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# Summary of Changes for Subchapter 450

*Note that changes are cumulative. Numbering of a section may be modified by a change made subsequently.*

## 1. Overall ELM Revisions

The entire ELM is reformatted, with changes in typographical treatment where necessary, for ease of use for printing and online viewing. Addresses are reformatted to reflect machine readability standards.

Addresses and telephone numbers are updated in the text, and Appendix C, Addresses, previously added by PB 21809, 2/20/92, is deleted.

Form titles in the text and in Appendix B, Form Titles, were updated when the ELM was issued online in 1996. Any subsequent updating is noted in the revisions specific to this segment noted below. (PB 21929, 9/26/96)

**Subchapter 450** is among the parts of the ELM that are edited in their entirety. Language is changed in some instances to promote clearer, fuller understanding. Some heading and exhibit titles are modified to improve readability. Changes are made to correct grammatical, printing, and reference errors; to eliminate sexist language; to meet the technical requirements of the electronic publication system; and to preserve consistency of style. These changes are not listed in this summary except where they are deemed necessary for clarification.

## 2. Revisions Specific to This Segment

Substantive changes are marked with vertical bars in the margins or printed in bold type in tables and certain exhibits.

**450 Collection of Postal Debts From Nonbargaining Unit Employees** is amended to add a provision for an alternative amount of salary offset for bargaining unit employees. Sections 452.31, 452.332d, 452.322f(3), 452.334, and 452.335 are affected. (PB 21897, 7/6/95)

**451.1 Scope** is amended to extend the right to petition for hearing over letters of demand, under specific circumstances, to bargaining unit employees and to reference a new provision in 462.42 for an alternative amount of salary offset for a bargaining unit employee. (PB 21897, 7/6/95)

**451.2 Representation** is added to indicate that employees have the right to, and free choice of, representation, and that a postal employee designated as representative is granted a reasonable amount of official time to perform authorized functions. Subsequent sections of 451 are renumbered to accommodate the addition. (PB 21897, 7/6/95)

**Exhibit 452.233, Form 3239, Payroll Deduction Authorization to Liquidate Postal Service Indebtedness**, adds provisions for nonbargaining and bargaining unit employee offsets and deduction amounts. (PB 21897, 7/6/95)

**452.241 Consideration and Response** is amended to clarify the need for follow-up action. (PB 21897, 7/6/95)

**452.322 Contents** deletes the exhibit reference that excluded bargaining unit employees. (PB 21897, 7/6/95)

**Exhibit 452.322 Sample Notice of Involuntary Administrative Salary Offsets** deletes the exclusion for bargaining unit employees from the sample notice and adds both to the letter and to the Statement of Debtor's Rights and Responsibilities an alternative amount of salary offset for bargaining unit employees. (PB 21897, 7/6/95)

**452.332a** (under **Requests for Postal Records**) is amended to include a request by a bargaining unit employee or the union. (PB 21897, 7/6/95)

**453.21 Notice** is amended to indicate that the letter notifying an employee of the Postal Service's intention to initiate an offset to collect a debt reflected by a federal court judgment, as well as a copy of the court judgment, should be hand delivered if possible, and if not, then by certified or Express Mail, return receipt requested. (PB 21897, 7/6/95)

**455.3 Collection of Debt Upon Separation** is amended to add a provision for debt collection from former employees under the Federal Employee Retirement System (FERS). (PB 21897, 7/6/95)

## 450 Collection of Postal Debts From Nonbargaining Unit Employees

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### 451 **General**

#### 451.1 **Scope**

These regulations apply to the collection of any debt owed the Postal Service by a current postal employee who is not included in any collective bargaining unit. The regulations in 452.3 may apply also to the collection of any debt owed the Postal Service by a current postal employee who is included in any collective bargaining unit if the circumstances specified in 462.32 apply. Otherwise, procedures governing the collection of postal debts from bargaining unit employees are found in 460. Generally, the Postal Service may withhold a maximum of 15 percent of an employee's disposable pay each pay period after providing the employee with certain due process rights (see 452) except as provided in 462.4 in the case of a bargaining unit employee. If, however, a federal court has granted judgment upholding the debt, up to 25 percent of the employee's current pay may be withheld each pay period (see 453).

#### 451.2 **Representation**

Employees have the right to, and free choice of, representation. An employee's designated representative, if also a postal employee and if otherwise in a duty status, is granted a reasonable amount of official time to perform any function for the employee that is authorized by these regulations.

#### 451.3 **Debts Due Other Federal Agencies**

Regulations governing the collection by involuntary salary offset of debts owed by postal employees to federal agencies other than the Postal Service are specified in Handbook F-16, *Accounts Receivable*, Chapter 7.

#### 451.4 **Definitions**

The following definitions apply to the material in this subchapter:

- a. *Administrative salary offset* — the collection of a postal or other government agency debt through deductions from the disposable pay of a postal employee under the authority of section 5 of the Debt Collection Act of 1982, 5 U.S.C. 5514(a) (1982).
- b. *Court judgment salary offset* — the collection of a postal or other government agency debt through deductions from the current pay of a postal employee under the authority of section 124 of Public Law 97-276.
- c. *Current pay or disposable pay* — that part of an employee's salary that remains after all required deductions (normal retirement contributions, FICA and Medicare insurance taxes, federal income tax, state and

local income taxes, and employee-paid federal health insurance premiums) are made.

- d. *Debt* — any outstanding amount owed to the Postal Service by a postal employee.
- e. *Employee* — a current employee of the Postal Service.
- f. *Pay* — basic pay, special pay, incentive pay, retired pay, retainer pay, or any other authorized pay, including cost-of-living adjustment or territorial cost-of-living allowance, received by an employee.
- g. *Postmaster or installation head* — the top management official at a particular post office or installation, or the official who has general supervisory responsibility for a debtor employed at Headquarters or in area offices. When a particular debtor is a postmaster or installation head, the term refers to the official to whom the postmaster or installation head reports.
- h. *Severe financial hardship* — an employee's inability to meet the essential material needs of the employee and his or her spouse and dependents because of offsets against pay. These essential material needs are food, housing, clothing, transportation, medical care, and any exceptional expenses.
- i. *Waiver* — the Postal Service's cancellation, remission, or forgiveness of a debt, the recovery of which is covered by these regulations.

#### 451.5 **Time Computation**

In computing any period of time prescribed or allowed by these regulations, the day the designated period of time begins to run is not included. The last day of the period computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

#### 451.6 **Effect of Waiver Request**

If an employee requests a waiver of a debt, the recovery of which is covered by these regulations, that request does not stay the collection process. However, if the waiver request ultimately is granted, the amount collected is refunded to the employee.

#### 451.7 **Service of Notice, Delivery of Records**

A postmaster or installation head must hand deliver any notice required by, or any records requested pursuant to, these regulations to a postal employee and must obtain a dated, signed receipt of delivery. If such personal delivery is not possible, however, certified or Express Mail, return receipt requested, must be used.

