



**Effective: July 7, 2004**

United States Code Annotated [Currentness](#)

Title 31. Money and Finance ([Refs & Annos](#))

Subtitle III. Financial Management

[Chapter 37](#). Claims ([Refs & Annos](#))

[Subchapter II](#). Claims of the United States Government ([Refs & Annos](#))

→ **§ 3716. Administrative offset**

(a) After trying to collect a claim from a person under [section 3711\(a\)](#) of this title, the head of an executive, judicial, or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor--

- (1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;
- (2) an opportunity to inspect and copy the records of the agency related to the claim;
- (3) an opportunity for a review within the agency of the decision of the agency related to the claim; and
- (4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either--

- (1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the Government Accountability Office, or the Department of the Treasury; or
- (2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).

(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

(B) An agency that designates disbursing officials pursuant to [section 3321\(c\)](#) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

(2) Neither the disbursing official nor the payment certifying agency shall be liable--

- (A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or
- (B) for failure to provide timely notice under paragraph (8).

(3)(A)(i) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Social Security Act ([42 U.S.C. 407](#) and [1383\(d\)\(1\)](#)), section 413(b) of Public Law 91-173 ([30 U.S.C. 923\(b\)](#)), and section

14 of the Act of August 29, 1935 ([45 U.S.C. 231m](#))), except as provided in clause (ii), all payments due to an individual under--

- (I) the Social Security Act,
- (II) part B of the Black Lung Benefits Act, or
- (III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits),

shall be subject to offset under this section.

(ii) An amount of \$9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset under this subsection. In applying the \$9,000 exemption, the disbursing official shall--

- (I) reduce the \$9,000 exemption amount for the 12-month period by the amount of all Federal benefit payments made during such 12-month period which are not subject to offset under this subsection; and
- (II) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

(C) The provisions of sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset executed pursuant to this section against benefits authorized by title II, VIII, or title XVI of the Social Security Act, respectively.

(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under [section 3711\(g\)\(7\)](#) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

(5) The Secretary of the Treasury in consultation with the Commissioner of Social Security and the Director of the Office of Management and Budget, may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

(6) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

(7)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of--

- (i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

- (ii) the identity of the creditor agency requesting the offset; and
  - (iii) a contact point within the creditor agency that will handle concerns regarding the offset.
- (B)** If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.
- (8)** A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.
- (d)** Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.
- (e)** This section does not apply--
- (1) to a claim under this subchapter that has been outstanding for more than 10 years; or
  - (2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.
- (f)** The Secretary may waive the requirements of [sections 552a\(o\)](#) and [\(p\) of title 5](#) for administrative offset or claims collection upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.
- (g)** The Data Integrity Board of the Department of the Treasury established under [552a\(u\) of title 5](#) shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under [section 552a\(u\) of title 5](#).
- (h)(1)** The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if--
- (A)** the appropriate State disbursing official requests that an offset be performed; and
  - (B)** a reciprocal agreement with the State is in effect which contains, at a minimum--
    - (i)** requirements substantially equivalent to subsection (b) of this section; and
    - (ii)** any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.
- (2)** This subsection does not apply to--
- (A)** the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;
  - (B)** any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or
  - (C)** the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.
- (3)** In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.

#### CREDIT(S)

(Added [Pub.L. 97-452](#), § 1(16)(A), Jan. 12, 1983, 96 Stat. 2471, and amended [Pub.L. 104-134, Title III, § 31001\(c\)\(1\)](#), (d)(2), (e), (f), Apr. 26, 1996, 110 Stat. 1321-359, 1321-362; [Pub.L. 106-169, Title II, § 251\(b\)\(10\)](#), Dec. 14, 1999, 113 Stat. 1856; [Pub.L. 108-271](#), § 8(b), July 7, 2004, 118 Stat. 814.)

