

VOLUME 8, CHAPTER 8: “UNDERPAYMENTS, COLLECTION OF NON-DOD DEBTS, GARNISHMENTS, BANKRUPTCY ACTION, AND TAX LEVIES”

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) 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 [December 2020](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
4.1	Updated paragraph to include additional agencies paid by Defense Finance and Accounting Service (DFAS) and updated information for submitting documentation to DFAS Garnishment Law Directorate.	Revision
5.1	Updated paragraph to include updated address, online submissions, and reference to DFAS Garnishment Law Directorate for bankruptcies.	Revision
5.1.3	Updated subparagraph to provide additional clarity.	Revision
5.2.2	Updated subparagraph to include possible exceptions.	Revision

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CHAPTER 8

**UNDERPAYMENTS, COLLECTION OF NON-DoD DEBTS, GARNISHMENTS,
BANKRUPTCY ACTION, AND TAX LEVIES**

1.0 GENERAL

1.1 Purpose

This chapter establishes policy pertaining to underpayments, special payments, collection of non-DoD debts, processing garnishments, bankruptcy actions, tax levies, and processing and tax reporting on pay corrections. For regulations governing the collection of debts owed to DoD, see Volume 16.

1.2 Authoritative Guidance

The pay policies and requirements established by DoD in this chapter are derived primarily from, and prepared in accordance with the United States Code (U.S.C.), including Titles 5, 11, and 31. The specific statutes, regulations, and other applicable guidance that govern each section are listed in a reference section at the end of this chapter.

2.0 UNDERPAYMENTS

2.1 General

Salary underpayments to employees or former employees may result from computation or time and attendance errors. Current or former employees, who believe they have not been credited with the proper amount of pay or leave, should contact their timekeeper to make time and attendance corrections or their personnel office to make pay or allowance changes. Employees may also file a claim for additional earnings. For more information on the process for filing a claim, see Chapter 6.

2.1.1. Computation Errors. Underpayments may be the result of computation errors involving income tax withholding, retirement or other employee benefit deductions, Social Security/Medicare tax, or the rate of pay. Every effort should be made to correct the underpayments by increasing or decreasing the pay factors affected on the first payroll prepared after the error is discovered.

2.1.2. Time and Attendance Errors. Underpayments may also be the result of time and attendance errors. All salary payments to employees must be paid in accordance with the time and attendance reported and certified by the employee's supervisor. Reported time and attendance, which is less than an employee's normal work schedule, is presumed to accurately reflect the employee's hours of work and non-work. Any errors in time and attendance must be corrected and certified in order to adjust underpayments.

2.2 Special Payments

Special payments are defined as payments made outside of the normal payroll-processing schedule and are used to correct salary underpayments. Special payments are processed manually. Employees do not receive a Leave and Earnings Statement (LES) at the time of the special payment, but the Civilian Payroll Office (PRO) should notify the employee that the payment is being made. After the special payment is processed through the payroll system, an LES will reflect the gross amount of the special pay and all applicable deductions.

2.2.1. Guidelines for Issuing Special Payments

An employing activity must submit a request to the PRO for a special payment. The PRO may receive special payment requests via interfaced action(s). The PRO must request copies of substantiating and supporting documentation in order to process the special payment. The PRO makes the final determination on whether a special payment is appropriate and will process a special payment only under the following circumstances:

2.2.1.1. Employee Receives Less Than 90 Percent of Pay. A special payment may be issued to correct a salary underpayment when an employee has received less than 90 percent of their regular biweekly pay and allowances. The request for the special payment must be made by the commanding officer/director and must include a certified time and attendance report (or corrected time and attendance report). The PRO Directors may waive the 90 percent rule for making special payments when extenuating circumstances exist.

2.2.1.2. Employee Erroneously Omitted From Payroll. A special payment may be issued to pay an employee erroneously omitted from the payroll. Before the special payment is processed, the PRO must verify an individual's employment using the Standard Form [\(SF\) 50](#), Notification of Personnel Action. The request for the special payment must be made by the commanding officer/director and must include a certified and corrected time and attendance report and any necessary source documents to support deductions.

2.2.1.3. Employee on Leave Without Pay (LWOP). A special payment may be issued to pay an employee placed in an LWOP status for payroll processing when LWOP is approved for conversion to advanced annual, sick, and/or donated leave. The commanding officer/director may request a special payment after determining a financial hardship exists for the employee and that the employee has received less than 90 percent of their regular biweekly pay and allowances. The request must include a certified and corrected time and attendance report.

