

## CHAPTER 8

UNDERPAYMENTS AND INDEBTEDNESS0801 UNDERPAYMENTS

080101. Salary underpayments to civilian employees or former employees resulting from errors (such as in computing the federal withholding tax, retirement deductions, Social Security/Medicare tax, rate of pay, or in reporting time and attendance) may be corrected by increasing or decreasing the pay factors affected on the first payroll prepared after the error is discovered. Salary payments to civilian employees shall be made in accordance with the time and attendance reported and certified by the employee's supervisor. Time and attendance reported which is less than an employee's normal work schedule shall be presumed to reflect accurately the hours of work and nonwork. Employees or former employees who believe they have not been credited with pay due them may follow the claims procedures prescribed in section 0604.

080102. Special Payments. Salary underpayments to civilian employees may be corrected by making special payments to employees, that is, payments to employees other than through normal payroll processing.

A. The primary guideline for making a special payment (for an underpayment) is that the employee must have received less than 90 percent of his or her regular biweekly pay and allowances. Special payments shall be made for the following reasons:

1. Beneficiary payments, upon request.
2. Employees who erroneously are omitted from the payroll.
- ★ 3. Employees who are paid for less than 90 percent of their regular biweekly pay and allowances, when a special payment is requested by the commanding officer/director of the employing activity or his or her designee.

4. Employees who are placed in an LWOP status for payroll processing, and subsequently substitute advanced leave, annual or sick, and/or donated leave upon certification. The commanding officer/director, after reviewing each case for hardship, may request a special payment for employees provided the 90 percent guideline has been met.

B. Requests for partial payment of salary before the regular payday shall not be honored.

C. Special payments for overtime worked but not reported and, therefore, not paid in the corresponding pay period shall not be allowed.

D. Employees shall receive payment depending upon the normal distribution of their net pay. An EFT submission shall be sent to the employee's financial institution or a Treasury

check shall be express mailed to the employee at his or her address of record. Payment shall be released by the close of business on the workday following receipt, by the civilian payroll office, of documentation required to substantiate payment. Payments to beneficiaries shall be made via Treasury check and mailed to the address of record. The following documentation is required to substantiate payment:

1. Beneficiaries may request a special payment by sending a letter, to the civilian payroll office, stating that payment is needed to defray expenses. The special payment shall be issued providing the civilian payroll office has received all the documentation to support the claim from the human resources organization (HRO). The civilian payroll office forwards a payment voucher and beneficiary's request to the disbursing office for payment.

2. For an individual erroneously omitted from the payroll, an SF 50 verifies the individual's employment and the supervisor's request, and certifies number of hours the employee worked together with source documents to support deductions, is needed to support payment.

3. For an employee paid for less than 90 percent of his or her regular biweekly pay and allowances, a copy of the time and attendance report or corrected time and attendance report and a request by the commanding officer/director are required to support payments.

4. For an employee placed in a LWOP status, who meet the primary 90 percent guideline, time and attendance certifier will provide corrected time and attendance reports and the commanding officer's request to the civilian payroll office to support the payment request.

E. The DoD civilian payroll offices shall use DD Form 592 as the voucher for requesting special payments.

★ F. Computation of Special Payments. Special payments shall be computed using the "gross-to-net" method. Gross-to-net payments represent the regular biweekly pay and allowances normally due the employee less any required deductions and withholdings. Deductions and withholdings may be for retirement (CSRS and FERS), Social Security and Medicare, federal tax, health benefits premiums, group life insurance premiums (basic and optional), state tax, city or local tax, TSP, or TSP loan repayment, indebtedness, military service credit deposits, and garnishments. Deductions and withholding amounts and the applicable appropriations shall be annotated on the payment voucher for direct disbursement. The following procedures are applicable for gross-to-net special payment processing:

1. No pay received. The employee shall be paid gross entitlements less applicable deductions and withholdings listed in subparagraph 080102.F. Exclude deductions for voluntary allotments and savings bonds. The employee is responsible for any existing voluntary allotments. All deductions and withholdings shall resume the following pay cycle, including voluntary allotments and savings bonds.

2. Less than 90 percent of regular biweekly pay and allowances received.

The employee is entitled to the difference between what was paid and what should have been paid.

The civilian payroll office shall deduct additional amounts for applicable items listed in subparagraph 080102.F., unless previous payroll processing has satisfied the deductions. The employee shall be responsible for any existing voluntary allotments that were not deducted during previous processing. All deductions and withholdings shall resume the following pay cycle.

3. Final special payment. An employees who received his or her final pay

as a special payment should be paid gross entitlements less all required deductions and withholdings of items listed in subparagraph 080102.F. Additionally, the employee may receive a payment for accrued savings bond balances for which bonds have not been issued. The employee is responsible for voluntary allotments. The employee's final pay is subject to withholdings to liquidate any unsatisfied government indebtedness.

G. Processing of special payments made after the last regular pay period of the pay year, but before the end of the calendar year.

★ 1. Federal, state, and local taxes, Social Security and/or Medicare withheld from special payments made after the last regular pay date, but before the end of the calendar year, shall be forwarded to the applicable offices as soon as possible after the end of the year. (Note: When computing or making deductions for Social Security, the civilian payroll office shall ensure the employee has not reached maximum withholdings for the year.) In completing the supplemental DD Form 592 for any canceled checks or special payments, the civilian payroll office shall include all deductions and contributions for Social Security and/or Medicare, federal, state, and local taxes. If the Forms W-2 (Wage and Tax Statement) have not been printed, the civilian payroll office shall process updates to ensure special payments or canceled checks are included in the history totals for subsequent Form W-2 printing. If Forms W-2 have been printed, the civilian payroll office shall issue Forms W-2c (Corrected Wage and Tax Statement) in accordance with IRS Circular E (reference (h)) and Form 941c.

2. Process an SF 1081 (Voucher and Schedule of Withdrawals and Credits) to correct an employee's CSRS or FERS retirement deductions withheld from a special payment. Input the SF 1081 during the next pay cycle to correct both the prior year-to-date and cumulative retirement deductions and the current year opening balance.

3. Special payments for TSP participants are subject to TSP deductions provided the employee has not reached the maximum deduction or contribution level established by law. TSP deductions withheld from special payments after the last regular pay date in the pay year, but before the end of the calendar year, shall be combined with the next pay cycle for reporting and submission to the NFC.

H. Since a special payment is an off-line process and employees do not receive a regular LES, the civilian payroll office shall provide information to the employee of the effects of the special payment.

I. Taxation of Retroactive Payments

1. Time and Attendance. All time and attendance retroactive transactions shall be taxed using the rate associated with the current Form W-4. Combine the retroactive wages with the wages from the last pay period prior to the current to determine the basis to recompute tax withholdings. Recompute the taxes and determine the retroactive tax withholdings by subtracting the taxes withheld during the last pay period from the recomputed taxes.

2. Retroactive Wage Increases. Retroactive wage increases shall be considered as supplemental wages and taxed at the flat 28 percent rate if taxes were withheld from regular wages during the last preceding payroll period in which wages were paid within the same calendar year. If taxes were not withheld from those regular wages, the rate associated with the current Form W-4 should be used.

3. Supplemental Payments (Awards, Lump-Sum Leave, Separation Pay Incentives). Supplemental payments shall be taxed at the flat withholding rate of 28 percent if taxes were withheld from regular wages during the last preceding payroll period in which wages were paid within the same calendar year. If taxes were not withheld from wages, the rate associated with the current Form W-4 rate should be used.

## 0802 INDEBTEDNESS

### 080201. General

★ A. The Department shall collect indebtedness due the United States promptly in accordance with the Debt Collection Improvement Act of 1996, section 31001 of P.L. 104-134 (reference (e)), the Debt Collection Act of 1982, P.L. 97-365, as amended (reference (e)), the Federal Claims Collection Standards, 4 C.F.R. Parts 101-105 (reference (ba)), 5 C.F.R. Parts 179 and 550 (Subpart K) (reference (l)), and DFAS Regulation Number 005 (reference (w)). [Volume 5](#) of this Regulation also should be consulted regarding indebtedness and debt collection. There are four ways to collect debts owed to the United States by civilian employees:

1. The employee consents to pay or permits withholding from pay;
2. The government collects involuntarily from the employee's current salary or pay where authorized by statute;
3. The government collects involuntarily by offset from any other amounts payable to the employee by the government when authorized by statute; or
4. The government files suit in court against the employee and prevails.

B. When specific statutory authority exists for the collection of a particular debt, the provisions of that statute and its implementing regulations must be used in determining the applicable collection procedures (64 Comp. Gen. 142 (1984)) (reference (p)). When a more specific statute that authorizes collection in a particular case does not exist, use the collection authority (either 5 U.S.C. 5514 (reference (b)) for offset from current pay or 31 U.S.C. 3716

(reference (d)) for offset from other amounts due, as appropriate) to collect debts to the United States.

1. Title 5, United States Code, section 5514 (reference (b)) authorizes collection from those civilian employees who are indebted to the United States. Generally, the amount deducted may not exceed 15 percent of disposable pay (as defined in subparagraph 080307.B.2.) unless the employee gives written consent that a greater percentage may be deducted. The employee must be given an opportunity for a hearing, in addition to other due process requirements, before offset is initiated. See section 0803 for processing collections under this statute.

2. Title 31, United States code, section 3716 (reference (d)) authorizes collection of debts from final pay and lump sum leave payments of civilian employees. This statute is, in effect, a catchall provision that applies only when there is no other offset statute available. There is no limit on the maximum rate of collection under this statute, and all money payable to a person by the government is subject to offset. See paragraph 080309 for procedures used in processing collections under this statute.

C. Under 4 C.F.R. 102.3(b)(5) (reference (ba)), salary or administrative amounts payable to employees shall be offset involuntarily before initiation of, or at any time during, due process procedures if failure to take the offset would substantially prejudice the civilian payroll office's ability to collect the debt; time before payment must be made does not reasonably permit completion of the procedures; and such prior offset is promptly followed by due process procedures.

D. When an employee owes more than one debt to the United States, deductions currently being made normally shall continue until the debt is paid. However, the civilian payroll office shall change the priority of the deductions when necessary to ensure maximum amounts are collected before any statute of limitations expires. Debts owed by employees to more than one DoD Component or another federal agency shall be collected in the following priority sequence:

1. Debt to the employee's employing agency or department.
2. Debt to other DoD Components
3. Debt to other federal agencies

080202. Overpayments of Pay and Allowances

★ A. Overpayments to employees result from such causes as errors in computing federal withholding tax, CSRS or FERS deductions, or Social Security and/or Medicare deductions, improper rates of pay, errors in reporting time worked, and erroneously accrued annual leave. These may be discovered both inside and outside the civilian payroll office. The head of each DoD civilian payroll activity has the overall responsibility for ensuring that all overpayments are

recovered expeditiously from the recipients or that other appropriate disposition, such as waiver of the indebtedness, is accomplished. He or she also shall ensure that employees are afforded all legal rights relative to the indebtedness arising from overpayments. These responsibilities may be delegated to another appropriate official within the financial community.

B. The following debts are not authorized as payroll deductions:

1. Collection of debts to private creditors, except as authorized by P.L. 103-94, "Hatch Act Reform Amendments of 1993" (reference (e)).

2. Contributions to charities, except as authorized in subparagraph 041402.J.

3. Payment of insurance premiums, except as authorized in subparagraphs 041402.C. and D., international agreements, or arrangements with foreign governments.

4. Payment of dues to civic, fraternal, or other organizations, except as authorized in subparagraph 041402.I.

5. Collection of state and local/city tax indebtedness.

6. Collection of debts owed to NAF instrumentalities.

**0803 RECOVERY OF OVERPAYMENTS OF PAY AND ALLOWANCES FROM CURRENT DOD EMPLOYEES**

080301. General. The authority to collect overpayments of pay and allowances resulting from civilian payroll operations by salary offset is 5 U.S.C. 5514 (reference (b)). The civilian payroll office:

A. Computes the amount of the overpayment

B. Notifies the HRO immediately if corrective personnel action is required.  
Continued payments of erroneous pay and allowances shall not be authorized

C. Provides the employee due process before collecting an overpayment of pay and allowances paid by the civilian payroll office

D. Corrects the employee's records when appropriate.

**080302. Debts for Health Benefits or Life Insurance Coverage**

A. If an employee elects coverage or changes coverage in a federal benefits program (e.g., the FEHB or FEGLI program), and the amount to be collected accumulated over four pay periods or less, under 5 C.F.R. 550.1104(c) (reference (l)) all deductions pertaining to the period of coverage may be made without the necessity of affording the employee full due process

(written notification, opportunity for a hearing, etc.) under 5 U.S.C. 5514 (reference (b)). In such cases, the civilian payroll office notifies the employee either in advance or concurrent with the actual collection that, (1) because of the employee's election, future salary shall be reduced to cover the period between the effective date of the election and the first regular withholding, and (2) the employee may dispute the amount of the retroactive collection by notifying the civilian payroll office for resolution of the dispute. An appropriate notice on the LES may meet the requirement for notification.

