AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 213

Collection of Debts by Tax Refund Offset

AGENCY: Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The Agency for International Development proposes to issue regulations to allow the agency to recover delinquent debts owed the United States Government through the offset of tax refunds.

DATES: Comments must be submitted on or before February 13, 1995.

ADDRESSES: Comments may be mailed to Mr. Jan Miller, Office of the General Counsel, Room 6881, N.S., Agency for International Development, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: Jan W. Miller, (202) 647–6380.

SUPPLEMENTARY INFORMATION: The proposed rule will enable the agency to recover delinquent debts owed the United States Government through the offset of tax refunds. The proposed rule sets forth the procedures to be followed by AID in using tax refund offset.

Regulatory Flexibility and Impact Analysis

This action will not have a significant economic impact on a substantial number of small entities including small businesses, small organizational units and small governmental jurisdictions.

This action does not constitute a "major rule" under Executive Order No. 12291.

Environmental Impact

This action does not constitute a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 22 CFR Part 213

Claims, salary offset.

Accordingly, it is proposed to amend 22 CFR part 213 as follows:

1. The authority citation for part 213 is revised to read as follows:

Authority: Sec. 621 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2381; Subpart B also issued under 5 U.S.C. 5514; 5 CFR part 5550, subpart K. Subpart C also issued under 31 U.S.C. 3720A.

2. Part 213 is amended to add a new subpart C as follows:

PART 213—COLLECTION OF CLAIMS

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Subpart C—Collection of Debts by Tax Refund Offset

213.21 Purpose.

213.22 Applicability and scope.

213.23 Administrative charges.

213.24 Pre-offset notice.

213.25 Reasonable attempt to notify and clear and concise notification.

213.26 Consideration of evidence and notification of decision.

213.27 Change in conditions after submission to IRS.

Subpart C—Collection of Debts by Tax Refund Offset

§ 213.21 Purpose.

This subpart establishes procedures for AID to refer past due debts to the Internal Revenue Service (IRS) for offset against income tax refunds of taxpayers owing debts to AID.

§ 213.22 Applicability and scope.

- (a) This subpart implements 31 U.S.C. 3720A which authorizes the IRS to reduce a tax refund by the amount of a past due and legally enforceable debt owed to the United States.
- (b) A past due legally enforceable debt referable to the IRS is a debt which is owed to the United States and;
- (1) Except for judgement debt or other debts specifically exempt from this requirement, is referred within 10 years after AID's right of action accrues;
- (2) In the case of individuals, is at least \$25.00.
- (3) In the case of business debtors is at least \$100.00;
- (4) In the case of individual debtors, cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a).
- (5) Is ineligible for or cannot be currently collected pursuant to the administrative offset provisions of 31 U.S.C. 3716;
- (6) Is the debt of a debtor (or in the case of an individual debtor, his or her spouse) for whom AID records do not show debtor has filed for bankruptcy under title 11 of the United States Code or from whom AID can clearly establish at the time of the referral that an automatic stay under 11 U.S.C. 362 has been lifted or is no longer in effect;

(7) Has been disclosed by AID to a consumer reporting agency as authorized by 31 U.S.C. 3711(f); and

(8) With respect to which AID has given notice, considered any evidence, and determined that the debt is past-due and legally enforceable under the provisions of this subpart;

§ 213.23 Administrative charges.

All administrative charges incurred in connection with the referral of debts to the IRS will be added to the debt, thus increasing the amount of the offset.

§ 213.24 Pre-offset notice.

- (a) Before AID refers a debt to the IRS, it will notify or make a reasonable attempt to notify the debtor that:
 - (1) The debt is past due;
- (2) Unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;
- (3) The debtor has at least 60 days from the date of the notice to present evidence that all or part of such debt is not past-due or not legally enforceable; and
- (4) AID will consider any evidence presented by the debtor and determine whether any part of such debt is pastdue and legally enforceable.
- (b) The notice will explain to the debtor the manner in which the debtor may present such evidence to AID.

§ 213.25 Reasonable attempt to notify clear and concise notification.

- (a) Reasonable attempt to notify. AID will have made a reasonable attempt to notify the debtor under § 213.24(a) if it used a mailing address for the debtor obtained from the IRS pursuant to the Internal Revenue Code, 26 U.S.C. 6103(m)(2) or (m)(4), unless AID receives clear and concise notification from the debtor that notices are to be sent to an address different from the address obtained from the IRS.
- (b) Clear and concise notification. Clear and concise notification means that the debtor has provided AID with written notification including the debtor's name and identifying number (as defined in the Internal Revenue Code, 26 U.S.C. 6109), the debtor's new address, and the debtor's intent to have the notices sent to the new address.

§ 213.26 Consideration of evidence and notification of decision.

- (a) AID will give the debtor at least 60 days from the date of the pre-offset notice to present evidence. Evidence that collection of the debt is affected by a bankruptcy proceeding involving the debtor shall bar referral of the debt.
- (b) If the evidence presented is not considered by an employee of AID but by an entity or person acting for AID, the debtor will have at least 30 days from the date the entity or person decides that all or part of the debt is past-due and legally enforceable to request review by an employee of AID of an unresolved dispute.
- (c) AID will provide the debtor with its decision and the decision of any entity or person acting for AID on to whether all or part of the debt is past-due and legally enforceable.