



Department of Veterans Affairs

Financial Policy

Volume XII

Debt Management

Chapter 1D

Salary Offset for Federal Employees Indebted to U.S.

Approved:

A handwritten signature in black ink, reading "Edward J. Murray", is written over a horizontal line.

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Date

Financial Policies and Procedures
Salary Offset for Federal Employees Indebted to U.S.

CHAPTER 1D

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0101 OVERVIEW

This chapter establishes the Department of Veterans Affairs (VA) financial policies and procedures for debt collection activities from current Federal employees using salary offset as the mechanism to recover either benefit or nonbenefit debts owed to the United States. VA is authorized under 5 U.S.C. 5514 to use salary offset of a current Federal employee's pay to satisfy certain debts owed to the Department in accordance with the salary offset provisions in VA regulations 38 C.F.R. 1.980-1.995. These provisions apply to offsets from the salaries of current VA employees, or employees of any other Federal agency who may owe debts to VA. For situations not covered by 38 C.F.R. 1.980-1.995, refer to Appendix A.

010101 EMPLOYEE SALARY OFFSET AUTHORITY.

VA's authority for salary offset is 5 U.S.C. 5514, 5 C.F.R. Part 550, Subpart K, and 38 C.F.R. 1.980-1.995. Collection of debts owed by reason of participation in a VA benefits program is governed by 38 C.F.R. 1.911, while collection of nonbenefit debts is governed by 38 C.F.R. 1.911a. VA collects benefit debts by offsets from current or future VA benefit payments in accordance with 38 C.F.R. 1.912a. VA collects nonbenefit debts by offsets from current or future VA payments in accordance with 38 C.F.R. 1.912.

010102 EMPLOYEE SALARY OFFSET ACTIONS.

VA will collect the Federal employee's debt owed by the method and in the amount specified in the notice of intent to offset that states collection will be recovered from current or future salary payments to the debtor. The total offset may not exceed 15 percent of the employee's disposable pay, unless the employee agrees in writing to a larger amount. VA will properly notify the debtor of the nature and amount of the debt, the consequences of failure to pay the debt and advise him or her of the right to dispute the existence and amount of the debt, as well as the offset schedule and the right to request waiver if applicable. In accordance with 5 U.S.C. 5514, an employee is entitled to request a hearing on the determination concerning the existence and amount of the debt and the terms of the repayment schedule. The timely filing of a request for a hearing will stay the commencement of collection proceedings. The hearing may not be conducted by an individual under the supervision or control of the head of the agency, except the individual may be a duly appointed administrative law judge.

0102 POLICIES

010201 EMPLOYEE SALARY OFFSET AUTHORITY.

VA will use salary offset as a principal method for recovering debts owed by Federal employees to the Department. The offset method will be used for both benefit and nonbenefit debts. VA's authority for salary offset is 5 U.S.C. 5514, 5 CFR Part 550, Subpart K and 38 C.F.R. 1.980-1.995.

010202 EMPLOYEE SALARY OFFSET ACTIONS.

VA will collect benefit and nonbenefit debts by salary offsets from current or future VA payments to the debtor. VA will notify the debtor of his or her right to dispute the existence or amount of the debt, as well as the offset schedule, or request a waiver of the debt, if applicable. Such notification will also include advising the debtor of the proposed salary offset payment schedule, the consequences of failure to pay the debt, such as the assessment of interest, administrative costs and penalty charges, as applicable.

0103 AUTHORITY AND REFERENCES

010301 5 U.S.C. 5514, Installment Deduction for Indebtedness to the United States

010302 5 U.S.C. 5584, Claims for overpayment of pay and allowances and of travel, transportation and relocation expenses and allowances

010303 38 U.S.C. 5302, Waiver of Recovery of Claims by the United States

010304 5 C.F.R. Part 550, Subpart K—Collection by Offset From Indebted Government Employees

010305 31 C.F.R. 285.7, Centralized Salary Offset

010306 31 C.F.R. Chapter IX—Federal Claims Collection Standards (Department of the Treasury--Department of Justice)

