

Federal Communications Commission

§ 1.1940

(n) *Refunds.* (1) If a hearing official, at a hearing held pursuant to paragraph (f)(3) of this section, determines that a debt is not legally due and owing to the United States, the Commission shall promptly refund any amount collected by means of administrative wage garnishment.

(2) Unless required by Federal law or contract, refunds under this section shall not bear interest.

(o) *Right of action.* The Commission may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with paragraphs (g) and (i) of this section. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, “termination of the collection action” occurs when the Commission has terminated collection action in accordance with the FCCS or other applicable standards. In any event, termination of the collection action will have been deemed to occur if the Commission has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of one (1) year.

§§ 1.1937–1.1939 [Reserved]

INTEREST, PENALTIES, ADMINISTRATIVE COSTS AND OTHER SANCTIONS

§ 1.1940 Assessment.

(a) Except as provided in paragraphs (g), (h), and (i) of this section or § 1.1941, the Commission shall charge interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. The Commission will mail, hand-deliver, or use other forms of transmission, including facsimile telecopier service, a written notice to the debtor, at the debtor’s CORES contact address (see section 1.8002(b)) explaining the Commission’s requirements concerning these charges except where these requirements are included in a contractual or repayment agreement, or otherwise provided in the Commission’s rules, as may be amended from time to

time. These charges shall continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges. This provision is not intended to modify or limit the terms of any contract, note, or security agreement from the debtor, or to modify or limit the Commission’s rights under its rules with regard to the notice or the parties’ agreement to waive notice.

(b) The Commission shall charge interest on debts owed the United States as follows:

(1) Interest shall accrue from the date of delinquency, or as otherwise provided by the terms of any contract, note, or security agreement, regulation, or law.

(2) Unless otherwise established in a contract, note, or security agreement, repayment agreement, or by statute, the rate of interest charged shall be the rate established annually by the Treasury in accordance with 31 U.S.C. 3717. Pursuant to 31 U.S.C. 3717, an agency may charge a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the rights of the United States. The agency should document the reason(s) for its determination that the higher rate is necessary.

(3) The rate of interest, as initially charged, shall remain fixed for the duration of the indebtedness. When a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the agency may require payment of interest at a new rate that reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest shall not be compounded, that is, interest shall not be charged on interest, penalties, or administrative costs required by this section. If, however, a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement shall be added to the principal under the new repayment agreement.

(c) The Commission shall assess administrative costs incurred for processing and handling delinquent debts. The calculation of administrative costs may be based on actual costs incurred or upon estimated costs as determined

by the Commission. Commission administrative costs include the personnel and service costs (e.g., telephone, copier, and overhead) to notify and collect the debt, without regard to the success of such efforts by the Commission.

(d) Unless otherwise established in a contract, repayment agreement, or by statute, the Commission will charge a penalty, pursuant to 31 U.S.C. 3717(e)(2), currently not to exceed six percent (6%) a year on the amount due on a debt that is delinquent for more than 90 days. This charge shall accrue from the date of delinquency. If the rate permitted under 31 U.S.C. 3717 is changed, the Commission will apply that rate.

(e) The Commission may increase an *administrative debt* by the cost of living adjustment in lieu of charging interest and penalties under this section. *Administrative debt* includes, but is not limited to, a debt based on fines, penalties, and overpayments, but does not include a debt based on the extension of Government credit, such as those arising from loans and loan guaranties. The cost of living adjustment is the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the debt was determined or last adjusted. Increases to administrative debts shall be computed annually. Agencies should use this alternative only when there is a legitimate reason to do so, such as when calculating interest and penalties on a debt would be extremely difficult because of the age of the debt.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalties and administrative cost charges, second to accrued interest, and third to the outstanding principal.

(g) The Commission will waive the collection of interest and administrative charges imposed pursuant to this section on the portion of the debt that is paid within 30 days after the date on which interest began to accrue. The Commission will not extend this 30-day period except for good cause shown of

extraordinary and compelling circumstances, completely documented and supported in writing, submitted and received before the expiration of the first 30-day period. The Commission may, on good cause shown of extraordinary and compelling circumstances, completely documented and supported in writing, waive interest, penalties, and administrative costs charged under this section, in whole or in part, without regard to the amount of the debt, either under the criteria set forth in these standards for the compromise of debts, or if the agency determines that collection of these charges is against equity and good conscience or is not in the best interest of the United States.

(h) The Commission retains the common law right to impose interest and related charges on debts not subject to 31 U.S.C. 3717.

§ 1.1941 Exemptions.

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, such as administrative offset, use of credit bureaus, contracting for collection agencies, and interest and related charges, do not apply to debts arising under, or payments made under, the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*), except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c); or the tariff laws of the United States. These remedies and procedures, however, may be authorized with respect to debts that are exempt from the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting the use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in paragraph (a) of this section unless the debt arose under those laws. However, the Commission is authorized to assess interest and related charges on debts which are not subject