B. The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices (reference (y)) states that a reasonable installment rate to liquidate the debt should not be set above 25 percent of the employee's net pay unless the employee requests a higher rate, or the expected period of continued employment is such that a higher rate is needed to complete recovery in the time available. If processing delays exceed four pay periods, full due process procedures prescribed under 5 U.S.C. 5514 (reference (b)) shall be extended to the employee as outlined in section 0803. The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices (reference (y)) contains the procedures pertaining to debts arising from the payment of health benefit premiums for periods of nonpay status or when salary is insufficient to cover the required premiums.

080303. Notification

A. Under the provisions of 5 C.F.R. 550.1104 (reference (l)), the civilian payroll office, or another official responsible for collection of the debt, shall issue an appropriate written demand for voluntary lump-sum payment. The demand letter shall be issued as soon as possible following the discovery of the overpayment, and shall request that the payment be made within 30 days from the date of the letter. Debts not paid by the date specified in the demand letter are delinquent unless other satisfactory payment arrangements have been made by that date, or if at any time later, the employee fails to satisfy obligations under a repayment agreement. Only one written demand is required. The civilian payroll office or the official responsible for collection of the debt must be able to demonstrate that the employee has received the demand letter. Therefore, if hand delivery and execution of a receipt is not practical, a certified or registered notice with return receipt requested should be used. Care must be exercised to ensure that the letter either is mailed or hand delivered on the same day it is dated. When employees are given time limits to reply to civilian payroll office correspondence, 15 additional days will be allowed if the correspondence must go through non-U.S. mail systems. See Figure 8-1 for a copy of the demand letter and Figure 8-2 for a sample voluntary repayment agreement. The letter must contain the following information

1. A complete statement of facts showing the origin and amount of the debt and the basis on which the determination of indebtedness was made:
2. A request that the debt be repaid by check or money order within 30 days of notification.
3. The intention to collect the debt by means of payroll deductions if payment is not received within 30 days.

4. The amount, frequency, proposed beginning date, and duration of the deductions.

5. An explanation of policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused per the Federal Claims Collection Standards.

6. The right of the employee and his or her representative to inspect and copy government records relating to the debt or to request a copy of such records within 10 days from receipt of this letter.

7. The opportunity for the employee to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset.

8. A statement that, if the employee has any question regarding the indebtedness, he or she may ask for and receive an explanation from the civilian payroll office. Also, a statement advising that, if the employee wishes to contest the indebtedness (request a reconsideration), he or she may do so by submitting a written statement to that effect within 15 calendar days of the date of the notification. This right of reconsideration is separate from, and may be used in addition to, the right to request a hearing discussed in paragraph 080305.

9. A statement identifying the employee's opportunity for a hearing on the determination concerning the existence, or the amount, of the debt; or when a repayment schedule is established other than by written agreement, a hearing concerning the terms of the repayment schedule. The statement also shall advise that a request for a hearing on either the existence of the debt, the amount of the debt, or the repayment schedule must be made in writing within 30 days of the receipt of the notice of indebtedness or within 45 days after the receipt of the records relating to the debt, if such records are requested by the employee.

10. Notice, if a hearing is given, of the employee's right to receive a written decision from the official holding the hearing within 60 days after the filing of the petition unless the employee requests, and the hearing official grants, a delay in the proceedings.

11. A statement that the timely filing of a petition for a hearing shall stay the beginning of collection proceedings, and that interest and penalty charges shall not accrue during the period from the timely filing of a petition for a hearing until issuance of the hearing official's decision.

12. A statement that any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

a. Disciplinary procedures appropriate under 5 U.S.C. chapter 75 (reference (b)); 5 C.F.R. 752 (reference (l)), or any other applicable statutes or regulations;



b. Penalties under the False Claims Act, 31 U.S.C. 3729-3733 (reference (d)), or any other applicable statutory authority; or

c. Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 (reference (bb)) or any other applicable statutory authority.

13. A statement that the employee may request a waiver of the overpayment of pay in accordance with 5 U.S.C. 5584 (reference (b)) (see paragraph 080306.).

14. A statement that amounts paid or deducted for the debt, which are later waived or found not to be owed to the U.S. Government, shall be refunded promptly to the employee upon his or her request.

15. The specific address to which all correspondence shall be directed regarding the debt.

B. The civilian payroll office is encouraged to notify an employee informally by telephone of an overpayment of \$100 or less. If an employee agrees with repayment of the overpayment, the civilian payroll office forwards a voluntary repayment agreement (see Figure 8-2) for the employee to complete and return. After receiving the signed voluntary repayment agreement, the civilian payroll office shall begin collecting the indebtedness as indicated on the agreement. If requested by the employee, and agreed to by the civilian payroll office, the remittance can be deferred for up to two pay periods with the agreement adjusted to reflect that deferral. If, for any reason, the civilian payroll office does not receive payment or a signed voluntary repayment agreement, the civilian payroll office prepares the formal written notification prescribed by subparagraph 080303.A.

080304. Inquiries and Reconsiderations

A. The civilian payroll office must respond courteously and factually to any questions raised by the employee as a result of his or her receipt of the demand letter. Copies of relevant documents requested by the employee must be furnished. The civilian payroll office must be prepared to respond not only to inquiries regarding pay and leave entitlements, but also to inquiries regarding the nature of the employee's rights and how to exercise these rights. Although the submission by the employee of a written statement contesting the debt does not abrogate the employee's right to a hearing, all reasonable efforts shall be made to satisfy an employee's doubts regarding the amount or validity of the debt within the civilian payroll office's own resources, thus precluding the need for a hearing in most instances. If the employee requests reconsideration of the debt, the request shall be made within 15 days of receipt of the demand letter.

B. If the employee does submit a written statement contesting the debt, the civilian payroll office shall respond, in writing, stating its conclusion in a clear manner. Such determinations are to be delivered to the employee within 15 days of receipt of the employee's letter. If additional time is needed to investigate the issue, the employee shall be advised of the delay in an interim response. This response shall also provide an estimate of when a final

determination can be expected. If the civilian payroll office concurs with the employee's position, the letter shall so inform the employee.

C. If the civilian payroll office's determination reaffirms the employee's indebtedness, then the written response again shall advise his or her of the employee's right either to petition for a hearing or to request a waiver. The time period for requesting a hearing (normally 30 days from notification) shall be extended by the time elapsed between the employee's written request for reconsideration and the civilian payroll office's response. For example, if the employee seeks reconsideration of the debt on the 12th day following receipt of the notification and the civilian payroll office reaffirmed the indebtedness 8 days later, the letter reaffirming the debt shall advise that a hearing request must be received within 18 days following the reaffirmation.

080305. Hearings. Hearings are a due process requirement of 5 U.S.C. 5514 (reference (b)) which must be afforded employees before their current salary can be involuntarily offset to collect an indebtedness to the U.S. Government. One exception relates to collections for debts for health benefits or life insurance coverage as discussed in paragraph 080302. Employees may petition for a hearing to contest the following items: (1) the existence of the debt; (2) the debt amount; and (3) the amount of an involuntary offset schedule. If an employee wants a hearing concerning the existence or amount of the debt or the proposed offset schedule, he or she must file a petition with the civilian payroll office not later than 30 days from the date that he or she received the notification of the intent to collect by salary offset or within 45 days after receipt of records, if such records were requested by the employee. The employee's petition or statement shall identify and explain with reasonable specificity and brevity the facts and evidence that he or she believes support his or her position.

A. General

★ 1. All hearings are arranged and conducted in accordance with 4 C.F.R. 102.3(c) (reference (ba)) and [Volume 5](#) of this Regulation. Hearings for debts owed to any DoD Component by a DoD employees should be held by eligible DoD Components according to [Volume 5](#), Table 30-1 of this Regulation. The Defense Debt and Claims Management Office of the DFAS-Denver Center shall process all requests for hearings. There are two basic types of hearings--oral hearings and administrative hearings (written submissions). If an employee petitions for a hearing after the receipt of a demand letter, the civilian payroll office must determine whether the employee is entitled to an oral hearing or an administrative hearing (comprised of written submissions). Unless specifically waived by the employee, an oral hearing must be provided when:

a. An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the employee requests waiver of the indebtedness and the waiver determination is based on an issue of credibility or veracity; or

b. The employee requests reconsideration of the debt and the civilian payroll office decides that the question of the indebtedness cannot be resolved solely on review of the documentary evidence.

2. An oral hearing is not required if the particular indebtedness is of the type that rarely involves issues of credibility or veracity, and the civilian payroll office, with the concurrence of the DFAS Office of General Counsel, has determined that a review of the written record is generally adequate in such cases. An employee who has petitioned for a hearing, but under the above criteria is not entitled to an oral hearing, shall be provided an administrative hearing. The determinations of the hearing regarding the existence or amount of the debt or the terms of the offset schedule shall be made based on written submissions by the employee and the civilian payroll office. The timely filing of a petition for a hearing will stay the beginning of collection procedures until after the results of the hearing have been rendered except as identified in subparagraph 080201.C.

B. Oral Hearings

1. Since civilian payroll overpayments seldom present issues of credibility or veracity, the need for oral hearings under the guidelines contained in subparagraph 080305.A.1. will be extremely rare. When a civilian payroll office has received a petition for an oral hearing and it is of the opinion, with the concurrence of the DFAS Office of General Counsel, that an oral hearing is required under the criteria specified in subparagraph 080305.A.1, an official hearing should be arranged in accordance with the guidance outlined in [Volume 5, Chapter 30](#) of this Regulation. Once the identity of the hearing official is determined, the civilian payroll office shall be instructed to make specific arrangements with that official, to include the identification of a fund cite for travel expenses if necessary.

2. In the case of oral hearings, the civilian payroll office is responsible for informing the employee that, in addition to the requirements contained in subparagraph 080305.C. for administrative hearings, the employee also must state in the petition the identity of the witnesses that will be called to testify on the employee's behalf and their anticipated testimony. The civilian payroll office advises the employee also to provide a copy of the records the employee intends to introduce at the hearing if they differ from the ones provided by the civilian payroll office. The civilian payroll office also advises the employee of the requirement for naming any person that he or she wishes to be represented by at the hearing.

3. The civilian payroll office is responsible for notifying the employee of the time, date, and location of the hearing. To the extent feasible, a location convenient for the employee shall be selected. The employee will be responsible for paying his or her own travel expenses. Civilian payroll office personnel will represent the government at the oral hearing, and will maintain a summary record of the hearing. In addition, the civilian payroll office must advise both the hearing official and the employee of any witnesses it plans to call and a summary of its anticipated testimony. No later than 15 days prior to the hearing, the civilian payroll office also will provide the employee and the hearing officer a copy of the records in the agency's possession relating to the debt, .

4. If an employee has been granted an oral hearing, he or she may waive that right in favor of a written submission. Such an election must be made in writing and must be received by the civilian payroll office at least 3 working days before the original hearing date. If the employee fails to file a petition for a hearing before the deadline date, fails to file the required

submissions, or fails to appear at a scheduled hearing, the right to a hearing is forfeited. The employee may petition the hearing official for a determination that the employee had good cause for the failure to comply with the established deadline date. If the employee fails to appear at the hearing, then he or she may petition the hearing official for a determination that the employee had good cause for failure to appear at the hearing. In either instance, the hearing official may then find that the employee has not waived the right, and may direct that a hearing be scheduled or rescheduled.

C. Administrative Hearings. An employee shall be advised to send his or her petition for a hearing directly to the civilian payroll office. A single document shall serve both as the petition for a hearing and the employee's complete, documented position as to why the he or she disagrees with the civilian payroll office regarding the existence of the debt or the amount of the debt. The precise contents of the petition are described in Figure 8-1 of attachment 1. There is no standardized format for these petitions. The civilian payroll office shall review all petitions. Petitions regarding erroneous overpayment shall include the information (in detail) as described by the checklist in Figure 8-3. If the civilian payroll office concurs with the employee's position, it will notify the employee in writing of its concurrence. If, after considering the statement and supporting documentation, the civilian payroll office reaffirms its previously stated position, it will prepare a letter indicating the reasons for its position. The letter, which will include the employee's petition as an enclosure, shall be submitted to the location identified in [Volume 5](#), Table 30-1 of this Regulation. A copy of the submission shall be sent to the employee.

D. Determination

1. Within 60 days after the filing of the petition, the hearing official shall render a written decision on the merits of the hearing that discusses the basic facts offered and the hearing official's findings and conclusions. Both the civilian payroll office and the employee shall receive a copy of the determination. If the determination upholds the position of the civilian payroll office, that office shall recommence collection action after sending the employee a letter which states the following (see Figure 8-4 for a sample of the required letter):

- a. A brief statement of the hearing official's decision:
- b. A request that the employee repay the debt in full within 15 calendar days following the date of the letter, authorize a voluntary one-time offset to repay the debt, or arrange an installment liquidation schedule with the civilian payroll office.
- c. A statement that, unless the employee informs the civilian payroll office of his or her decision regarding the above options by the deadline indicated, a salary offset shall begin with the pay period in which the deadline expires. The letter shall be specific as to the payday on which the offset shall occur.
- d. The amount of the offset and its estimated duration. This shall be equal to the amount of the debt, or 15 percent of the employee's disposable pay, whichever is less.

e. A statement regarding the assessment of interest, administrative expenses, and penalties.

f. A reminder of the employee's right to request waiver of the overpayment.

