

Proposed Rules

Federal Register

Vol. 79, No. 3

Monday, January 6, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 179

RIN 3206-AM89

Administrative Wage Garnishment

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing this proposed regulation to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The regulation will allow OPM to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order. The proposed regulation sets forth procedures for use by OPM in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the DCIA, requires agencies to issue regulations on their debt collection procedures. The proposed regulation includes procedures for collection of debts through AWG.

DATES: Comments on the proposed regulation must be received in writing on or before March 7, 2014.

ADDRESSES: You may submit your comments on the proposed regulation, identified by regulatory information number (RIN), by any one of the following methods:

- **Mail:** The mailing address for comments is: Daniel K. Marella, Deputy Chief Financial Officer, or Robert Wurster, Chief, Policy and Internal Control: Attention: Comments/RIN 3206-AM89, U.S. Office of Personnel Management, Room 7525, 1900 E Street NW., Washington, DC 20415.

- **Email:** Comments may be sent to Daniel K. Marella, Deputy Chief Financial Officer, by email at

Dan.Marella@opm.gov or to Robert Wurster, Chief, Policy and Internal Control, at *Robert.Wurster@opm.gov*. Include "RIN 3206-AM89" in the subject line of message.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to OPM at *Comments@opm.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Comments/RIN 3206-AM89.

FOR FURTHER INFORMATION CONTACT:

Robert Wurster, Chief, Policy and Internal Control, at (202) 606-5220, or Office of Personnel Management, 5H30L, 1900 E Street NW., Washington, DC 20415. The telephone number for the Telecommunications Device for the Deaf is (800) 878-5707.

SUPPLEMENTARY INFORMATION: OPM's implementation of AWG would maximize collections of delinquent debts while minimizing the costs of debt collections. By adding a new Subpart D to 5 CFR Part 179, OPM may collect non-tax debts owed to it from non-Federal wages pursuant to 31 U.S.C. 3720D and 31 CFR 285.11.

Background

The DCIA directed the Secretary of the Treasury to issue implementing regulations (see 31 U.S.C. 3720D (h)) with respect to AWG. On May 6, 1998 (63 FR 25136), the Department of Treasury (Treasury) published a final rule implementing the statutory AWG requirements at 31 CFR 285.11. Paragraph (f) of 31 CFR 285.11 provides that "[a]gencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by reference." Among other things, the DCIA centralized administrative collection of Federal non-tax debts with Treasury and gave Treasury responsibility for setting administrative debt collection requirements, including those for AWG. This proposed rule would amend OPM's regulations at 5 CFR Part 179, Subpart D, to adopt 31 CFR 285.11 in its entirety. Specifically, the proposed rule would establish a new provision that would contain a cross-reference to 31 CFR 285.11.

This regulation implements the administrative wage garnishment provision in section 31001(o) of DCIA, Public Law 104-134, 110 Stat. 1321-358, codified at 31 U.S.C. 3720D, and the Treasury AWG regulations at 31 CFR 285.11. Under the AWG provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the wages of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Treasury Department's Bureau of the Fiscal Service is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA.

Purpose: This part prescribes the standards and procedures for the Agency to collect money from a debtor's wages by means of AWG to satisfy delinquent non-tax debts owed to the United States.

Authority: OPM adopts and incorporates all of the provisions of 31 CFR 285.11 concerning AWG, including the hearing procedures described in 31 CFR 285.11(f), as promulgated by Treasury to allow Federal agencies to collect money from an individual whose wages are not paid by the Federal Government. Such collections will be accomplished by means of AWG authorized by 31 U.S.C. 3720D.

Scope: This part applies to all OPM offices that administer programs that give rise to delinquent non-tax debts owed to the United States and to all officers or employees of the Agency authorized to collect such debts.

Procedures: In accordance with the substantive and procedural requirements of 31 U.S.C. 3720D and 31 CFR 285.11, this proposed rule would establish the following rules and procedures:

1. Providing a debtor with written notice at least 30 days before OPM, or Treasury on OPM's behalf, initiates

garnishment proceedings, informing the debtor of the nature and amount of the debt, the intention of the Agency to collect the debt through deductions from the debtor's disposable pay, and an explanation of the debtor's rights regarding the proposed action.

2. Providing the debtor with an opportunity to inspect and copy OPM records relating to the debt, to enter into a repayment agreement with the Agency, and to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule.

3. Conducting a hearing prior to the issuance of a withholding order, if the debtor submits a timely request. When a debtor's request for a hearing is not received within the time period specified, OPM will not delay issuance of a withholding order prior to conducting the hearing.