010307 38 C.F.R. 1.910-1.929, Standards of Collection of Claims

010308 38 C.F.R. 1.950-1.953, Referrals to GAO, Department of Justice, or IRS

010309 38 C.F.R. 1.980 -1.995, Salary Offset Provisions

010310 38 C.F.R. 3.103, Procedural due process and appellate rights

010311 38 C.F.R. Part 19—Board of Veterans' Appeals: Appeals Regulations

010312 38 C.F.R. Part 20—Board of Veterans' Appeals: Rules of Practice

010313 Digital Accountability and Transparency Act (DATA Act) Pub. L. 113-101

0104 ROLES AND RESPONSIBILITIES

010401 The Assistant Secretary for Management/Chief Financial Officer (CFO) oversees all financial management activities relating to the Department's programs and operations, as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309. Specific responsibilities include the direction, management and provision of policy

guidance and oversight of VA's financial management personnel, activities and operations. The CFO establishes financial policy, systems and operating procedures for all VA financial entities and provides guidance on all aspects of financial management.

010402 Under Secretaries, Assistant Secretaries, Chief Financial Officers, Fiscal Officers, Chief Accountants and other key officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

010403 The Board of Veterans' Appeals (BVA) reviews benefit claims determinations made by local VA offices and issues decisions on appeals of those determinations. As part of this process, BVA reviews determinations on the existence or amount of benefit debts and waiver determinations made by Committees on Waivers and Compromises (COWC) on benefit debts, as well as waiver determinations made by any VHA Chief of the Finance Activity concerning medical or pharmacy co-payment debts. BVA members include Veterans Law Judges or Attorneys who are experienced in Veteran laws and in reviewing benefit claims. BVA members are the only ones who may issue BVA decisions.

010404 The Committee of Waivers and Compromises (COWC) is a decision-making body. The chairperson may assign one, two, or three members to serve as a panel (38 C.F.R. 1.955(e)). The COWC may be part of a centralized system or a regional office Committee system.

0105 PROCEDURES

010501 EMPLOYEE SALARY OFFSET AUTHORITY

VA will notify the debtor in writing in accordance with 5 U.S.C. 5514. VA will implement Federal salary offset for debts in accordance with 5 U.S.C. 5514, 5 C.F.R. Part 550, Subpart K and 38 C.F.R. 1.980–1.995. These provisions apply to the general collection of debts and the use of salary offsets from current VA employees, or a current Federal employee in another agency, who owe debts to VA. VA will assist the debt collection efforts of other Federal agencies, as necessary, when they claim debts are owed to them by current VA employees.

010502 EMPLOYEE SALARY OFFSET ACTIONS

A. DETERMINATION OF THE VALIDITY OF THE DEBT

1. VA will review its internal records relating to the debt to assure that the Department is owed the money prior to providing the employee with a Notice of the Indebtedness (NOI) letter. Salary offset of debts will not be pursued unless VA first provides the employee with a minimum of 30 days written notice. Refer to Volume XII Chapter 1, "*VA Debt Collection Standards*", for the required information related to an NOI or demand letter provided to debtors.

2. Once a debt has been verified and validated, VA will promptly provide the debtor with the NOI in terms that inform the debtor of the consequences of failing to cooperate with VA to resolve the debt. VA should include in the NOI its willingness to discuss alternative methods of payment and its policies with respect to the use of credit bureaus, debt collection centers and collection agencies. The NOI should also indicate VA's remedies to enforce payment of the debt (including assessment of interest, administrative costs and penalties) and the requirement that any debt delinquent for more than 120 days must be referred to the Department of the Treasury (Treasury) for collection action.

3. VA should respond promptly to communications from a debtor. An employee who intends to inspect or copy VA records related to the debt, as permitted by the NOI, must send a letter to the office which sent the NOI, stating his or her intention. The letter must be received by that office within 30 days of the date of the NOI. In response to a timely notice submitted by the debtor, VA will notify the employee of the location and time when the employee may inspect and copy records related to the debt. The NOI will also include information on the debtor's right to a hearing.

B. SALARY OFFSET INVOLVING BENEFIT DEBTS (38 C.F.R. 1.982).

1. VA will collect benefit debts by salary offsets only after the employee was provided a minimum of 30 calendar days written notice. The notice will advise the employee of the nature and amount of the debt and the consequences of failure to pay the debt and advise him or her of the right to dispute the existence and amount of the debt, as well as the offset schedule and the right to request waiver if applicable. For certain situations where VA can offset an employee's salary without prior notification, see Appendix B.