452 **Procedures Governing Administrative Salary Offsets**

452.1 **Determination and Collection of Debt**

452.11 **Establishment of Accounts Receivable**

Depending upon the circumstances of a particular case, the determination of a debt subject to collection under this subchapter may be made by an official in the field or at the Minneapolis Accounting Service Center (ASC). For payroll-related debts discovered in the field, Form 2240, *Pay, Leave, or Other Hours Adjustment Request*, must be submitted to the Minneapolis ASC. Payroll-related debts discovered at the ASC level must be reported on Form 2248, *Monetary Payroll Adjustment*. Other debts must be reported to the manager of the Postal Accounts Branch, on Form 1902, *Justification for Billing Accounts Receivable*. Regardless of the amount of the debt, it is the responsibility of the Minneapolis ASC to create a receivable for each debt and to forward an invoice to the postmaster or installation head at the facility where the debtor is employed. At the time a receivable is created, the ASC must ensure that the employee's records are flagged so that the final salary or lump sum leave payment for that employee is not made until the debt is paid.

452.12 **Collection by Postmaster or Installation Head**

Each postmaster or installation head is responsible for collecting, in accordance with these regulations, any debt owed to the Postal Service by an employee under his or her supervision. Postmasters or installation heads may delegate their responsibilities under these regulations.

452.2 **Voluntary Repayment Procedures**

452.21 **General**

The procedures in this section are intended to facilitate the informal resolution of employee-owed debts, and, in most cases, should be followed before the statutorily mandated procedures in 452.3 are initiated. However, if in the opinion of the appropriate postmaster or installation head the circumstances warrant that expeditious action be taken, the procedures in 452.3 may be initiated immediately.

452.22 **Notice to Employee**

Upon receiving an invoice reflecting an employee-owed debt from the Minneapolis ASC, the postmaster or installation head must provide the employee with a copy of the invoice and with written notice of the Postal Service's determination of the existence, nature, and amount of the debt (see Exhibit 452.22, *Sample Letter of Debt Determination — Nonbargaining*). In addition, the letter must inform the employee that he or she may pursue one

or more of the following options, as appropriate, in order to avoid involuntary salary offsets:

- a. In accordance with the procedures specified in 452.231, the employee may request copies of all postal records relating to his or her particular debt.
- b. In accordance with the procedures set forth in 452.232, the employee may arrange to pay the entire debt.
- c. In accordance with the procedures in 452.233, the employee may agree to voluntary salary offsets of 15 percent or more of disposable pay.
- d. In accordance with the procedures in 452.234, the employee may propose an alternative offset schedule.
- e. In accordance with the procedures in 452.235, the employee may request the Postal Service to reconsider its determination of the existence or amount of the debt.

Exhibit 452.22 (p. 1)

**Sample Letter of Debt Determination — Nonbargaining**



[  date  ]

[  name  ]

[  street  ]

[  city, state, ZIP  ]

Dear [  name of debtor  ]:

As shown in the enclosed invoice, you owe the Postal Service \$[  amount  ]. This debt is based on [  briefly describe how the debt arose  ].

If you would like, you may repay the debt in a lump sum, agree to voluntary salary offsets of 15 percent or more of your "disposable pay,"<sup>1</sup> propose a different offset schedule, or ask us to reconsider our determination of the existence or amount of the debt. You also may ask for copies of postal records relating to this debt. Instructions for exercising these options are enclosed. If you decide to authorize the Postal Service to collect the amount due through offsets of 15 percent of your disposable pay, approximately \$[  amount  ] will be withheld from your paycheck for approximately [  number of  ] pay periods.

If you do not act within the time frames specified in the enclosure, we will take the necessary steps to offset your salary on an involuntary basis.

If you have any questions on this matter, you should contact Mr./Ms. [  name of appropriate official  ] at [  telephone number  ] or at [  address  ].

Sincerely,

[  signature  ]

[  name  ]

[  title of installation head  ]

Enclosures:

Invoice

Options Available to Employee

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<sup>1</sup> The term *disposable pay* refers to that part of an employee's salary remaining after all required deductions (normal retirement contributions, FICA and Medicare insurance taxes, federal income tax, state and local income taxes, and employee-paid federal health insurance premiums) are made.

Exhibit 452.22 (p. 2)

**Sample Letter of Debt Determination — Nonbargaining (Enclosure)****Options Available to Employee**

1. *Options.* If you wish, you may do any of the following:
  - a. Request, in accordance with paragraph 2 below, copies of all postal records relating to the debt.
  - b. Repay the entire debt voluntarily in accordance with paragraph 3 below.
  - c. Agree, in accordance with paragraph 4 below, to voluntary salary offsets of 15 percent or more of disposable pay.
  - d. Propose, in accordance with paragraph 5 below, an acceptable alternative offset schedule.
  - e. Request, in accordance with paragraph 6 below, that the Postal Service reconsider its determination of the existence or amount of the debt.
2. *Request for Records.* If you would like copies of all postal records relating to your debt, you must contact in writing [\_\_name of appropriate official\_\_] at [\_\_address\_\_] within 10 calendar days from your receipt of this notice of the Postal Service's determination of a debt. You will be provided with copies of the records within 5 calendar days of the date your request is received.
3. *Payment in Full.* If you wish to repay the debt, you should submit a check or money order, with your Social Security number on its face, for the full amount due, to [\_\_name of appropriate official\_\_] at [\_\_address\_\_]. Your check or money order must be submitted no later than 15 calendar days from the date you receive this notice if you do not request copies of postal records relating to your debt, or within 15 calendar days from the date you receive any requested records.
4. *Consent to Offsets.* If you would like to repay the debt voluntarily through offsets of 15 percent or more of your disposable pay, you should contact [\_\_name of appropriate official\_\_] at [\_\_address\_\_] and complete Form 3239, *Payroll Deduction Authorization to Liquidate Postal Service Indebtedness*. The form must be completed no later than 15 calendar days from the date you receive this notice if you do not request copies of postal records relating to your debt, or within 15 calendar days from the date you receive any requested records.
5. *Alternative Offset Schedule.* If you acknowledge the debt, but believe that the proposed deductions of 15 percent of disposable pay would be too severe, you may propose an alternative offset schedule.
  - a. You must submit your alternative offset schedule in writing to [\_\_name of appropriate official\_\_] at [\_\_address\_\_] along with a written statement and supporting documents, stating your reasons for believing the deductions proposed by the Postal Service would result in a "severe financial hardship."<sup>1</sup> Your proposal must include (1) the amount to be paid each pay period, (2) the number of pay periods it would take to repay the debt, and (3) the date the first payment would be made. In addition, the supporting documents must show, for you and your spouse and dependents, for the 1-year period preceding this notice and for your proposed repayment period, (1) total family income, assets, and liabilities; (2) number of dependents; and (3) total expenses for food, housing, clothing, transportation, medical care, and any exceptional expenses.

<sup>1</sup> The term *severe financial hardship* refers to an employee's inability to meet the essential material needs of the employee and his or her spouse and dependents because of offsets against pay. These essential material needs are food, housing, clothing, transportation, medical care, and any exceptional expenses.