2. If the hearing official's determination upholds the employee's position as to the existence of the debt, the civilian payroll office shall inform the employee that the debt no longer is considered valid under 5 U.S.C. 5514 (reference (b)). The hearing official's decision is final as to the issue of involuntary offset, but not final as to the issue of whether the debt is owed. If the hearing official reduces the amount of the debt, the civilian payroll office shall issue a letter to inform the employee, and begin collection action for the new amount.

E. Hearings versus Reconsiderations. An employee who disputes the existence or amount of a debt has a right to request reconsideration and/or a hearing. Since hearings are a more formal and costly means of resolving these disputes, every effort shall be made to use the reconsideration right as an alternative to a hearing. The employee, however, has a statutory right to a hearing and must be granted this right whether or not the employee has attempted and failed to seek reconsideration of the debt. See paragraph 080304 for a discussion on reconsiderations.

080306. Waivers of Erroneous Payments of Pay and Allowances

★ A. General. Authority is provided by 5 U.S.C. 5584 (reference (b)) and 4 C.F.R. Parts 91 and 92 (reference (ba)) for the waiver of claims of the United States against a civilian employee arising out of an erroneous payment of pay or allowances made after June 30, 1960. The Comptroller General of the United States issued implementing standards authorizing the head of an executive agency to waive such claims in an amount aggregating not more than \$1500. The Under Secretary of Defense (Comptroller) has delegated this waiver authority to the Director, DFAS by memorandum dated January 29, 1992 (reference (k)). The DFAS Director re delegated this authority to the Director of the DFAS-Denver Center. The exercise of this authority shall be coordinated with the affected DoD Component, where appropriate. See DFAS Regulation Number 005 (reference (w)). The Defense Debt and Claims Management Office at the DFAS-Denver Center is exercising waiver authority within the Department except for the waiver authority that has been delegated to the Director of DoDEA for DoDEA employees by DoD Directive 1342.20 (reference (bc)).

1. Under 4 C.F.R. 91.5 (reference (ba)), a waiver may be granted only when the collection would be against equity and good conscience and not in the best interests of the United States. Generally, these criteria will be met by a finding that the erroneous payment occurred through administrative error and there is no indication of fraud, misrepresentation, fault, or lack of good faith by the employee or any other person having an interest in obtaining a waiver of the claim.

2. Generally, a waiver is precluded when an employee or other person who has an interest in obtaining a waiver receives a significant unexplained increase in pay or allowances, or otherwise knows, or reasonably should know, that an erroneous payment has

occurred, and fails to make inquiries or bring the matter to the attention of appropriate officials. A waiver under this standard depends upon the facts existing in each particular case. The Comptroller General, however, has long held that a waiver shall not be granted if it appears the employee had records (such as LESs) which, if reviewed, would have indicated an overpayment, and the employee failed to review such documents for accuracy or otherwise failed to take corrective action. Such failure on the part of the employee renders the employee partially at fault. See Comp. Gen. B-253969, November 1, 1993 (reference (p)) and Comp. Gen. B-226465, March 23, 1988, (reference (p)).

3. Economic or financial considerations play no role in the determination of a waiver request.

★ 4. The Defense Office of Hearings and Appeals (DOHA) or the DFAS-Denver Center must receive application for waiver within 3 years from the date the erroneous payment was discovered. Date of discovery, for the purposes of starting the 3-year period, is the date that an appropriate official first determines that an erroneous payment has been made.

★ 5. The application for waiver shall be considered as the application for refund, and (if the claim is subsequently waived), the agency shall refund the amount collected to the employee. However, no refund shall be paid where the employee cannot reasonably be located within 2 years after the effective date of the waiver. See 4 C.F.R. 92.6 (reference (ba)).

★ B. Manner of Submission. Indebted employees shall be notified of overpayments of pay and allowances by the civilian payroll office. A copy of the waiver request instructions shall be included in the debt notification letter the civilian payroll office sends to the employee. The submission of waiver requests must be limited to cases in which all doubt regarding the validity or amount of a debt has been resolved. If an employee decides to apply for a waiver, he or she shall prepare an application for waiver of erroneous payments and send it to the civilian payroll office. The civilian payroll office shall provide additional information in the form of a written report containing a chronological summary of the facts and circumstances (4 C.F.R. 92.3) (reference (ba)), attach copies of pertinent records, and forward the complete package to the Defense Debt and Claims Management Office of the DFAS-Denver Center, Attn: DFAS-DE/FYCT, 6760 East Irvington Place, Denver, CO 80279-7300.

C. Suspension of Collection. Collection of a debt should not routinely be suspended pending waiver determination per 4 C.F.R. 104.2(c)(2) (reference (ba)). The civilian payroll office shall determine in each case (per Comp. Gen. Decision B-185466, August 19, 1976) (reference (p)) whether suspension of collection would be appropriate based on the following criteria:

1. Waiver will probably be granted
2. Erroneous payment can be recovered if waiver is not granted
3. Collection of the debt would cause undue hardship.

D. Final Action

★ 1. After the waiver approval authority adjudicates the waiver, he or she will notify the civilian payroll office that submitted the waiver package. This notification authorizes refund of any amount collected and subsequently waived. The civilian payroll office is responsible for processing refunds. The application for waiver shall be construed as an application for a refund. The civilian payroll office must immediately refund any amount collected to the employee.

2. The civilian payroll office immediately shall initiate further collection action when informed of a waiver denial and collection action has been suspended.

★ 3. When waiver is denied, the notification of that decision to the claimant shall state the basis for that decision and that, upon request, the agency or department will forward an appeal to DOHA pursuant to 4 C.F.R. 92.2 (reference (ba)).

E. Action by the Designated Waiver Authority

1. General. The designated waiver authorities will:

a. Receive and review each request for waiver or application for refund and the associated reports for claims;

b. Make a determination as to whether claims aggregating not more than \$1500 will be waived or whether a claim in any amount will be denied; and

c. Notify the involved civilian payroll office of the determination.

★ The DFAS-DE/FYCT also will notify the claimant of the determination.

★ 2. Referral Of Claims. The designated waiver authorities shall refer the following types of claims to the DOHA for decision:

a. Requests for waiver and requests for waiver and refund that indicate favorable consideration, together with an appropriate reports of circumstances, if the claims of the United States is in an amount aggregating more than \$1500;

b. All doubtful cases;

★ c. Claims, together with the reports of circumstances and recommendations, from civilian payroll offices for referral to the DOHA for litigation;

★ d. Appeals to waiver denials.

★ 080307. Collections Under 5 U.S.C. 5514. The Debt Collection Improvement Act of 1996 (P.L. 104-134 section 31001 (reference (e))), amended 5 U.S.C. 5514 (reference (b)). The

procedures in this paragraph can apply at any stage of the debt collection process. The employee may elect to repay the debt after receiving the initial demand letter, after receiving a further explanation of the debt from the civilian payroll office, after a determination by a hearing official, or after a decision on a request for waiver of the overpayment. Repayment of the debt, subject to refund, can also be accomplished while any of the above actions are pending.

★           A.    Collecting Overpayments Through Routine Pay Adjustments

★                   1.   As of April 26, 1996, of the Debt Collection Improvement Act of 1996, section 31001 (reference (e)), amended 5 U.S.C. 5514 (reference (b)), relieving payroll offices from the requirement to give the full panoply of due process for the overpayment of pay and allowances due to routine intra-agency pay adjustments that have occurred within the four pay periods preceding the adjustment for any adjustments that amounts to \$50 or less or that are attributable to:

- ★                   a.   Clerical errors
- ★                   b.   Administrative errors
- ★                   c.   Delays in processing pay documents.

★                   2.   The actual overpayment must have occurred after April 26, 1996, and the following streamlined due process procedures shall be implemented upon receipt retroactive to that date, if full due process had not already been extended to the employee.

★                   3.   The provisions of 5 U.S.C. 5514(a)(1) (reference (b)) concerning the limitation of the amount that may be collected are still applicable to those adjustments no longer requiring full due process. Specifically, the amount deducted may not exceed 15 percent of disposable pay, unless you have the written consent of the individual. If the adjustment exceeds 15 percent of disposable pay, the initial adjustment may be for the full 15 percent and the remaining adjustment may be made during the next pay period(s).

★                   4.   Intra-agency adjustments are defined as collection actions taken that result from overpayments caused by the DoD Components that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment. If a DoD employee's account is moved from one payroll office to another payroll office within the Department, the employee's new payroll office has authority to collect an overpayment made by the former payroll office using these procedures.

★                   5.   Routine adjustments include but are not limited to overpayments due to corrected or late time and attendance data, SFs 50, and SFs 1190. Adjustments for health benefits and life insurance premiums made within four pay periods are already covered by 5 C.F.R. 550.1104(C) (reference (l)).



★ 6. Any adjustment of \$50 or less can be made under streamlined due process procedures. This pertains to any type of adjustment regardless of when the overpayment occurred. This includes adjustments of health benefits and life insurance premiums.

★ 7. The individual must be provided written notification by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical.

#### B. Voluntary Repayment

1. Cash Repayment. The term "cash repayment" encompasses payments by personal check, money order, or other negotiable instrument. The collection will be recorded on a DD Form 1131. The accounting data shall include the appropriation or fund that funded the overpayment.

#### 2. Payroll Deductions

a. One-Time Deduction. If an employee voluntarily wants to have the indebtedness repaid, the civilian payroll office shall arrange for he or she to sign a completed agreement as shown in Figure 8-2. The civilian payroll office shall retain the original signed agreement. If requested by the employee, and agreed to by the civilian payroll office, the remittance can be deferred for up to two pay periods and the agreement changed to reflect that adjustment. Also, a one-time deduction can be combined with a cash payment as a means of liquidating an indebtedness. For example, a cash payment of \$200 and a one-time deduction of \$300 can liquidate a \$500 indebtedness. If the one-time deduction does not fully liquidate the deficit, the agreement accordingly should be adjusted.

#### b. Installment Deductions

(1) Employees may spread their repayments over more than 1 pay period for other than minor indebtedness amounts. Although employees are permitted to make a series of cash payments at regularly established intervals; the preferred method of liquidation is by deductions each payday in the same amount until the indebtedness is liquidated. Any amount remaining unpaid at the time of separation or retirement will be collected from final payments of any nature, such as final salary payments, lump-sum leave, and bonuses. The employee consents to installment liquidation by signing an agreement such as illustrated in Figure 8-4. The civilian payroll office shall retain the original signed agreement.

(2) In determining a suitable repayment schedule, the civilian payroll office is permitted a certain degree of discretion. While the primary concern of the civilian payroll office always must be to ensure that the U.S. Government recovers the debt within the shortest practical period of time, this consideration must be influenced to some degree by the financial impact on the employee. The employee should not be required to suffer undue deprivation by having to repay the debt. On the other hand, some degree of sacrifice should be expected, and the employee's obligation to repay the debt should be given equal status to other financial obligations that the employee may have incurred. Generally, the debt should be at least 5 percent of the employee's disposable pay (defined in subparagraph 080307.B.2.) in order to qualify for

installment liquidation. Installment payments will be at least \$25 per pay period and will be sufficient to liquidate the debt within 3 years.

C. Involuntary Repayment

1. General. Recovery of an indebtedness by involuntary salary offset is reserved for those instances in which the employee has failed either to make a cash remittance, authorize a voluntary one-time payroll deduction, or enter into an agreement with the civilian payroll office for installment deductions. Before executing an involuntary repayment, the civilian payroll office must ensure that the employee has been given a written statement required by paragraph 080303; and that the employee either failed to exercise the rights enumerated in the written statement or, having exercised one or more of those rights, was still determined to be indebted, and neither made a cash remittance nor authorized voluntary withholdings from his or her pay. The civilian payroll office shall ensure that such involuntary offsets, when warranted by the above circumstances, are initiated in time to be reflected in the pay for the pay period designated in the demand letter. When practical, the employee shall be notified on the LES that the offset action has been taken.

2. Disposable Pay. All involuntary offsets under 5 C.F.R. 550.1103 (reference (1)) and 5 U.S.C. 5514 (reference (b)) are limited to a maximum of 15 percent of the employee's disposable pay. Involuntary offsets shall normally be established at this maximum rate. Disposable pay is defined as that part of current pay remaining after the deduction from earnings of any amount required by law to be withheld. See 5 C.F.R. 581.105 (reference (1)). Disposable pay is computed by making the following deductions:

a. Amounts withheld for federal, state, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if the amounts withheld are not greater than would be the case if the individual claimed all dependents as defined in the federal, state, and local tax codes, to which entitled. For computing disposable pay, no additional federal tax amounts shall be deducted unless the employee presents evidence of a tax obligation supporting the additional deduction;

b. Amounts withheld for Social Security and Medicare taxes;

c. Amounts deducted as health insurance premiums;

d. Amounts deducted as normal retirement contributions (CSRS, FERS, and NAF retirement) including TSP contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are not included as normal retirement contributions; and

e. Amounts deducted as health insurance and normal life insurance premiums from salary. This includes amounts deducted for basic FEGLI; however, all optional FEGLI premiums are not considered normal life insurance premiums.

3. Amounts Not Deductible When Determining Disposable Pay. The following amounts are not deductible when determining disposable pay:

- a. Existing debts being collected for a DoD Component or other federal agency including late payment charges.
- b. Court-ordered garnishments.
- c. Court judgments.
- d. Bankruptcy payments that are court-ordered under chapter 13 of the Revised Bankruptcy Act (reference (e)).
- e. Voluntary allotments for child support.
- f. Union dues deductions.
- g. Charity deductions.
- h. Savings bonds deductions.
- i. IRS federal tax levies.
- j. Savings allotments.
- k. TSP loans.
- l. Military Service Deposits.