#### HISTORICAL AND STATUTORY NOTES

#### Revision Notes and Legislative Reports

## 1983 Acts

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3716(a).....	31 App.:954(a) (words before last comma), (c).....	July 19, 1966, Pub.L. 89-508, 80 Stat. 308, § 5(a)-(d); added Oct. 25, 1982, Pub.L. 97-365, § 10(2), 96 Stat. 1754.
3716(b).....	31 App.:954(b)	
3716(c)(1).....	31 App.:954(a) (words after last comma)	
3716(c)(2).....	31 App.:954(d)	

In the subchapter, the words “or his designee” are omitted as unnecessary.

In subsection (a)(1), the words “head of the” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word “Government” is added for consistency in the revised title [this title] and with other titles of the Code.

In subsection (b)(3), the word “civil” is added for consistency in the revised title [this title] and with other titles of the Code.

In subsection (c)(2), the word “either” is omitted as surplus.

## References in Text

Title IV of the Higher Education Act of 1965, referred to in subsec. (c)(1)(C), is title IV of Pub.L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified generally to subchapter IV (section 1070 et seq.) of chapter 28 of Title 20, Education, and part C (section 2761 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (c)(3)(A)(i), (I), and (C), is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (section 301 et seq.) of Title 42, The Public Health and Welfare. Sections 205, 207, 809 and 1631 of such Act are classified to sections 405, 407, 1009 and 1383, respectively, of Title 42. Titles II, VIII and XVI of such Act are classified generally to subchapters II (section 401 et seq.), VIII (section 1001 et seq.) and XVI (section 1381 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 413(b) of Public Law 91-173, referred to in subsec. (c)(3)(A)(i), is section 413(b) of Pub.L. 91-173, Title IV, Dec. 30, 1969, 83 Stat. 794, as amended, which is classified to section 923(b) of Title 30, Mineral Lands and Mining.

Section 14 of the Act of August 29, 1935, referred to in subsec. (c)(3)(A)(i), is Act Aug. 29, 1935, c. 812, § 14, as restated and amended, which is classified to section 231m of Title 45, Railroads.

Part B of the Black Lung Benefits Act, referred to in subsec. (c)(3)(A)(i)(II), is part B of Title IV of Pub.L. 91-173, Dec. 30, 1969, 83 Stat. 793, as amended. Part B of such Act is classified generally to part B (section 921 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (c)(8), is set out in Title 26, Internal Revenue Code.

#### Amendments

1999 Amendments. Subsec. (c)(3)(C). Pub.L. 106-169, § 251(b)(10), struck out “sections 205(b)(1)” and inserted “sections 205(b)(1), 809(a)(1),”; and struck out “either title II” and inserted “title II, VIII,”.

1996 Amendments. Pub.L. 104-134, § 31001(c)(1), substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing in subssecs. (a) and (b).

Subsec. (b). Pub.L. 104-134, § 31001(d)(2)(A), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on--

“(1) the best interests of the United States Government;

“(2) the likelihood of collecting a claim by administrative offset; and

“(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section 2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.”

Subsec. (c). Pub.L. 104-134, § 31001(d)(2)(B), (C), amended par. (2) of former subsec. (c) generally. Prior to amendment, par. (2) read as follows: “when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.” Former subsec. (c), as so amended, was redesignated (e).

Pub.L. 104-134, § 31001(d)(2)(D), added subsec. (c).

Subsec. (d). Pub.L. 104-134, § 31001(d)(2)(D), added subsec. (d).

Subsec. (e). Pub.L. 104-134, § 31001(d)(2)(C), redesignated former subsec. (c) as (e).

Subsecs. (f), (g). Pub.L. 104-134, § 31001(e), added subssecs. (f) and (g).

Subsec. (h). Pub.L. 104-134, § 31001(f), added subsec. (h).

#### Effective and Applicability Provisions

1996 Amendments. Amendment by Pub.L. 104-134 effective Apr. 26, 1996, see section 31001(a)(2)(A) of Pub.L. 104-134, set out as a note under section 3322 of this title.

#### Change of Name

“Government Accountability Office” substituted for “General Accounting Office” in subsec. (b)(1) on authority of Pub.L. 108-271, § 8(b), cited in the credit to this section and set out as a note under [31 U.S.C.A. § 702](#), which provided that any reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on July 17, 2004, to refer and apply to the Government Accountability Office.