Exhibit 452.22 (p. 3)

**Sample Letter of Debt Determination — Nonbargaining (Enclosure)**

- b. Your written submissions must be received by the Postal Service no later than 15 calendar days from the date you receive this notice if you do not request copies of postal records relating to the debt, or within 15 calendar days from the date you receive any requested records.
  - c. Based upon the material you submit and postal records relating to the debt, the postmaster or installation head will consider (1) the extent to which the assets owned by you and your spouse and dependents are available to meet your essential material expenses and to repay the postal debt; (2) whether your essential material expenses have been minimized as much as possible, and (3) the extent to which you and your spouse and dependents can borrow to finance your essential expenses and to repay the postal debt. An alternative offset schedule will be approved only if it provides for installment payments that bear a reasonable relationship to the size of the debt and your ability to pay. Generally, an alternative offset schedule should provide for installment payments of no less than 10 percent of disposable pay per pay period, and for a repayment period of 26 pay periods or less.
  - d. If it becomes necessary to submit your case to the involuntary salary offset process, you may be entitled to a hearing before an impartial hearing official. The scope of such a hearing, however, is limited by statute to the Postal Service's determination of the existence or amount of the debt or the terms of an involuntary repayment schedule. Since any information you provide will be used by the Postal Service in making a determination on your proposed repayment schedule, it is important, for your own protection, that you provide any relevant information and documents at this stage of the collection process.
6. *Request for Reconsideration of Debt.* If you wish to ask the Postal Service to reconsider its determination of the existence or amount of the debt, you must proceed as follows:
- a. Your request must be submitted to [\_\_name of appropriate official\_\_] at [\_\_address\_\_] with a written statement and supporting documentation, indicating why you believe you are not so indebted.
  - b. Your written submissions must be received by the Postal Service no later than 15 calendar days from the date you receive this notice if you do not request copies of postal records relating to the debt, or within 15 calendar days from the date you receive any requested records.
  - c. If it becomes necessary to submit your case to the involuntary salary offset process, you may be entitled to a hearing before an impartial hearing official. The scope of such a hearing, however, is limited by statute to the Postal Service's determination of the existence or amount of the debt or to the terms of an involuntary repayment schedule. Since any information you provide will be used by the Postal Service in making a determination on this debt, it is important, for your own protection, that you provide any relevant information and documents at this stage of the collection process.
7. *Decision on Reconsideration.* If you propose an alternative offset schedule, or submit a request for reconsideration of the existence or amount of a debt, you will be notified of the Postal Service's decision within 15 calendar days of the day your proposal or request is received.

**452.23 Employee Response to Notice****452.231 Request for Copies of Postal Records**

If an employee would like copies of records relating to a postal debt, he or she must notify the postmaster or installation head in writing within 10 calendar days of receiving notice of the Postal Service's determination of a debt. The postmaster or installation head is responsible for requesting copies of the pertinent records by telephone, if necessary, from the Minneapolis ASC and/or appropriate postal facility, and for providing the employee with copies of these records within 5 calendar days of receiving the employee's written request. Until collection of the debt is completed, the postmaster or installation head must keep a copy of all records provided to the employee at this stage.

**452.232 Payment in Full**

An employee who acknowledges the validity of the Postal Service's claim and wishes to repay the entire debt voluntarily should be instructed to remit to the postmaster or installation head, for transmittal to the Minneapolis ASC, a check or money order for the full amount due, with the employee's Social Security number on its face. The employee should submit the check or money order no later than 15 calendar days from the date the employee receives the notice of the Postal Service's determination of a debt if he or she does not request copies of postal records relating to the debt, or within 15 calendar days from the date the employee receives any requested records.

**452.233 Consent to Salary Offsets**

If an employee acknowledges the validity of the Postal Service's claim and would like to repay the debt voluntarily through offsets of 15 percent or more of his or her disposable pay, the employee and the postmaster or installation head should complete the appropriate sections of Form 3239, *Payroll Deduction Authorization to Liquidate Postal Service Indebtedness* (see Exhibit 452.233). This form must be completed no later than 15 calendar days from the date the employee receives the notice of the Postal Service's determination of a debt if he or she does not request copies of postal records relating to the debt, or within 15 calendar days from the date the employee receives any requested records.

Exhibit 452.233  
**Form 3239, Payroll Deduction Authorization to Liquidate Postal Service Indebtedness**



**Payroll Deduction Authorization to Liquidate  
Postal Service Indebtedness**

**Definitions**

\* The terms "disposable pay" and "current pay" refer to that part of an employee's salary which remains after all required deductions, normal retirement contributions, FICA and Medicare insurance taxes, and employee-paid Federal health insurance premiums, are made.

**General Information**

The postmaster/installation head completes this form in triplicate. Send Part 1 and Form 1902, *Justification for Billing Accounts Receivable*, to the Payroll Processing Branch of the Minneapolis Accounting Service Center (ASC): 1 Federal Dr., Ft. Snelling, MN 55111-9600. Send Part 2 to personnel and Part 3 to the employee.

Employee Name (as shown on paycheck)	Social Security Number
Servicing ASC	Total Debt
Type of Offset	
<input type="checkbox"/> Administrative -- Nonbargaining-Unit Employee (Maximum 15% of disposable pay *)	<input type="checkbox"/> Court Judgment (Maximum 25% of current pay *)
<input type="checkbox"/> Administrative -- Bargaining Unit Employee (Maximum 15% of disposable pay * or 20% of gross pay, whichever is lower when salary offset starts)	<input type="checkbox"/> Voluntary (No maximum)
Home Address (Include ZIP + 4)	Postal Facility Where Employed (Include ZIP + 4)

**Pay Period Deductions**

NOTE: A request must be received at the ASC no later than Tuesday of the week in which the pay period ends in order to be effective for the pay period.

<b>Deductions Begin:</b>	Pay Period	Date
<b>Deduction Per Pay Period:</b>	Nonbargaining-Unit Employee	Bargaining Unit Employee
	\$ _____ or _____ % of disposable/ current pay. *	\$ _____ or _____ % of disposable/ current pay * or _____ % of gross pay.

**Voluntary Authorization**

I acknowledge that I am indebted to the Postal Service in the amount specified above, and I request that I be permitted to liquidate this debt through payroll deduction from my salary checks as indicated above. If, at the time of my separation from the Postal Service, this debt has not been fully satisfied, the Postal Service may apply any sums due me, without limitation, to the outstanding balance. I hereby certify, that the foregoing statements are true and correct to the best of my knowledge and belief, and they are made of my own free will and at my discretion.

Signature	Date
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**Involuntary Authorization**

The employee has been notified of the Postal Service's determination of the debt set forth above and the applicable set-off procedures have been provided. Accordingly, the deductions may be made on an involuntary basis.

Authorized Individual's Printed Name, Title, and Signature	Date
--	------

**Cancellation**

Cancel deduction in accordance with instructions on file in this office.

Authorized Individual's Printed Name, Title, and Signature	Date
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**Privact Act Statement.** The collection of this information is authorized by 39 USC § 401. This information will be used to settle a financial difference with the Postal Service. As a routine use, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutorial purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Completion of this form is voluntary. However, if this information is not provided, your personal situation may not be fully considered during the resolution of the difference.

452.234 **Request for Consideration of Alternative Offset Schedule**

If the employee acknowledges the debt, but contends that the proposed deductions of 15 percent of disposable pay would be too severe, he or she may propose an alternative offset schedule.