2.2.1.4. Special Payments to Beneficiaries. A special payment may be issued to pay a beneficiary entitled to receive a deceased employee's unpaid compensation under [5 U.S.C. § 5582](#). Beneficiaries of deceased employees may request a special payment by sending a letter to the PRO identifying the need for payment to defray expenses. The PRO may issue the special payment only after the employing activity's human resources office submits sufficient documentation to support the payment. For more information on deceased employee unpaid compensation and the computation of such payments, see Chapter 10.

2.2.2. Special Payments Not Authorized

Special payment requested for the following reasons will not be processed:

2.2.2.1. Partial Payment of Salary. The PRO will not honor a request for partial payment of salary before the regular pay date.

2.2.2.2. Special Payments of Premium Pay. The PRO will not process a request for special payments for overtime or other premium pay earned but not reported and, therefore, not paid in the corresponding pay period. However, authorization for a special payment for other reasons will include the payment of any unpaid premium pay for the corresponding pay period.

2.2.3. Computation of Special Payments to Employees

The PRO must compute the special payments to current and former employees using the “gross-to-net” method. Gross-to-net payments represent the regular biweekly pay and allowances normally due the employee (plus unpaid premium pay for the corresponding pay period, if applicable,) less required deductions and withholdings withheld from the employee’s biweekly pay. Gross-to-net special payment computations should be applied as follows:

2.2.3.1. Biweekly Payment of Less Than 90 Percent. If the employee received less than 90 percent of their biweekly pay, the employee is entitled to the difference between what was paid and what should have been paid. The PRO will deduct additional amounts for applicable items, such as those identified in subparagraph 2.2.6, unless previous payroll processing has satisfied those deductions. The employee is responsible for existing voluntary allotments not deducted during the previous processing. All deductions and withholdings must resume the following pay cycle, including voluntary allotments.

2.2.3.2. No Pay Received. If the employee received no biweekly pay, the gross entitlements, less applicable deductions and withholdings, are payable to the employee. The PRO must exclude deductions for voluntary allotments. The employee is responsible for existing voluntary allotments. All deductions and withholdings must resume on the following pay cycle, including voluntary allotments.

2.2.3.3. Final Pay as Special Payment. An employee’s final pay may be issued as a special payment. The gross entitlements, less required deductions and withholdings in subparagraph 2.2.5, is payable to the employee. The employee is responsible for voluntary allotments. Under [5 U.S.C. § 5514](#), when an employee separates by resignation, retirement, death, or termination of appointment, the employee’s final pay (including lump-sum leave payments) will be applied to the extent necessary to liquidate any previously established debt. See Volume 16, Chapter 3.

2.2.4. Disbursement of Special Payments

Employees will receive special payment disbursements in the same manner as their net pay, by electronic funds transfer (EFT). If the employee has received a waiver of the EFT requirement for payroll disbursements, the PRO will send the employee a U.S. Treasury check via express mail to the employee's address of record. Payments are normally issued within 3 business days following the PRO's receipt of the special payment request and required supporting documentation.

2.2.5. Processing Special Payments Made After the Last Regular Pay Period of the Tax Year, But Prior to the End of the Calendar Year

2.2.5.1. Federal, State, and Local Taxes and Social Security/Medicare. For special payments made after the last regular pay period of the tax year, but prior to the end of the calendar year, the PRO must withhold federal, state, and local taxes, and Social Security/Medicare from the special payments. When computing or making deductions for Social Security, the PRO must ensure the employee has not reached maximum withholdings for the year. The PRO must forward the withholdings to the applicable offices as soon as possible. The PRO will include all deductions and contributions for Social Security/Medicare, federal, state, and local taxes for canceled checks or special payments.

2.2.5.2. Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement. The PRO will process updates to ensure special payments or canceled checks are included in the history totals. After the final pay period of the tax year, if the PRO identifies incorrect reporting on the W-2, the PRO will issue the W-2c and the IRS Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund, in accordance with the IRS Publication 15, (Circular E), Employer's Tax Guide.

2.2.5.3. Thrift Savings Plan (TSP). Special payments for TSP participants are subject to TSP deductions provided the employee has not reached the maximum contribution level established by law. TSP deductions withheld from special payments after the last regular pay period in the tax year, but before the end of the calendar year, will be combined with the next pay cycle for reporting and submission to the Federal Retirement Thrift Investment Board.

2.2.6. Tax Rates for Special Payments

2.2.6.1. Tax Rate. The PRO must use the tax rate associated with the current IRS Form W-4, Employee's Withholding Certificate, when processing all time and attendance retroactive transactions. The PRO must combine the retroactive wages with the wages from the last pay period (i.e., the pay period prior to the current pay period) to determine the basis for recomputing tax withholdings. The PRO must recompute the taxes and determine the retroactive tax withholdings by subtracting the taxes withheld during the last pay period from the recomputed taxes.

