

460 Collection of Postal Debts From Bargaining Unit Employees

461 General

461.1 Scope

These regulations apply to the collection of any debt owed the Postal Service by a current postal employee who is included in any collective bargaining unit. If the circumstances specified in 462.32 apply to such employees, 452.3 may also apply, and consequently 451.2, 451.5, and 451.7 as well.

461.2 Debts Due Other Federal Agencies

Regulations governing the collection, by involuntary salary offset, of debts owed by postal employees to federal agencies other than the Postal Service are specified in Handbook F-16, *Accounts Receivable*, Chapter 7.

461.3 Definitions

As used in this subchapter, the following terms have the same meaning ascribed to them in 451.4:

- a. Administrative salary offset.
- b. Court judgment salary offset.
- c. Current pay and disposable pay.
- d. Debt.
- e. Employee.
- f. Pay.
- g. Postmaster or installation head.
- h. Severe financial hardship.
- i. Waiver.

461.4 Effect of Waiver Request

If an employee requests a waiver of a debt, the recovery of which is covered by these regulations, that request does not stay the collection process. However, if the waiver request ultimately is granted, the amount collected must be refunded to the employee.

462 Procedures Governing Administrative Salary Offsets

462.1 Determination and Collection of Debt

462.11 Establishment of Accounts Receivable

Depending upon the circumstances of a particular case, the determination of a debt, the collection of which is covered by this subchapter, may be made

by an official in the field or at the Minneapolis Accounting Service Center (ASC). For payroll-related debts discovered in the field, Form 2240, *Pay, Leave, or Other Hours Adjustment Request*, must be submitted to the Minneapolis ASC. Payroll-related debts discovered at the ASC level must be reported on Form 2248, *Monetary Payroll Adjustment*. Other debts must be reported to the manager of the Postal Accounts Branch, on Form 1902, *Justification for Billing Accounts Receivable*. Regardless of the amount of the debt, it is the responsibility of the Minneapolis ASC to create a receivable for each debt and to forward an invoice to the postmaster or installation head at the facility where the debtor is employed. At the time a receivable is created, the ASC must ensure that the employee's records are flagged so that the final salary or lump sum leave payment for that employee is not made until the debt is paid.

462.12 **Collection by Postmaster or Installation Head**

Each postmaster or installation head is responsible for collecting, in accordance with these regulations, any debt owed to the Postal Service by an employee under his or her supervision. A postmaster or installation head may delegate his or her responsibilities under these regulations.

462.2 **Applicable Collection Procedures**

462.21 **Right to Grieve Letters of Demand**

A bargaining unit employee or the employee's union has the right in accordance with the provisions of Article 15 of the applicable collective bargaining agreement to initiate a grievance concerning any letter of demand to challenge (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, (c) the proposed repayment schedule, and/or (d) any other issue arising under Article 28 of the applicable collective bargaining agreement. Care must be taken to ensure that any letter of demand served on an employee provides notice of the employee's right to challenge the demand under the applicable collective bargaining agreement.

462.22 **Right to Petition for Hearing**

Under the following circumstances, the statutory offset procedures in 452.3, including the right to petition for hearing after the receipt of a Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act, apply:

- a. *Failure to Initiate a Grievance in Time.* If a bargaining unit employee or the employee's union does not initiate, within 14 days of the employee's receipt of a letter of demand, a grievance challenging (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, and/or (c) the proposed repayment schedule, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32).
- b. *Failure to Advance Grievance in Time.* If a bargaining unit employee or the employee's union initiates a grievance in time challenging (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, and/or (c) the proposed repayment schedule, but the employee's

union, following receipt of a decision denying the grievance, does not advance the grievance to the next step of the grievance procedure within the time limits set forth in Article 15 of the applicable collective bargaining agreement, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32).

- c. *Partial Settlement of Grievance.* If a grievance challenging (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, and/or (c) the proposed repayment schedule is resolved at any stage of the grievance-arbitration procedure through a written settlement agreement between the Postal Service and the union under which the employee remains liable for all or a portion of the debt, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32). If the employee petitions for a hearing under 452.336, the Postal Service is free to pursue collection of the full amount of the debt before the hearing officer, notwithstanding the settlement with the union. However, if any contractual issue is resolved at any stage of the grievance-arbitration procedure, the settlement of that issue is final and binding.
- d. *Ruling of Nonarbitrability.* If an arbitrator rules that a grievance concerning any letter of demand is not arbitrable, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32).

