



39 CFR Part 956

Administrative Wage Garnishment

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document contains the final rule for proceedings in which the Judicial Officer Department conducts fact-finding relative to administrative wage garnishment initiated by the Department of the Treasury.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Postal Service Judicial Officer Department, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078.

FOR FURTHER INFORMATION CONTACT: Staff Counsel Sheena Allen at (240) 636-4158.

SUPPLEMENTARY INFORMATION:

Background

39 CFR 492 authorizes the U.S. Department of the Treasury Bureau of the Fiscal Service or its successor entity to collect debts by administrative wage garnishment, and conduct administrative wage garnishment hearings, on behalf of the Postal Service in accordance with the requirements of 31 U.S.C. 3720D and the procedures contained in 31 CFR 285.11. In conformity with the current interagency agreement (IAA FY 22) between the Postal Service and the U.S. Department of the Treasury Bureau of the Fiscal Service, the Judicial Officer Department is responsible for conducting non-hardship hearings regarding the existence or amount of delinquent non-tax debts collected by administrative wage garnishment. Under 31 CFR 285.11(f), “agencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by

reference.” Thus, the Judicial Officer Department created these rules to reflect the current practice for cases involving non-hardship administrative wage garnishment hearing requests.

List of Subjects in 39 CFR Part 956

Administrative practice and procedure, Claims, Postal Service.

Accordingly, for the reasons stated, the Postal Service adds 39 CFR part 956 to read as follows:

PART 956—ADMINISTRATIVE WAGE GARNISHMENT

Sec.

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956.12 (Rule 12) Consequences for failure to comply with this part.

956.13 (Rule 13) Ex parte communications.

Authority: 31 U.S.C. 3720D; 39 U.S.C. 204, 401, 2601; 31 CFR 285.11.

§ 956.1 (Rule 1) Authority for this part.

This part is issued by the Judicial Officer under authority delegated by the Postmaster General.

§ 956.2 (Rule 2) Scope of this part.

(a) This part applies to a debtor's petition for hearing provided by 31 U.S.C. 3720D, 31 CFR 285.11, and in accordance with the regulations contained in the Employee and Labor Relations Manual, sections 470 and 480.

(b) Under this part, a debtor may challenge:

(1) The existence of a delinquent nontax debt owed to the Postal Service; or

(2) The amount of a delinquent nontax debt owed to the Postal Service.

(c) This part also applies to a hearing under 31 U.S.C. 3720D and 31 CFR 285.11 when a Hearing Official in the Judicial Officer Department is designated as the Hearing Official for a creditor Federal agency other than the Postal Service under an agreement between the Postal Service and that agency. In those cases, all references to Postal Service in this part will be construed to refer to the relevant creditor Federal agency.

§ 956.3 (Rule 3) Definitions.

As used in this part:

(a) *Agency* refers to the agency that administers the program that gave rise to the debt or the agency that pursues recovery of the debt.

(b) *Debt* or *claim* refers to any money, funds, or property that has been determined by an appropriate official of an agency to be owed to the United States by an individual, including a debt administered by a third party as an agent for the Federal Government.

(c) *Debtor* refers to an individual who owes a delinquent nontax debt to the Postal Service.

(d) *Delinquent nontax debt* means any nontax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made.

(e) *Garnishment* refers to the process of withholding amounts from an employee's disposable pay and the payment of those amounts to a creditor in satisfaction of a withholding order.

(f) *General Counsel* refers to the General Counsel of the United States Postal Service and includes a designated representative.

(g) *Hearing Official* refers to any individual qualified to hear cases, as determined by the Judicial Officer, including an administrative law judge appointed under the Administrative Procedure Act, an administrative judge appointed under the Contract Disputes Act, or other qualified person who is designated by the Judicial Officer to conduct the hearing under 31 CFR 285.11.

(h) *Judicial Officer* refers to the Judicial Officer, Associate Judicial Officer, or Acting Judicial Officer of the United States Postal Service.

(i) *Notice of Intent to Initiate Administrative Wage Garnishment Proceedings* refers to the formal written notice required by 31 U.S.C. 3720D and 31 CFR 285.11 before administrative wage garnishment deductions can be taken from a debtor's salary.

(j) *Recorder* refers to the Recorder, Judicial Officer Department, U.S. Postal Service, located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078. The Recorder's telephone number is (703) 812-1900, the fax number is (703) 812-1901, and the Judicial Officer Department's website is <https://about.usps.com/who/judicial/>.

(k) *Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body.

§ 956.4 (Rule 4) Petition for a hearing.

A debtor may petition for a non-hardship hearing to challenge the existence or the amount of a delinquent nontax debt owed to the Postal Service, in accordance with 31 U.S.C. 3720D and 31 CFR 285.11(b). After receiving the debtor's petition for hearing, the agency will promptly transmit the written request and any documents received from the debtor to the Postal Service for further processing and decision by the Judicial Officer Department.

§ 956.5 (Rule 5) Scope of hearing; evidentiary standard.

(a) A hearing under this part will be conducted by the Hearing Official to determine:

(1) The existence of the debt; and

(2) The amount of the debt.

(b) The Postal Service must prove its case against a debtor by a preponderance of the evidence.

§ 956.6 (Rule 6) Notice of Docketing.

(a) Within a reasonable time after receiving the debtor's petition for hearing from the agency, the Recorder will issue a Notice of Docketing to the debtor and the General Counsel. The Recorder will maintain a record of Administrative Wage Garnishment proceedings and will assign a docket number to each case.

