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## **DEPARTMENT OF THE TREASURY**

### **Fiscal Service**

### **31 CFR Part 285**

### **RIN 1530-AA12**

### **Debt Collection Authorities Under the Debt Collection Improvement Act of 1996**

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury, Bureau of the Fiscal Service, is amending its regulations concerning the offset of Federal benefit payments to collect past-due, legally enforceable nontax debt, centralized offset of Federal payments to collect nontax debts owed to the United States, salary offset, and transfer of debts to Treasury for collection. The amendment adjusts the time period in which Federal agencies must notify the Secretary of the Treasury of past due, nontax debt for the purposes of administrative offset. A statutory change, enacted as part of the Digital Accountability and Transparency Act of 2014, shortened the period of delinquency within which Federal agencies are required to notify the Secretary of past due, nontax debt from 180 days to 120 days.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Bureau of the Fiscal Service, 401 14<sup>th</sup> Street, SW, Washington, D.C., 20227

## **SUPPLEMENTARY INFORMATION:**

### I. Background

Section 5 of the Digital Accountability and Transparency Act of 2014, Public Law 113-101, amended a provision of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3716(c)(6), to change the time by which Federal agencies must notify the Secretary of the Treasury of past due, nontax debts for the purposes of administrative offset. The amendment changes the notice requirement from 180 days delinquent to 120 days delinquent.

The changes to this rule conform to the statutory language by removing references to 180 days in the sections relating to: offset of Federal benefit payments to collect past-due, legally enforceable nontax debt; centralized offset of Federal payments to collect nontax debts owed to the United States; salary offset; and the transfer of debts to Treasury for collection. In each instance, “180 days” is replaced with “120 days.” In addition, the rule makes revisions to address agencies that transfer debts to Fiscal Service for debt collection services and on behalf of which Fiscal Service submits debt for administrative offset. Federal agencies that are owed debt must transfer any debt that is more than 180 days delinquent to Fiscal Service for debt collection services. Administrative offset is one of the collection tools used by Fiscal Service to collect debt. Therefore, agencies transferring debts to Fiscal Service for debt collection are able to satisfy the notification requirement for administrative offset and the requirement to transfer delinquent debts with a single referral. Because the notice requirement for administrative offset is now 120 days and not 180 days, agencies relying on Fiscal Service to submit debts for administrative offset on their behalf must transfer the debts no later than 120 days after they become delinquent in order to meet the notification requirement for administrative offset.

Agencies that do not rely on Fiscal Service to submit their debts for administrative offset must still transfer their debts no later than 180 days after they become delinquent.

## II. Procedural Analyses

### Administrative Procedures Act

This rule is being issued without prior public notice and comment because the changes to the rule are being made to conform to statutory requirements. Under 5 U.S.C. 553(b) and (d)(3), good cause exists to determine that notice and comment rulemaking is unnecessary and contrary to the public interest. The amendments made by this rule merely mirror amendments already enacted into law. Further delay in making these amendments would create an inconsistency between the law and the regulations and would cause confusion.

### Regulatory Planning and Review

The final rule does not meet the criteria for a “significant regulatory action” as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

### Regulatory Flexibility Act Analysis

Because no notice of rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. et seq.) do not apply.

## **List of Subjects in 31 CFR Part 285**

Administrative practice and procedure, Child support, Child welfare, Claims, Credits, Debts, Disability benefits, Federal employees, Garnishment of wages, Hearing and appeal procedures, Loan programs, Privacy, Railroad retirement, Railroad unemployment insurance, Salaries, Social Security benefits, Supplemental Security Income (SSI), Taxes, Veterans' benefits, Wages.

For the reasons set forth in the preamble, we are amending 31 CFR Part 285 as follows:

**PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996**

1. The authority citation for part 285 continues to read as follows:

**Authority:** 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3719, 3720A, 3720B, 3720D; 42 U.S.C. 664; E.O. 13019, 61 FR 51763, 3 CFR, 1996 Comp., p. 216.

**§ 285.4 [Amended]**

2. In § 285.4, in paragraph (d), remove “180” and add in its place “120” each place it appears.

**§ 285.5 [Amended]**

3. In § 285.5, in paragraphs (d)(1) and (2) and two occurrences in paragraph (d)(3)(iv), remove “180” and add in its place “120”.

**§ 285.7 [Amended]**

4. In § 285.7, in paragraph (d)(1), remove “180” and add in its place “120”.

5. In § 285.12, revise paragraphs (c)(1), (c)(3)(i), and (g) to read as follows:

**§ 285.12 Governing transfer of debts to Treasury for collection.**

\* \* \* \* \*

(c)\* \* \*

(1) Except as set forth in paragraph (d) of this section, a creditor agency shall transfer any debt that is more than 180 days delinquent to Fiscal Service for debt collection services. Agencies that transfer delinquent debts to Fiscal Service for the purposes of debt collection and that rely on Fiscal Service to submit the transferred debts for administrative offset on the agency's behalf must transfer the debts to Fiscal Service no later than 120 days after the debts become delinquent in order to satisfy the 120-day notice requirement for purposes of administrative offset. For accounting and reporting purposes, the debt remains on the books and records of the agency which transferred the debt.

\* \* \* \* \*

(3)(i) A debt is considered delinquent for purposes of this section if it is past due and is legally enforceable. A debt is past-due if it has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. A debt is legally enforceable if 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. Where, for example, a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited, the debt is not considered legally enforceable for purposes of mandatory transfer to Fiscal Service and is not to be transferred even if the debt is more than 180 days past-due.

\* \* \* \* \*

(g) *Administrative offset.* As described in paragraph (c) of this section, under the DCIA, agencies are required to transfer all debts over 180 days delinquent to Fiscal Service for purposes of debt collection (i.e., cross-servicing). Agencies are also required, under the DCIA, to notify the

Secretary of all debts over 120 days delinquent for purposes of administrative offset.

Administrative offset is one type of collection tool used by Fiscal Service and Treasury-designated debt collection centers to collect debts transferred under this section. Thus, by transferring debt to Fiscal Service or to a Treasury-designated debt collection center under this section, Federal agencies will satisfy the requirement to notify the Secretary of debts for purposes of administrative offset and duplicate referrals are not required. Agencies relying on Fiscal Service to submit debts for administrative offset on the agency's behalf must transfer the debts to Fiscal Service no later than 120 days after the debts become delinquent in order to satisfy the 120-day notice requirement for purposes of administrative offset. A debt which is not transferred to Fiscal Service for purposes of debt collection, however, such as a debt which falls within one of the exempt categories listed in paragraph (d) of this section, nevertheless may be subject to the DCIA requirement of notification to the Secretary for purposes of administrative offset.

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David A. Lebryk

Fiscal Assistant Secretary

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