462.3 **Statutory Offset Procedures**

462.31 **Authority**

Under section 5 of the Debt Collection Act, 5 U.S.C. 5514(a) (1982), the Postal Service, after providing an employee with procedural due process, may offset an employee's salary in order to satisfy any debt due the Postal Service. Generally, up to 15 percent of an individual's "disposable pay" may be deducted in monthly installments or at "officially established pay intervals," except as provided by 462.42. A greater percentage may be deducted with the written consent of the individual debtor. If the individual's employment ends before collection of the full debt, deduction may be made from subsequent payments of any nature due the employee.

462.32 **Initiation of Statutory Offset Procedure**

After (a) the 14 days referenced in 462.22a or the time limits referenced in 462.22b have passed, (b) any settlement agreement referenced in 462.22c has been signed, or (c) any nonarbitrability ruling referenced in 462.22d has been issued, and at least 30 calendar days before making an administrative offset under this authority, the postmaster or installation head, in accordance with 452.321, must provide the employee with (a) two copies of a Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act containing the information in 452.322, and (b) one copy of the procedures that govern hearings under the Debt Collection Act that are set forth at 39 CFR Part 961 (see Exhibit 452.322). The procedures in 452.33 governing the

exercise of employee rights apply. The postmaster or installation head has discretion to agree to an alternative offset schedule, based on a showing of severe financial hardship, as outlined in 452.335.

462.33 Hearing Officials Under 39 CFR Part 961

In accordance with 39 CFR 961.3, administrative hearings under the Debt Collection Act may be conducted by any individual who is not under the control or supervision of the postmaster general and who is designated as a hearing official by the judicial officer.

462.34 Limit of Right to Petition for Hearing

If an arbitrator opens a hearing on the merits of a grievance concerning any letter of demand, the statutory offset procedures in 452.3 do not apply thereafter, unless the arbitrator makes a ruling of nonarbitrability (see 462.22d) or the Postal Service and the union negotiate a partial settlement of the grievance (see 462.22c).

462.4 Collection of Debt

462.41 Stay of Collection of Debt

Whenever a grievance concerning any letter of demand has been initiated in time, in accordance with Article 15 of the applicable collective bargaining agreement, and/or a petition for a hearing has been filed in time, in accordance with 462.22, regardless of the type and amount of the debt, the Postal Service will stay the collection of the debt until after the disposition of the grievance and/or the petition, through settlement or exhaustion of the contractual and/or administrative remedies.

462.42 Limit on Amount of Salary Offset to Collect Debt

Except as specified in part 463, the maximum salary offset to collect a debt that is owed to the Postal Service is 15 percent of an employee's biweekly disposable pay, or 20 percent of the employee's biweekly gross pay, whichever amount is lower when the salary offset is started. A greater salary offset may be made if the employee agrees with the Postal Service, in writing, on such greater amount.

462.5 Implementing Offsets

After the applicable procedural requirements have been followed, the postmaster or installation head must institute the collection process by completing the appropriate sections of Form 3239, *Payroll Deduction Authorization to Liquidate Postal Service Indebtedness* (see Exhibit 452.233).

463 Court Judgment Salary Offsets

463.1 Authority

In accordance with section 124 of Public Law 97-276 (October 2, 1982), 5 U.S.C. 5514 note (1982), the Postal Service may deduct up to one-fourth (25

percent) of an employee's "current pay" in monthly installments or at officially established pay periods to satisfy a debt determined by a federal court to be owed to the Postal Service. The statute authorizes the deduction of a "greater amount" if necessary to collect the debt within the employee's anticipated period of employment. If an individual's employment ends before the full amount of the indebtedness has been collected, section 124 provides that deduction is to be made from later payments of any nature due the employee.

463.2 **Applicable Collection Procedures**

463.21 **General**

The requirements governing the collection of employer claims specified by a pertinent collective bargaining agreement are not applicable to the collection by salary offset of a Postal Service claim if a federal court has granted judgment upholding the debt.

463.22 **Notice**

At least 15 calendar days before initiating an offset to collect a debt reflected by a federal court judgment, the postmaster or installation head must provide the employee with a copy of that judgment, as well as with written notice of the Postal Service's intention to deduct 25 percent of the employee's current pay each pay period until the judgment is satisfied. The letter (see Exhibit 453.21, Sample Letter of Salary Offsets Based on Federal Court Judgment) also must include a statement that indicates the approximate amount, duration, and starting date of the deductions. The letter and judgment generally should be hand delivered, and a dated, signed receipt of delivery obtained. However, if personal delivery is not possible, certified or Express Mail, return receipt requested, should be used.

463.23 **Implementing Offsets**

The postmaster or installation head must initiate the collection process by completing the appropriate sections of Form 3239 no earlier than 15 calendar days after the employee's receipt of the letter.