- a. *Proposal.* The employee's proposed offset schedule must be submitted in writing to the postmaster or installation head, along with a written statement and supporting documentation, stating the employee's reasons for believing that the deductions proposed by the Postal Service would result in a "severe financial hardship," as defined in 451.4h. The proposal must include (1) the amount to be paid each pay period, (2) the number of pay periods it would take to repay the debt under the employee's proposal, and (3) the date the first payment would be made. The supporting documents must also show the following information relating to the employee and his or her spouse and dependents, for the 1-year period preceding the Postal Service's notice and the repayment period proposed by the employee's alternative offset schedule: (1) total family income, assets, and liabilities; (2) number of dependents; and (3) total expenses for food, housing, clothing, transportation, medical care, and any exceptional expenses. The employee should be instructed to provide all information in his or her possession relating to the debt and to his or her financial ability to repay it so that the postmaster or installation head may make an informed decision on an employee's proposed alternative offset plan.
- b. *Time Frame.* The employee's proposed alternative offset schedule and written submissions must be received by the postmaster or installation head no later than 15 calendar days from the date the employee receives the notice of the Postal Service's determination of a debt if he or she does not request copies of postal records relating to the debt, or within 15 calendar days from the date the employee receives any requested records.
- c. *Consideration.* Based upon the material submitted by the employee and postal records relating to the debt, the postmaster or installation head must consider (1) the extent to which the assets of the employee and his or her spouse and dependents are available to meet their essential material expenses and to repay the postal debt, (2) whether the essential material expenses have been minimized as much as possible, and (3) the extent to which the employee and his or her spouse and dependents can borrow to finance their essential expenses and to repay the postal debt. An employee's alternative offset schedule should be approved only if it provides for installment payments that bear a reasonable relationship to the size of the debt and the employee's ability to pay. Generally, an alternative offset schedule should provide for installment payments of no less than 10 percent of disposable pay per pay period, and for a repayment period of 26 pay periods or less.

452.235 **Request for Reconsideration of Debt**

If an employee wishes to request reconsideration of the Postal Service's determination of the existence or amount of a debt, he or she may proceed as follows:

- a. *Request.* The employee's request for reconsideration must be submitted in writing to the postmaster or installation head, along with a written statement and supporting documentation indicating why the employee believes he or she is not so indebted. Since the postmaster or installation head will use the material provided by the employee, along with postal records relating to the debt, in deciding whether the Postal Service's determination of the debt should be revised, employees should be instructed to provide all information in their possession relating to the debt so that the postmaster or installation head may make an informed determination.
- b. *Time Frame.* The employee's written submission must be received by the postmaster or installation head no later than 15 calendar days from the date the employee receives the notice of the Postal Service's determination of a debt if he or she does not request copies of postal records relating to the debt, or within 15 calendar days from the date the employee receives any requested records.

452.24 **Action Following Reconsideration of Debt and/or Offset Schedule**

452.241 **Consideration and Response**

After reviewing an employee's proposed alternative offset schedule and/or request that the Postal Service reconsider its determination of the existence or amount of a debt, the postmaster or installation head, within 15 calendar days of receiving the employee's proposal or request, must notify the employee in writing of the determination and take any necessary follow-up action as outlined in 452.242 and 452.243.

452.242 **Reconsideration of Debt**

If the employee challenged the existence or amount of the debt, the postmaster or installation head takes one of the following actions:

- a. Notifies the employee in writing that (1) he or she is indebted to the Postal Service for the amount set forth in its letter and (2) to prevent the initiation of involuntary offset proceedings, he or she must make arrangements to repay the debt in accordance with the procedures specified in 452.25.
- b. Notifies the employee in writing that (1) he or she is indebted to the Postal Service for a revised amount and (2) he or she may, within 10 calendar days of receiving the Postal Service's determination upon reconsideration, propose in writing to the postmaster or installation head an alternative offset schedule based on the new figure in accordance with the requirements set forth in 452.234a. In accordance with the requirements set forth in 452.234c, and within 5 calendar days of receiving this proposed alternative offset schedule, the postmaster or installation head must notify the employee in writing whether or not it is

acceptable. If the postmaster or installation head rejects the employee's alternative offset schedule, the employee must be advised in writing that, to prevent the initiation of involuntary offset proceedings, he or she must make arrangements to repay the debt in accordance with the procedures specified in 452.25.

- c. Notifies the employee in writing that he or she is not indebted to the Postal Service for any amount. The postmaster or installation head must immediately notify the Minneapolis ASC to eliminate the receivable and remove the flag from the employee's records.

#### 452.243 **Consideration of Alternative Offset Schedule**

If an alternative offset schedule was proposed, the postmaster or installation head takes one of the following actions:

- a. Notifies the employee in writing that (1) the Postal Service's proposed offset schedule would not result in a severe financial hardship for the employee and his or her spouse and dependents, and accordingly the alternative offset schedule proposed by the employee is not acceptable, and (2) to prevent the initiation of involuntary offset proceedings, he or she must make arrangements to repay the debt in accordance with the procedures specified in 452.25.
- b. Notifies the employee in writing that (1) the employee has demonstrated that the Postal Service's proposed offset schedule would result in a severe financial hardship, and accordingly the alternative offset schedule proposed by the employee (or some variation of it) is acceptable, and that (2) the employee must complete appropriate sections of Form 3239. The postmaster or installation head implements the change by completing Form 3239.

#### 452.25 **Voluntary Repayment Following Reconsideration**

##### 452.251 **Payment in Full**

If an employee, upon receiving notice of the Postal Service's determination upon reconsideration, acknowledges the validity of the Postal Service's claim and would like to repay the entire debt voluntarily, he or she should be instructed to remit to the postmaster or installation head, for transmittal to the Minneapolis ASC, a check or money order for the full amount due, with the employee's Social Security number on its face. The employee must submit payment within 15 calendar days of receiving notice of the Postal Service's determination upon reconsideration.

##### 452.252 **Consent to Salary Offsets**

If an employee, upon receiving the Postal Service's determination on reconsideration, acknowledges the validity of the Postal Service's claim and would like to repay the debt voluntarily through offsets of 15 percent or more of his or her disposable pay, the employee and the postmaster or installation head should complete the appropriate sections of Form 3239. This form must be completed no later than 15 calendar days from the date the employee receives notice of the Postal Service's determination upon reconsideration.

452.26 **Failure to Resolve or Repay Debt**

If an employee, after receiving notice of the Postal Service's determination of a debt, or after receiving notice of the Postal Service's determination upon reconsideration, fails, within the applicable time periods, to resolve a debt or to make satisfactory arrangements to repay it, the postmaster or installation head must initiate the statutory collection procedures in 452.3.

452.3 **Statutory Offset Procedures**

452.31 **Authority**

Under section 5 of the Debt Collection Act, 5 U.S.C. 5514(a) (1982), the Postal Service may, after providing certain procedural rights, offset an employee's salary in order to satisfy any debt due the Postal Service. Generally, up to 15 percent of an individual's "disposable pay" (or the alternative amount determined for a bargaining unit employee as provided in 462.42) may be deducted in monthly installments or at "officially established pay intervals." A greater percentage may be deducted with the written consent of the individual debtor. If the individual's employment ends before the full debt is collected, deduction may be made from subsequent payments of any nature due the employee.

452.32 **Notifying the Employee**

452.321 **Notice**

At least 30 calendar days before making an administrative offset under this authority, the postmaster or installation head must provide an employee-debtor with (a) two copies of a Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act, containing the information in 452.322, and (b) a copy of the procedures that govern hearings under the Debt Collection Act set forth at 39 CFR Part 961 (see Exhibit 452.322).

452.322 **Contents**

The notice (see Exhibit 452.322, Sample Notice of Involuntary Administrative Salary Offsets) required by 452.321 must notify the employee of the following:

- a. The name, work address, and telephone number of the postmaster or installation head issuing the notice.
- b. The Postal Service's determination of the existence and amount of the debt.
- c. The nature of the debt.
- d. The Postal Service's intention to collect the amount due by offsetting 15 percent of the employee's "disposable pay" (or the alternative amount determined for a bargaining unit employee as provided in 462.42) each pay period.
- e. The estimated amount, starting date (generally 30 days from the date the employee receives the notice, Exhibit 452.322), frequency, and duration of the intended deductions.