2.2.6.2. Retroactive Wage Increases. In accordance with Circular E, retroactive wage increases are supplemental wages, not regular wages. The amount of federal tax withheld will depend on how the supplemental wages are paid. For prior year retroactive payments, the

amount of federal tax withheld is calculated using the supplemental tax rate, which is updated by the IRS annually. For current year retroactive payments, the amount of federal tax withheld is calculated using the employee's current tax rate.

3.0 COLLECTION OF NON-DOD DEBTS BY SALARY OFFSET; JUDGMENTS AGAINST EMPLOYEES FOR DEBTS OWED TO THE FEDERAL GOVERNMENT

3.1 Non-DoD Federal Creditor Agencies

3.1.1. Request for Salary Offset. A non-DoD federal creditor agency is a non-DoD agency to which an employee owes a debt. When non-DoD federal creditor agencies (except for the IRS or U.S. Courts) identify DoD employees as having outstanding debts, those agencies must address their salary offset requests to the Secretary of Defense designee for such collection, which is the Defense Finance and Accounting Service (DFAS) Cleveland (CL).

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

A request for offset must include certification that due process rights have been afforded to an indebted employee by the non-DoD creditor agency. Debts established in the payroll system for collection from non-DoD employees serviced by DFAS, who later transfer and become DoD employees, should be transferred systematically to the employing DoD agency for continued collection.

3.1.2. Statute of Limitations. There is no statute of limitations for collection of a debt by salary or administrative offset. Debts more than 10 years delinquent as of December 31, 2009, that were previously ineligible for collection may now be collected by administrative offset. Additional notice and due process requirements must be met. For further information, see Volume 16, Chapter 2.

3.2 Government Travel Charge Card (GTCC) Contractor

3.2.1. Authority. Public Law [\(PL\) 105-264](#) authorizes federal agencies to collect undisputed delinquent amounts incurred on an individually billed GTCC from the DoD employee's disposable pay. The amount deducted may not exceed 15 percent of an employee's disposable pay for each pay period, unless the employee has provided written consent for a greater amount. For further information, see the Federal Travel Regulation [\(FTR\) Part 301-54](#); [FTR Part 301-76](#); and Title 41, Code of Federal Regulations, [Part 301-76](#), ([41 CFR Part 301-76](#)).

3.2.2. Request for Collection. After undisputed debts become 90 days delinquent, the travel charge card contractor must send a 90-day demand letter to the employee that includes all due process requirements for initiating salary offset. If the debt is not disputed or paid, or arrangements are not made for payment by installment agreement within the 30-day period following the final debt letter, then the travel charge card contractor may request initiation of the salary offset process through payroll deduction.

3.2.3. Responsibilities

3.2.3.1. Travel Charge Card Contractor

3.2.3.1.1. Request for Offset. The travel charge card contractor must forward delinquent debts to [DFAS-CL](#) Salary Offset Project Office.

3.2.3.1.2. Record of Charges, Late Fees, and Costs. The undisputed 120-day old delinquent accounts referred for salary offset must contain the full balance of the account, regardless of whether some of the individual charges relate to an official travel document. In addition to the delinquent charges, the amount referred for salary offset must include any late fees assessed and costs of collection.

3.2.3.1.3. Financial Institution Information. The file must include the travel charge card contractor's financial institution and account routing information to facilitate electronic transmission of delinquent amounts collected.

3.2.3.1.4. Private Collection Agency Referrals. Any delinquent debt the travel charge card contractor has already forwarded to a private collection agency for collection must not be included in the salary offset process. Likewise, a travel charge card contractor must not refer any delinquent debt already submitted to DFAS for collection by salary offset to a private collection agency.

3.2.3.2. Salary Offset Project Office

3.2.3.2.1. Processing Requests. The Salary Offset Project Office must process the request for initiation of travel charge card delinquent debt salary offset in the same manner as is done for federal salary offset requests from other federal agencies.

3.2.3.2.2. Debt Balance. The Salary Offset Project Office must manage the debt balance during the salary offset process. If for any reason changes to the debt balance occur, the travel charge card contractor must immediately advise the Salary Offset Project Office of those changes.

3.2.3.2.3. Reports From the PRO. The PROs must provide reports listing the collection transactions to the Salary Offset Project Office for each collection file in order to monitor amounts collected and remaining debt balances due.