4. Extreme Financial Hardship. An employee who does not contest the existence or amount of the debt may assert that the maximum allowable rate of involuntary offset (15 percent of disposable pay) imposes extreme financial hardship. Such an assertion can also be raised when the employee has petitioned for a hearing under the provisions of paragraph 080305, and the hearing official has affirmed the existence or amount of the debt. In either case, the civilian payroll office shall attempt to establish a satisfactory voluntary repayment schedule in accordance with subparagraph 080307.A.2.b.(2). Alternatively, although the employee may decline to sign a voluntary consent to offset, the two parties may agree to a reasonable rate of involuntary offset that is less than the maximum rate specified by this subparagraph. Occasionally, the employee and the civilian payroll office may be unable to agree on whether an involuntary offset produces extreme personal hardship. In making such a determination, the civilian payroll office shall use the following standards.

- a. An offset produces an extreme financial hardship for an employee if the offset prevents the employee from meeting the costs necessarily incurred for essential subsistence expenses of the employee and the employee's spouse and dependents. These essential subsistence expenses include costs incurred for food, housing, necessary public utilities, clothing, transportation, and medical care.

b. In determining whether the offset would prevent the employee from meeting the essential subsistence expenses described above, the civilian payroll office shall consider the following:

(1) The income from all sources of the employee, the employee's spouse, and dependents;

(2) The extent to which the assets of the employee and the employee's spouse and dependents are available to meet the offset and the essential subsistence expenses;

(3) Whether these essential subsistence expenses have been minimized to the greatest extent possible;

(4) The extent to which the employee or the employee's spouse can borrow money to meet the offset and other essential expenses; and

(5) The extent to which the employee and the employee's spouse and dependents have other exceptional expenses that should be taken into account and whether these expenses have been minimized.

5. Employee Documentation. After applying the above set of criteria, the civilian payroll office shall explain the rationale for its decision to the employee. If the employee still contends that the rate of offset advocated by the civilian payroll office would produce an extreme financial hardship, the employee shall be instructed to provide the following items:

a. A petition for a hearing (see paragraph 080305). The employee must file the petition no later than 30 days from the date the demand letter is received that contains the intent to collect by salary offset. If the employee requests copies of the records relating to the debt, then the employee has within 45 days after receipt of such records to file the petition for a hearing;

b. A proposed alternative offset schedule with supporting documents showing why the civilian payroll office's schedule would produce an extreme financial hardship for the employee. The supporting documents shall include specific details concerning income and expenses of the employee, the employee's spouse, and dependents for 1 year preceding the initial demand letter; and projected income and expenses during the repayment period proposed by the civilian payroll office;

c. A copy of the records the employee intends to introduce at a hearing; and

d. In the case of oral hearings, a list of witnesses the employee intends to call and a summary of their anticipated testimony.

6. Civilian Payroll Office Response to Documentation. Upon receipt of the documentation in subparagraphs 080307.B.4. or 080307.B.5, the civilian payroll office may elect to accept the alternative amount proposed by the employee. If so, it shall inform the employee of that acceptance within 15 days from the date of receipt, and shall begin offset at the new reduced rate immediately. Otherwise, the civilian payroll office shall follow the provisions of paragraph 080305 whether to determining the type of hearing to be conducted and the submission of the required material. This submission must be accomplished no later than 15 days following receipt of the employee's petition and must contain the following information in addition to the materials submitted by the employee:

a. A statement setting forth the reasons why the civilian payroll office's proposed offset schedule does not produce an extreme financial hardship; and

b. In the case of oral hearings, a list of witnesses that the civilian payroll office intends to call at the hearing, and a summary of their anticipated testimony. The employee must also be furnished a copy of the above information. Pending the results of the hearing, the civilian payroll office shall begin offset at the rate stated in the employee's petition. The determination by the hearing official should be self-explanatory. If the employee's proposed rate is accepted, then the offset already in place shall be reduced.

080308. Interest, Penalties, and Administrative Costs

A. General. The preferred method of liquidating debts owed by employees or former employees is by cash remittance for the full amount of the debt prior to the due date expressed in the demand letter. Any debt or portion of a debt that remains unpaid by that date is subject to the assessment of interest and administrative expenses under 31 U.S.C. 3717 (reference (d)), 4 C.F.R. 102.13 (reference (ba)), and 5 C.F.R. 550.1104(n) (reference (l)). Debts or the portion of debts that remain outstanding for more than 90 days following the due date are subject to penalties. The following subparagraphs discuss the computation of interest, penalties, and administrative costs, as well as circumstances under which such costs can be or should be waived. All collections for late payment charges (i.e., interest, penalties, and administrative costs) are deposited to the appropriate miscellaneous receipt account as follows:

1. Interest--3210 (General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified)

2. Penalties--1099 (Fines, Penalties, and Forfeitures Not Otherwise Classified)

3. Administrative Costs--1099 (Fines, Penalties, and Forfeitures Not Otherwise Classified)

B. Interest. Under 31 U.S.C. 3717 (reference (d)), interest is accrued or assessed. The intent of interest is to stimulate prompt payment of debts and to recover the cost of the U.S. Treasury borrowing necessitated by unpaid debts. Any debt or portion of a debt that remains unpaid by the due date specified in the demand letter is subject to interest charges. Interest

accrues from the date of the mailing or hand delivery of the demand letter that must contain a specific notice of the requirements concerning interest, penalties, and administrative costs, but automatically will be waived if paid within 30 days from the date of the letter. It is not necessary, therefore, to compute interest of less than 30 days. The rate of interest assessed will be the rate of the current value of funds to the U.S. Treasury. This rate is known as the “Treasury Tax and Loan Rate,” and is prescribed and published by the Secretary of the Treasury annually or quarterly per 31 U.S.C. 3717 (reference (d)). This rate will be announced by the DFAS to all civilian payroll offices each time that the rate changes. Changes in the rate have no effect on those debts that began accruing interest under a previously existing rate. The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness unless the repayment agreement is modified or nullified, in which case the rate in effect at the time of a new agreement will govern the remaining lifetime of the debt. For example, an initial demand letter issued in the month of September will state the interest rate in effect at that time, despite the knowledge that a new rate may be in effect when the debt becomes delinquent in October. The rate in effect in September shall then continue to be used for the lifetime of the debt. The amount of interest will be calculated by using the formula  $I = DNF$ . The I represents the amount of interest; D represents the principal amount of the debt; N represents the number of days in the computation period; and F represents the interest rate per day (365- or 366-day year). Interest should not be charged on interest, penalties, or administrative costs (4 C.F.R. 102.13(c)) (reference (ba)).

C. Administrative Costs. These costs relate only to delinquent debts as defined in 4 C.F.R. 101.2(b) (reference (ba)). They are assessed in order to cover expenses incurred in the recovery of these delinquent debts. A debt is delinquent if it has not been paid by the due date specified in the demand letter unless other satisfactory payment arrangements have been made by that date. A debt is delinquent any time thereafter an employee fails to satisfy obligations under a payment agreement. The civilian payroll office, as the activity responsible for the collection of debts, either shall accumulate actual costs or conduct cost analyses that establish an average of additional costs incurred against delinquent debts. Such analyses shall be based on an aggregate of other DoD civilian payroll offices. Expenses shall be limited to personnel costs and specifically identifiable overhead items. The crucial factor is that the civilian payroll office must be able to justify its figures based on costs associated only with delinquent debts and apportioned over the number of delinquent debts. The recoupment of administrative expenses takes precedence over the collection of interest.

D. Penalties. A penalty of 6 percent a year shall be assessed on any debt or portion of a debt that is delinquent for more than 90 days under 31 U.S.C. 3717(c)(2) (reference (d)) and 4 C.F.R. 102.13(e) (reference (ba)). The charge need not be calculated until the 91st day of delinquency, but shall accrue from the date of delinquency. Thus, the initial penalty shall be for a 3-month period from the due date until 3 months after the due date. A debt is delinquent and subject to penalties if it has not been paid by the due date specified in the demand letter unless other satisfactory payment arrangements have been made by that date. A debt is delinquent any time thereafter an employee fails to satisfy obligations under a payment agreement.

E. Responsibility for Calculation. In the case of overpayments of pay, the civilian payroll office shall have the responsibility for computing interest, penalties, and administrative costs. The civilian payroll office always shall calculate administrative costs that

arise from its own operation. The primary responsibility in connection with other forms of indebtedness rests with the activity or organization that has initial responsibility for the recovery of the debt. When transferring a debt to the civilian payroll office for salary offset purposes, that activity or organization shall inform the civilian payroll office of the following:

1. The principal amount of the debt
2. The interest accrued as of the date of referral
3. The administrative costs incurred as of the date of referral
4. The penalty assessed as of the date of referral
5. The interest rate applicable to the debt
6. The date of delinquency.

The transferring activity or organization also shall state its opinion as to whether further interest, penalties, and administrative costs should be waived.

F. Decisions Not to Accrue or Assess Interest, Penalties, and Administrative Costs

1. The official who has initial responsibility for the collection of a debt also has the responsibility for determining whether interest, penalties, and administrative costs are to be accrued or assessed. The debt collection official must use personal judgment in advancing the interests of the government, while giving proper consideration to the financial interests of the employee. Decisions not to accrue or assess late payment charges (i.e., interest, penalties, and/or administrative costs) are made on a case-by-case basis according to the following criteria:

a. When a debt is subject to waiver statutes and collection action is suspended pending outcome of the waiver, these charges shall not accrue or be assessed while the waiver request is being considered and finalized.

(1) Charges accrued before receipt of a waiver request shall not be assessed if the civilian payroll office receives the request within 30 days of mailing of the debt notice to the employee. The 30-day period is extended to 45 days if the debt notice goes through non-U.S. mail systems or is sent to an APO/FPO address.

(2) These charges shall not accrue or be assessed on any part of a debt principal balance that is waived.

(3) Charges shall again begin to accrue on any portion of the debt principal not waived from the date the employee is formally notified of the final waiver determination.

b. When an employee entitled to a hearing, petitions for a hearing, these charges shall not accrue from the date the petition is received until the employee formally is notified of the hearing decision. Charges that accrued before the petition for a hearing is received shall be assessed on that portion of the debt principal upheld by the decision of the hearing official.

c. When an employee is entitled to--and has petitioned for--a hearing, these charges shall not accrue or be assessed while a debt is being reconsidered.

d. When the debt of the employee arose under the tariff laws of the United States, the Social Security Act, or the Internal Revenue Code of 1954, these charges shall not accrue or be assessed.

e. When the civilian payroll office is requested to collect a debt for another DoD creditor organization or federal agency, these charges shall not accrue or be assessed by the civilian payroll office that accomplishes the collection for the other creditor organization or agency. Note that the creditor organization or agency requesting collection assistance has authority to accrue and assess applicable late payment charges and these charges should be included in the total amount identified for collection.

f. When an applicable statute or regulation prohibits application of these charges to the debt involved, no such charges shall not accrue or be assessed.

g. When these charges would not be in the best interest of the government, would cause extreme hardship, or if facts and circumstances indicate that charges accrued would not be collected per subparagraph 080308.G., no charges shall be assessed.

2. Blanket decisions not to accrue or assess late payment charges are not authorized. Documentation shall support every decision not to accrue or assess these charges. If there is documentation in the employee's debt file or associated with the debt transaction that clearly supports and explains the reason(s) for the decision not to accrue or assess these charges, no further documentation is required. An exception is the requirement in subparagraph 080308.F.1.g., above.

G. Decisions Not to Collect Interest, Penalty, and Administrative Costs. Once accrued and assessed, these charges normally shall be collected. A decision not to collect these charges, however, can be made on a case-by-case basis by the official who has the initial responsibility for the collection of the debt. The decision not to collect shall be documented and retained in the official debt file. Blanket decisions not to collect interest, penalty, or administrative charges are not authorized. The following are examples of when the civilian payroll office normally would decide not to collect these charges:

1. The amount of the debt principal is below the dollar limit imposed by regulation for write off.



2. The debt is paid within 30 days of notification. Interest shall not be collected on a debt or on any part of a debt paid within 30 days after the date interest began to accrue. The 30-day period can be extended for an additional 30 days on a case-by-case basis.

3. Collection of these charges would be against equity and good conscience or not in the best interest of the government; and

a. These charges accrued and were assessed on a debt principal balance that was incurred through no fault or lack of good faith on the part of the employee; or

b. Financial inability of the employee to pay the accrued and assessed charges within a reasonable period of time; or

c. The underlying debt principal balance has been waived by the appropriate authority or other administrative review process such as hearing or reconsideration has determined that it is not valid; or

d. Reasonable doubt exists concerning the government's ability to prove that charges are owed because of the issues involved or a bona fide dispute as to facts; or

e. The amount of charges that could be collected is less than the cost of collection; or

f. Reasonable efforts to locate the employee have been unsuccessful.

