

45 C.F.R. § 1177.11

Collection by administrative offset.

- (a) *Scope.* (1) The term “administrative offset” has the meaning provided in 31 U.S.C. 3701(a)(1).
- (2) This section does not apply to:
- (i) Debts arising under the Social Security Act, except as provided in 42 U.S.C. 404;
 - (ii) Payments made under the Social Security Act, except as provided for in 31 U.S.C. 3716(c) (see 31 CFR 285.4, Federal Benefit Offset);
 - (iii) Debts arising under, or payments made under, the Internal Revenue Code (see 31 CFR 285.2, Tax Refund Offset) or the tariff laws of the United States;
 - (iv) Offsets against Federal salaries to the extent these standards are inconsistent with regulations published to implement such offsets under 5 U.S.C. 5514 and 31 U.S.C. 3716 (see 5 CFR part 550, subpart K, and 31 CFR 285.7, Federal Salary Offset);
 - (v) Offsets under 31 U.S.C. 3728 against a judgment that a debtor obtained against the United States;
 - (vi) Offsets or recoupments under common law, State law, or Federal statutes specifically prohibiting offsets or recoupments of particular types of debts; or
 - (vii) Offsets in the course of judicial proceedings, including bankruptcy.
- (3) Unless otherwise provided for by contract or law, NEH may collect debts or payments that are not subject to administrative offset under 31 U.S.C. 3716 by administrative offset under the common law or other applicable statutory authority.
- (4) Unless otherwise provided by law, NEH will not collect a debt by administrative offset under the authority of 31 U.S.C. 3716 more than ten (10) years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the Government official or officials who were charged with the responsibility to discover and collect such debts. This limitation does not apply to debts reduced to a judgment.
- (5) In bankruptcy cases, NEH will seek legal advice from its Office of the General Counsel concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 106, 362, and 553, on pending or contemplated collections by offset.
- (b) *Mandatory centralized administrative offset.* (1) NEH is required to refer past due, legally enforceable nontax debts which are over 180 days delinquent to the Secretary for collection by centralized administrative offset. NEH may also refer debts which are less than 180 days delinquent to the Secretary for this purpose. See paragraph (b)(5) of this section for debt certification requirements.
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