#### Offsets from Social Security Payments

Section 31001(a)(2)(B) of Pub.L. 104-134, provided that: “Subparagraph (A) of section 3716(c)(3) of title 31, United States Code (as added by subsection (d)(2) of this section) [section 3716(c)(3) of this title], shall apply only to payments made after the date which is 4 months after the date of the enactment of this Act [Apr. 26, 1996].”

Approval by Senate Committee on Rules and Administration of Regulations Prescribed by Secretary of the Senate

Regulations prescribed by the Secretary of the Senate pursuant to this section not to become effective until approved by the Senate Committee on Rules and Administration, see section 11(b) of Pub.L. 101-163, set out as a note under section 3701 of this title.

#### EXECUTIVE ORDERS

##### [EXECUTIVE ORDER NO. 13019](#)

<Sept. 28, 1996, 61 F.R. 51763>

#### SUPPORTING FAMILIES: COLLECTING DELINQUENT CHILD SUPPORT OBLIGATIONS

The Debt Collection Improvement Act of 1996, [Public Law 104-134](#) (110 Stat. 1321-358 *et seq.*), was enacted into law on April 26, 1996, as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. While the primary purpose of the Debt Collection Improvement Act is to increase the collection of nontax debts owed to the Federal Government, the Act also contains important provisions that can be used to assist families in collecting past-due child support obligations.

The failure of some parents to meet their child support obligations threatens the health, education, and well-being of their children. Compounding this problem, States have experienced difficulties enforcing child support obligations once a parent has moved to another State. With this Executive order, my Administration takes additional steps to support our children and strengthen American families by facilitating the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Administrative Offsets. (a)(1)** The Secretary of the Treasury (“the Secretary”), in accordance with the provisions of the Debt Collection Improvement Act of 1996 and to the extent permitted by law, and in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly develop

and implement procedures necessary for the Secretary to collect past-due child support debts by administrative offset, and shall issue such rules, regulations, and procedures as the Secretary, in consultation with the heads of affected agencies, deems appropriate to govern administrative offsets by the Department of the Treasury and other executive departments and agencies that disburse Federal payments.

(2) The Secretary may enter into reciprocal agreements with States concerning the collection by the Secretary of delinquent child support debts through administrative offsets.

(b) The Secretary of Health and Human Services shall, within 120 days of the date of this order, implement procedures necessary to report to the Secretary of the Treasury information on past-due child support claims referred by States (including claims enforced by States pursuant to cooperative agreements with or by Indian tribal governments) to the Department of Health and Human Services.

(c) The head of each executive department and agency that certifies payments to the Secretary or to another disbursing official shall review each class of payments that the department or agency certifies to determine if any such class should be exempt from offset and, if any class is so identified, submit to the Secretary a request for such an exemption together with the reasons therefor. With respect to classes of payments under means-tested programs existing on the date of this order, such submission shall be made within 30 days of the date of this order. With respect to classes of payments other than payments under means-tested programs existing on the date of this order, such submissions shall be made within 30 days of the date the Secretary establishes standards pursuant to section 3716(c)(3) of title 31, United States Code. With respect to a class of payments established after the date of this order, such submissions shall be made not later than 30 days after such class is established.

(d) The head of each executive department and agency that certifies payments to the Secretary shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section.

(e) The head of each executive department and agency that is authorized by law to disburse payments shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section and shall:

(1) match, consistent with computer privacy matching laws, the payment certification records of such department or agency with records of persons delinquent in child support payments as directed by the Secretary; and

(2) conduct administrative offsets to collect delinquent child support payments.

(f) The Secretary shall, to the extent permitted by law, share with the Secretary of Health and Human Services any information contained in payment certification records of persons who are delinquent in child support obligations that would assist in the collection of such debts, whether or not an administrative offset is conducted.

**Sec. 2. Denial of Federal Assistance.** (a) The Secretary shall, to the extent permitted by law, ensure that information concerning individuals whose payments are subject to administrative offset because of delinquent child support obligations is made available to the head of each executive department and agency that provides Federal financial assistance to individuals.