2. If the employee has not previously appealed the amount or existence of the benefit debt under 38 C.F.R. Parts 19 and 20 and the time for pursuing such an appeal has not expired (one year from the date that VA mails the notice of determination), VA will not collect a benefit debt by salary offset unless first providing the employee with a minimum of a 30-calendar day written notice. The written notice will state that the employee may contest the determination concerning the amount and existence of the debt in accordance with the procedures set forth in 38 C.F.R. Parts 19 and 20, *Board of Veterans' Appeals: Appeals Regulations and Rules of Practice*, respectively and the notice will contain the determination and information required by 38 C.F.R. 1.983(b)(1) through (5), (7), (9), (10) and (12) through (14). The notice will also state that the employee may request a hearing (which will stay the start of the salary offset) on the offset payment schedule. The request must be received by the office that sent the notice of the debt not later than 30 calendar days from the date of the notice.

3. If the employee previously appealed the amount or existence of the debt and BVA decided the appeal on the merits, or if the employee failed to pursue an appeal within the time provided by regulations, VA will provide the employee with written notice prior to collecting the debt by salary offset. The notice will state:

- a. The determination and information required by 38 C.F.R. 1.983(b)(1–5), (7), (10) and (12–14);
 - b. The employee's appeal of the existence or amount of the debt was determined on the merits, or the employee failed to pursue an appeal within the time provided and VA's decision is final except as otherwise provided in agency regulations;
 - c. The employee may request a waiver of the debt pursuant to 38 C.F.R. 1.911(c)(2) subject to the time limits of 38 U.S.C. 5302;
 - d. The employee may request an oral or paper hearing on the offset schedule and receive a decision within 60 days of such request under the procedures and time limit set forth in 38 C.F.R. 1.984 and that such a request will stay the commencement of salary offset.
4. If the employee has appealed the existence or amount of the benefit debt and BVA has not decided the appeal on the merits, collection of the debt by salary offset will be suspended until the appeal is decided or the employee ceases to pursue the appeal.

C. SALARY OFFSET INVOLVING NONBENEFIT DEBTS (38 C.F.R. 1.983).

1. Salary offset of debts not involving benefits will not be made unless VA first provides the employee with a minimum of 30 calendar days written notice, except for any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less. For further information on offset without initial debtor notification, see Appendix B.
2. After verifying the existence of the debt, VA will provide a notice to the employee indicating the following:
 - a. VA has determined a debt is owed.
 - b. VA will provide the employee with information on the debt amount and the facts giving rise to the debt, and the employee has a right to inspect or copy VA records relating to the debt, or request and receive a copy of the records.
 - c. VA will advise the employee of its intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest and associated costs are paid in full.
 - d. VA will provide details on the planned salary deduction, including the amount, frequency, approximate beginning date and duration of the expected deductions. Alternately, the employee may enter into a written agreement with VA for a repayment schedule different from the one proposed if the terms of the repayment schedule are agreeable to VA. VA will notify the employee as to whether the proposed written

agreement for repayment is acceptable. It is within VA's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, VA will balance its interest in collecting the debt against the hardship to the employee. VA will accept a repayment agreement instead of offset only if the employee is able to establish that the offset would result in extreme hardship.

e. VA will advise that the deduction amount may include interest, administrative costs and penalties, if applicable.

f. Upon the employee's proper filing of a request for a hearing, VA will provide the employee with information on the right to a hearing, regarding VA's determination on the existence and amount of the debt or the percentage of disposable pay planned to be deducted each pay period. The notice should also state the method and time period for requesting a hearing and that the timely filing of a hearing request will stay the commencement of the salary offset.

(1) The employee must send the request to the office that sent the notice of the debt and specify whether an oral or paper hearing is requested. If an oral hearing is requested, the request should explain why the matter cannot be resolved by review of the documentary evidence. Refer to Paragraph 010502D, Procedures Related to Hearings, for detailed information.