3.2.3.3. Due Process - Inquiries, Disputes, and Hearing Process. Any inquiries or disputes regarding the debt and the 90-day demand notice, which are received by the travel charge card contractor prior to forwarding the debt to DFAS for collection, will be handled and resolved by the travel charge card contractor. If the employee wants to negotiate an installment agreement prior to the referral of the debt for salary offset, the employee will make any such agreement with the travel charge card contractor. If the employee is not satisfied with the travel charge card contractor's disposition of the dispute, he or she may submit a petition to the travel charge card contractor for a debt hearing.

3.3 Collection of State Debts

Under [31 U.S.C. § 3716\(h\)](#) and [31 CFR 285.6](#), a state may enter into a reciprocal agreement with the Department of Treasury to collect unpaid state debt by offset of federal non-tax payments. DFAS does not offset non-tax state debts from federal employee salaries.

3.4 Judgment Against an Employee

When a U.S. Court determines that a federal employee is indebted to the United States and enters a judgment against the employee, PL 97-276, section 124 (published as a note to 5 U.S.C. § 5514), allows collection of the debt by deduction from the employee's current pay account. The employee's consent is not required. Any federal agency requesting salary offset under this authority must send a request for offset to the PRO with a copy of the judgment entered against the employee. The PRO may request DFAS Office of General Counsel (OGC) to review the judgment if questions arise. After confirmation of the validity or interpretation of the judgment, the PRO will:

3.4.1. Compute the amount to be collected each pay period using the percentage specified in the offset request. The maximum amount deducted for a pay period may not exceed 25 percent of the employee's disposable pay, unless a greater percentage is necessary to recover the amount owed within the time of the anticipated employment. Deductions may be made from basic pay, special pay, incentive pay, or in the case of an individual not entitled to basic pay, other authorized pay.

3.4.2. Collect the total unpaid balance as specified in the offset request. This amount may include accumulated interest and administrative charges. The agency requesting offset should notify the PRO approximately 90 days before completion of the judgment offset with the final judgment amount, which includes the balance of accrued interest charges.

3.4.3. Forward a copy of the offset request to the employee with written notification advising the employee of the deduction amount and pay period the deduction will start.

3.4.4. Apply final pay (salary and lump-sum leave) to any unliquidated debt balance if the employee retires, resigns, dies, or if employment otherwise ends.

3.4.5. Forward payment each pay period to the agency requesting salary offset.

4.0 CHILD SUPPORT, ALIMONY AND COMMERCIAL GARNISHMENTS

*4.1 General

DFAS serves as the paying agency for DoD, as well as non-DoD federal agencies, including the Department of Energy, the Department of Health and Human Services, [the Broadcast Board of Governors](#), [Executive Office of the President](#), [National Background Investigations Bureau](#) and the Department of Veterans Affairs. In this capacity, DFAS-OGC, Garnishment Law Directorate, is the designated agent for service of personal bankruptcy cases and garnishment legal process for agencies paid by DFAS.

Submit court orders, [related documents](#), and [forms](#) for child support, alimony, commercial garnishments, and bankruptcies to the Garnishment Law Directorate [by mail, fax, or online through the *askDFAS* module](#). For additional information, see the DFAS Garnishments website: <https://www.dfas.mil/Garnishment/>.

DFAS Office of General Counsel
Attn: Garnishment Law Directorate
PO Box 998002
Cleveland, OH 44199-8002

Toll free fax: (877) 622-5930
Fax: (216) 367-3675

Upon review of the court order, DFAS will process the garnishment deduction in the payroll system. A cancellation to the order will be automatic on the date of separation from DoD, upon death of the employee, or upon notification from the court that the garnishment is terminated. The employee cannot voluntarily stop court-ordered deductions.

4.2 Child Support and Alimony Garnishments

4.2.1. Authority. [Title 42, U.S.C. § 659](#) provides consent by the United States for garnishment and similar proceedings for enforcement of child support and alimony obligations against employees. The PRO must deduct court-ordered garnishment under this section from the employee's pay in accordance with [5 CFR Part 581](#).

4.2.2. Pay Subject to Garnishment. All moneys due employees, the entitlement to which is based upon "remuneration for employment," are subject to court-order garnishment. The term "remuneration for employment" means all compensation paid or payable for personal services performed by an individual, whether such compensation is denominated as wages, salary, commission, bonus pay, or otherwise, and includes, but not limited to, those items as defined in [5 CFR 581.103](#).

4.2.3. Pay Not Subject to Garnishment. Moneys paid as reimbursement (normally defined by law or regulations as allowances, awards paid for making suggestions, and injury compensation payments) are not deemed “remuneration for employment” and, therefore, are not subject to garnishment. Amounts not subject to garnishment are defined in [5 CFR 581.104](#). Other exclusions not subject to garnishment are deductions, as defined in [5 CFR 581.105](#).

