

VOLUME 7B, CHAPTER 28: “COLLECTION OF DEBTS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated January 2011 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatted to comply with current administrative instructions.	Update

Table of Contents

VOLUME 7B, CHAPTER 28: “COLLECTION OF DEBTS”	1
2801 GENERAL	5
2802 SPECIALIZED TERMS	5
280201. Administrative Offset.....	5
280202. Compromise	5
280203. Creditor Agency	5
280204. Delinquent Debt	5
280205. Disposable Pay	6
280206. Erroneous Payment	6
280207. Involuntary Collections.....	6
280208. Pay	6
280209. Paying Agency	7
280210. Routine Adjustments	7
280211. Salary Offset.....	7
280212. Waiver and Waive.....	7
2803 COLLECTION WITH MEMBER’S CONSENT	7
2804 AUTHORITY FOR INVOLUNTARY COLLECTION.....	7
280401. Authorized by Statute.....	7
280402. Deductions from Pay.....	8
280403. Deduction by Salary Offset.....	8
280404. Deduction by Administrative Offset	8
280405. Unauthorized Involuntary Offset	8
2805 NOTIFICATION TO DEBTOR AND DUE PROCESS.....	8
280501. General Requirements for Debt Notification and Demand for Payment	8
280502. Demand Letters	8
2806 COLLECTIONS FOR MILITARY RELATED DEBTS	9
280601. Routine Adjustments and Categories of Debts	10
280602. “No Pay Due” Notice	10
280603. Due Process Debts.....	10
280604. Debt Transfer on Retirement.....	10
280605. Debt Owed to Another Military Service	11
280606. Request for Delay.....	11
280607. Limitations on Collection.....	11

Table of Contents (Continued)

2807	COLLECTIONS FOR OTHER DEBTS OWED TO THE GOVERNMENT	11
280701.	Installment Deductions.....	11
280702.	Not to Exceed 15 Percent of Disposable Pay	11
2808	LIMITATION ON AMOUNT OF DEDUCTIONS	12
280801.	Minimum Amount.....	12
280802.	Maximum Amount	12
2809	INTEREST, PENALTIES, AND ADMINISTRATIVE COSTS	12
2810	WAIVER OF INDEBTEDNESS.....	12
281001.	Remission of Indebtedness Due from Military Members	12
281002.	Waiver of Indebtedness Arising From Erroneous Payments	12
2811	COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY	13
281101.	Background	13
281102.	Procedures	13
281103.	Problem Cases	14
2812	BANKRUPTCY	14
281201.	Bankruptcy Petition.....	14
281202.	Proof of Claim.....	15
281203.	Relief from Automatic Stay	15
281204.	Automatic Stay.....	15
2813	PAY NOT AFFECTED BY CIVIL PROCESS.....	15
2814	PRIORITY OF DEDUCTIONS AND COLLECTIONS.....	15
281401.	Reduction of Pay Entitlement	15
281402.	Reimbursement.....	16
281403.	Involuntary Repayment	16
281404.	Alimony, Child Support, and Uniformed Services Former Spouses' Protection Act	17
281405.	Court-Ordered Bankruptcy Payments	17
281406.	Non-appropriated Fund Activity (NAF)	17
281407.	State Income Tax.....	17
	Figure 28-1. Example of Notification Letter for IRS Notice of Levy.....	18

Table of Contents (Continued)

Table 28-1. Indebtedness to Government Agencies 19

BIBLIOGRAPHY 22

CHAPTER 28

COLLECTION OF DEBTS

2801 GENERAL

A debt may be the result of an overpayment or erroneous payment not legally due a member, or an amount due to the [United States](#) Government but unpaid by a member. A debt may be for an overpayment of retired pay, an overpayment of active-duty pay and allowances, or other indebtedness arising from service on active duty (e.g. [unpaid government hospital bills, unpaid rent due military installations or bad checks tendered to appropriated or nonappropriated fund activities](#)). A debt may also be due to an overpayment from another Federal agency, Internal Revenue Service (IRS) tax levies, and/or court judgments. Also, a failure to deduct or an under-deduction from retired pay from the Department of Veterans Affairs (VA) compensation, Federal civil employment, Retired Serviceman's Family Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) costs, or allotments constitute an overpayment of retired pay. Pay or salary that has been earned for personal services rendered to the United States is authorized to be withheld only when expressly provided for by statute. See Table 28-1 for additional information. See Chapter 19 of this volume for precedence of discontinuing allotments, if required, to increase available pay for collection.