464 **Multiple Offsets**

464.1 **Administrative Salary Offsets**

By statute, administrative salary offsets under section 5 of the Debt Collection Act of 1982 are limited to no more than 15 percent of an employee's disposable pay during any one pay period — whether the deductions are made to satisfy a debt owed the Postal Service, another federal agency, or some combination of these (but see 462.42 for the alternative limit on amount of salary offset to collect a debt that is owed to the Postal Service). Generally, priority among competing administrative salary offset requests is determined by the order in which they are received. However, a request to collect a debt due the Postal Service must be given priority over other government agency offset requests, regardless of the date the postal offset request is received (see 464.4). If a collection request

cannot be honored upon receipt, or can be honored only in part, the postmaster or installation head must notify the requesting postal or other government official, in writing, of the reasons for the delay or for the collection of a lesser amount than that requested and the approximate date the requested offsets can be implemented.

464.2 **Court Judgment Salary Offsets**

No more than 25 percent of an employee's current pay may be withheld to satisfy a debt determined by a federal court to be due the United States — whether the deductions are made to satisfy a debt owed the Postal Service, another federal agency, or some combination of these. Generally, priority among competing court judgment salary offset requests is determined by the order in which they are received. However, a request to collect a debt due the Postal Service must be given priority over other government agency offset requests regardless of the date the postal offset request is received (see 464.4). If a collection request cannot be honored upon receipt, or can be honored only in part, the postmaster or installation head must notify the requesting postal or other government official, in writing, of the reasons for the delay or for the collection of a lesser amount than that requested and the approximate date the requested offsets can be implemented.

464.3 **Administrative and Court Judgment Salary Offsets**

If the salary of a postal employee is the target of one or more of both types of offsets — administrative and court judgment — a combined total of no more than 25 percent will be withheld during any one pay period. However, in no case may the amount withheld in accordance with administrative salary offsets exceed 15 percent of current pay (but see 462.42 for the alternative limit on amount of salary offset to collect a debt that is owed to the Postal Service). As is generally the case with competing offsets of the same type and subject to section 464.4, priority between administrative salary offsets and court judgment salary offsets is determined by the order in which they are received.

464.4 **Priority of Postal Service Indebtedness**

If a postal employee is indebted to the Postal Service, that debt takes priority over any debt he or she may owe another federal agency, even if the other agency's request for salary offsets was received first. Accordingly, if both the Postal Service and another agency request the maximum allowable deductions, collection of the other agency's debt must be interrupted or postponed until the entire postal debt is recovered. However, if an amount less than that requested by the other agency can be deducted in addition to the offsets requested by the Postal Service without exceeding the appropriate percentage ceiling, deductions for the lesser amount must be withheld and forwarded to the requesting agency along with an explanation for the smaller offsets.

464.5 **Garnishments**

Administrative salary offsets based on section 5 of the Debt Collection Act of 1982 and court judgment salary offsets based on section 124 of Public Law 97-276 are not, as a matter of law, considered garnishments. Rather, for purposes of determining an employee's "disposable earnings" under the Federal Consumer Credit Protection Act, 15 U.S.C. 1671, et seq., these withholdings are considered to be amounts required by law to be deducted. Accordingly, they should be deducted before the applicable garnishment ceilings are imposed and before deductions for garnishments are made.

465 **Action Upon Transfer or Separation**

465.1 **Withholdings From Any Amount Due**

If a postal employee whose wages are subject to offset transfers to another federal agency or separates from employment, the Postal Service applies any amount due the employee at the time of his or her separation to the debt owed the Postal Service. If the debt is still not satisfied, appropriate action as described in 465.2 or 465.3 should be taken.

465.2 **Transfer to Another Federal Agency**

If a postal employee whose wages are subject to offset transfers to another federal agency, and the full debt cannot be collected from amounts due the employee from the Postal Service, the Postal Service must request the former postal employee's new agency to continue offsetting the debtor's salary until the debt is satisfied. The request must specify the amount of the original debt, the amount collected by the Postal Service through salary offsets, the amount that remains to be collected, and the percentage of the debtor's disposable earnings or current pay that should be deducted each pay period. In addition, the Postal Service must certify that the former postal employee has been accorded all required rights of due process. When the Postal Service's request is sent to the new employing agency, a copy also must be sent to the former employee at his or her home address.

465.3 **Collection of Debt Upon Separation**

If the full debt cannot be collected from amounts due the employee at the time of his or her separation, the manager of the Postal Accounts Branch must attempt to recover the debt from any available retirement or disability payments due the former employee in accordance with the provisions of 5 CFR 831, Subpart R, or 5 CFR 845, Subpart D (see Handbook F-16, *Accounts Receivable*, 743).