(b) In conformance with section 2(e) of this order, the head of each executive department and agency shall, with respect to any individuals whose payments are subject to administrative offset because of a delinquent child support obligation, promptly implement procedures to deny Federal financial assistance to such individuals.

(c) The Attorney General, in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly issue guidelines for departments and agencies concerning minimum due-process stand-

ards to be included in the procedures required by subsection (b) of this section.

**(d)** For purposes of this section, Federal financial assistance means any Federal loan (other than a disaster loan), loan guarantee, or loan insurance.

**(e)(1)** A class of Federal financial assistance shall not be subject to denial if the head of the concerned department or agency determines:

**(A)** in consultation with the Attorney General and the Secretary of Health and Human Services, that such action:

**(i)** is not permitted by law; or

**(ii)** would likely result in valid legal claims for damages against the United States;

**(B)** that such action would be inconsistent with the best interests of the child or children with respect to whom a child support obligation is owed; or

**(C)** that such action should be waived.

**(2)** The head of each executive department and agency shall provide written notification to the Secretary upon determining that the denial of a class of Federal financial assistance is not permitted by law or should be waived.

**(f)** The head of each executive department and agency shall:

**(1)** review all laws under the jurisdiction of the department or agency that do not permit the denial of Federal financial assistance to individuals and whose payments are subject to administrative offset because of a delinquent child support obligation and, where appropriate, transmit to the Director of the Office of Management and Budget recommendations for statutory changes; and

**(2)** to the extent practicable, review all rules, regulations, and procedures implementing laws under the jurisdiction of the department or agency governing the provision of any Federal financial assistance to individuals and, where appropriate, conform such rules, regulations, and procedures to the provisions of this order and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

**Sec. 3. Reports.** **(a)** The head of each executive department and agency shall provide to the Secretary such information as the Secretary may request concerning the implementation of this order, the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations, and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

**(b)** The Secretary shall report annually to the President concerning the implementation by departments and agencies of this order and the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations.

**Sec. 4. Judicial Review.** This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON

CROSS REFERENCES

Employment taxes on domestic services and additional debt collection practices, see [42 USCA § 404](#).


#### LAW REVIEW COMMENTARIES

Due process in federal debt collection by offset: Two concepts and a case study. Martin B. White, 41 Okla.L.Rev. 195 (1988).

Federal facilities [and environmental compliance: Toward a solution](#). Stan Millan, 36 Loy.L.Rev. 319 (1990).

#### LIBRARY REFERENCES

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[United States](#)  130(2).  
Key Number System Topic No. 393.

#### RESEARCH REFERENCES

ALR Library

[73 ALR, Fed. 303](#), Rights and Obligations of Federal Government, Under [20 U.S.C.A. § 1080](#), When Student Borrower Defaults on Federally Insured Loan.

[145 ALR 1121](#), Reciprocal or Interinsurance.

[113 ALR 739](#), Constitutionality of Crop Insurance Statutes.

Encyclopedias

[Am. Jur. 2d Exemptions § 197](#), Social Security Old Age and Survivors Benefits.

[Am. Jur. 2d Social Security and Medicare § 1794](#), Additional Debt Collection Practices.

[Am. Jur. 2d Social Security and Medicare § 1980](#), Overpayment During Underpayment Period -- Netting and Offset.

Forms

[11 West's Legal Forms § 23.51](#), Introduction.

Treatises and Practice Aids

[Bankruptcy Law Manual § 4:40](#), Nondischargeable Debts -- Eighth Exception: Student Loans.

[Bankruptcy Service Lawyers Edition § 36:16](#), Applicability of Nonbankruptcy Law -- Federal Law.

[Bankruptcy Service Lawyers Edition § 36:162](#), Agricultural Transactions -- Agricultural Stabilization and Conservation Service (ASCS).

[Chapter 11: Reorganizations, Second Edition § 9:26](#), Avoidance Powers -- Setoffs.