2802 SPECIALIZED TERMS

280201. Administrative Offset

The withholding of money payable by the [U.S.](#) Government to, or held by the Government for, a person to satisfy a debt that person owes to the Government is called an [administrative offset](#).

280202. Compromise

The acceptance of a lesser amount in settlement of a debt in accordance with [Title 31, United States Code \(U.S.C.\), section 3711](#) and [Title 31, Code of Federal Regulations \(C.F.R.\), Chapter IX, Part 902](#), is called a compromise.

280203. Creditor Agency

[Creditor Agency](#) is the United States agency to which the debt is owed.

280204. Delinquent Debt

[Delinquent Debt](#) is a debt that has not been paid by the due date specified in the initial written demand for payment (i.e., invoice, demand letter, or other applicable agreement or instrument (including a post-delinquency repayment agreement)) unless other satisfactory payment arrangements have been made. Delinquency starts one day after the payment due date or other agreed upon date, depending on the agreement or instrument. If an installment agreement is provided and the payment is not made by the due date, then the entire balance of the receivable becomes delinquent from the due date of the missed payment. If payment is not made according

to the agreed upon installment, then the full amount of the account and related interest and penalties, if any, are reported as delinquent. Delinquent debts are aged from the date of delinquency. A debt becomes delinquent when:

A. Payment has not been made by the payment due date, or by the end of the “grace period” as established in a loan or repayment agreement, as in the case of a debt being paid in installments. Date of delinquency is the payment due date; or

B. Payment is not made by the due date specified in the initial billing notice, in the case of administrative debts such as fines, fees, penalties, and overpayments. The due date is usually 30 days after the notice is mailed. The date of delinquency is the date the billing notice or invoice is mailed or delivered.

280205. Disposable Pay

Disposable pay is the amount that remains after retired pay is reduced by amounts that are:

- A. Required by law to be deducted;
- B. Properly withheld for Federal, state, and local income taxes;
- C. Deducted as health insurance premiums;
- D. Deducted as normal retirement contributions;
- E. Deducted as normal life insurance premiums; and
- F. Levies pursuant to the Internal Revenue Code.

280206. Erroneous Payment

A payment that was not legal and proper when made is called an erroneous payment.

280207. Involuntary Collections

Collection action taken without a member’s consent following provision of procedural due process rights to member is called an involuntary collection. This action requires a statute specifically authorizing such collection.

280208. Pay

Pay is considered that part of current pay remaining after any reductions in entitlements required by law because of:

A. Civilian employment (foreign employment and conflict of interest restrictions);

- B. Reserve duty Inactive Duty Training/Active Duty Training (IDT/ADT);
- C. RSFPP premium;
- D. SBP premium; and
- E. VA compensation.

280209. Paying Agency

The Federal agency from which the debtor is receiving current pay is called the [paying agency](#).

280210. Routine Adjustments

The correction of an overpayment resulting from clerical or administrative errors or delays in processing pay documents that is discovered and corrected within no more than two monthly pay periods after the date of overpayment is called a [routine adjustment](#). This includes retroactive VA increases resulting from legislation.

280211. Salary Offset

The collection of a debt to the United States by installment deduction(s) at officially established pay intervals from the current pay account of a member is called a [salary offset](#).

280212. Waiver and Waive

The statutory authority to forego the collection of a government claim arising out of an erroneous payment or an overpayment of pay or allowance when facts indicate it is appropriate is called a [waiver](#).

2803 COLLECTION WITH MEMBER'S CONSENT

Members indebted to the United States will be encouraged to discharge their indebtedness through lump-sum cash payment when possible. When the amount of the debt relative to the member's ability to repay indicates that lump-sum settlement would create financial hardship for the member, installment payments will be accepted. Members will be encouraged to accept liability voluntarily for their indebtedness and agree to repayment schedules that adequately protect the interests both of the United States and those members.

2804 AUTHORITY FOR INVOLUNTARY COLLECTION

280401. Authorized by Statute

Current pay is available for repayment of indebtedness without the member's consent only if such recovery is expressly authorized by statute.