(b) The debtor and the Postal Service's representative should refer to the docket number on any further filings.

§ 956.7 (Rule 7) Filing and serving documents; computation of time; representation of parties.

(a) *Filing.* All pleadings and documents required under this part must be filed using the Judicial Officer Department's electronic filing system, unless the Hearing Official permits otherwise. The Judicial Officer Department's electronic filing system website is accessible 24 hours a day at <https://usps-judicialoffice.journaltech.com>.

(1) Documents submitted using the electronic filing system are considered filed as of the date and time (Eastern Time) reflected in the system.

(2) Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark.

(3) Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are 8:30 a.m. to 4:30 p.m. (Eastern Time), Monday through Friday, except Federal holidays.

(b) *Service.* If both parties use the electronic filing system, separate service on the opposing party is not required. Otherwise, documents must be served personally or by mail on

the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

(c) *Time computation.* A filing period under this part excludes the day the period begins and includes the last day of the period, unless the last day is a Saturday, Sunday, or Federal holiday, in which case the period runs until the close of business on the next business day.

(1) Requests for time extensions must be made in writing before the submission is due, state the reason for the extension request, represent that the moving party has contacted the opposing party about the request, or made reasonable efforts to do so, and indicate whether the opposing party consents to the extension.

(2) Requests for time extensions submitted after the date on which the submission was due must explain why the moving party could not request an extension before the deadline.

(d) *Representation of parties.* The Postal Service's representative, as designated by the General Counsel, must file a notice of appearance as soon as practicable, but no later than the date the answer is due. If a debtor has a representative, they must also file a notice of appearance as soon as practicable, and further transmissions of documents and other communications by and with the debtor must be made through their representative.

§ 956.8 (Rule 8) Answer to petition.

Within 15 days from the date of receiving the Notice of Docketing, the Postal Service's representative must file an answer to the petition and attach all available relevant records and documents in support of the Postal Service's debt claim. The answer must provide a clear and thorough description of the basis for the Postal Service's determination of the alleged debt and its calculation of the alleged debt amount.

§ 956.9 (Rule 9) Hearing Official authority and responsibilities.

The Hearing Official's authority includes, but is not limited to, the following:

- (a) Ruling on all motions or requests by the parties.
- (b) Issuing notices, orders, or memoranda to the parties about the hearing proceedings.

(c) Conducting telephone conferences with the parties to expedite the proceedings. The Hearing Official will issue a Memorandum of Telephone Conference, which will serve as the official record of that conference.

(d) Determining whether a case will be decided after an oral hearing or on the written record. If an oral hearing is held, the Hearing Official will set the place, date, and time of the hearing.

(e) Administering oaths or affirmations to witnesses.

(f) Conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable, and probative evidence is elicited on the issues in dispute, but irrelevant, immaterial, or repetitious evidence is excluded. As necessary, examining witnesses to ensure that a satisfactory record is developed.

(g) Establishing the record in the case. The Hearing Official will determine the weight attached to any evidence. Except as the Hearing Official may otherwise order, no proof will be received in evidence after completion of an oral hearing or, in cases submitted on the written record, after notification by the Hearing Official that the record is closed. The Hearing Official may require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter.

(h) Granting reasonable time extensions or other relief for good cause shown.

(i) Issuing the final decision. After the record closes, the Hearing Official will issue a written decision as soon as practicable. The written decision will include:

- (1) Findings of fact;
- (2) Conclusions of law; and
- (3) The amount and validity of the alleged debt.

(j) Posting the decision in the electronic filing system. If a party does not have access to the electronic filing system, the Recorder will mail that party a copy of the decision.

§ 956.10 (Rule 10) Opportunity for oral hearing.

(a) An oral hearing will be conducted at the Hearing Official's discretion. An oral hearing may be conducted in-person, by telephone, by video conference, or other appropriate means as directed by the Hearing Official.

(b) When the Hearing Official determines that an oral hearing will not be conducted, the decision will be based solely on the written submissions.

(c) The Hearing Official will arrange for the recording and transcription of an oral hearing, which will serve as the official record of the hearing.

(d) The hearing may proceed if a party fails, without excuse, to appear.

§ 956.11 (Rule 11) Effect of Hearing Official's decision.

Except for any issues reserved for the Department of the Treasury, the Hearing Official's decision shall be the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C 701 et. seq.).

§ 956.12 (Rule 12) Consequences for failure to comply with this part.

If the Hearing Official determines that a debtor has abandoned the right to a hearing, files their petition late without good cause, or files a withdrawal of the petition, administrative wage garnishment may be initiated. If the Hearing Official determines that the Postal Service fails to file the answer, files the answer late without good cause, or files a withdrawal of the debt determination, administrative wage garnishment may not be initiated. If either party fails to comply with this part or the Hearing Official's orders, the Hearing Official may take reasonable and proper action under the circumstances, including dismissing or granting the petition as appropriate.

§ 956.13 (Rule 13) Ex parte communications.

Ex parte communications are not allowed between a party and the Hearing Official or the Hearing Official's staff.

(a) *Ex parte communication* means an oral or written communication, not on the public record, with only one party with respect to which reasonable prior notice to all parties is not given, but it will not include requests for status reports or procedural matters.

(b) A memorandum of any communication between the Hearing Official and a party will be transmitted to both parties.

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