[Federal Procedure, Lawyers Edition § 44:76](#), Collection of Civil Penalties and Assessments; Right to Adminis-

trative Offset.

[Federal Procedure, Lawyers Edition § 78:87](#), Assessment and Collection.

[Federal Procedure, Lawyers Edition § 66:647](#), Notice Requirement.

[Social Security Law and Practice § 35:164](#), Overpayment During Underpayment Period -- Netting and Offset.

[West's Federal Administrative Practice § 519](#), Demand and Setoff.

[West's Federal Administrative Practice § 664](#), Protests and Appeals.

## NOTES OF DECISIONS

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### 1. Common law offset


The Debt Collection Act (DCA) which affords notice and other procedural protections where government undertakes to collect a debt by administrative offset does not abrogate or constrict government's long-standing common-law right to offset contract debts against contract payments. [Cecile Industries, Inc. v. Cheney, C.A.Fed.1993, 995 F.2d 1052](#), rehearing denied. [United States](#)  [130\(2.1\)](#)


Debt Collection Act (DCA) does not abrogate federal government's common-law right of offset but, rather, it supplements it to the extent that it provides for administrative offset in addition to common-law right. [Amoco Production Co. v. Fry, D.D.C.1995, 904 F.Supp. 3](#), vacated in part [908 F.Supp. 991](#), reversed [118 F.3d 812, 326 U.S.App.D.C. 211](#).

Debt Collection Act (DCA) did not abrogate Minerals Management Service's (MMS) common-law right of offset, for purposes of action brought by oil companies, that paid monthly mineral royalties to federal government pursuant to federal gas and oil leases, against government officials, seeking to compel Service to allow companies to take their royalty overpayment credits under Outer Continental Shelf Lands Act (OCSLA) presently, rather than allowing Service to withhold them pending resolution of companies' defenses in administrative and judicial proceedings to Service's claims for past royalties. [Amoco Production Co. v. Fry, D.D.C.1995, 904 F.Supp. 3](#), vacated in part [908 F.Supp. 991](#), reversed [118 F.3d 812, 326 U.S.App.D.C. 211](#).


## 2. Debt collection

Government's withholding of progress payments on multi-year fixed price contract, based on conclusion that, in light of separate dispute with contractor regarding contract terms, contractor was already overpaid on underlying contract was act of contract administration rather than "collection of a debt" within meaning of Debt Collection Act and Defense Acquisition Regulation. [Allied Signal, Inc. v. U.S., C.A.Fed.1991, 941 F.2d 1194. United States](#)  73(16)


Contract dispute between Government and contracting party in which Government withheld payment based on contracting party's alleged inadequate performance of contract was not subject to Debt Collection Act in view of the fact that payments were not withheld based on any preexisting debt that contracting party owed to Government and thus, procedural protections of Debt Collection Act were inapplicable. [Avco Corp. v. U.S., Cl.Ct.1986, 10 Cl.Ct. 665. United States](#)  74(2)

Debt Collection Act (DCA) and its implementing regulations, the Federal Claims Collection Standards (FCCS) did not authorize deduction from survivor annuity by the Office of Personnel Management (OPM) to account for fact that decedent's annuity was not reduced during his lifetime to fund the survivor annuity. [Henderson v. Office of Personnel Management, M.S.P.B.2002, 92 M.S.P.R. 383. Merit Systems Protection](#)  318.5


## 3. Refunds

General Services Administration was not entitled to setoff, from payments due airlines who provided transportation services to federal government, for value of unused tickets, where government was unable to produce tickets in question; regulations required government agencies to follow ticket return procedures in order to obtain refunds. [American Airlines, Inc. v. Austin, D.D.C.1993, 826 F.Supp. 553, affirmed 75 F.3d 1535. United States](#)  130(3)



## 4. Separate agencies

Statute which permits governmental agency to collect claim by administrative setoff did not provide basis for allowing Small Business Administration to set off debt of Agricultural Stabilization and Conservation Service against SBA's claim against debtor. [Matter of Mehrhoff, Bkrcty.S.D.Iowa 1988, 88 B.R. 922, opinion after remand 104 B.R. 125. Bankruptcy](#)  2679