- f. The procedural rights available to the employee, as well as the appropriate method for requesting them. These rights include an opportunity to:
  - (1) Obtain copies of Postal Service records relating to the debt.
  - (2) Avoid the need for involuntary offsets by paying the debt in full.
  - (3) Consent to salary offsets of 15 percent or more of disposable pay (or the alternative amount determined for a bargaining unit employee as provided in 462.42).
  - (4) Enter into a written agreement with the Postal Service, under terms agreeable to the postmaster or installation head, to establish an alternative debt repayment schedule.
  - (5) Obtain a hearing on the Postal Service's determination concerning the existence or the amount of the debt, or on the terms of the Postal Service's proposed repayment schedule.
- g. The employee must be informed that the timely filing of a petition for a hearing will stay the collection proceedings.

Exhibit 452.322 (p. 1)

**Sample Notice of Involuntary Administrative Salary Offsets**



**NOTICE OF INVOLUNTARY ADMINISTRATIVE  
SALARY OFFSETS UNDER THE DEBT COLLECTION ACT**

[ *date* ]

[ *name* ]

[ *street* ]

[ *city, state, ZIP* ]

[ *name of debtor* ]:

On [ *date of previous letter* ], you were notified by letter of our determination that you owe the Postal Service \$[ *amount* ]. As we noted in our earlier letter, this debt is based on [ *briefly describe how debt arose* ].

Our records indicate that you have not acted to repay this debt. Accordingly, this letter provides notice of the Postal Service's intention to collect this debt by deducting 15 percent of your "disposable pay"<sup>1</sup> each pay period (or, for a bargaining unit employee, 20 percent of gross pay each pay period, whichever amount is lower when the salary offset is started). In your case, this will amount to deductions of approximately \$[ *amount* ] from each paycheck beginning on [ *date deductions are scheduled to begin—generally 30 days from the date the employee receives this notice* ]. These deductions will continue until the debt is collected; we estimate that this should take approximately [ *number of* ] pay periods.

If you feel our determination of the existence or amount of this debt is incorrect, or if you believe the deductions set forth above would impose a "severe financial hardship"<sup>2</sup> on you and your spouse and dependents, you may take one or more of the measures detailed in the enclosed *Statement of Debtor's Rights and Responsibilities*. Unless you have a sound basis for contesting the Postal Service's determinations concerning this matter, you should make arrangements immediately to repay this debt.

[ *signature* ]

[ *name* ]

[ *title of installation head* ]

[ *work address* ]

[ *telephone number w/ area code* ]

Enclosures

Statement of Debtor's Rights and Responsibilities

Rules of Procedure Governing Hearings Under the Debt Collection Act

- <sup>1</sup> The term *disposable pay* refers to that part of an employee's salary remaining after all required deductions (normal retirement contributions, FICA and Medicare insurance taxes, federal income tax, state and local income taxes, and employee-paid federal health insurance premiums) are made.
- <sup>2</sup> The term *severe financial hardship* refers to an employee's inability to meet the material needs of the employee and his or her spouse and dependents because of offsets against pay. These essential material needs are food, housing, clothing, transportation, medical care, and any exceptional expenses.

Exhibit 452.322 (p. 2)

**Sample Notice of Involuntary Administrative Salary Offsets****Statement of Debtor's Rights and Responsibilities**

1. *Request for Records.* At any time after receiving this notice of the Postal Service's intention to collect a debt through involuntary salary offsets and before a requested hearing is held, you may request copies of any postal records that you have not previously received, by contacting, in writing, [\_\_name of appropriate official\_\_] at [\_\_address\_\_]. You will receive any requested records within 5 calendar days of the date your request is received by the Postal Service.
2. *Payment in Full.* If you acknowledge the validity of the Postal Service's claim and wish to repay the entire debt, you may, at any time after receiving this notice of the Postal Service's intention to collect a debt through involuntary offsets, submit a check or money order, with your Social Security number on its face, for the full amount due, to [\_\_name of appropriate official\_\_] at [\_\_address\_\_].
3. *Consent to Offsets.* If you acknowledge the validity of the Postal Service's claim and would like to consent to offsets of 15 percent or more of your disposable pay (or, for a bargaining unit employee, 20 percent of gross pay, whichever amount is lower when the salary offset is started), you should contact [\_\_name of appropriate official\_\_] at [\_\_address\_\_] and complete Form 3239, *Payroll Deduction Authorization to Liquidate Postal Service Indebtedness*. You may agree to salary offsets in the amount proposed by the Postal Service, or some greater amount, at any time after you receive notice of the Postal Service's intention to collect a debt through involuntary salary offsets.
4. *Alternative Offset Schedule.* If you acknowledge the debt, but believe that the proposed deductions of 15 percent of disposable pay (or, for a bargaining unit employee, 20 percent of gross pay, whichever amount is lower when the salary offset is started), would impose a "severe financial hardship"<sup>1</sup> on your family, you may propose an alternative offset schedule.
  - a. Your proposed alternative offset schedule must be submitted to [\_\_name of appropriate official\_\_] at [\_\_address\_\_], along with a written statement, and supporting documentation, stating your reasons for believing the deductions proposed by the Postal Service would result in a "severe financial hardship." Your proposal must include (1) the amount to be paid each pay period, (2) the number of pay periods it would take to repay the debt, and (3) the date the first payment would be made. In addition, the supporting documents must show, for you and your spouse and dependents, for the 1-year period preceding the Postal Service's notice and for your proposed repayment period, (1) your total family income, assets, liabilities; (2) number of dependents; and (3) total expenses for food, housing, clothing, transportation, medical care; and any exceptional expenses. You should be careful to provide all information in your possession relating to this debt so that the Postal Service may make an informed decision on your request for an alternative offset schedule. You may submit your proposed alternative repayment schedule at any time after receiving this notice of the Postal Service's intention to collect an outstanding debt through salary offsets.

<sup>1</sup> The term *severe financial hardship* refers to an employee's inability to meet the material needs of the employee and his or her spouse and dependents because of offsets against pay. These essential material needs are food, housing, clothing, transportation, medical care, and any exceptional expenses.

Exhibit 452.322 (p. 3)

**Sample Notice of Involuntary Administrative Salary Offsets**

b. Based upon the material you submit and postal records relating to the debt, the Postal Service will consider (1) the extent to which your assets and those of your spouse and dependents are available to meet your family's essential material expenses and to repay the postal debt, (2) whether your essential material expenses have been minimized as much as possible, and (3) the extent to which you and your spouse and dependents can borrow to finance your essential expenses and to repay the debt. An alternative offset schedule will be approved only if it provides for installment payments that bear a reasonable relationship to the size of the debt and your ability to pay. Generally, an alternative offset schedule should provide for installment payments of no less than 10 percent of disposable pay per pay period, and for a repayment period of 26 pay periods or less.

c. You will be notified of the Postal Service's decision regarding your proposed repayment schedule within 15 calendar days of the date it is received.

5. *Petition for a Hearing.* To request a hearing on the Postal Service's determination of the existence or amount of the debt, or on the Postal Service's proposed involuntary offset schedule, you must file a written petition for a hearing in accordance with the requirements of 39 CFR 961.4. (A copy of Part 961 of 39 CFR. is enclosed.) Your hearing petition must be filed with the RECORDER, JUDICIAL OFFICER DEPT, US POSTAL SERVICE, 475 L'ENFANT PLZ SW, WASHINGTON DC 20260-6100, on or before the fifteenth calendar day following your receipt of this notice. A timely request for a hearing will stay the commencement of the collection of the debt.