4.2.4. Maximum Garnishment Limitations. Aggregate disposable earnings means the amount of any pay that is due or payable to an employee as “remuneration for employment” minus the deductions that are listed as exclusions. Unless a lower maximum garnishment limitation is provided by applicable state or local law, the maximum part of the aggregate disposable earnings subject to garnishment to enforce a support order ([5 CFR 581.402](#)) will not exceed the percentages specified in the following subparagraphs:

4.2.4.1. Up to 50 percent of the employee’s aggregate disposable earnings for any workweek if the employee is supporting a spouse, a dependent child, or both, other than the former spouse, child, or both for whose support is required by the garnishment order. An additional 5 percent of the employee’s disposable earnings is subject to garnishment in each case if the outstanding arrearages are over 12 weeks old; or

4.2.4.2. Up to 60 percent of the employee’s aggregate disposable earnings for any workweek if the employee is not supporting a spouse, dependent child, or both, other than the former spouse, child or both for whose support is required by the garnishment order. An additional 5 percent of the employee’s disposable earnings are subject to garnishment in each case if the outstanding arrearages are over 12 weeks old.

4.3 Commercial Garnishments

4.3.1. Authority. The public law, as codified in [5 U.S.C. § 5520a](#) and enabled by [5 CFR Part 582](#), authorizes the pay of federal civilian employees to be garnished for commercial obligations in accordance with state law. Commercial obligations and garnishments do not include those for child support or alimony.

4.3.2. Pay Subject to Commercial Garnishment. Pay due to employees, as defined in 5 U.S.C. § 5520a, is subject to commercial garnishment.

4.3.3. Pay Not Subject to Commercial Garnishment. Suggestion awards and injury compensation payments are not subject to garnishment. Other amounts excluded from pay subject to garnishment are payroll deductions as defined in [5 CFR 582.103](#).

4.3.4. Maximum Garnishment Limitations. Under [15 U.S.C. § 1673\(a\)\(1\)](#), involuntary withholding for the collection of a commercial debt is limited to a maximum of 25 percent of the employee's disposable earnings. However, state law prevails when it provides a maximum collection percentage less than 25 percent. If the employee already has a child support or alimony withholding order in effect, and the total deduction for child support and alimony equal or exceeds 25 percent of an employee's disposable pay, then do not process a deduction for a commercial debt. Further, limitations on the amount to be garnished are found in [5 CFR 582.402](#). There is no limit on the percentage amount for garnishment for federal, state, or local tax obligations, or for bankruptcy court orders.

4.3.5. Administrative Fee. For each commercial garnishment received and processed, an administrative fee may be added to the garnishment amount and collected from the employee in full before any payments are remitted to the creditor. In accordance with 5 CFR 582.305, the agency may retain administrative fees as offsetting collections.

4.4 State Tax Levies

Involuntary state tax levies will be processed similar to commercial garnishments. Involuntary state tax levies are submitted to the Garnishment Law Directorate to begin legal process, whereas the PRO can establish voluntary state tax levies as allotments.

5.0 BANKRUPTCIES

*5.1 General

This section applies to DoD employees who have filed a bankruptcy petition under either [11 U.S.C., Chapter 7](#) or [11 U.S.C., Chapter 13](#). The law waives the U.S. Government's sovereign immunity for purposes of compliance with payroll deduction orders issued by the bankruptcy courts ([11 U.S.C. § 106](#)). Therefore, collections will be processed in accordance with the court order.

Submit bankruptcy notices and Chapter 13 withholding orders to the Garnishment Law Directorate by mail, fax, or online using the askDFAS module. See also [DFAS Garnishments website for additional information on bankruptcies](#).

DFAS Office of General Counsel
Attn: [Garnishment Law Directorate](#)
PO Box 998002
Cleveland, OH 44199-8002

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5.1.1. Automatic Stay Provisions. Collecting an amount of indebtedness owed to the United States that was incurred prior to the filing date of the petition is described as a pre-petition debt. Collecting debts by offset from the employee's pay account is authorized only through the day prior to the date the bankruptcy petition is filed. Continuing deductions from the employee's pay after the

filing of a petition in a bankruptcy is improper and violates the automatic stay provisions of the bankruptcy statute. Amounts withheld after the date the bankruptcy petition is filed must be refunded to the employee. Child support and alimony garnishments are not terminated unless the bankruptcy order specifically directs termination. Coordinate with DFAS-OGC, Garnishment Law Directorate, if there are questions about collecting a debt when a debtor has filed bankruptcy, as there may be exceptions that affect the collection of a debt or refund due a debtor.