★ 080309. Collections From Final Salary and Lump-Sum Payments Under 31 U.S.C. 3716 (reference (d)), when an employee separates by resignation, retirement, death, or termination of appointment, final pay, including lump-sum leave, shall be applied in full or in part to the extent necessary to recover an indebtedness. Unpaid compensation due to deceased employees also shall be applied to the liquidation of any indebtedness. If a debt balance for a deceased employee remains after offsetting final pay, do not pursue collection from the employee's beneficiary. Forward the debt case to the Defense Debt and Claims Management Office of the DFAS-Denver Center. Other payments due from any source, such as amounts claimed for travel and transportation can also be applied. See 5 U.S.C. 5514(a)(1) (reference (b)), 4 C.F.R. 102.4 (reference (ba)), and 5 U.S.C. 5705 (reference (b)).

A. When an employee separates by resignation, retirement, death, or termination of appointment before collection of a debt is completed and collections against current salary are being made, either voluntarily or involuntarily under 5 U.S.C. 5514 (reference (b)), the 15 percent limitation on disposable pay does not apply (64 Comp. Gen. 907 (1985)) (reference (p)). Instead, apply final salary, including the amount payable for lump-sum leave, to the extent necessary to liquidate the debt.

B. When an employee separates by resignation, retirement, death, or termination of appointment, and there are no preceding collections being made from current salary under the authority of 5 U.S.C. 5514 (reference (b)), collection of the debt is treated as an

administrative offset under 31 U.S.C. 3716 (reference (d)). All money payable to the employee may be applied to collect the debt. In these cases, employees must be provided written notification advising them of the following:

1. The fact that all final pay shall be applied to the unliquidated debt balance.
2. The reason for the debt and the debt amount.
3. An opportunity to inspect and copy the agency's records relating to the debt.
4. The rights available to the employee, such as reconsideration or waiver, and the time period (usually 30 calendar days) and the method for requesting these actions. The civilian payroll office is not required to provide the employee an opportunity for a hearing or administrative review as explained in paragraph 080305.
5. An opportunity to repay the full amount of the debt or enter into a written repayment agreement in lieu of offset from final pay.

C. Collection of an indebtedness from an employee's severance pay is permissible under 31 U.S.C. 3716 (reference (d)). Since this statute has no limit on the maximum rate of collection, all money due and payable to the employee by the government is subject to offset. Since severance pay represents wages credited to the employee's account even if offset under 31 U.S.C. 3716 (reference (d)), compute the deductions to be taken from severance pay before offset. Tax statements should be prepared in accordance with the rules set out in Revenue Ruling 79-311, 1979-2 Cumulative Bulletin 25 (reference (d)). It is the net amount that is available for administrative offset under 31 U.S.C. 3716 (reference (d)). In addition, under 5 C.F.R. 581.103 (reference (l)), severance pay is subject to court-ordered garnishments (for alimony, child support, and commercial debts).

D. Offset under 31 U.S.C. 3716 (reference (d)) may not be used to collect debts for state and local governments or debts arising from payments made under the Social Security Act (reference (ad)), the Internal Revenue Code (reference (ad)), or the tariff laws of the United States. See 31 U.S.C. 3716(c)(2) (reference (d)).

080310. Refunds. When, at any point in the debt collection process, the debt is waived or successfully reconsidered or otherwise found not to be due the United States (unless expressly prohibited by statute or regulation), a prompt refund shall be made of all amounts collected prior to that determination. A refund shall also be made if directed by an administrative or judicial order. Amounts of valid debts collected improperly shall be refunded if requested by the employee. For example, if collections exceeding 15 percent of disposable pay were made due to an error in the computation of disposable pay, the employee may request and receive a refund of the difference between the amounts collected and the amounts that were properly withheld. Refunds

shall not be made under any other circumstances. Refunds shall not bear interest, but interest already collected may be refunded along with the principal amount.

0804 RECOVERY OF OVERPAYMENTS OF PAY AND ALLOWANCES FROM TRANSFERRED OR FORMER DOD EMPLOYEES

080401. General. The instructions contained in this paragraph apply regardless of the point in the debt collection cycle when separation occurs. For example, the employee may separate while installment liquidations are taking place, while a waiver request is being considered, while a petition for a hearing is pending, or while the written demand letter is being prepared. If, due to subsequent events, the indebtedness is nullified, a refund shall be made for amounts withheld from both current and final pay. These refunds shall be made without requiring a claim from the former employee. Unfinished actions shall be terminated in the case of hearings regarding the amounts of involuntary offsets. All other actions shall continue.

080402. Transfer Within the Department that Results in a Change of Civilian Payroll Office

A. In accordance with 5 C.F.R. 550.1108 (reference (I)), the losing civilian payroll office shall advise the gaining civilian payroll office by letter of the following information:

1. The identity of the indebted employee,
2. The amount of the debt, including assessments of interest, penalties, and administrative expenses, when appropriate,
3. The accounting classification for credit,
4. The nature of the debt, and the original due date (generally 30 days from the initial demand letter),
5. Copies of all correspondence sent to, or received from, the employee, including waiver requests, hearing petitions, decisions on waiver requests, and determinations of hearing officials,
6. The original of any voluntary pay offset authorizations. If none exists, a statement of the biweekly percentage of involuntary offsets must be included,
7. The date the right to collect the debt first occurred. Generally this is the date the overpayment occurred. However, if offset has already begun, the date of the last offset shall be given;
8. A statement regarding the status of any unfinished actions which may be pending. When such action is completed, the gaining civilian payroll office will be advised immediately,

9. A request that the offset be accomplished or continued.

10. A copy of DD Form 2481 (Request for Recovery of Debt Due the United States by Salary Offset) properly completed and certified.

B. Upon receipt of the above information, the gaining civilian payroll office shall assume full responsibility for collection of the debt pending receipt of previously unfinished actions as indicated in subparagraph 080402.A.8. Any agreements reached regarding periodic installment repayments or the decision not to accrue or assess interest, penalties, and administrative expenses (see paragraph 080308) shall be binding on the gaining civilian payroll office. If the debt is subject to interest, the gaining civilian payroll office shall make the necessary computations. Installment deductions already begun shall continue uninterrupted.

★ 080403. Transfer to Another Government Agency. When an employee transfers to another federal agency outside the Department, forward the debt case to the Defense Debt and Claims Management Office, DFAS-Denver Center, for collection.

080404. Recovery from Retirement Funds

A. Action by the Civilian Payroll Office

1. General. If the amounts withheld from the sources described in paragraph 080309. still are inadequate to satisfy the indebtedness, the civilian payroll office shall apply to the OPM for moneys that are due and payable to the separated employee from the Civil Service Retirement and Disability Fund or FERS basic benefits. The procedures in this subparagraph apply only when the former employee has been provided the due process rights enumerated in section 0803. See 5 C.F.R. 831.1801-831.1808 (reference (1)) and 5 C.F.R. 845.401-845.408 (reference (1)).

2. Scope. The procedures contained in this subparagraph apply to all debts that the civilian payroll office was collecting on behalf of the Department with the exception of debts resulting from an individual's failure to pay health benefit premiums while he or she was in a nonpay status or while his or her salary was not sufficient to cover the cost of premiums. These procedures are covered in 5 C.F.R. 845.405(b)(4)(i) (reference (1)).

3. Notice to the Employee. Immediately prior to sending a debt claim to the OPM, the civilian payroll office shall notify the employee in writing that the claim is being sent for offset against the Civil Service Retirement and Disability Fund or FERS basic benefits. The letter shall state the amount of the debt at separation, the amount recouped from final pay and other sources, and the balance due. The letter also shall inform the employee that if he or she makes full payment of the unrecouped portion, the claim shall be dropped. Subparagraph 080307.A.2.b. contains general guidance regarding the acceptability of repayment offers. Only in the rarest of cases should the installment period exceed 3 years. It is preferable, but not essential, that an agreement be reached prior to submission of the claim. In the absence of an agreement, a decision shall be made based on the facts available, and the decision communicated on the claim. See 5 C.F.R. 845.401-845.408 (reference (1)).

4. Submission of Claims to the OPM. Claims shall be submitted to the OPM in accordance with 5 C.F.R. 845.405(b)(5) (reference (1)).

a. Complete Claims. Claims shall be made on an SF 2805 (Request for Recovery of Debt Due the United States) which will be prepared in duplicate. Submission will be made to the Office of Personnel Management, Retirement and Insurance Group, Employee Service and Records Center, Boyers, PA 16017. Attach a copy of the employee notification (prepared in accordance with subparagraph 080404.A.3.) and two copies of the following signed certification to the SF 2805:

(1) A statement that the debt is owed to the United States;

(2) The amount and reason for the debt and whether additional interest accrues. Refer to paragraph 080308. Note that for those debts that are subject to interest beyond that already calculated, the civilian payroll office must advise the OPM of the dollar value of the additional accrual;

(3) The date the government's right to collect the debt first accrued;

(4) A statement that the civilian payroll office has complied with the applicable statutes, regulations, and the OPM procedures;

(5) A promise that if a competent administrative or judicial authority issues an order directing the OPM to pay the employee an amount previously paid to the Department (regardless of the reasons behind the order), the Department shall reimburse the OPM or pay the employee directly within 15 days of the date of the order;

(6) A listing by date of actions taken pursuant to section 0803.  
Copies of the correspondence are not required.

The OPM is aware that civilian payroll offices will not be able to obtain the employee's consent to the collection in every case; therefore, such claims from civilian payroll offices shall be honored upon receipt of the civilian payroll office's certification. Every attempt to obtain the employee's consent should be made, however, when the process has resulted in a compromised amount (an amount less than the total debt) or, in the case of an annuitant, a specific monthly installment is agreed upon.

b. Incomplete Claims. Occasionally, a separation may occur before due process procedures or the actions in paragraph 080309 have been completed. In other instances, the civilian payroll office may be required to submit the indebted employee's SF 2806/3100 before the proper amount of offset from the employee's monthly annuity has been determined. In such cases, it must notify the OPM in order to prevent payment to the employee. This is particularly important when the employee is entitled to a refund of his or her contributions. Notification shall be effected by a remark in Column 8 of the SF 2806/3100. The SF 2806/3100

shall be accompanied by a statement that the debt is owed to the United States, the date the debt first occurred, and the basis for and amount of the debt.

★ 5. Transfer of Debt Case. Once the SF 2805 has been sent to the OPM, the debt shall be transferred to the Defense Debt and Claims Management Office, DFAS-Denver Center, in accordance with paragraph 080405.

B. Action by the OPM

1. Refunds

a. Complete Claims. If a refund already has been paid, the civilian payroll office submitting the SF 2805 shall be advised that no moneys are available for application against the indebtedness. If the employee's application has been received, but not yet processed at the time a complete claim is received, the OPM shall honor the claim and make remittance to the civilian payroll office. If the employee has not applied for a refund, the civilian payroll office shall be advised that its claim will be retained pending a future application. If the application is received more than 1 year following the date of the SF 2805, the civilian payroll office shall be contacted to verify that the debt is still current. If the debt has been transferred per paragraph 080405, the civilian payroll office shall refer such inquiries to the gaining office. If the civilian payroll office has not yet transferred the debt, but has still not made full collection, it must contact the employee to provide him or her the opportunity to establish whether his or her changed financial circumstances would make the offset unjust. A decision whether to pursue the offset or to attempt collection by other means shall be made based on the employee's response. As a general rule, the offset shall be pursued unless the success of alternative collection action is relatively certain.

b. Incomplete Claims. If the employee has filed an application for a refund, the civilian payroll office shall be notified. It will be given 120 days from the date of notification to furnish a complete claim. This deadline may be extended by an additional 60 days if the civilian payroll office so requests. Failure to meet the deadline or extended deadline, if applicable, shall result in payment to the employee from the employee's retirement funds.

2. Annuities

a. Complete Claims. When possible, the OPM will make a one-time offset against the retiree's annuity payment in accordance with 5 C.F.R. 845.407 (reference (l)). Installment deductions are required, however, if liquidation of the debt would require offset of more than 50 percent of the retiree's net monthly annuity. All installment deductions should ensure liquidation within 3 years. For debts that are subject to continuing interest payments (see paragraph 080308), the OPM must be advised of the new amount of the debt at least 90 days prior to the final payment. Whether the debt is repaid by one-time offset or by installment deductions, the OPM will begin the process for the next available annuity payment following its receipt of the completed claim. If the monthly annuity payment has not yet been established, offset will begin with the first regular annuity payment. Offsets shall not be made against advance annuity payments. As in the case of refunds, offsets are dependent on the receipt by the OPM of an application by the retiree. SFs 2805 received in advance of applications shall be retained pending

receipt of the applications. If any application is received more than 1 year following receipt of the SF 2805, the OPM will contact the civilian payroll office in order to determine the current status of the debt. If the civilian payroll office has transferred the debt in accordance with paragraph 080405, the inquiry will be referred to the gaining office for response. If the debt has not been transferred, see subparagraph 080404.B.1.a. for the requirement to determine whether the retiree's changed financial conditions would make the offset unjust.

b. Incomplete Claims. Unlike the situation that prevails in the case of refunds, the OPM processing of annuity applications shall not be affected by receipt of an incomplete claim from the civilian payroll office. When such a claim is received, the civilian payroll office will be advised to complete the procedures necessary to file a completed claim.