(2) The employee should send VA a statement supporting why he or she believes either no debt is due, or why VA's proposed offset schedule would create a financial hardship. The supporting statement may also include financial documents to support a financial hardship contention, showing income from all sources, assets, liabilities, number of dependents and essential expenses for food, housing, clothing, transportation, medical and any exceptional expenses.

g. VA will provide the employee with the results of the hearing no later than 60 calendar days after the filing of the request for the hearing, unless the employee requests and the hearing officer grants a delay in the proceedings.

3. VA will advise the employee that he or she may be subject to appropriate legal action if he or she knowingly provides any false or frivolous statements, representations, or evidence. Such action could include:

a. Disciplinary procedures appropriate under 5 U.S.C. Chapter. 75, 5 C.F.R. Part 752, or any other applicable statutes or regulations;

b. Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

c. Criminal penalties under 18 U.S.C. 286, 287, 1001 and 1002 or any other applicable statutory authority.

4. VA can waive recovery of nonbenefit debts under 5 U.S.C. 5584 and 38 C.F.R. 1.963a.

D. PROCEDURES RELATING TO HEARINGS.

1. An employee who wants a hearing on the existence or amount of the debt or on VA's proposed offset schedule must send such a request to the office that sent the written notice. The employee must also specify whether an oral or paper hearing is requested. If an oral hearing is requested, the request should explain why the matter cannot be resolved by review of the documentary evidence.

a. The request must be received by the office that sent the notice of the debt no later than 30 calendar days from the date of the notice.

b. If an employee files a request for a hearing after the expiration of the 30 day period provided for in paragraph (a) of this section, VA may accept the request if the employee shows that the delay was due to circumstances beyond his or her control or because her or she did not receive the written notice of the filing deadline.

2. After an employee requests a hearing, the hearing official or administrative law judge will notify the employee of the type of hearing to be provided. If the hearing will be oral, the notice will set forth the date, time and location for the hearing. If the hearing will be paper, the employee will be notified that he or she should submit his or her position and arguments in writing to the hearing official or administrative law judge by a specified date after which the record will be closed. This date will give the employee reasonable time to submit this information.

3. An employee who requests an oral hearing will be provided one if the hearing official or administrative law judge determines that the matter cannot be resolved by review of documentary evidence, for example, when an issue of credibility or veracity is involved. If a determination is made to provide an oral hearing, the hearing official or administrative law judge may offer the employee the opportunity for a hearing by telephone conference call. If this offer is rejected, or if the hearing official or administrative law judge declines to offer a telephone conference call hearing, the employee will be provided an oral hearing permitting the personal appearance of the employee, his or her personal representative and witnesses. A record or transcript of every oral hearing will be made. Witnesses will testify under oath or affirmation. VA will not be responsible for the payment of any expenses incurred by the employee incident to attendance at the hearing, or by his or her representative or counsel, or witnesses.

4. In cases where an employee requests a paper hearing, the hearing will consist of a review of the written evidence of record by the administrative law judge or hearing official.

5. In any hearing, the administrative law judge or hearing official may exclude evidence or testimony which is irrelevant, immaterial, or unduly repetitious.

6. An employee waives the right to a hearing and will have his or her disposable pay offset in accordance with the offset schedule if the employee:

a. Fails to file a request for a hearing as prescribed in 38 C.F.R. 1.982, 38 C.F.R. 1.984, or 38 C.F.R. 19.1 through 19.200, whichever is applicable, unless such failure is excused as provided in 38 C.F.R. 1.984(b); or

b. Fails to appear at an oral hearing of which he or she had been notified unless the administrative law judge or hearing official determines that failure to appear was due to circumstances beyond the employee's control.

7. The hearing official or administrative law judge shall uphold VA's determination of the existence and amount of the benefit debt unless it is determined to be erroneous by a preponderance of the evidence.

8. The hearing official or administrative law judge shall uphold VA's offset schedule unless the schedule would result in extreme hardship to the employee.

E. COMMENCEMENT OF SALARY OFFSET

1. VA will specify the frequency, proposed beginning date and duration of the intended salary offsets. Unless the employee contests the debt, or a decision on a waiver request remains pending, an offset will commence promptly after notification to the debtor. An offset may commence prior to the resolution of a dispute or a decision on a waiver request if collection of the debt would be jeopardized by deferral of offset. Deductions to liquidate an employee's debt will be by the method and in the amount specified in the notice to collect from the employee's current pay, as modified by a written decision issued under 38 C.F.R. 1.982 or 38 C.F.R. 1.988, or Parts 19 and 20, or by written agreement between the employee and VA under 38 C.F.R. 1.990.

a. If the employee filed a request for a hearing before the expiration of the period provided for, VA will not begin salary offset deductions until after the hearing official or administrative law judge has provided the employee with a hearing and has rendered a final written decision. If the employee failed to file a timely request for a hearing, the deductions will begin on the date specified in the notice of intention to offset, unless a hearing is granted.