5.1.2. Proof of Claim. Upon notice or actual knowledge of the filing of a bankruptcy petition, when the employee has listed the United States as a creditor, the PRO files a proof of claim with the bankruptcy court concerned for all Chapter 13 filings and, if requested by the bankruptcy trustee, for Chapter 7 cases.

* 5.1.3. Post-Petition Debt. If the bankruptcy is completed and the employee receives a discharge, then generally, the listed indebtedness to the United States for pre-petition debts is discharged with few exceptions. Any new debt incurred after the filing of the bankruptcy petition is known as a post-petition debt. Typically, the bankruptcy proceedings do not affect liability of the debtor for post-petition debts, but may affect the collectability of post-petition debts during the pendency of the bankruptcy. Therefore, prior to taking any collection action on post-petition debts, the PRO should coordinate with DFAS-OGC, Garnishment Law Directorate.

5.1.4. Court Dismissal. If the court dismisses the bankruptcy case, all debt collection and garnishments may resume because there is no longer a valid bankruptcy case.

5.2 Chapter 13 Bankruptcies (The Plan)

5.2.1. Under the Chapter 13, Bankruptcy Code, an employee may file a petition with the court to enter into a Plan. Title 11, U.S.C. § 1325 permits an indebted individual who has a regular income to file a Plan with the bankruptcy court designed to liquidate all or part of the creditor's claim. When a Plan has been approved, the court may order DoD to pay all or part of the employee's wages to a trustee for the employee.

* 5.2.2. Generally, when the court confirms the Plan, its provisions are binding upon the employee and all creditors of the employee, regardless of whether they are affected by the Plan or have been included in the Plan. Coordinate with DFAS-OGC, Garnishment Law Directorate, as there may be exceptions that do not bind creditors against the plan and/or discharge depending on the characterization of the indebtedness, the date the indebtedness incurred, and/or the effectiveness of service of the bankruptcy notice to the creditor.

5.2.3. Once the bankruptcy court confirms a Plan, it usually orders the employer to pay a specific amount of an employee's income to the trustee named in the order. Payment to the trustee will be made in accordance with the employee's normal pay cycle. Bankruptcy law authorizes withholdings of up to 100 percent of the employee's disposable earnings, as directed by court-ordered, wage order.

5.2.4. The pay of an employee is subject to payment to the trustee appointed by the court pursuant to Chapter 13 of the Bankruptcy Code. Compliance with the court order gives the government valid acquittance against the employee since the court order is binding on the employee.

5.2.5. If the United States is both the employer and creditor when the individual files bankruptcy under Chapter 13, then the government's priority under [31 U.S.C. § 3713](#) may be asserted in the absence of a judicial determination to the contrary. An [Official Form 410](#), Proof of Claim, should be **timely** filed with the appropriate PRO and the bankruptcy court.

6.0 TAX LEVY FOR UNPAID FEDERAL INCOME TAX

6.1 Authority

The IRS District Directors are authorized under [26 U.S.C. § 6331](#) to collect delinquent federal income taxes by levy on the salary or wages of any United States or Washington, D.C. employee. When the employee fails to pay federal income tax due within 30 days after the IRS issues a notice and payment demand, a levy against the employee's wages may be issued. The levy is served against the take home pay of the employee and attaches only to the salary check or cash disbursement the employee would receive on payday if it were not for the levy.

6.1.1. Allotments. After the PRO receives a levy, the PRO must not allow employees to increase or add any voluntary allotments. Changes that increase existing voluntary allotments are only authorized after the total tax liability is paid or arrangements are made with the IRS.

6.1.2. Time Limits. The IRS has the authority to collect outstanding federal taxes for 10 years from the date the tax liability was assessed. However, the 10-year collection period can be suspended and the amount of time the suspension is in effect will be added to the time remaining in the 10-year period. For example, if the 10-year period is suspended for 6 months, the time left in the period the IRS will have to collect will increase by 6 months.

6.2 Procedures

When the IRS serves Form 668-W, Notice of Levy on Wages, Salary, and Other Income, the PRO will take immediate action to implement the levy. Once the PRO processes the levy, the levy will continue in effect until the collection is complete or until the IRS releases the levy.

6.2.1. Notice to Employee. The PRO must follow instructions as indicated on the 668-W and provide notice to the employee that a levy has been received.

6.2.2. Claiming of Exemptions. Employees may claim a biweekly personal exemption and a biweekly exemption for each dependent. The IRS updates exemption amounts annually. The PRO must use the [IRS Publication 1494](#), Tables for Figuring Amount Exempt from Levy on Wages, Salary, and Other Income, along with the 668-W for the current exemption amounts.