**Note:** While you may request a hearing and pursue one of the other available options, your hearing petition must be filed within the required time period. If questions relating to this debt are resolved before the hearing is held, your petition may be withdrawn.

6. *Failure to Act.* If you do not exercise any of the rights set forth above, the Postal Service will proceed with its plans to initiate the proposed offsets 30 days from the date you receive this notice.

Exhibit 452.322 (p. 4)

**Sample Notice of Involuntary Administrative Salary Offsets****39 CFR PART 961—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO EMPLOYEE HEARING PETITIONS UNDER SECTION 5 OF THE DEBT COLLECTION ACT**

## Section

- 961.1 Authority for rules.
- 961.2 Scope of rules.
- 961.3 Definitions.
- 961.4 Employee Petition for a hearing and Supplement to Petition.
- 961.5 Effect of Petition filing.
- 961.6 Filing, docketing and serving documents; computation of time; representation of parties.
- 961.7 Answer to Petition and Supplement to Petition.
- 961.8 Hearing Official authority and responsibilities.
- 961.9 Effect of Hearing Official's decision; motion for reconsideration.
- 961.10 Waiver of employee rights.
- 961.11 Ex parte communications.

Authority: 39 U.S.C. 204, 401; 5 U.S.C. 5514(a).

Source: 51 FR 1251, Jan. 10, 1986, unless otherwise noted.

*Sec. 961.1 Authority for rules.* These rules are issued by the Judicial Officer pursuant to authority delegated by the Postmaster General.

*Sec. 961.2 Scope of rules.* The rules in this part apply to the hearing provided by section 5 of the Debt Collection Act of 1982, as amended, 5 U.S.C. 5514(a), on the Postal Service's determination of the existence or amount of an employee debt to the Postal Service, or of the terms of the employee's debt repayment schedule. In addition, these rules, as appropriate, apply to a hearing under section 5 of the Debt Collection Act when an Administrative Law Judge or an Administrative Judge in the Judicial Officer Department is designated as the Hearing Official for a creditor Federal agency other than the Postal Service pursuant to an agreement between the Postal Service and that agency.

*Sec. 961.3 Definitions.*

- (a) "Employee" refers to a current employee of the Postal Service or another Federal agency who is alleged to be indebted to the Postal Service or another creditor Federal agency and whose hearing under section 5 of the Debt Collection Act is being conducted under these rules.
- (b) "General Counsel" refers to the General Counsel of the Postal Service, and includes a designated representative.
- (c) "Hearing Official" refers to an Administrative Law Judge qualified to hear cases under the Administrative Procedure Act, an Administrative Judge appointed under the Contract Disputes Act of 1978, or any other qualified person not under the control or supervision of the Postmaster General, who is designated by the Judicial Officer to conduct the hearing under section 5 of the Debt Collection Act of 1982, as amended, 5 U.S.C. 5514(a).
- (d) "Judicial Officer" refers to the Judicial Officer or Acting Judicial Officer of the United States Postal Service.
- (e) "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act" refers to the formal written notice required by section 5 of the Debt Collection Act before involuntary collection deductions can be taken from an employee's salary.
- (f) "Postmaster/Installation Head" refers to the Postal Service official who is authorized under the Postal Service Employee and Labor Relations Manual to make the initial determination of employee indebtedness and to issue the "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."
- (g) "Recorder" refers to the Recorder, Judicial Officer Department, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, DC 20260-6100.

Exhibit 452.322 (p. 5)

**Sample Notice of Involuntary Administrative Salary Offsets**

*Sec. 961.4 Employee Petition for a hearing and supplement to petition.*

- (a) If an employee desires a hearing, prescribed by section 5 of the Debt Collection Act, on the Postal Service's determination of the existence or amount of a debt, or on the involuntary repayment terms proposed by the Postal Service, the employee must file a written, signed petition with the Recorder, Judicial Officer Department, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, DC 20260-6100, on or before the fifteenth (15th) calendar day following the employee's receipt of the Postal Service's "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."
- (b) The hearing petition is to include the following:
  - (1) The words, "Petition for Hearing Under the Debt Collection Act," prominently captioned at the top of the first page;
  - (2) The name of the employee petitioner and the employee's work and home addresses, and work and home telephone numbers; or other address and telephone number where the employee may be contacted about the hearing proceedings;
  - (3) A statement of the date the employee received the "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act," and a copy of the Notice;
  - (4) A statement indicating whether the employee requests an oral hearing or a hearing based solely on written submissions;
  - (5) If the employee requests an oral hearing, a statement of the evidence he or she will produce which makes an oral hearing necessary, including a list of witnesses, with their addresses, whom the employee expects to call; the proposed city for the hearing site, with justification for holding the hearing in that city; and recommended alternative dates for the hearing; which should be within 40 days from filing the Petition;
  - (6) A statement of the grounds upon which the employee objects to the Postal Service's determination of the existence or amount of the debt, or to the proposed offset schedule. This statement should identify and explain with reasonable specificity and brevity the facts, evidence, and legal arguments, if any, which the employee believes support his or her position;
  - (7) Copies of all records in the employee's possession which relate to the debt; and
  - (8) If an employee contends that the Postal Service's proposed offset schedule would result in a severe financial hardship on the employee and his or her spouse and dependents, an alternative offset schedule, and a statement and supporting documents indicating for the employee and his or her spouse and dependents for the 1 year preceding the Postal Service's notice and for the repayment period proposed by the employee in his or her alternative offset schedule, their total income from all sources; assets; liabilities; number of dependents; and expenses for food, housing, clothing, transportation, medical care, and exceptional expenses, if any.
- (c) The employee may, if necessary, file with the Recorder, additional information as a Supplement to the Petition on or before the thirtieth (30th) calendar day following the employee's receipt of the Postal Service's "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."

*Sec. 961.5 Effect of Petition filing.* Upon receipt and docketing of the employee's Petition for a hearing, the Recorder will notify the Postmaster/Installation Head and the General Counsel that the Petition has been filed and that pursuant to section 5 of the Debt Collection Act, a timely-filed Petition for a hearing stays further collection action.

Exhibit 452.322 (p. 6)

**Sample Notice of Involuntary Administrative Salary Offsets**

*Sec. 961.6 Filing, docketing and serving documents; computation of time; representation of parties.*

- (a) *Filing.* All documents relating to the Debt Collection Act hearing proceedings must be filed by the employee or the General Counsel with the Recorder. (Normal Recorder office business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time as appropriate during the year.) The Recorder will transmit a copy of each document filed to the other party, and the original to the Hearing Official.
- (b) *Docketing.* The Recorder will maintain a docket record of Debt Collection Act hearing petition proceedings and will assign each employee Petition a docket number. After notification of the docket number, the employee and General Counsel should refer to it on any further filings regarding the Petition.
- (c) *Time computation.* A filing period under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.
- (d) *Representation of parties.* After the filing of the Petition, further document transmittals for, or communications with, the Postmaster/Installation Head or Postal Service shall be through their representative, the General Counsel, or, if an appropriate notice of appearance is filed, the General Counsel's designee. If a notice of appearance by an attorney authorized to practice law in any of the United States or the District of Columbia or a territory of the United States is filed in behalf of an employee, further transmissions of documents and other communications with the employee shall be made through his or her attorney rather than directly with the employee.