280402. Deductions from Pay

Debts to the Department of Defense (DoD) or any of its instrumentalities or other Uniformed Services will be deducted from pay under [37 U.S.C. 1007\(c\)](#).

280403. Deduction by Salary Offset

Debts administratively determined to be owed to another Federal agency shall be collected by salary offset under authority of [5 U.S.C. 5514](#).

280404. Deduction by Administrative Offset

Debts determined to be owed to another Federal agency shall be collected administratively under authority of [31 U.S.C. 3716](#).

280405. Unauthorized Involuntary Offset

Requests by courts to be paid money due nonfederal debtors are not debts to the United States that can be involuntarily offset, unless the offset specifically is authorized by statute.

2805 NOTIFICATION TO DEBTOR AND DUE PROCESS

280501. General Requirements for Debt Notification and Demand for Payment

The Federal Claims Collection Standards (FCCS) require the issuance of a minimum of one demand letter. That requirement may be a single, all-inclusive demand letter or several successive and progressively stronger demand letters depending on the type and amount of the debt and the debtor's response to collection efforts. Use demand letters to expedite the resolution and collection of debts or arrive at the earliest practicable decision on the final disposition or referral of debts to Department of Justice (DOJ) for litigation. In determining the timing of the demand for payment, give consideration to the need to refer delinquent debts promptly to DOJ for litigation.

280502. Demand Letters

Debt Collection Offices (DCOs) shall issue demand letter(s) within 5 working days following confirmation of the debt, the basis of indebtedness, and the amount of the debt. DCOs shall exercise care to ensure that demand letters are mailed or hand-delivered on the same day that they are dated. Demand letters will inform the debtor of the following information and requirements:

A. The reason for the indebtedness (e.g., overpayment of living quarters allowance), the authority of establishing the debt (e.g., [31 U.S.C. 3716](#)), and the rights, if any, that the debtor may have to seek review within the DoD Component or DCO.

B. The applicable standards (e.g., [31 C.F.R. 901.9](#)) upon which any interest, penalties, or administrative charges are based.

C. The date by which payment must be made in order for the debtor to avoid late charges and enforced collection (that date generally will not be more than 30 days from the date that the demand letter is mailed or hand-delivered).

D. The name, address, and telephone number of a point of contact or office that the debtor may speak with or write to regarding the demand for payment of the debt.

E. Remedies that the DCO will use to enforce payment of debts may include:

1. Federal salary offset, including routine pay adjustments and recoupments, or salary offsets according to the policies and procedures specified in Volumes 7A, 7B, 8 or other provisions of this Regulation, as appropriate;

2. Assessment of interest, administrative charges, and penalties;

3. Allotments;

4. Collection of collateral and collection from other sources;

5. Tax refund and administrative offset (through the Department of the Treasury Offset Program);

6. Credit bureau reporting;

7. Collection agencies;

8. Administrative wage garnishment; and

9. Litigation.

F. Other appropriate information, if applicable, including the DCO's willingness to discuss alternative methods of payment, any rights to a hearing, and any opportunity to seek a waiver or remission of the debt.

2806 COLLECTIONS FOR MILITARY RELATED DEBTS

The law authorizes the deduction from a member's pay of amounts that the Secretary of the Military Department concerned (or designee) administratively determines to be owed the United States or any of its instrumentalities.

280601. Routine Adjustments and Categories of Debts

A. Routine Adjustments. A routine adjustment corrects an overpayment resulting from clerical or administrative errors, delays in processing pay documents, or an automated pay system error which is discovered and collected within no more than two monthly pay periods after the date of overpayment. The member shall be provided with a written notice of the adjustment as well as notice of due process rights as soon thereafter as practicable.

B. Categories

1. All debts of \$100 or less will automatically be collected at two-thirds of disposable pay on the first available payday after they are identified. These debts will not require a notice to the retiree before collection action is taken. A Retiree Account Statement (RAS) remark will advise the retiree that the debt has been collected from their pay.

2. Routine adjustments greater than \$100 will be processed for collection in the month they are identified and a notice will be sent to the retiree (RAS remark) regarding an impending collection. If the retiree does not request a change in the repayment schedule, then the system will automatically collect the debt utilizing the two-thirds disposable pay rule.

