to be owed to the United States from any individual, entity, organization, association, partnership, corporation, or State or local government or subdivision, except another Federal agency.

*Debtor* means an individual, organization, association, partnership, corporation, or State or local government or subdivision indebted to the Government, or the person or entity with legal responsibility for assuming the debtor's obligation.

*Department* means the Department of Health and Human Services, and each of its Operating Divisions and regional offices.

*Evidence of service* means information retained by the Department indicating the nature of the document to which it pertains, the date of mailing of the document, and the address and name of the debtor to whom it is being sent. A copy of the dated and signed written notice of intent to offset provided to the debtor pursuant to this part may be considered evidence of service for purposes of this regulation. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

*FMS* means the Financial Management Service, a bureau within the Department of the Treasury.

*IRS* means the Internal Revenue Service, a bureau of the Department of the Treasury.

*Legally enforceable* means that there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action.

*Operating division* means each separate component, within the Department of Health and Human Services, including, but not limited to, the Administration for Children and Families, Administration on Aging, the Centers for Disease Control and Prevention, the Centers for Medicare & Medicaid Services, the Food and Drug Administration, the National Institutes of Health, and the Office of the Secretary.