

## §1018.90

IRS Form 1099-G or any other form prescribed by the IRS, when:

(a) The principal amount of the debt not in dispute is \$600 or more;

(b) The obligation has not been discharged in a bankruptcy proceeding; and

(c) The obligation is no longer collectible either because the time limit in the applicable statute for enforcing collection expired during the tax year, or because during the tax year a formal compromise agreement was reached in which the debtor was legally discharged of all or a portion of the obligation.

### Subpart G—Tax Refund Offset

#### §1018.90 Purpose.

This subpart establishes procedures for the Board to refer past-due debts to the Internal Revenue Service (IRS) for the offset against the income tax refunds of persons owing debts to the Board. It specifies the Board's procedures and the rights of the debtor applicable to claims for the payment of debts owed to the Board.

#### §1018.91 Applicability and scope.

(a) These regulations implement 31 U.S.C. 3720A which authorizes the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the Government of the United States.

(b) For purposes of this section, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the Government of the United States and:

(1) Except in the case of a judgment debt, has been delinquent for at least 3 months but has not been delinquent for more than 10 years at the time the offset is made;

(2) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(3) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Board against amounts payable to or on behalf of the debtor by or on behalf of the Board.

(4) With respect to which the Board has given the taxpayer at least 60 days

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from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered evidence presented by such taxpayer, and has determined that an amount of such debt is past-due and legally enforceable.

(5) Has been disclosed by the Board to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100.00;

(6) With respect to which the Board has notified or has made a reasonable attempt to notify the taxpayer that the debt is past-due and, unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(7) Is at least \$25.00;

(8) All other requirements of 31 U.S.C. 3720A and the Department of the Treasury regulations codified at 26 CFR 301.6402-6T relating to the eligibility of a debt for tax return offset have been satisfied.

#### §1018.92 Administrative charges.

In accordance with 49 CFR 1018.30, all administrative charges incurred in connection with the referral of the debts to the IRS shall be assessed on the debt and thus increase the amount of the offset.

#### §1018.93 Notice requirement before offset.

A request for reduction of an IRS tax refund will be made only after the Board makes a determination that an amount is owed and past-due and provides the debtor with 60 days written notice. The Board's notice of intention to collect by IRS tax refund offset (Notice of intent) will state:

(a) The amount of the debt;

(b) That unless the debt is repaid within 60 days from the date of the Board's Notice of Intent, the Board intends to collect the debt by requesting that the IRS reduce any amount payable to the debtor as Federal Income tax refunds an amount equal to amount of the debt including all accumulated interest and other charges;

(c) That the debtor has the right to present evidence that all or part of the

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debt is not past-due or legally enforceable; and

(d) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

### §1018.94 Review within the Board.

(a) *Notification by Debtor.* A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for a review of the evidence to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable.

(3) Include in the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the 60-day period.

(b) *Submission of evidence.* The debtor may submit evidence showing that all or part of the debt is not past-due or not legally enforceable along with the notification required by paragraph (a) of this section. Failure to submit the notification and evidence within 60 days will result in an automatic referral of the debt to the IRS without further action by the Board.

(c) *Review of the evidence.* The Board will consider all available evidence related to the debt. Within 30 days, if feasible, the Board will notify the debtor whether the Board has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable.

### §1018.95 Board determination.

(a) Following review of the evidence, the Board will issue a written decision which will include the supporting rationale for the decision.

(b) If the Board either sustains or amends its determination, it shall notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund. If the Board cancels its original determination, the debt will not be referred to IRS.

### §1018.96 Stay of offset.

If the debtor timely notifies the Board that the debtor is exercising the right described in §1018.94(a) of this subpart, any notice to the IRS will be stayed until the issuance of a written decision which sustains or amends its original determination.

## PART 1019—REGULATIONS GOVERNING CONDUCT OF SURFACE TRANSPORTATION BOARD EMPLOYEES

Sec.

1019.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

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AUTHORITY: 49 U.S.C. 721.

SOURCE: 58 FR 42027, Aug. 6, 1993, unless otherwise noted.

### §1019.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Members and employees of the Surface Transportation Board also should refer to the executive branch Standards of Ethical Conduct at 5 CFR part 2635, the STB regulations at 5 CFR part 5001 which supplement the executive branch standards, and the executive branch financial disclosure regulations at 5 CFR part 2634.

### §1019.2 Interpretation and advisory service.

(a) The Board's Executive Counsel shall be the Board's Designated Agency Ethics Official (DAEO).

(b) By June 30 of each year, the DAEO shall report to the Board on the operation of the Board's ethics program with any recommendations that the DAEO deems advisable.

[58 FR 42027, Aug. 6, 1993, as amended at 64 FR 53267, Oct. 1, 1999]

### §1019.3 Ex parte communications.

Members and employees of the Board must conform to the standards adopted by the Board in 49 CFR 1102.2.