## 5. State or local governmental agency

County housing authority was excluded from coverage of the Federal Claims Collection Act's administrative offset provision and HUD's underlying regulations either as "state agency" or as "unit of general local government," and thus, HUD's proposed scheme to recoup excess payments made to county housing authority was not subject to procedural requirements of the Act and regulations. [Housing Authority of the County of King v. Pierce, D.D.C.1988, 701 F.Supp. 844, vacated in part on other grounds 711 F.Supp. 19. United States](#)  88

## 6. Particular offsets

United States may offset Social Security benefits to collect student loan debt that has been outstanding for over 10 years; abrogating [Lee v. Paige, 376 F.3d 1179. Lockhart v. U.S., U.S.2005, 126 S.Ct. 699, 546 U.S. 142, 163 L.Ed.2d 557. Social Security And Public Welfare](#)  139; [Colleges And Universities](#)  9.25(2)

Government was precluded under the Debt Collection Act's limitation on the right of offset from off-setting re-

recipient's social security benefits in order to secure repayment of government educational loans, where the loans had been outstanding for more than 10 years from the time when the government's right to recover on the debt first accrued. [Lee v. Paige, C.A.8 \(Mo.\) 2004, 376 F.3d 1179](#), rehearing and rehearing en banc denied, vacated 126 S.Ct. 825, 163 L.Ed.2d 703, on remand 447 F.3d 1087. [Colleges And Universities](#) 🔑 9.25(2)

Government was authorized to withhold subsidy payments due farm for subsequent years based on administrative determination that farm's conduct involved violation of program requirements and that farm was liable for refund of \$1,116,957. [Doko Farms v. U.S., C.A.Fed. \(Tex.\) 1992, 956 F.2d 1136](#), rehearing denied. [Agriculture](#) 🔑 3.1

Farm Service Agency (FSA) had the right both at common law and under the Debt Collection Improvement Act (DCIA) to use benefits paid to dairy farmers under the Dairy Indemnity Payment Program (DIPP) to offset their outstanding Farmers Home Administration (FmHA) loans. [Boers v. U.S., Fed.Cl.1999, 44 Fed.Cl. 725](#), affirmed 243 F.3d 561, rehearing and rehearing en banc denied, certiorari denied 121 S.Ct. 1158, 531 U.S. 1179, 148 L.Ed.2d 1018. [United States](#) 🔑 130(2.1)

Portion of Social Security disability payments were subject to offset by Treasury Department in order to recover delinquent student loan debts owed to [Education Department](#). [Omegbu v. U.S. Dept. of Treasury, C.A.7 \(Wis.\) 2004, 118 Fed.Appx. 989, 2004 WL 3049825](#), Unreported. [Colleges And Universities](#) 🔑 9.25(2)

#### 7. Limitations

Six-year statute of limitations applicable to actions for money damages brought by United States, founded upon any contract, did not apply to bar United States from intercepting taxpayer's tax refund to offset defaulted student loan debt; Congress intended statute of limitation to apply only to civil actions brought by the United States and did not preclude administrative offset. [Gerrard v. U.S. Office of Educ., N.D.Cal.1987, 656 F.Supp. 570](#). [Internal Revenue](#) 🔑 4973

#### 8. Bankruptcy


Statute, which governs administrative offsets by United States agencies, and which operates to prevent offsets by federal agencies in bankruptcy due to effect of automatic stay, is inapplicable once creditor obtains relief from automatic stay. [U.S. Through Small Business Admin. v. Rinehart, D.S.D.1988, 88 B.R. 1014](#), affirmed in part, reversed in part on other grounds 887 F.2d 165. [Bankruptcy](#) 🔑 2436


Statute which authorizes head of agency to make administrative "offset" under certain conditions does not apply in bankruptcy cases. [In re Britton, Bkrcty.E.D.N.C.1988, 83 B.R. 914](#). [Bankruptcy](#) 🔑 2671