3. Debts greater than \$100 require formal notification to the member in the form of a due process letter from the Defense Finance and Accounting Service (DFAS), Cleveland (DFAS-Cleveland Site). The DFAS-Cleveland Site will initiate debt collection based upon an appropriate liquidation schedule.

280602. “No Pay Due” Notice

As a precaution to prevent avoidable hardship to the retiree, a “no pay due” RAS will be generated to the retiree.

280603. Due Process Debts

See section 2805.

NOTE: The Secretary concerned may prescribe additional rights prior to collection by offset under [37 U.S.C. 1007\(c\)](#).

280604. Debt Transfer on Retirement

Active-duty debts will be transferred on retirement, and collection will be resumed from retirement or retainer pay. It will not be necessary to repeat the due-process procedures in paragraphs 280501 and 280502.

280605. Debt Owed to Another Military Service

Where a member of one Military Service owes a debt to another Military Service and the Secretary of the creditor Service makes an administrative determination of indebtedness, the Secretary may forward that determination, along with certification of compliance with appropriate procedures set forth above, to the Secretary of the member's Military Service. That Secretary (or designee) then may initiate collection.

280606. Request for Delay

The member shall have a reasonable opportunity to request a delay in the imposition of the repayment requirement to recover the indebtedness. If delay is requested, the Secretary concerned shall consider the reasons provided by the member for the requested delay, including the financial ability of the member to repay the indebtedness, and the hardship that immediate collection would impose on the member and the member's dependents.

280607. Limitations on Collection

Collection against the member's pay may not exceed 15 percent of disposable retired pay, except that a greater amount may be deducted with the written consent of the individual.

2807 COLLECTIONS FOR OTHER DEBTS OWED TO THE GOVERNMENT

280701. Installment Deductions

When the Secretary of the Military Department concerned (or designee) determines that a member is indebted to the United States or is notified of such debt by the head of another agency, the amount may be collected in monthly installments by deduction from the current pay account of the individual, under the authority of [5 U.S.C. 5514](#). The designated agent listed is responsible for receiving these collection requests:

DFAS-AHADC/CL
1240 E. 9th Street
Cleveland, OH 44199-8002

280702. Not to Exceed 15 Percent of Disposable Pay

Collection may be made in monthly installments or at established pay intervals not to exceed 15 percent of disposable pay for any pay period, unless a greater percentage is authorized by written consent of the member. Unsatisfied debts at discharge or retirement shall be deducted from subsequent payments of any nature due the member.

280703. Due Process

See section 2805.

2808 LIMITATION ON AMOUNT OF DEDUCTIONS

280801. Minimum Amount

The amount to be collected each month in order to recoup indebtedness from a member's retired pay should be no less than \$50, or an amount reasonable to the size of the debt and the member's ability to pay as supported by financial information provided by the member. Minimum amounts do not apply where collection amounts are specified by statute.

280802. Maximum Amount

The maximum monthly amount that may be collected under section 2806 is the lesser of:

A. Two-thirds of the member's pay less the amounts deducted for court martial, if any, and any amounts authorized by law to be withheld, or

B. Fifteen percent of the disposable retired pay.

2809 INTEREST, PENALTIES, AND ADMINISTRATIVE COSTS

[Title 31, U.S.C., section 3717](#) and the FCCS authorize the assessment of interest, penalty, and administrative charges on delinquent debts. All interest, penalty, and administrative charges on delinquent debts shall be calculated and recorded in the DoD Component accounting system. Refer to Volume 4, Chapter 3, Annex 1 of this Regulation for guidance on assessing these charges and possible waiver of these charges.

2810 WAIVER OF INDEBTEDNESS

281001. Remission of Indebtedness Due from Military Members

Title 10, U.S.C., sections [4837](#), [6161](#), and [9837](#) provide authority for the remission of indebtedness due from a military member. This process is not available to DoD civilian employees. Requests from Army and Air Force military members will be forwarded to their respective services for processing. Requests from Navy and Marine Corps military members will be submitted on a [Department of Defense \(DD\) Form 2789](#) (Waiver/Remission of Indebtedness Application) and will be forwarded to DFAS-IN, Department 3300 (Waiver/Remission), 8899 East 56th Street, Indianapolis, IN 46249-3300 for processing.