*Sec. 961.7 Answer to Petition and Supplement to Petition.* If the employee's Petition states reasons to support the employee's position, within 15 days from notice of the Petition, the General Counsel shall file an Answer to the Petition, and attach all available relevant records and documents in support of the Postal Service's claim, and a list of witnesses the Postal Service intends to call if an oral hearing is granted. If the employee files a Supplement to the Petition, the General Counsel, within ten (10) calendar days from the filing of the Supplement with the Recorder must file any Supplemental Answer and records to support the position of the Postal Service.

*Sec. 961.8 Hearing Official authority and responsibilities.* The Hearing Official shall provide a full and fair hearing. The proceedings must be expedited to ensure issuance of the final decision no later than 60 days after the filing of the employee's hearing Petition. The Hearing Official's authority includes, but is not limited to, the following:

- (a) Ruling on all offers, motions or requests by the parties;
- (b) Issuing any notices, orders or memoranda to the parties concerning the hearing proceedings;
- (c) Using telephone conferences with the parties to expedite the proceedings. A memorandum of a telephone conference will be transmitted to both parties;
- (d) Determining if an oral hearing should be held; and setting the place, date and time for the hearing or the taking of testimony by telephone conference;
- (e) Administering oaths or affirmations to witnesses, and conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable and probative evidence is elicited on the issues in dispute, but irrelevant, immaterial or repetitious evidence is excluded;
- (f) Establishing the record in the case;

Exhibit 452.322 (p. 7)

**Sample Notice of Involuntary Administrative Salary Offsets**

- (g) Issuing the final decision orally or in writing no later than sixty (60) days after the filing of the employee's hearing Petition. When an oral decision is rendered, a written confirmation will thereafter be sent to the parties. The decision must include the determination of the amount and validity of the alleged debt and, where applicable, the repayment schedule. It should also include findings and reasons.

*Sec. 961.9 Effect of Hearing Official's decision; motion for reconsideration.* The Hearing Official's decision shall be the final administrative determination on the employee's debt or repayment schedule. No reconsideration of the decision will be allowed unless a motion for reconsideration is filed by either party within 10 days from receipt of the decision and shows good reasons for reconsideration. Reconsideration will be allowed only in the discretion of the Hearing Official. A motion for reconsideration by the employee will not operate to stay the collection action authorized by the Hearing Official's decision.

*Sec. 961.10 Waiver of employee rights.* The Hearing Official may determine the employee has waived his or her right to a hearing and the employee's pay shall be offset in accordance with the Postal Service's offset schedule, if the employee:

- (a) Files a Petition for hearing after the end of the 15-day period allowed by the Act for filing the Petition, and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay;
- (b) Has received notice to appear at an oral hearing but fails to do so without showing circumstances beyond the employee's control;
- (c) Fails to file required submissions or to comply with orders of the Hearing Official, and the failure makes it difficult or impossible to hold the hearing or to issue the decision within the statutory time;
- (d) Files a withdrawal of his or her Petition for a hearing with the Recorder.

*Sec. 961.11 Ex parte communications.* Ex parte communications between a Hearing Official or his staff and a party shall not be made. This prohibition does not apply to procedural matters. A memorandum of any communication between the Hearing Official and a party will be transmitted to both parties.

**452.33 Procedures Governing the Exercise of Employee Rights****452.331 Employee Options**

Employees may pursue as many of the options available to them as they wish. It should be noted, however, that an employee's petition for a hearing on the Postal Service's determination of the existence or amount of a debt, or on the terms of the Postal Service's proposed repayment schedule, must be submitted within the time frame specified in 452.336. If, after requesting a hearing, the employee is able to resolve the debt through another available option, his or her hearing petition may be withdrawn.

**452.332 Requests for Postal Records**

If an employee wishes to request copies of any records, the employee and the postmaster or installation head proceed as follows:

- a. *Submission.* At any time after receiving notice of the Postal Service's intention to collect a debt through involuntary salary offsets and before any requested hearing is held, a nonbargaining unit employee may request copies of any records he or she did not previously obtain under 452.231, while a bargaining unit employee may request copies of any records the employee or the employee's union did not previously obtain under 462.21. Requests for copies of postal records relating to an alleged debt must be made in writing and directed to the postmaster or installation head.
- b. *Response.* The postmaster or installation head should take care to respond expeditiously to records requests so as not to deprive an employee of the benefit of any information that might resolve questions relating to the debt. Once a request is received, the postmaster or installation head must promptly request, as necessary, copies of the pertinent records by telephone from the Minneapolis ASC or appropriate postal facility and provide the employee, within 5 calendar days of receiving the employee's request, with copies of all records requested.

**452.333 Payment in Full**

An employee who wishes to pay off an entire debt may remit to the postmaster or installation head for transmittal to the Minneapolis ASC a check or money order with his or her Social Security number on its face, at any time after receiving written notice of the Postal Service's intention to collect the debt through involuntary salary offsets.

**452.334 Consent to Salary Offsets**

If an employee acknowledges the validity of the Postal Service's claim and would like to consent to offsets of 15 percent or more of his or her disposable pay (or the alternative amount determined for a bargaining unit employee as provided in 462.42), the employee and the postmaster or installation head should complete the appropriate sections of Form 3239. An employee may consent to salary offsets at any time after he or she receives notice of the Postal Service's intention to collect the debt through involuntary salary offsets.

452.335 **Alternative Offset Schedule**

If an employee acknowledges the Postal Service's claim, but contends that the proposed deductions of 15 percent of disposable pay (or the alternative amount determined for a bargaining unit employee as provided in 462.42) would be too severe, he or she may propose an alternative offset schedule and proceed as follows:

- a. *Proposal.* The employee's proposed offset schedule must be submitted to the postmaster or installation head, along with a written statement and supporting documentation, stating the employee's reasons for believing the deductions proposed by the Postal Service would result in a "severe financial hardship" as that term is defined in 451.4h. The proposal must include (1) the amount to be paid each pay period, (2) the number of pay periods it would take to repay the debt under the employee's proposal, and (3) the date the first payment would be made. The supporting documents must also show the following information relating to the employee and his or her spouse and dependents, for the 1-year period preceding the Postal Service's notice and the repayment period proposed by the employee's alternative offset schedule: (1) total family income, assets, and liabilities; (2) number of dependents; and (3) total expenses for food, housing, clothing, transportation, medical care, and any exceptional expenses. The employee should be instructed to provide all information in his or her possession relating to the debt and his or her financial ability to repay it so that the postmaster or installation head may make an informed decision on the employee's request.
- b. *Time Frame.* The employee may submit his or her proposed alternative repayment schedule to the postmaster or installation head at any time after receiving notice of the Postal Service's intention to collect an outstanding debt through involuntary salary offsets.
- c. *Consideration.* Based upon the material submitted by the employee and postal records relating to the debt, the postmaster or installation head must consider (1) the extent to which the assets of the employee and his or her spouse and dependents are available to meet their essential material expenses and to repay the postal debt, (2) whether the essential material expenses have been minimized as much as possible, and (3) the extent to which the employee and his or her spouse and dependents can borrow to finance their essential expenses and to repay the debt. An employee's alternative offset schedule should be approved only if it provides for installment payments that bear a reasonable relationship to the size of the debt and the employee's ability to pay. Generally, an alternative offset schedule should provide for installment payments of no less than 10 percent of disposable pay per pay period, and for a repayment period of 26 pay periods or less.
- d. *Notification.* The postmaster or installation head must notify the employee in writing of his or her decision regarding the employee's proposed alternative offset schedule within 15 calendar days of receiving it from the employee.