080405. Post Separation Recovery Actions

★ A. Debts of personnel who are not current DoD employees shall be transferred to the Defense Debt and Claims Management Office, DFAS-Denver Center, in accordance with established procedures. All transfers shall include the following:

1. The employee's full name and SSN
2. The employee's last known mailing address
3. The date of the employee's separation/retirement
4. The amount of the debt including principal, interest, penalties, and administrative costs
5. Copies of all correspondence related to the case
6. The accounting classification for credit, including amounts for interest, penalties, and administrative expenses when applicable
7. The date the debt was originally due, as stated in the demand letter.

★ B. For out-of-service debts collected by the Defense Debt and Claims Management Office, DFAS-Denver Center, pertinent data shall be provided to the civilian payroll office to affect the necessary changes (i.e., SF 2812, SF 2806/3100, Form W-2, Form 941, etc.).

0805 RECOVERY OF OTHER DOD DEBTS

080501. General. The civilian payroll office is responsible for providing the required debt notification to the employee before collecting an overpayment of pay and allowances paid by the civilian payroll office under 5 C.F.R. 550.1108 (reference (l)). Other creditor organizations (such as employing agencies) and functional areas outside civilian pay also must certify completion of due process requirements to the civilian payroll office when requesting involuntary salary offset

to collect a debt that originated outside the civilian payroll office. In general, the civilian payroll office shall not question the merits of debts originating outside the payroll office.

080502. Collections of Unearned Advance Per Diem and Mileage Allowance and Unearned Temporary Quarters Subsistence Expense

A. Under 5 U.S.C. 5705 (reference (b)), a federal employee who is entitled to per diem or mileage allowances may receive a travel advance. Any amounts of the travel advance that are not used for allowable expenses are required to be collected. The travel functional area gives the employee an immediate opportunity to pay the amount due. If immediate payment is not made, offset may be made against all accrued pay, retirement credit, or any other amounts due the employee, without limitation, as long as the offset does not cause extreme financial hardship. For purposes of this paragraph, the guidance on extreme financial hardship, as discussed in [Volume 5](#), paragraph 300208 of this Regulation, generally applies. The civilian payroll office is notified in writing of these debts. A copy of the employee's signed repayment agreement is sent to the civilian payroll office, when applicable.

B. The debt shall be collected in one lump-sum or in installments in accordance with the employee's signed voluntary repayment agreement or written instructions provided by the travel functional area or the employing activity.

080503. Overpayment of Travel Allowances. Salary offset is authorized subject to the limitations of up to 15 percent of disposable pay (see subparagraph 080307.B.2.) for debts owed for an overpayment of travel allowances. An official must certify to the civilian payroll office on DD Form 2481 that due process has been performed under 5 U.S.C. 5514 (reference (b)) or other applicable regulation.

★ 080504. Excess Costs Due to Shipment of Personal Property. A debt for excess cost is created when an employee's shipment of personal property exceeds the authorized weight allowance. If an employee has excess cost, a DD Form 2481 is received by the employee's civilian payroll office to make collection under 5 U.S.C. 5724(a)(2) (reference (b)). The collection of such excess costs from an employee's pay record is considered a voluntary offset, since the employee signs DD Form 1299 (Application for Shipment and/or Storage of Personal Property) before the actual shipment of the property, agreeing to repay excess costs caused by the personal property shipment.

A. Upon receipt of the DD Form 2481, the civilian payroll office notifies the employee of the indebtedness. The employee has 30 days to submit a reconsideration letter, make a cash payment, or make arrangements for a voluntary repayment plan through payroll deduction.

B. An employee may submit a reconsideration letter when he or she believes the excess cost charges are incorrect. The employee forwards such letter to his or her employing activity's transportation management representative.

C. After the adjudication of the reconsideration letter, the civilian payroll office is notified to begin collection of any balance due. While there is no limitation on the amount that



can be withheld under such a voluntary offset, the civilian payroll office shall determine a repayment schedule that protects both the government's and the employee's financial interests.

080505. Collection of Employee Training Expenses. When an employee fails to fulfill a training agreement and he or she voluntarily does not repay the employing activity, collection of training expenses from the employee's pay account is authorized under 5 U.S.C. 4108 (reference (b)). In accordance with 5 C.F.R. 410.509 (reference (l)), the employing activity must give the employee the opportunity to request a reconsideration of the amount to be recovered or to appeal for a waiver of the activity's right to recover.

A. Documents required to support this type of collection are:

1. A copy of DD Form 1556 (Request, Authorization, Agreement, Certification of Training and Reimbursement) showing the employee's signed consent to the terms of the training agreement.

2. A copy of at least one demand letter to the employee by the training office that pursued voluntary repayment of the training costs.

B. The civilian payroll office forwards a copy of the document identified in subparagraph 080505.A. to the employee with written notification advising the employee of the payroll deduction amount and the pay period deduction will start.

★ 080506. Collection For Reports of Survey (also known as Government Property Lost or Damaged) Debts. Report of survey channels, as prescribed in the cognizant DoD Component regulations, must be exhausted before involuntary salary offset under 5 U.S.C. 5514 (reference (b)) is invoked. Collection by the payroll office will be initiated upon receipt of the DD Form 2481. Collections received from employees are credited to the receipt account established for recoveries of government property lost or damaged. If the property is either stock or industrial funds, however, the collections are credited to that appropriate fund.

080507. Unofficial Telephone Use. When directed by the telephone officer and subject to the telephone officer's certification on DD Form 2481 that due process has been performed under 5 U.S.C. 5514 (reference (b)) or other applicable regulation, the civilian payroll office will effect salary offset from employees who have incurred liability for unofficial use of government telephones. Offsets are subject to the limitations of up to 15 percent of disposable pay (see subparagraph 080307.B.2.).

080508. Hospital Bills. Salary offset is authorized subject to the limitations of up to 15 percent of disposable pay (see subparagraph 080307.B.2.) for debts owed to DoD Component hospitals. An official designated by the hospital must certify to the civilian payroll office on a DD Form 2481 that due process has been performed under 5 U.S.C. 5514 (reference (b)) or other applicable regulation.

080509. Commissary Stores. Subject to the limitations of up to 15 percent of disposable pay (see subparagraph 080307.B.2.) and under a certification of due process on a

DD Form 2481 by an appropriate official of the commissary store, salary offset will be initiated in the case of employees who are indebted to the Defense Commissary Agency for reasons such as having issued dishonored personal checks.

080510. Court Fees. Under certain circumstances, employees refund fees received from a court for service as a juror or a witness (see section 0513). Table 5-4 provides guidance on absences of employees and retention of fees in connection with court leave. Fees can be collected by cash refund or by payroll deduction. See Comp. Gen. B-179161, August 29, 1973 (reference (p)) and Comp. Gen. B-219496, January 22, 1986 (reference (p)). Under 5 U.S.C. 5515 (reference (b)), collected fees are to be refunded to the appropriation or fund from which the employee is paid.

080511. Double Negotiation of U.S. Treasury Checks. The negotiation of an original check that has been replaced by a recertified check is considered to be an illegal, incorrect, or improper payment for purposes of pecuniary liability. The disbursing officer that issues the duplicate payment is responsible for collection of such payments from a payee. The disbursing officer shall give the payee an opportunity to dispute whether the payee actually endorsed both instruments and that the payee consents to a full one-time salary offset. Upon receiving the signed statement from the disbursing officer, together with evidence that negotiation of both instruments has occurred, the civilian payroll office will inform the employee that the amount of the indebtedness will be deducted in full from the next salary payment. The disbursing officer shall provide direction as to how the proceeds are to be applied. If, for any reason, the disbursing officer cannot produce a written consent from the employee, the civilian payroll office must treat the case as an overpayment, and initiate the written demand letter required by paragraph 080303. If the employee does not authorize voluntary deductions, involuntary deductions will be made under 5 U.S.C. 5514 (reference (b)) provisions at the maximum rate of 15 percent of disposable pay after the required due process procedures have been fulfilled. Interest shall be assessed per paragraph 080308.

080512. Military Pay of Reserve or National Guard Members For Duty To Aid Law Enforcement

A. Under the provisions of 5 U.S.C. 5519 and 6323(b) and (c) (reference (b)), an employee's civilian pay is reduced by the gross military pay and allowances (other than travel, transportation, or per diem allowance) received by the employee for military service as a member of the Reserve or National Guard for which the employee is entitled to leave under 5 U.S.C. 6323(c) (reference (b)) for duty to provide military aid to enforce the law for the purpose of providing assistance to civil authorities in the protection of life or property or the prevention of injury, and for parades or encampments under Title 39, District of Columbia Code (reference (aq)). This applies whether payment for military service was paid from federal or state funds. Deduct for income tax withholding, Social Security and/or Medicare, or retirement based on the resulting balance. Do not reduce the civilian pay by the military pay received for service on nonworkdays.

B. The civilian payroll office shall accomplish the reduction of an employee's civilian pay as described in subparagraph 080512.A., above, by cash collection or by payroll deduction. The civilian payroll office is encouraged to notify the employee informally by telephone of the requirement of 5 U.S.C. 5519 (reference (b)).

C. Credit the collection to the appropriation from which the employee's civilian pay was paid.

D. Specific information as to the military pay entitlement of the employee should be obtained from the military organization concerned if the employee is unable to produce specific and documented information from which the civilian pay reduction may be determined.

★ 080513. Collection of Dishonored Personal Checks. Collection of dishonored personal checks shall be made in accordance with [Chapter 4 of Volume 5](#) of this Regulation.

0806 SALARY OFFSET REQUESTS FROM NON-DOD FEDERAL AGENCIES

080601. General

★ A. When non-DoD federal agencies (except IRS and U.S. Courts (see sections 0417 and 0807)) identify DoD employees as having outstanding debts, those agencies shall address their salary offset requests to the Secretary of Defense designee, i.e., the DFAS-Cleveland Center, 1240 East 9th Street, Cleveland, OH 44199. These requests shall certify that due process rights have been afforded to the indebted employees by the non-DoD federal creditor agency. After these requests for salary offset are approved by the DFAS-Cleveland Center and the payroll office of the employee is located, the DFAS-Cleveland Center shall forward the approved request to the civilian payroll office that maintains the employee's pay account.

B. Some creditor agencies may elect to inform the employee of the anticipated amount of the offset prior to certification of due process. Civilian payroll offices shall cooperate with creditor agencies that inquire as to the amount of an employee's disposable pay.

C. Although most debts collected through this program have incurred interest, administrative expenses, or penalties, calculations of the debt amount shall be performed only by the creditor agencies. Therefore, the creditor agency may adjust the originally certified debt amount to include interest that has accrued since the initial certification. In this event, the creditor agency shall recertify the debt amount using the same procedure as the original debt certification.

★ D. The Department may not honor a request to collect a debt by salary offset that first accrued more than 10 years prior to the request, except as set forth in the Federal Claims Collection Standards, 4 C.F.R. Parts 101-105 (reference (ba)).

★ E. Requests from non-DoD federal creditor agencies that are sent to the civilian payroll office directly, i.e., without going through DFAS-CL and DMDC, shall be returned without action. The civilian payroll office shall inform the non-DoD federal agency of the correct procedures as outlined in this section.

★ F. The debt collections will begin the next officially established pay period.

G. The National Security Agency (NSA) shall work with the DMDC to accomplish matches for NSA, Defense Intelligence Agency, and Central Imagery Office personnel. These matches shall be conducted at the NSA Headquarters.

★ 080602. Processing Actions. Upon receipt of the salary offset request from the DFAS-CL, the civilian payroll office:

A. Computes 15 percent of the employee's disposable pay or a lesser percentage dictated by the creditor agency. See subparagraph 080307.B.2.

★ B. Notifies the employee in writing of the amount of the salary offset and the pay period when salary offset will start.

C. Processes the payroll deduction in accordance with payroll system user instructions.

D. Receives from the employee and forwards to the creditor agency proof that the debt is paid in full, discharged under bankruptcy, or voluntary payments are current under a negotiated repayment schedule. The civilian payroll office also advises the employee to resolve the debt issue directly with the creditor agency so that DFAS-CL is officially notified that the debt has been canceled. If the employee produces compelling documents (e.g., canceled checks, receipts, or letters from the creditor agency) which indicate the debt is no longer valid, offset should be suspended pending reverification or official termination by the creditor agency.

E. Forwards payment each pay period to the creditor agency along with a report of each collection made. See subparagraph 090203.G.1. for guidance on preparing this report.

★ F. Sends a biweekly report of collections on delinquent debts for non-DoD federal agencies to the DFAS-CL. See subparagraph 090203.G.2. for guidance on preparing this report.

G. Ensures that the total amount collected is reflected on the civilian payroll voucher as salary offsets for the creditor agency.

080603. Transferred Employees

A. When an employee transfers to another DoD payroll office before collection of the debt is completed, the losing civilian payroll office:

1. Forwards a copy of the original debt notification document to the gaining civilian payroll office;

2. Certifies the amount collected prior to the employee's transfer on the original debt notification document and the remaining unliquidated amount of the debt. One copy of the certification letter must be furnished to the employee, another to the creditor agency; and

★ 3. Notifies the DFAS-CL of the date the employee transferred, the amount collected prior to the transfer, and the new payroll office name (if known).

B. The gaining DoD civilian payroll office continues salary offset upon receipt of the documentation forwarded by the losing DoD civilian payroll office. The amount of the salary offset should be recomputed in accordance with subparagraph 080601.C.