281002. Waiver of Indebtedness Arising From Erroneous Payments

[Title 5, U.S.C., section 5584](#), [10 U.S.C. 2774](#), and [32 U.S.C. 716](#) provide authority to waive an indebtedness which is the result of an erroneous payment of pay or allowances or an erroneous payment of travel, transportation or relocation expenses and allowances. All requests for waiver of indebtedness for DoD civilians (current and retired) and military members (active, reserve, retired and National Guard) will be submitted on a DD Form 2789 and will be forwarded to DFAS-IN, Department 3300 (Waiver/Remission), 8899 East 56th Street,

Indianapolis, IN 46249-3300 for processing. See [DoD Instruction 1340.23, "Waiver Procedures for Debts Resulting from Erroneous Pay and Allowances"](#), for additional guidance.

2811 COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

281101. Background

When a member does not pay any Federal income taxes due within 30 days after the IRS has issued a notice and demand for payment to the member, the IRS may collect the tax by levy on the member's salary or other income, including retired or retainer pay. IRS tax levies are requests, on IRS Form 668-W (Notice of Levy on Wages, Salary, and Other Income), for a continuous levy from a member's retired pay to collect taxes owed. The effect of a levy on wages, salary, or other income payable to or received by the member shall be continuous from the date such levy is first made until such levy is released by the IRS on Form 668-D (Release of Levy). Medal of Honor recipients are exempt from tax levy.

281102. Procedures

The IRS will transmit IRS Forms 668-W or [668-W\(c\)](#) in five parts (the letter "c" designates a computer-generated form which is the same as the version of the form without the "c"), which will identify the member; specify the amount of the tax liability; give instructions for providing due process; show how to compute the levy based on input from the taxpayer; and give the address to which to send the payment. Read and follow the instructions on the IRS Form 668-W; in general, this requires notifying the taxpayer, computing the amounts available for payment to the IRS, and making the payment. Currently, the IRS Form 668-W requires the employer to send to the IRS all of the taxpayer's net pay less what is exempt from levy. Net pay is gross retired pay less all deductions and allotments in effect as of the date of receipt of IRS Form 668-W. Follow the instructions on that form when computing exemptions. Specific instructions are as follows:

A. Within 3 working days from the date of receipt of the levy, notify the taxpayer by using a formal letter and enclosing the member's copies of the IRS Form 668-W. See Figure 28-1 for an example of the formal letter.

B. If the date of receipt of the levy is between the 1st and the 15th day of the month, then advise the member that the deduction from retired pay will be on the first business day of the second month after the current month. If the date of receipt of the levy is between the 16th and the last day of the month, then the deduction will be on the first business day of the third month after current month. Thus, if the receipt of the levy is November 11, 2009, deduction will be in the retired pay check of January 1, 2010. If the receipt of the levy is November 28, 2009, then the deduction will be on February 1, 2010.

C. Notify affected former spouses with divorce dates prior to February 3, 1991 (division of property settlement cases only) that future payments will be reduced to reflect an adjustment to the member's disposable retired pay. Do not disclose the reason for the adjustment.

D. Even if the member's declaration of exemption is not timely, it should be honored if received prior to the last date for making changes to the member's retired pay account.

281103. Problem Cases

When the IRS has determined the taxpayer to be a "problem case," the taxpayer will be furnished with the IRS Form 668-W, a statement of the amount of delinquent taxes and a statement that "net pay" is not enough to pay the levy and that all available accrued pay should be sent to the IRS. Available accrued pay is gross retired pay less:

- A. Withholding for current Federal taxes (statutory amounts only);
- B. Amounts required to satisfy prior overpayments of pay;
- C. Amounts waived in favor of compensation from the VA;
- D. U.S. Government Life Insurance/National Service Life Insurance premiums;
- E. Deductions for RSFPP and/or SBP costs;
- G. Voluntary child-support allotments to satisfy court orders, provided the court order is dated prior to the date of the levy from the IRS;
- H. Pay attached or garnished for child support or alimony; and
- I. The levy exemptions calculated under normal levy procedures.

NOTE: The main difference between a regular levy and a problem case levy is that, under the latter, the member's voluntary allotments of retired pay must be stopped to satisfy the levy. If it is not necessary to stop all allotments, then the member should be given the opportunity to select those allotments to be stopped. If the member does not so elect, then stop such allotments as are necessary, stopping any commercial insurance allotments last.