List of Subjects in 5 CFR Part 179

Administrative practices and procedures, Claims, Debts, Garnishment of wages, Hearings and appeal procedures, Salaries.

U.S. Office of Personnel Management.

Katherine Archuleta,
Director.

For the reasons set forth above, the Office of Personnel Management proposes to amend 5 CFR part 179 as follows:

PART 179—CLAIMS COLLECTIONS STANDARDS

■ 1. The authority citation for part 179 continues to read as follows:

Authority: 31 U.S.C. 952; 5 U.S.C. 1103; Reorganization Plan No. 2 of 1978; 5 U.S.C. 5514; 5 CFR part 550 subpart K; 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3720A.

■ 2. Add subpart D to read as follows:

Subpart D—Administrative Wage Garnishment

Sec.
179.401 Administrative wage garnishment.

Authority: 15 U.S.C. 46; 31 U.S.C. 3720D; 31 CFR 285.11(f).

§ 179.401 Administrative wage garnishment.

General. OPM may use administrative wage garnishment to collect debts in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11, including debts it refers to the Bureau of the Fiscal Service, Department of the Treasury, for cross-servicing pursuant to 31 U.S.C. 3711. This part adopts and incorporates all of the provisions of 31

CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). This section does not apply to collection of debt by Federal salary offset, under 5 U.S.C. 5514, the process by which OPM collects debts from the salaries of Federal employees.

[FR Doc. 2013-31500 Filed 1-3-14; 8:45 am]

BILLING CODE 6325-23-P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

RIN 3206-AM64

Career and Career-Conditional Employment

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is proposing to change the regulations on creditable service for career tenure. The proposed regulation removes the requirement for creditable service to be substantially continuous. This change will assist individuals who leave Federal service before meeting the requirement and subsequently return to a qualifying appointment.

DATES: We will consider comments received on or before March 7, 2014.

ADDRESSES: Send or deliver comments to Kimberly A. Holden, Deputy Associate Director for Recruitment and Hiring, Employee Services, U.S. Office of Personnel Management, Room 6551, 1900 E Street NW., Washington, DC, 20415-9700; email to employ@opm.gov; or fax to (202) 606-2329. Comments may also be sent through the Federal eRulemaking Portal at <http://www.regulations.gov>. All submissions received through the Portal must include the agency name and docket number or the Regulation Identifier Number (RIN) for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Pam Galemore by telephone at (202) 606-0960; by TTY at (202) 418-3134; by fax at (202) 606-2329; or by email at pamela.galemore@opm.gov.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is proposing to revise part 315, title 5, Code of Federal Regulations (CFR), to change the criteria for career tenure in the Federal competitive service. The current regulations require an employee to serve a 3-year period of substantially continuous creditable service to attain career tenure. With certain exceptions,

the current regulations also require a career-conditional employee who separates from Federal service to re-start the 3-year period if there is a break in service of more than 30 days.

OPM is proposing to change the requirement from 3 years of substantially continuous service to at least 3 years of total creditable service (whether or not continuous). This change will remove the basis for the 30-day break-in-service rule. Under the proposed rule, each period of creditable service would stand alone, so breaks in service would be irrelevant.

In the Federal competitive service, tenure is important for the purposes of reinstatement eligibility and retention standing in a reduction in force (RIF). An employee who separates from the Federal service with career tenure, or a veterans' preference eligible who separates with career-conditional tenure, has lifetime reinstatement eligibility. Generally, a non-veterans' preference eligible employee who separates with career-conditional tenure has only 3 years of reinstatement eligibility from the date of separation. (Reinstatement eligibility means the individual does not have to re-compete with the general public for a future competitive service appointment.) An employee with career tenure also has higher retention standing in a RIF than a career-conditional employee. (RIF is the regulatory process an agency uses when it must reduce the number of positions in its workforce, for example, due to budget constraints. The higher an employee's retention standing, the more opportunities the employee may have to keep a Federal job under RIF procedures.)

OPM is proposing to revise the regulations in response to an issue raised by the Department of the Army in relation to military spouses. A Federally employed spouse may have to resign his/her appointment to accompany a military "sponsor" (in this context, meaning a spouse who is serving in the military) when the sponsor must relocate under permanent change of station (PCS) orders. Many spouses are unable to obtain another Federal job within the 30-day break period. The 30-day break requirement left these spouses at a disadvantage in attaining career tenure. When reemployed, they have to re-start the 3-year period, basically resulting in a perpetual career-conditional tenure status due to the constant PCS movement of their spouses.

In response to the issues raised by the Department of the Army, OPM decided to review not only the 30-day break requirement, but also the basis for the