2. VA will usually collect a debt in a lump-sum payment or through installments (38 C.F.R. 1.992). Lump-sum is the preferred method, if possible, unless the employee is financially unable to pay with that method. If the amount of the debt exceeds 15 percent of the employee's disposable pay, deduction will be by salary offset via installment payments.

3. In the case of installment payments, VA will deduct an amount at officially approved pay intervals from an employee's current pay account, unless the employee and VA

agree to an alternative repayment arrangement. The alternative arrangement must be in writing and signed by both VA and the employee. In making a decision regarding the use of a proposed alternate payment schedule, VA will balance its interest in collecting the debt against any financial hardship to the employee. VA will accept an alternative payment schedule in place of salary offset only when the employee is able to establish that the original salary offset would create a financial hardship.

4. Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in three years. Installment payments of less than \$25 per pay period, or \$50 a month, will be acceptable only in the most unusual circumstances.

5. If an employee retires or resigns, or employment ends before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to procedures for administrative offset (see 5 C.F.R. 831.1801 through 831.1808, 31 C.F.R. 901.3 and 38 C.F.R. 1.912).

6. VA will refund amounts offset promptly to the appropriate individual, as required by 38 C.F.R. 1.993, when a debt is waived or otherwise found not owed the United States (unless expressly prohibited by statute or regulation) or VA has been directed by an administrative or judicial order to refund amounts deducted from the employee's current pay account.

F. CENTRALIZED ADMINISTRATIVE OFFSET.

VA will notify Treasury of all delinquent debts over 120 days old so that recovery may be achieved by centralized administrative offset in accordance with procedures in 31 U.S.C. 3716. These debts also include those that VA and other agencies seek from the pay accounts of employees in another Federal agency through salary offset. Treasury and other disbursing officials will match payments, including Federal salary payments, against these debts. Where a match occurs and all the requirements for offset have been met, the payment will be offset to satisfy the debt in whole or part. Refer to Volume XII, Chapter 1E, *Treasury Offset Program and Treasury Cross-Servicing*, for detailed information on central administrative offset. VA will adhere to the following when submitting a request for centralized administrative offset:

1. Prior to submitting a debt to Treasury for the purpose of collection by offset, including salary offset, VA will provide written certification to Treasury that VA has complied with certain requirements set forth in 38 CFR 1.995. These include certification that the debt is past due and legally enforceable in the amount stated, that the debtor has been provided with applicable notices and opportunities for review of the debt, and that VA

has complied with 5 U.S.C. 5514 and 38 CFR 1.980 – 1.994, including those provisions that VA provide the debtor with applicable notices and opportunities for a hearing.

2. When collecting multiple debts by administrative offset, VA will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitation.

G. COLLECTION BY OFFSET FROM ANOTHER FEDERAL AGENCY

VA should pursue the centralized administrative offset procedures through the Treasury (see paragraphs under F above) as the secondary avenue of collection outside of VA. When possible, the Treasury's centralized administrative offset procedures should be used before applying the procedures described in this paragraph, where VA may need to use another Federal agency to assist in its debt collection process via salary offset. Actions of both the creditor agency and the paying agency, of which VA may be either depending on the situation, are described below.

1. VA as the Creditor Agency.

a. In accordance with 5 U.S.C. 5514, VA, as a creditor agency, will perform the following procedures to recover debts from an employee's current pay account.

(1) VA will certify, in writing, that the employee owes the debt, the amount and basis of the debt, the dates on which payment is due, the date the Government's right to collect the debt first accrued, and that VA's regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management.

(2) If the collection must be made in installments, VA will also advise the paying agency of the amount or percentage of disposable pay to be collected in each installment and if VA requests, the number and the commencing date of the installments (if a date other than the next officially established pay period is required).