2812 BANKRUPTCY

281201. Bankruptcy Petition

Upon learning that a bankruptcy petition has been filed with respect to a debtor, before taking any further collection action, DCO shall obtain legal advice concerning the impact of the Bankruptcy Code (Title 11) on any pending or planned collection action. In most cases, collection action should stop immediately unless it is determined that the automatic stay imposed at the time of filing pursuant to [11 U.S.C. 362](#) has been lifted or is no longer in effect.

281202. Proof of Claim

After obtaining legal advice, a proof of claim in most cases should be filed with the bankruptcy court or the trustee. Attorneys should be aware of and provide advice, as necessary, relating to the consequences on sovereign immunity of filing a proof of claim under the provisions of [11 U.S.C. 106](#).

281203. Relief from Automatic Stay

A secured creditor may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of [11 U.S.C. 362](#).

281204. Automatic Stay

Offset is stayed in most cases by the automatic stay. DCOs shall seek legal advice regarding initiation of action to freeze payments to the debtor and payments to other agencies available for offset pending relief from the automatic stay from the bankruptcy court. DCOs also shall seek legal counsel regarding the possibility of recoupment.

2813 PAY NOT AFFECTED BY CIVIL PROCESS

A retired member may not be deprived of his or her pay by civil process of garnishment or levy except as follows: garnishment of child support or alimony (see Chapter 27 of this volume); levy for delinquent Federal income taxes (see section 2811 of this chapter); or levy for child support.

2814 PRIORITY OF DEDUCTIONS AND COLLECTIONS

When the amounts due a member are not enough to cover authorized deductions or collection, collect applicable amounts shown in the following sequence:

281401. Reduction of Pay Entitlement

Losses of pay entitlement take precedence over all other items for deduction or collection. These reductions [affect pay entitlements such as:](#)

- A. Readjustment pay,
- B. Separation pay,
- C. Severance pay,
- D. Variable Separation Incentive (VSI),
- E. Special Separation Benefit (SSB),

- F. Reserve Special Separation Pay (RSSP),
- G. Forfeiture of pay, and
- H. VA compensation.

281402. Reimbursement

Reimbursement to the United States of deductions made on behalf of the member includes:

- A. Federal income tax withholding (FITW),
- B. TRICARE – Dental Plan,
- C. RSFPP premiums,
- D. SBP and Supplemental Survivor Benefit Plan (SSBP) premiums, and
- E. Reserve Component Survivor Benefit Plan (RCSBP) premiums.

281403. Involuntary Repayment

Involuntary repayment of indebtedness to the United States, which includes:

- A. Routine adjustments and automatic collections. (See paragraph 280501 of this chapter.),
- B. Other overpayments of retired pay,
- C. Debts arising from active duty,
- D. Debts to DoD appropriated fund activities,
- E. Hospital rations issued to member,
- F. Excess cost of shipment of household goods,
- G. Unpaid hospital bills for medical services furnished a dependent,
- H. Delinquent RSFPP, SBP, SSBP, or RCSBP costs,
- I. Court-martial fines, and
- J. Debts from other departments or agencies outside DoD, including court judgments.

281404. Alimony, Child Support, and Uniformed Services Former Spouses' Protection Act

Collect deductions made for garnishment for alimony and child-support payments and Uniformed Services Former Spouses' Protection Act payments.

281405. Court-Ordered Bankruptcy Payments

Collect deductions made for court-ordered bankruptcy payments under Chapter 13 of the revised Bankruptcy Code.

281406. Non-appropriated Fund Activity (NAF)

Collect deductions made for indebtedness to a NAF.

281407. State Income Tax

Collect deductions made for state income tax withholding.

Figure 28-1. Example of Notification Letter for IRS Notice of Levy

**Defense Finance and Accounting Service
Retired and Annuitant Pay**

December 1, 20XX

CMSGT Anthony J. Celebreeze, U.S. Air Force (Retired)
1240 East 97th Street
Cleveland, OH 44199-2055

Dear Chief Celebreeze,

The IRS has sent us the attached IRS Form 668-W, (Notice of Levy on Wages, Salary, and Other Income). Please read the IRS Form 668-W carefully, as it may be advisable to discuss it with your attorney or other tax adviser.