C. When an employee transfers to a non-DoD agency before collection of the debt is completed, the losing civilian payroll office shall follow the guidance in paragraph 080604.

★ 080604. Separated Employees. When an employee separates before collection of the debt is completed, final pay, including lump-sum leave and awards shall be applied in full or in part to the extent necessary to recover the debt. The losing civilian payroll office shall notify the creditor agency and DFAS-CL of the date the employee separated, the amount collected prior to the separation date, and the new employing agency (if known).

#### 0807 RECOVERY OF COURT-ORDERED INDEBTEDNESS

080701. Judgment Offsets. When a court of the United States, in an action or suit brought against a federal employee by the United States, determines that the employee is indebted to the United States and enters a judgment against the employee, section 124 of P.L. 97-276 (reference (e)) published as a note to 5 U.S.C. 5514 (reference (b)), 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 Section 124 of P.L. 97-276 (reference (e)) shall send a letter requisitioning offset to the civilian payroll office with an attested copy attached of the judgment entered against the employee. If there is concern as to the validity or interpretation of the judgment, the DFAS General Counsel shall review the judgment. After the validity or interpretation of the judgment is confirmed, the civilian payroll office:

A. Computes the amount 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. See subparagraph 080307.B.2. for computing disposable pay. Deductions may be made from basic pay, or in the case of an individual not entitled to basic pay, other authorized pay.

B. Collects 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 civilian payroll office approximately 90 days before completion of the judgment offset with the final judgment amount which include the balance of accrued interest charges.

C. Forwards 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.

D. Applies final pay (salary and lump sum leave) to any unliquidated debt balance as provided by 31 U.S.C. 3716 (reference (d)) if the employee retires, resigns, dies, or if employment otherwise ends.

E. Forwards payment each pay period to the agency requesting salary offset.

080702. Garnishments

A. Authority. Title 42, United States Code, section 659 (reference (ae)) provides consent by the United States to garnishment and similar proceedings for enforcement of child support and alimony obligations against civilian employees. P.L. 103-94 (reference (e)) authorizes the garnishment of civilian employees' pay for commercial debts.

B. Procedures

1. For garnishments for child support and alimony, the commanding officer or his or her designated representative shall notify the employee of the garnishment or attachment order and its effect on his or her pay and shall forward the court order to the civilian payroll office after the order is determined to be valid by qualified legal counsel. If the activity is served with more than one garnishment order with respect to the same pay due or payable to any employee, then such pay shall be available to satisfy the court order on a first-come, first-served basis. See section 0412 for processing garnishment collections.

2. All federal employees with an outstanding debt are subject to garnishment for commercial debts. A court order from a state court is required prior to the garnishment becoming effective. See section 0412 for procedures for processing garnishment collections.

080703. Debtors Involved In Bankruptcy Proceedings

A. Wage Earner's Plan Cases. Except in cases of court-ordered child support and/or alimony as provided by 42 U.S.C. 659 (reference (ae)), civilian employees (wage earners) cannot be deprived of their pay by any civil process of attachment or levy. Federal employees may, however, file for bankruptcy under the provisions of 11 U.S.C., Chapter 13 (reference (af)) (the so-called "wage earner's plan").

1. Under Chapter 13, an employee must submit a plan to the bankruptcy court that provides, among other things, that all or such portion of future income as is necessary to pay priority claims under the plan, must be submitted to the control of the bankruptcy trustee. Once the bankruptcy court confirms a plan, it may order any employer to pay all or part of an employee's future income to the trustee named in the order. A separate check is authorized to meet the terms of the order. Sometimes, the wage earner's name appears as payee on the check with the address of the trustee (11 U.S.C. 1322 and 1325) (reference (af)). Normally, however, the check is made payable to the trustee.

2. In cases when doubt exists as to the validity or the interpretation (including the determination of amounts to be paid to a trustee) of the court order, the DFAS Deputy General Counsel reviews the wage earner's plan court order before processing.

3. Process the collection in accordance with the instructions in the court order.

B. Bankruptcy Proceedings. The civilian payroll office notifies the Office of the DFAS General Counsel immediately upon becoming aware that a civilian employee owing money to a DoD Component, is initiating bankruptcy proceedings. The notification must be prompt to ensure that a claim is filed within statutory time limitations.

#### 0808 CORRECTIONS

080801. Corrections due to errors and cancellation of paychecks are outlined in Table 8-1.

080802. Corrections for Underpayment of Earnings. For active or separated employees, there is no distinction between payment for a current or prior calendar year. The adjusting payment is reported as wages at the time it is made. No correction on Form 941 is required. Form W-2 for the current year shall show corrections for underpayments as outlined in Table 8-1.

A. For active employees, the civilian payroll office shall:

1. Process the payment in the next regular biweekly pay cycle
2. Report the gross wages subject to Social Security/Medicare taxes withheld as current quarterly earnings on Form 941
3. Include the earnings and Social Security/Medicare taxes withheld on the Form W-2 for the current year.

B. For separated employees, the civilian payroll office shall:

1. Reestablish the employee on the payroll and process the payment in the current biweekly pay cycle
2. Follow the procedures in subparagraph 080802.A
3. Prepare Form W-2c if a Form W-2 was issued.

080803. Corrections for Overpayment of Earnings in the Current Year

A. For active employees, the civilian payroll office shall:

1. Instruct the employee to refund the overpayment in accordance with due process procedures.

2. Record the amount as a reversal in the base pay, gross pay, net pay or other pay as applicable, after receipt of the refund or returned check from the employee, the civilian payroll office.

B. For separated employees, the civilian payroll office shall follow debt collection procedures as outlined in [Volume 5](#) of this Regulation.

1. Reestablish the employee on the payroll and process the reversals in the current biweekly pay cycle.

2. Prepare a Form W-2c if a Form W-2 was issued.

080804. Corrections for Overpayment of Earnings for a Prior Year. If the overpayment occurred in a previous calendar year, no correction of earnings for federal, state, or local withholding taxes shall be made for the current calendar year.

A. For active employees, the civilian payroll office shall:

1. Request a written statement from the employee that a claim for tax refund or credit has not been made for the amount of the overdeduction.

2. If the year of repayment is still within the 3-year statute of limitations for Social Security and/or Medicare tax refunds, prepare a Form W-2c in accordance with IRS Circular E (reference (h)) for the prior year to reduce the gross wages subject to Social Security/Medicare and Social Security and/or Medicare taxes withheld. Send copies to the employee and copy A to the SSA. A separate Form W-3 (Transmittal of Wage and Tax Statements) must be sent with the corrected Form W-2 to the SSA, upon completion of the correction procedures. If the repayment is beyond the 3-year statute of limitations, no corrections will be made to prior year Forms W-2 and Forms 941.

3. Attach the employer's copy of the Form W-2c to the retained Form W-2 previously issued for the prior year.

4. Prepare a Form 941c (Statement to Correct Information Previously Reported on the Employer's Federal Tax Return) to adjust the gross wages subject to Social Security/Medicare and the Social Security/Medicare taxes.

5. Attach the Form 941c to the current quarterly Form 941 and enter the amount of the adjustment on line 9 of Form 941. Retain copies of the two forms in the civilian payroll office.

6. Prepare a statement for the employee after collection of the amount due from the employee (see Figure 8-5 for a sample format). The amount entered on the statement



shall be the total of the reverse deductions plus the amount the employee repaid. The employee shall receive any federal, state, city, and local income tax adjustment when he or she files a tax return.

B. For separated employees, the civilian payroll office shall:

1. Follow procedures outlined in subparagraphs 080804.A.1. through 6.
2. Keep a copy of the Form W-2c and Form 941c in the current year quarterly tax folder. (This is used to balance the annual federal tax deposits.)

C. The civilian payroll office manually shall note the amount of the correction and the date of the collection on the employee's prior year individual pay record.

D. If an employee was overpaid in previous calendar years, collections against the overpayment may cover more than two calendar years. The civilian payroll office shall give the employee a statement that contains the following:

1. A description of the circumstances
2. The amount of the overpayment
3. The amount collected during the year
4. The year or years to which the payment was applied.

Sample Demand Letter

FROM: (1)

TO: (2)

SUBJECT: Overpayment of Pay and/or Allowances

This is to inform you that you have been overpaid as the result of \_\_\_\_\_ (3) \_\_\_\_\_. Unfortunately, this overpayment causes you to be indebted to the United States in the gross amount of \$ \_\_\_\_\_ (4) \_\_\_\_\_, and as a result, we are required by law and regulations to initiate collection action.

Please send a personal check or money order payable to \_\_\_\_\_ (5) \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ (6) \_\_\_\_\_ along with a copy of this letter to \_\_\_\_\_ (7) \_\_\_\_\_ within 30 days. If you are financially unable to pay the full amount, you and the civilian payroll office may establish a written agreement for repayment of the debt by installment deductions from your pay. Please advise the civilian payroll office within 30 days if you wish to request this method of repayment.

If you do not repay the debt in full or establish a repayment schedule within 30 days, we are required to collect the debt involuntarily from your pay, beginning on \_\_\_\_\_ (8) \_\_\_\_\_. The maximum amount deductible under these circumstances is 15 percent of your disposable pay each pay period until the debt is repaid in full. Our estimates of your disposable pay, based on current payroll information, is \$ \_\_\_\_\_ (9) \_\_\_\_\_. Therefore, the maximum deductions would be \$ \_\_\_\_\_ (10) \_\_\_\_\_ and repayment of the principal amount of the debt would take approximately \_\_\_\_\_ (11) \_\_\_\_\_ pay periods.

If you repay this debt in the same year that the overpayment occurred, you may repay the debt in the net amount, and we accordingly will adjust your taxable wages and taxes withheld. If you do not repay your debt in full in the same year as the overpayment occurred, you are also will be required to pay all income taxes applicable to the unpaid debt balance. You will receive a statement that you may file with your tax return indicating you repaid an overpayment that occurred in a prior tax year.

We encourage that you promptly pay this debt since interest, computed at the Treasury tax and loan rate, will be assessed from the date of this letter on any part of the debt not paid within 30 days of the date of this letter. Also, an administrative charge to cover the cost of processing a delinquent debt will be assessed on any part of the debt not paid within 30 days. In addition, a penalty charge of 6 percent per annum will be assessed on any portion of the debt that is delinquent for more than 90 days.

★Figure 8-1 (Demand Letter for Overpayment of Pay and/or Allowances)

You have the right to inspect and copy all records relating to this debt within 10 days from receipt of this letter. If you personally cannot do so, you may request that the civilian payroll office provide you a copy of any of these records. This request must also be made within 10 days from receipt of this letter

If you have any questions about the nature of the debt, please contact the civilian payroll office for an explanation. If, after hearing the civilian payroll office's explanation, you still believe that you do not owe the debt or that you owe an amount other than what is shown above, you may submit a written statement of your position to the civilian payroll office. This right has no relationship to your ability or willingness to repay the debt, but only to determining whether the debt is a valid one. If you elect to exercise this right, you must do so within 15 calendar days from the date of this letter.

You also have a right to a hearing as to the amount or the validity of the debt, or if the involuntary deductions discussed above would cause an extreme hardship. Hearings are conducted by an official, designated by the Defense Finance and Accounting Service, who is not under the control of the creditor agency. If you wish to request a hearing, you must do so within 30 days from the receipt of this letter. Attachment 1 contains guidance regarding requests for hearings.

If you acknowledge the validity of the debt, but believe that you should not be required to repay this debt, you may submit a written request for waiver of the indebtedness. Attachment 2 contains guidance regarding waiver requests. Requesting a waiver is not normally an alternative to making arrangements to repay the debt (plus any accrued interest, administrative costs, and penalties). Therefore, even if you elect to submit a waiver request, you still should either repay the debt or arrange with the civilian payroll office for installment payments. Any decision to suspend collection action during the period of consideration of the waiver is made on a case-by-case basis.

If we can be of further assistance, please contact \_\_\_\_\_ (12) \_\_\_\_\_.

Sincerely,

(Signature Element)

Attachments:

As stated

Figure 8-1 (Demand Letter for Overpayment of Pay and/or Allowances (continued))

**Explanation of Blank Spaces on Sample Demand Letter**

- (1) The title or office symbol/code of the civilian payroll office.
- (2) The full name of the employee.
- (3) A brief but comprehensive explanation of how the overpayment occurred (e.g., overaccrued annual leave, premature step increase, or overtime paid but not worked). Always include the pay periods for which the overpayments occurred and the dollar amount for each pay period. If the computation is complex, it may be included as an attachment to the letter. In some cases, a three-column table may be helpful. The three columns reflect amount entitled, amount paid, and the differences (the amount of the indebtedness).
- (4) The gross dollar amount of the debt.
- (5) The office to which the check or money order is to be made payable.
- (6) The net dollar amount of the debt.
- (7) The mailing address of the disbursing office.
- (8) The date the involuntary deduction from pay begins.
- (9) The estimated amount of disposable pay.
- (10) Fifteen percent of (9).
- (11) Divide (4) by the amount determined in (10) and round to the next highest number.  
  
Note: For debts in which (10) is greater than (4), this entire sentence and the one preceding it can be deleted from the letter.
- (12) Identify the name, phone number and office symbol/code of the point-of-contact in the civilian payroll office who can answer questions regarding this debt.