(3) Unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency, VA will advise the paying agency of the action(s) taken under 5 U.S.C. 5514 and give the date(s) the action(s) was taken.

(4) VA will submit a debt claim containing the information specified in paragraphs (1) (a) through (c) above and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee's paying agency.

(5) If the employee is in the process of separating, VA will submit its debt claim to the employee's paying agency for collection as provided in 5 C.F.R. 550.1104(1). The paying agency must certify the total amount of its collection and notify VA and the employee. If the paying agency is aware that the employee is entitled to payments from

the Civil Service Retirement and Disability Fund, or other similar payments, the paying agency must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with. However, VA must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(6) If the employee is already separated and all payments due from his or her former paying agency have been paid, VA may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund (5 C.F.R. 831.1801 *et seq.*), or other similar funds, be administratively offset to collect the debt (See 31 U.S.C. 3716 and the Federal Claims Collection Standards).

2. VA as the Paying Agency.

a. In accordance with 5 U.S.C. 5514, VA, as a paying agency, will perform the following procedures to recover debts from an employee's current pay account for each debt claim.

(1) Complete Claim. When VA receives a properly certified debt claim from a creditor agency, deductions should be scheduled to begin prospectively at the next officially established pay interval. VA must provide the employee with written notice that VA has received a certified debt claim from the creditor agency (including the amount) and written notice of the date deductions from salary will commence and of the amount of such deductions.

(2) Incomplete Claim. When VA receives an incomplete debt claim from a creditor agency, VA will return the debt claim with a notice that procedures under 5 U.S.C. 5514 and this subpart must be provided and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(3) Review. VA is not required or authorized to review the merits of the determination with respect to the amount or validity of the debt certified by the creditor agency.

b. VA employees who transfer from one paying agency to another.

(1) If, after the VA has submitted the debt claim to the employee's new paying agency, the employee then transfers to a position served by a different paying agency before the debt is collected in full, the paying agency from which the employee now separates must certify the total amount of the collection made on the debt. One copy of the certification will be furnished to the employee, another to the creditor agency (i.e., VA) along with notice of the employee's transfer. However, the creditor agency must submit a properly certified claim to the new paying agency before collection may be resumed.

(2) When an employee transfers to another paying agency, the creditor agency need not repeat the due process procedures described by 5 U.S.C. 5514. However, the creditor agency is responsible for reviewing the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

0106 DEFINITIONS

010601 Administrative Offset. Withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

010602 Agency. An Executive Agency, as defined by section 105 of title 5 of the U.S. Code, including the U.S. Postal Service and the U.S. Postal Rate Commission; a Military Department, as defined by section 102 of title 5 of the U.S. Code; an agency or Court of the judicial branch; an agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and other independent establishments that are entities of the Federal Government.

010603 Centralized Administrative Offset. Collection of debts through the Treasury Offset Program.

010604 Creditor Agency. The agency to which the debt is owed, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt.

010605 Debts. A claim for money made by or owed to the Government, arising out of VA activities.

010606 Delinquent Debt. Information about a past-due, legally enforceable debt, submitted by a creditor agency to Treasury for purposes of administrative offset (including salary offset) in accordance with the provisions of 31 U.S.C. 3716 and applicable regulations. Debt information includes the amount and type of debt and the debtor's name, address and taxpayer identifying number.

010607 Disposable Pay. Includes part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld other than deductions to execute garnishment orders.

010608 Extreme Financial Hardship. An employee's inability to provide himself or herself and his or her dependents with the necessities of life such as food, housing, clothing, transportation and medical care.

010609 Federal Employee. In the context of this chapter, an employee means a current employee of the Federal Government who is indebted to the United States either due to an overpayment made by VA in pay and allowance, a debt to another

Federal agency, other reasons as described in 010603, or as a result of participation in a benefits program administered by VA or another Federal agency.

010610 Notice of Indebtedness (NOI). Written communication with the debtor explaining the details of the debt along with the debtor's due process rights, including the right to request a hearing and waiver of the debt. This notice advises the debtor of the timing of repayment and repayment options for paying off the debt, possible course of action to be taken by VA, and the potential effect of added interest or other late payment charges to the debt.