Complete the attached form and return it to us within 3 working days to claim your partial exemption. If we do not receive the completed form, we will compute your exemption for you, using the exemption for a married person filing separately with one personal exemption. Please note that the exemptions you claimed for tax withholding purposes are NOT the same and we will not use them to compute your exemption from levy.

This is a continuous levy against your retired pay to collect delinquent federal taxes. We will deduct the levy from your (month/year) retired pay check. A specified collection will continue to be made against your retired pay until the levy has been satisfied. This levy remains in force and effect until the IRS serves our office with IRS Form 668-D, (Release of Levy).

If you have been awarded the Medal of Honor, you are exempt from levy. Send us a copy of the citation awarding you the Medal of Honor to prevent the levy of your retired pay.

Please contact the IRS office which issued the levy for questions that you may have concerning the levy.

Sincerely,

Military Pay Technician
Retired and Annuitant Pay

Attachment:
As stated

Table 28-1. Indebtedness to Government Agencies

INDEBTEDNESS TO GOVERNMENT AGENCIES					
R U L E	A	B	C	D	E
	If a (an)	of	is indebted for	then collect from retired pay	at maximum monthly rate of
1	retired member	any Military Service	overpayment of retired pay	involuntarily	see note 1.
2			overpayment of active duty pay and allowances carried forward from active duty		rate established while on active duty (note 1).
3			unpaid hospital bills for medical services furnished a dependent	involuntarily or pursuant to Military Service regulations	see note 1.
4			excess cost of shipment of household goods		see notes 1 and 4.
5		the Army or Air Force	uncollectible check to a commissary issued or endorsed by member or member's agent	involuntarily	all pay (excluding FITW). See note 3.
6		the Navy or Marine Corps		involuntarily or pursuant to Military Service regulations	see notes 1 and 3.
7		any Military Service		any indebtedness to a non-appropriated fund activity	
8			Hospital rations furnished to a member		
9			CHAMPUS payment on behalf of member's dependents	with member's consent	amount applicable.
10			delinquent federal income tax	involuntarily	see section 2811.
11			the Army or Air Force	loss, damage, or destruction of arms or equipment in member's care or use	involuntarily or pursuant to Military Service regulations
12		the Navy or Marine Corps	with member's consent		
13	accountable officer	any Military Service	loss or damage to military supplies, upon final settlement of accounts of officer charged with issue of the supplies	involuntarily or pursuant to Military Service regulations	

Table 28-1. Indebtedness to Government Agencies (Continued)

INDEBTEDNESS TO GOVERNMENT AGENCIES					
R U L E	A	B	C	D	E
	If a (an)	of	is indebted for	then collect from retired pay	at maximum monthly rate of
14	retired member	any Military Service	damage to assigned family housing, or damage to or loss of equipment or furnishings caused by the abuse or negligence of the member or the member's dependent(s) or guests of member or the member's dependent(s) while on active duty and established by a Report of Survey	involuntarily	see notes 1 and 4.
15			a debt determined valid from another federal agency		not to exceed 15 percent of disposable pay.
16			RSFPP and SBP payments to a surviving annuitant when retiree presumed dead is later found to be alive		all pay or amount applicable.
17			advanced and unused travel expense		see notes 1 and 4.
18			dual compensation restrictions		see note 1.
19			negotiating both original and substitute checks		
20			retired pay paid concurrently with active duty pay while serving as a Reservist. (a) prior fiscal year(s) or prior month(s) (b) current		see note 1. 1/12 of total for fiscal year
21		any of the Armed Forces	readjustment pay (a) paid prior to Sep 15, 1981 see Volume 7B, Chapter 4, Table 4-1) (b) paid after Sep 14, 1981	all.	
22			non-disability severance pay (a) paid prior to Sep 15, 1981 (see Volume 7B, Chapter 4, Table 4-2) (b) paid after Sep 14, 1981	see note 2.	

Table 28-1. Indebtedness to Government Agencies (Continued)

INDEBTEDNESS TO GOVERNMENT AGENCIES					
R U L E	A	B	C	D	E
	If a (an)	of	is indebted for	then collect from retired pay	at maximum monthly rate of
23	retired member	any of the Armed Forces	separation pay	involuntarily	see note 2.
24		any Military Service	an uncollectible check endorsed or issued by the member or a defaulted loan made to the member at a military banking facility overseas		see notes 1 and 4.
25			an uncollectible check endorsed by the member to a disbursing officer		see note 1.