6.2.2.1. Employee Responsibilities. The employee must certify exemptions and provide the information to the PRO on the 668-W under “Statement of Exemptions and Filing Status.” The employee must return the completed form to the PRO for processing. If the employee fails to provide exemption information to the PRO, a dependency exemption will not be allowed and only the minimum personal exemption for each pay period will be allowed. An employee may provide a new statement to the PRO at a later date to have the exempt amount recomputed. The employee does not have to return the form if they have no dependency exemptions to claim.

6.2.2.2. Court Judgment. If the employee is required by a court judgment (made before the date of the levy) to contribute to the support of minor children, that amount of salary, wages, or other income is already exempt from the levy and the employee may not claim the minor children as exemptions.

6.2.2.3. Computing Take Home Pay. The levy attaches to the employee’s take home pay minus the allowable exceptions. Unless otherwise instructed by the IRS, the employee’s payroll deductions in effect at the time the levy was received will be allowed when determining the employee’s take home pay. However, a voluntary allotment may be disallowed if the deduction is so large it defeats the levy. The IRS may notify the PRO when different procedures should be followed for specific employees. To determine the employee’s take home pay, the levy attaches to the gross amount of the employee’s accrued wages or salary, less the following specified deductions:

6.2.2.3.1. Social Security/Medicare;

6.2.2.3.2. Retirement;

6.2.2.3.3. Federal Employees’ Health Benefits;

6.2.2.3.4. Federal Employees’ Group Life Insurance;

6.2.2.3.5. Pay attached or garnished for child support or alimony;

6.2.2.3.6. Overpayments due the U.S. Government; and

6.2.2.3.7. Allowable personal exemptions on the 668-W.

6.2.2.4. Return the 668-W to the IRS. After the PRO makes the first deduction for the levy against the employee’s pay, the PRO must follow the instructions on the 668-W and return Part 3 of the form to the IRS.

6.2.2.5. Employee Transfers or Separation

6.2.2.5.1. Transfers Within DoD. If the employee has been reassigned to an organization serviced by another PRO, then the losing PRO must inform the IRS District Director of the employee's new address. The losing PRO must mail the complete levy package to the new PRO for processing.

6.2.2.5.2. Other Employee Transfers or Separation. If the employee has moved from overseas, transferred to another federal agency, separated or retired, then the PRO will return the levy to the IRS District Director and provide the employee's new address on the 668-W.

6.2.2.6. No Employee Record Found. If the PRO receiving the levy has no record that payroll service has been furnished for the employee, the PRO must annotate that fact on the bottom of the levy and return the levy to the IRS District Director.

6.3 Voluntary Deductions for Unpaid Federal Income Tax

An employee may arrange with the IRS to liquidate a delinquent federal income tax debt through voluntary biweekly payroll deductions. The [*IRS Form 2159*](#), Payroll Deduction Agreement, must be submitted to the PRO to initiate the deduction process.

7.0 PAY CORRECTIONS AND TAX REPORTING

7.1 General

7.1.1. Purpose. This section provides guidance on correcting tax reporting for underpaid or overpaid earnings.

7.1.2. Authoritative Guidance. The authority used to derive procedures for this section includes Circular E and corresponding statutes and regulations.

7.2 Tax Reporting for Underpayment of Earnings

A payment made to correct an underpayment of earnings (“corrective payment”) is reported as wages in the year the corrective payment is issued, even if the underpayment occurred in a prior calendar year. The PRO must process the corrective payment in the current pay cycle. The PRO must report the corrective payment as gross wages subject to Social Security/Medicare taxes on the employee’s current year W-2. Social Security/Medicare tax should be withheld from the corrective payment. The gross wages must be reported as current quarterly earnings on the [*IRS Form 941*](#), Employer’s Quarterly Federal Tax Return. For separated employees, the PRO may be required to prepare the [*IRS Form W-2c*](#), Corrected Wage and Tax Statement, if a W-2 was previously issued.

7.3 Tax Reporting for Overpayment of Earnings

If an employee has been overpaid earnings, the earnings are reported in the year the employee was overpaid (see paragraph 7.3.1 for adjustments to tax reporting if the employee repays the debt in the same year as the overpayment). If the employee repays a debt for an overpayment of earnings, the procedures for correcting tax reporting depend on whether the repayment was made in the same year as the overpayment, or in a subsequent year.

7.3.1. Repayment of Current Year Overpayments

If the employee was overpaid earnings and repaid the debt in the same year as the overpayment, the following applies:

7.3.1.1. Active Employees. For active employees, the PRO must follow debt collection procedures in Volume 16 in order to establish a debt for the overpaid earnings. If the employee repays the debt, in whole or in part, in the same year the overpayment occurs, the PRO will need to record the repaid amount as a reversal in the base pay, gross pay, net pay, or other pay as applicable. Such action is required to recover income tax withholding and Social Security and Medicare taxes for the repaid wages and to correct the yearly gross income. If the entire debt is not repaid in the same year in which the overpayment occurred, see paragraph 7.3.2.