010611 Paying Agency. The agency employing the individual and authorizing the offset of his or her current pay.

010612 Salary Offset. The act of collecting a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

010613 Waiver. A decision that conditions exist, under the applicable statutes (38 U.S.C. 5302 and 5 U.S.C. 5584) and implementing regulations (38 CFR 1.955 - 1.969, 17.105) that prohibit recovery by VA of certain debts as defined in the statutes and regulations, including interest and other late payment charges assessed on such debts.

0107 RESCISSIONS

010701 MP-4, Part VIII, Chapter 10, Salary Offset for Federal Employees Indebted to the United States

010702 OF Bulletin 06GA2.18, Immediate Salary Offset of Debts, July 11, 2006

0108 QUESTIONS

Questions concerning these financial policies and procedures should be directed as shown below:

VHA	VHA Accounting Policy (Outlook)
VBA	VAVBAWAS/CO/FINREP (Outlook)
All Others	OFP Accounting Policy (Outlook)

0109 REVISIONS

Section	Revision	Office	Reason for Change	Effective Date
0103 Authority and References	Updated to include addition of 010313 Digital Accountability and Transparency Act (DATA Act) with Link	OFP (047G)	To comply with new Law	July 2016
010501 Employee Salary Offset Authority	Updated to reflect mandatory change of 180 days to 120 days	OFP (047G)	To comply with new Law	July 2016
010502 Employee Salary Offset Actions	Updated to reflect mandatory change of 180 days to 120 days	OFP (047G)	To comply with new Law	July 2016
0109 in Table of Contents and Revisions	Updated to include addition of Revisions within Table of Contents and REVISIONS section of policy.	OFP (047G)	To highlight chapter changes	July 2016

APPENDIX A: SITUATIONS NOT COVERED BY 38 C.F.R. 1.980-1.995

1. VA regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended, the Social Security Act, the tariff laws of the United States, or to any case where collection of a debt by salary offset is explicitly provided for (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108) or prohibited by another statute.
2. VA regulations do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.
3. VA regulations do not apply to salary offset used to recoup a Federal employee's debt where a judgment has been obtained against the employee for the debt.
4. VA regulations do not preclude an employee from requesting waiver of an overpayment under 38 U.S.C. 5302, 5 U.S.C. 5584, or any other similar provision of law, or in any way questioning the amount or validity of a debt not involving benefits under the laws administered by VA by submitting a subsequent claim to the Government Accountability Office in accordance with its procedures.
5. VA regulations do not preclude the compromise, suspension, or termination of collection action under the Federal Claims Collection Standards (FCCS) (31 C.F.R. parts 900–904) or VA regulations 38 C.F.R. 1.930 through 1.944.

APPENDIX B: ILLUSTRATION OF CIRCUMSTANCES WHEN OFFSETS MAY OCCUR WITHOUT INITIAL DEBTOR NOTIFICATION

VA will notify the debtor in writing in accordance with 5 U.S.C. 5514 of both the indebtedness and the right to dispute the existence and amount of either a benefit or nonbenefit debt as well as the right to request waiver if applicable, before the initiation of salary offset. The following situations, however, may occur where VA can offset an employee's salary without prior notification:

- VA regulations do not apply to a routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practicable, the individual is provided written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment.
- VA regulations do not apply to any adjustment to collect a debt amounting to \$50 or less if, at the time of such adjustment or as soon thereafter as practicable, the individual is provided with written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment.

In these two situations, VA will either notify the employee at the time of the adjustments described or as soon thereafter as practicable.

1. The written notification will describe the nature and amount of the adjustment, identify the point of contact to contest such adjustment and, if applicable, the right to request a waiver of the debt.
2. Two form letters have been developed to provide this notification. They are as follows and can be found at <http://vaww.va.gov/vaforms/>:
 - a. VA Form Letter (FL) 4-520f, *Immediate Offset – Employee Salary*, is used when an employee's indebtedness has already been offset.
 - b. VA Form Letter (FL) 4-520g, *Pending Offset – Employee Salary*, is used to offer an employee the opportunity to enter into a repayment agreement as an alternative to lump sum offset of the entire indebtedness.
3. All affected employees must receive the proper form letter covering the specific situation where VA initiated offset without prior notification (see 2(a) above). A copy of the letter will be filed in each employee's payroll folder and retained for at least 3 years.