NOTES:

1. Deductions will not exceed limitation set forth in paragraph 280802 of this volume.
2. Monthly rate based on service for which readjustment, severance, or separation pay was received as a proportion of the total deducted equals the lump-sum payment received.
3. Effective February 1, 1999, collection of dishonored checks written by the member or the person who presented the check based upon their status and relationship to the member as well as costs associated with that check may be collected involuntarily.
4. Submit these types of collections to the Debt Collection Management Office (DCMO).

BIBLIOGRAPHY**CHAPTER 28 – COLLECTION OF DEBTS**

2802 – SPECIALIZED TERMS

280202	31 U.S.C. 3711 31 C.F.R. Part 902
280205	5 C.F.R. 550.1103 5 C.F.R. 581.105 (b)-(f) 31 C.F.R. 900.2
280206	5 U.S.C. 5514
280213	10 U.S.C. 2774

2804 – AUTHORITY FOR INVOLUNTARY COLLECTION

280401	37 U.S.C. 1007(c) 5 U.S.C. 5514 31 U.S.C. 3716
280402	37 U.S.C. 1007(c)
280403	37 U.S.C. 5514
280404	37 U.S.C. 3716
280405	MS Comp Gen B-261169, November 21, 1995

2805 NOTIFICATION TO DEBTOR AND DUE PROCESS

280501	31 C.F.R. 900-904
280502	5 U.S.C. 5514

2806 – COLLECTIONS FOR MILITARY RELATED DEBTS

	37 U.S.C. 1007(c)
280603	5 U.S.C. as amended, Public Law 104-134, 110 STAT. 1321-358, Chapter 10, section 31001, April 26, 1996

2807 – COLLECTIONS FOR OTHER DEBTS OWED TO THE GOVERNMENT

5 U.S.C. 5514

2808 – LIMITATION ON AMOUNT OF DEDUCTIONS

37 U.S.C. 1007(c)

2809 – INTEREST, PENALTIES, AND ADMINISTRATIVE COSTS

31 U.S.C. 3717

2810 – WAIVER OF INDEBTEDNESS

	MS Comp Gen B-185466, August 19, 1976
281001	10 U.S.C. 4837, 6161, and 9837
281002	5 U.S.C. 5584
	10 U.S.C. 2774
	32 U.S.C. 716

2811 – COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

26 U.S.C. 6321(a)
26 U.S.C. 6331, 6334

2812 – BANKRUPTCY

11 U.S.C. 106
11 U.S.C. 362

2813 – PAY NOT AFFECTED BY CIVIL PROCESS

42 U.S.C. 659

TABLE 28-1 – INDEBTEDNESS TO GOVERNMENT AGENCIES

Rule 1	37 U.S.C. 1007(c)
Rule 3	37 U.S.C. 1007(c)
Rule 5	37 U.S.C. 1007(b) and (g) Public Law 105-261, section 364, October 17, 1998 DFAS-HQ/FCD Memo, March 11, 1999
Rule 6	37 U.S.C. 1007(c) Public Law 105-261, section 364,

	October 17, 1998
	DFAS-HQ/FCD Memo,
	March 11, 1999
Rule 7	37 U.S.C. 1007(c)
Rule 8	37 U.S.C. 1007(c)
Rule 9	49 Comp Gen 361
Rule 10	26 U.S.C. 6321(a), 6331
Rule 11	37 U.S.C. 1007(e)
	DoD 7200.10-M
Rule 13	37 U. S.C. 1007(c)
	DoD 7200.10-M
Rule 14	10 U.S.C. 2775
	37 U.S.C. 1007(c)
Rule 15	5 U.S.C. 5514
Rule 16	10 U.S.C. 1450(l)(3)(A)
Rule 17	37 U.S.C. 1007(c), 5 U.S.C. 5705
Rules 18, 19 & 20	37 U.S.C. 1007(c)
Rule 21a	10 U.S.C. 687 (repealed)
Rule 22b	Public Law 96-513 as amended by Public Law 97-22
Rule 23a	10 U.S.C. 1167
	10 U.S.C. 3303
	10 U.S.C. 3786
Rule 23b	Public Law 96-513 as amended by Public Law 97-22
Rule 24	10 U.S.C. 1174
Note 1	Public Law 102-484, section 643, October 23, 1992