7.3.1.2. Separated Employees. The PRO must follow the same procedures for active employees outlined in subparagraph 7.3.1.1, but must reestablish the employee on the payroll prior to processing the required reversals. If a W-2 was previously issued to the separated employee, the PRO must prepare a W-2c. If the entire debt is not repaid in the same year in which the overpayment occurred, see paragraph 7.3.2.

7.3.2. Repayment of Prior Year Overpayments

If the employee was overpaid earnings and repaid the debt in a year subsequent to the year of the overpayment, the following applies:

7.3.2.1. Active Employees.

7.3.2.1.1. Tax Reporting. If an active employee repays an overpayment of earnings paid in a prior year, Social Security/Medicare wages and taxes may need to be corrected. If the year of repayment is still within the 3-year statute of limitations for Social Security and/or Medicare tax refunds, the PRO must prepare a W-2c and W-3c for the prior year to reduce the gross wages subject to Social Security/Medicare (box 3). Wages reflected in box 1 of the W-2c should not be corrected. Additionally, no adjustments are made for income tax withholding or additional Medicare tax withholding. In accordance with the Circular E, the PRO will prepare the 941-X to correct errors on the 941 and retain copies of the corrected forms. If the repayment is beyond the 3-year statute of limitations, then the PRO will not make corrections to the prior year W-2 and the 941.

7.3.2.1.2. Tax Certificate. The PRO should prepare a tax certificate for the employee representing the repaid wages in the year of repayment. The amount entered on the certificate is the total amount of the reverse deductions plus the amount the employee repaid. The employee may be entitled to a deduction (or a credit, in some cases) for the repaid wages on the employee's income tax return for the year of repayment. For additional information, also see [26 U.S.C. § 1341](#) and [IRS Publication 525](#), Taxable and Nontaxable Income.

7.3.2.2. Separated Employees. For separated employees, the PRO will follow the procedures outlined for active employees, but will retain copies of the W-2c and the 941-X to balance annual federal tax deposits.

REFERENCES

**CHAPTER 8 – UNDERPAYMENTS, COLLECTION OF NON-DOD DEBTS,
GARNISHMENTS, BANKRUPTCY ACTION, AND TAX LEVIES**

2.0 – UNDERPAYMENTS

2.1	DoD FMR Volume 8, Chapter 6
2.2.1.4	5 U.S.C. § 5582
	DoD FMR Volume 8, Chapter 10
2.2.3.3	5 U.S.C. § 5514
	DoD FMR Volume 16, Chapter 3
2.2.5.2	IRS Publication 15, (Circular E)
2.2.6.2	IRS Publication 15, (Circular E)

3.0 – COLLECTION OF NON-DOD DEBTS BY SALARY OFFSET; JUDGMENTS AGAINST
EMPLOYEES FOR DEBTS OWED TO THE FEDERAL GOVERNMENT

3.1.2	DoD FMR Volume 16, Chapter 2
3.2.1	PL 105-264
	41 CFR Part 301-76
3.3	31 U.S.C. § 3716(h)
	31 CFR 285.6

4.0 – CHILD SUPPORT, ALIMONY AND COMMERCIAL GARNISHMENTS

4.2.1	42 U.S.C. § 659
	5 CFR Part 581
4.2.2	5 CFR 581.103
4.2.3	5 CFR 581.104
	5 CFR 581.105
4.2.4	5 CFR 581.402
4.3.1	5 U.S.C. § 5520a
	5 CFR Part 582
4.3.2	5 U.S.C. § 5520a
4.3.3	5 CFR 582.103
4.3.4	15 U.S.C. § 1673(a)(1)
	5 CFR 582.402
4.3.5	5 CFR 582.305

REFERENCES (Continued)

5.0 – BANKRUPTCIES

5.1	11 U.S.C., Chapter 7 11 U.S.C., Chapter 13 11 U.S.C. § 106
5.2	11 U.S.C., Chapter 13
5.2.1	11 U.S.C. § 1325
5.2.5	31 U.S.C. § 3713

6.0 – TAX LEVY FOR UNPAID FEDERAL INCOME TAX

6.1	26 U.S.C. § 6331
6.2.2	IRS Publication 1494

7.0 – PAY CORRECTIONS AND TAX REPORTING

7.1	IRS Publication 15, (Circular E)
7.3.2.1.2	26 U.S.C. § 1341 IRS Publication 525