Figure 8-1 (Demand Letter for Overpayment of Pay and/or Allowances (continued))

### Guidance Pertaining to Hearings

An employee is entitled to an opportunity for a hearing on the determination of the civilian payroll office concerning the existence or amount of the debt, or the terms of the repayment schedule if it is established other than by written agreement. The employee must make any such challenge within 30 days of the receipt of the notice of indebtedness or within 45 days after receipt of the records relating to the debt, if the employee requests such records. If a hearing is given, the employee also must be given the opportunity to receive a written decision from the official holding the hearing at the earliest practical date, but not later than 60 days after the filing of a petition. Normally, a hearing will consist of written submissions by both the employee and the civilian payroll office. Therefore, an employee who wishes a hearing shall make his or her wishes known by filing a petition with the same official who issued the written demand for payment. The petition shall state that the employee is seeking a hearing under the provisions of 5 U.S.C. 5514 and, if the employee is contesting the determination of the debt or its amount, the petition will contain the following items:

1. The reason the employee believes that the civilian payroll office's determination of the debt is erroneous. The statement shall include all facts on which the employee bases his/her belief and any arguments supporting the belief.
2. Written submission from any persons that can substantiate the employee's contentions.
3. A copy of any records the employee believes can substantiate his/her contentions.

If the employee is contesting the offset schedule, the petition shall contain the following items:

1. A proposed alternative offset schedule with supporting documents showing why the civilian payroll office's schedule would produce an extreme financial hardship for the employee. The supporting documents should include specific details concerning income and expenses of the employee, his/her spouse, and dependents for 1 year preceding the demand letter, and projected income and expenses during the repayment period proposed by the civilian payroll office.
2. Written submissions from any persons that can substantiate the employee's contentions.
3. A copy of any records the employee believes can substantiate his/her contentions.

★Figure 8-1 (Attachment 1 of the Demand Letter for Overpayment of Pay)

The timely filing of a petition for hearing shall stay the beginning of collection proceedings until the results of the hearing have been rendered.

Employees are advised that any knowingly false or frivolous statements, representations or evidence may subject the employee to:

1. Disciplinary procedures appropriate under 5 U.S.C. Chapter 75; 5 C.F.R. 752, or any other applicable statutes or regulations;
2. Penalties under the False Claims Act, 31 U.S.C. 3729-3731, or any other applicable statutory authority; or
3. Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority.

The timely filing of a request for a hearing will stay the beginning of collection proceedings. Interest and penalty fees shall not accrue during the period from the filing of a petition for hearing until the date of a hearing official's determinations.

Figure 8-1 (Attachment 1 of the Demand Letter for Overpayment of Pay (continued))

**Guidance Pertaining to Waivers**

In order to receive favorable waiver consideration, the determination must be made that collection action would be against equity and good conscience and not in the best interests of the United States. Generally, these criteria will be met by finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee. Any significant unexplained increase in an employee's pay and/or allowances, which would require a reasonable person to make inquiry concerning the correctness of his or her pay, ordinarily would preclude a waiver, whether or not the employee fails to bring the matter to the attention of appropriate officials. Waiver of overpayments under this standard depends on the facts existing in each particular case. However, the Comptroller General of the United States has held that a waiver will not be granted if it appears the employee had records (such as Leave and Earnings Statements) which, if reviewed, would have indicated an overpayment, and the employee failed to review such documents for accuracy or otherwise failed to take corrective action. Economic or financial considerations play no role in the determination of a waiver request.

An employee who wishes to request a waiver must submit an application for waiver of erroneous payment to the civilian payroll office that made the erroneous payment. If the civilian payroll office has been disestablished, the application is to be sent to the successor civilian payroll office. The application must contain or cover the following information or points:

1. The employee's name and address,
2. The reason for requesting the waiver,
3. A clear, concise, certified statement that the employee was or was not aware of being erroneously paid,
4. A statement detailing the employee's efforts to question the correctness of the payment,
5. The date and manner in which the employee became aware of the overpayment(s),
6. A statement relative to the availability of wage/salary tables or schedules, if applicable and
7. The employee's request for refund of any collection of the debt.

★Figure 8-1 (Attachment 2 of the Demand Letter for Overpayment of Pay (continued))

Sample Voluntary Repayment Agreement

To Whom It May Concern:

I \_\_\_\_\_, SSN \_\_\_\_\_ agree to repay my indebtedness of \$ \_\_\_\_\_ by the following method(s).

\$ \_\_\_\_\_ One-time payroll deduction in the pay period ending \_\_\_\_\_.

\$ \_\_\_\_\_ Payroll deduction in the amount of \$ \_\_\_\_\_ per pay period beginning with the pay period ending \_\_\_\_\_ until the debt principal and interest at the current Treasury rate is paid in full.

\$ \_\_\_\_\_ Cash payment by personal check (must be received within 5 workdays).

\$ \_\_\_\_\_ Net amount due (current calendar year).

In the event that should I retire or resign before collection of the debt is completed, all final pay (salary, lump-sum payments, and awards) shall be applied to the unliquidated debt balance without additional notification.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Daytime Phone Number

★Figure 8-2 (Sample Voluntary Repayment Agreement)



**I. Items Required From the Employee**

## A. The petition for the hearing:

1. Name
2. SSN
3. Date
4. Reason(s) for requesting the hearing, e.g.,
  - a. Contesting the validity of the debt
  - b. Contesting the amount of the debt
  - c. Contesting the terms of the offset
5. Reason(s) for contesting the debt
  - a. When contesting validity and/or amount of the debt, the employee shall

(1) Provide a statement why he or she believes the civilian payroll office's determination of the validity and/or the amount of the debt is erroneous. Also provide a complete description of the facts, evidence, and a summary of testimony of any witnesses which support the employee's belief.

(2) Copies of any pertinent records that the employee wishes to have considered at the hearing if they differ from those records previously provided by the civilian payroll office.

b. When contesting the terms of the offset schedule proposed by the civilian payroll office, the employee shall

(1) Propose an alternate schedule, i.e., how much can be repaid each pay period.

(2) Enclose an affidavit of financial status.

(3) Provide copies of any records he/she wishes to be considered at the hearing if they differ from the records previously provided by the civilian payroll office.

6. Employee's signature

Figure 8-3 (Checklist for a Hearing on Overpayment of Civilian Pay and/or Allowances)

**II. Items Required From the Civilian Payroll Office:**

- A. Full name and SSN of the employee.
- B. Exact date the error was discovered.
- C. Exact date and manner (due process notification) in which the employee was advised of the debt.
- D. Aggregate (total) amount of the debt.
- E. Computation of the amount of the debt including/excluding interest-to-date, and administrative fees, if applicable.
- F. Detailed circumstances that led up to, and under which, the erroneous payment(s) was made.
- G. Statement(s) corroborating and/or refuting the statement(s) made by the employee.
- H. Copies of Leave and Earnings Statements for 3 pay periods prior to the error and the first 3 pay periods beginning with the first overpayment.
- I. Copies of all other documents pertaining to the case.
- J. Annual leave cases require special documentation. They should include the following documents:
  - 1. Copy of the erroneous SF 50 data.
  - 2. Copy of the corrected SF 50 data.
  - 3. The balance brought forward (and the date) from the last year in which the correct leave accrual was used.
  - 4. Employee's leave record.
  - 5. The hourly rate of pay and changes.
  - 6. A copy of the SF 2806/3100.

Figure 8-3 (Checklist for Hearing on Overpayment of Civilian Pay and/or Allowances (continued))

Sample Post-Hearing Demand Letter

FROM: (1)

TO: (2)

SUBJECT: Indebtedness to the United States as a Result of an Overpayment of Pay and/or Allowances

Reference: (a) (3)  
(b) (4)  
(c) (5)

Reference (a) advised of your indebtedness to the United States in the amount of \$ (6) as a result of an overpayment of pay and/or allowances. By reference (b), you submitted a petition for a hearing based on the (7) of the debt. Reference (c) is the hearing official's determination of your indebtedness in the amount of \$ (8).

In order to liquidate the debt in full, you are requested to prepare a personal check or money order payable to (9), and send this instrument to the civilian payroll office at (10) no later than 15 days from the date of this letter. Regulations also permit the indebtedness to be liquidated by deductions from your current pay. If you prefer this method of repayment, please inform the civilian payroll office of your preference and it will arrange for a one-time voluntary payroll deduction. Depending on the amount of the debt in relation to your pay and your other expenses, it may be possible for you and the civilian payroll office to establish a written agreement for repayment of the debt by periodic installment deductions from your pay.

Reference (a) explained that delinquent debts were subject to the assessment of interest, penalties, and administrative expenses, and stated the policy relative to the excusal of these assessments. Under this policy, these assessments have not yet been made. They may continue to be excused if you now repay the debt in full or are able to reach an agreement with the civilian payroll office regarding installment liquidation of the debt.

If you do not repay the debt, consent to a one-time payroll deduction, or establish a repayment schedule, this office intends to collect the debt involuntarily from your pay beginning on (11). You must contact the civilian payroll office by that date in order to avoid this offset. This deduction would begin with the payday on (12). Reference (a) advised as to the estimated amount and duration of the payroll deduction. If this deduction from your pay would, in your opinion, cause you to experience extreme financial hardship, then you are urged to contact the civilian payroll office to arrange a more lenient schedule.

Figure 8-4 (Sample Post-Hearing Demand Letter for Overpayment of Pay and/or Allowances)

Reference (a) also explained your right to a waiver of the overpayment. You may still exercise that right. In view of the time that has already elapsed, however, you either must repay the debt or make arrangements for payroll deductions concurrent with the submission and processing of your waiver request. In the event that your request is granted, all amounts deducted shall be refunded.

Our point-of-contact in this matter is     (13)    .

(Signature Element)

**EXPLANATION OF BLANK SPACES ON SAMPLE POST-HEARING DEMAND LETTER**

- (1) The title or office symbol/code of the civilian payroll office.
- (2) The full name of the employee.
- (3) The initial demand letter.
- (4) The employee's petition for a hearing.
- (5) The hearing official's determination.
- (6) The amount of the debt in the initial demand letter.
- (7) Either "existence", "amount" or "the terms of the proposed offset schedule", as appropriate.
- (8) The amount of the debt as determined by the hearing official. If the hearing official affirmed the civilian payroll office's contention, the amount will be the same as blank (6).
- (9) The office to which the check or money order is to be made payable.
- (10) Identify the mailing address of the civilian payroll office.
- (11) The date the involuntary deduction from pay begins.
- (12) The payday for the pay period indicated in blank (11).
- (13) Include the name, phone number and office symbol/code of the point-of-contact in the civilian payroll office who can answer questions regarding this debt.

Figure 8-4 (Sample Post-Hearing Demand Letter for Overpayment of Pay and Allowances (continued))

**Sample Prior Year Salary Overpayment**

REFUND OF PRIOR YEAR SALARY OVERPAYMENT		Date
To:	From:	
<p>_____</p> <p>Name and Social Security Number of Employee</p> <p>refunded during the calendar year _____ the sum of \$_____, representing salary overpayment from taxable year _____. The Form W-2 (Wage and Tax Statement) for calendar year _____ has not been decreased by this amount.</p>		
Duty Station	Federal Employer's Identification Number	
	State Identification Number	
Typed Name, Title and Telephone	Signature	
<p>Copy Forwarded To:</p> <p>Internal Revenue Service</p> <p>State of _____</p> <p>City or County of _____</p>		

Figure 8-5 (Prior Year Salary Overpayment Sample Format)

**Current and Prior Year Pay Correction Table**

Corrections Required If Applicable	Current Year				Prior Year			
	Underpay		Overpay		Underpay		Overpay**	
	A	I	A	I	A	I	A	I
Gross	No	No	Yes	Yes	No	No	Yes	Yes
Base	No	No	Yes	Yes	No	No	Yes	Yes
Other Pay	No	No	Yes	Yes	No	No	Yes	Yes
Retirement	No	No	Yes	Yes	No	No	Yes	Yes
★TSP	No	No	Yes	Yes	No	No	Yes	Yes
Social Security/ Medicare	No	No	Yes	Yes	No	No	Yes	Yes
Federal Tax	No	No	Yes	Yes	No	No	No	No
FEHB	No	No	Yes	Yes	No	No	Yes	Yes
FEGLI	No	No	Yes	Yes	No	No	Yes	Yes
State Tax	No	No	Yes	Yes	No	No	No	No
City/Local Tax	No	No	Yes	Yes	No	No	No	No
Union	No	No	Yes	Yes	No	No	No	No
Charity	No	No	Yes	Yes	No	No	No	No
Other Deductions	No	No	Yes	Yes	No	No	Yes	Yes
Form W-2	No	Yes*	No	Yes*	No	Yes*	Yes*	Yes*
Form 941	No	No	Yes	Yes	No	No	Yes	Yes
Corrections Processed on Next Biweekly Pay Cycle	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

A - Active Employee; I - Inactive Employee

Yes - Requires a correction

\* Prepare a corrected Form W-2 only if a Form W-2 was issued.

\*\* For a prior year overpayment, the employee must repay the net amount plus deductions for federal, state, city or local tax, union, charity, allotments, bonds, indebtedness owed the United States and any other deductions for which the employee received value but which cannot be collected.

Table 8-1 (Current and Prior Year Pay Correction Table)