#### 9. Corporate veil



Decision of Small Business Administration (SBA) to pierce corporate veil and exercise offset against corporation's Agricultural Stabilization and Conservation Service (ASCS) payments to satisfy corporate principals' debt was not arbitrary, capricious, abuse of discretion, or otherwise not in accordance with law, where corporation had no savings account, no financial resources, no investments, and no assets apart from a few pickup trucks, all land subject to corporation's operations was casually leased to it without formal instruments, principals made loans to corporation that were never repaid, and principals made all decisions regarding corporation's farm business. [McCall Stock Farms, Inc. v. U.S., C.A.Fed.1993, 14 F.3d 1562](#). [Corporations](#) 🔑 1.6(3)

#### 10. Procedure--Generally

Office of Personnel Management (OPM) was not required to follow Debt Collection Act (DCA) administrative offset procedures before using amounts erroneously credited to employee's retirement account under Civil Service Retirement System (CSRS) to satisfy Old Age, Survivors, and Disability Insurance (OASDI) taxes due and owing under Federal Employees' Retirement System (FERS), since there was no debt or government claim to which DCA administrative offset provision would apply. [King v. Merit Systems Protection Bd., C.A.Fed.1997, 105 F.3d 635. United States](#)  130(3)

Mediation or direct suit need not precede administrative offset as part of Small Business Administration (SBA) collection procedures. [McCall Stock Farms, Inc. v. U.S., C.A.Fed.1993, 14 F.3d 1562. United States](#)  130(3)

Administrative offset provisions of the Debt Collection Act (DCA), requiring notice of other procedural protections, did not apply to federal agency's intracontractual offset or intercontractual offsets. [Cecile Industries, Inc. v. Cheney, C.A.Fed.1993, 995 F.2d 1052, rehearing denied. United States](#)  130(3)


Defaulter on federally-guaranteed student loans was afforded adequate due process prior to federal government's offset of his social security benefits; Department of Education sent letter to defaulter's last known address, providing him opportunity to be heard before certifying his account for offset, and Department of Treasury timely sent him letter notifying him that his benefits would be reduced. [Omegbu v. U.S. Dept. of Treasury, C.A.7 \(Wis.\) 2004, 118 Fed.Appx. 989, 2004 WL 3049825, Unreported. Colleges And Universities](#)  9.25(2); [Constitutional Law](#)  4224(11)

Procedures respecting offsets against employee's final salary check and lump-sum leave payment are governed generally by this section. 1985, 64 Op.Comp.Gen. 907.


Debtor may contractually agree to procedures different from requirements of subsec. (a) of this section, or debtor may completely waive entitlement to procedures, so long as variance or waiver is made voluntarily, knowingly, and intelligently. 1985, 64 Op.Comp.Gen. 493.

Procedure delineated in this section is implemented by federal claims collection standards. 1984, 64 Op.Comp.Gen. 142.

#### 11. ---- Construction with other laws, procedure

The Debt Collection Act (DCA) which affords notice and other procedural protections when the government undertakes to collect a debt by administrative offset does not supplant or restrict established procedures for contractual offsets accommodated by the Contracts Disputes Act (CDA). [Cecile Industries, Inc. v. Cheney, C.A.Fed.1993, 995 F.2d 1052, rehearing denied. United States](#)  130(3)

#### 12. Review

Judicial review of determination by Small Business Administration (SBA) to permit invocation of alter ego doctrine in aid of administrative offsets was governed by applicable common-law test, since SBA did not articulate specific test for determining alter ego status. [McCall Stock Farms, Inc. v. U.S., C.A.Fed.1993, 14 F.3d 1562. United States](#)  53(8)

Although Board lacked jurisdiction, on retiree's appeal of administrative offset to his retirement account, to consider merits of retiree's claim that he was not liable for debt to his former employing agency for missing property, jurisdiction did exist over retiree's procedural claim that former employing agency should have granted him

a hearing, as he requested. [Ramirez v. Department of Army, M.S.P.B.2000, 86 M.S.P.R. 211. Merit Systems Protection](#)  61

31 U.S.C.A. § 3716, 31 USCA § 3716

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