- e. *Implementation.* The postmaster or installation head and the employee must implement the terms of an acceptable alternative repayment agreement by completing the appropriate sections of Form 3239.

#### 452.336 **Debt Collection Hearing**

If an employee wishes to request a hearing, the employee and the Postal Service proceed as follows:

- a. *Hearing Request.* If an employee desires a hearing prescribed by section 5 of the Debt Collection Act on the Postal Service's determination of the existence or amount of the debt, or on the involuntary repayment terms proposed by the Postal Service, the employee must file a written petition for a hearing in accordance with the requirements of 39 CFR 961.4. The petition must be filed with the
- RECORDER  
JUDICIAL OFFICER DEPT  
US POSTAL SERVICE  
475 L'ENFANT PLZ SW  
WASHINGTON DC 20260-6100

on or before the fifteenth calendar day following the employee's receipt of the Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act. The hearing procedures are set forth in 39 CFR Part 961, which is incorporated herein by reference.

- b. *Postdecision Responsibilities.* After an employee has been accorded a requested hearing and a written decision has been rendered, the general counsel of the Postal Service notifies the appropriate postmaster or installation head of the determination. If the hearing decision indicates that the employee is not indebted to the Postal Service, the postmaster or installation head must take the necessary steps to remove all references to the debt from the employee's records. However, if the decision authorizes the Postal Service to offset an employee's salary, the postmaster or installation head must initiate the authorized offsets by completing the appropriate sections of Form 3239.

#### 452.34 **Employee Failure to Respond**

If, upon receiving notice of the Postal Service's intention to collect a debt through involuntary salary offsets, the employee fails to repay the debt, fails to consent to the Postal Service's proposed offsets, fails to propose an acceptable alternative offset schedule, and does not request a hearing on the Postal Service's determination of the debt or its proposed offset schedule, the postmaster or installation head may initiate the offsets specified in the Postal Service's notice to the employee, no earlier than 30 calendar days after the debtor's receipt of that notice, by completing the appropriate sections of Form 3239.

452.4 **Collection of Amounts Due Under Federal Benefits Programs**

The procedures governing the collection of postal debts through administrative salary offsets (see 452.2 and 452.3) need not be followed, and the employee's pay may be adjusted as appropriate, when the amount to be collected (a) arose from the employee's election of coverage or change of coverage under a federal benefits program requiring periodic deductions from pay, and (b) was accumulated over four pay periods or less.

453 **Court Judgment Salary Offsets**

453.1 **Authority**

In accordance with section 124 of Public Law 97-276 (October 2, 1982), 5 U.S.C. 5514 note (1982), the Postal Service may deduct up to one-fourth (25 percent) of an employee's "current pay" in monthly installments or at officially established pay periods to satisfy a debt determined by a federal court to be owed to the Postal Service. The statute authorizes the deduction of a "greater amount" if necessary to collect the debt within the employee's anticipated period of employment. If an individual's employment ends before the full amount of the indebtedness has been collected, section 124 provides that deduction shall be made from later payments of any nature due the employee.

453.2 **Applicable Collection Procedures**

453.21 **Notice**

At least 15 calendar days before initiating an offset to collect a debt reflected by a federal court judgment, the postmaster or installation head must provide the employee with a copy of that judgment and a written notice of the Postal Service's intention to deduct 25 percent of the employee's current pay each pay period until the judgment is satisfied. The letter (see Exhibit 453.21, Sample Letter of Salary Offsets Based on Federal Court Judgment) also must include a statement setting forth the approximate amount, duration, and starting date of the deductions. The letter and judgment generally should be hand delivered, and a dated, signed receipt of delivery obtained. However, if personal delivery is not possible, certified or Express Mail, return receipt requested, should be used.

Exhibit 453.21

**Sample Letter of Salary Offsets Based on Federal Court Judgment**

[ \_\_date\_\_ ]

[ \_\_name\_\_ ]

[ \_\_street\_\_ ]

[ \_\_city, state, ZIP\_\_ ]

Dear [ \_\_name of debtor\_\_ ]:

This letter is to inform you that the Postal Service intends to collect, through salary offsets, the judgment entered against you in the amount of \$[ \_\_amount\_\_ ] by the [ \_\_name of court\_\_ ] on [ \_\_date judgment was entered\_\_ ].<sup>1</sup> Twenty-five percent of your *current pay*<sup>2</sup> will be deducted each pay period until the full amount you owe the Postal Service, represented by this judgment, is collected. This will amount to deductions of approximately \$[ \_\_amount\_\_ ] from each paycheck beginning with that issued on [ \_\_date deductions are scheduled to start—generally 15 days from date of notice\_\_ ]. The deductions should last approximately [ \_\_number of\_\_ ] pay periods.

If you have any questions regarding this matter, please contact [ \_\_name of appropriate official\_\_ ] at [ \_\_address\_\_ ] or [ \_\_telephone number\_\_ ] immediately.

Sincerely,

[ \_\_signature\_\_ ]

[ \_\_name\_\_ ]

[ \_\_title of installation head\_\_ ]

Enclosure

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<sup>1</sup> A copy of the judgment is enclosed.

<sup>2</sup> The term *current pay* refers to that part of an employee's salary that remains after all required deductions (normal retirement contributions, FICA and Medicare insurance taxes, federal income tax, state and local income taxes, and employee-paid federal health insurance premiums) are made.

453.22 **Implementing Offsets**

The postmaster or installation head must initiate the collection process by completing the appropriate sections of Form 3239, no earlier than 15 calendar days after the employee's receipt of the letter.

454 **Multiple Offsets**

454.1 **Administrative Salary Offsets**

By statute, administrative salary offsets under section 5 of the Debt Collection Act of 1982 are limited to no more than 15 percent of an employee's disposable pay during any one pay period — whether the deductions are made to satisfy a debt owed the Postal Service or another federal agency, or some combination of these. Generally, priority among competing administrative salary offset requests is determined by the order in which they are received. However, a request to collect a debt due the Postal Service must be given priority over other government agency offset requests regardless of the date the postal offset request is received (see 454.4). If a collection request cannot be honored upon receipt, or can be honored only in part, the postmaster or installation head must notify the requesting postal or other government official, in writing, of the reasons for the delay or for the collection of a lesser amount than that requested, and the approximate date the requested offsets can be implemented.

454.2 **Court Judgment Salary Offsets**

No more than 25 percent of an employee's current pay may be withheld to satisfy a debt determined by a federal court to be due the United States — whether the deductions are made to satisfy a debt owed the Postal Service or another federal agency, or some combination of these. Generally, priority among competing court judgment salary offset requests is determined by the order in which they are received. However, a request to collect a debt due the Postal Service must be given priority over other government agency offset requests regardless of the date the postal offset request is received (see 454.4). If a collection request cannot be honored upon receipt, or can be honored only in part, the postmaster or installation head must notify the requesting postal or other government official, in writing, of the reasons for the delay or for the collection of a lesser amount than that requested, and the approximate date the requested offsets can be implemented.

454.3 **Administrative and Court Judgment Salary Offsets**

If the salary of a postal employee is the target of one or more of both types of offsets — administrative and court judgment — a combined total of no more than 25 percent will be withheld during any one pay period. However, in no case may the amount withheld in accordance with administrative salary offsets exceed 15 percent of the employee's disposable pay. As is generally the case with competing offsets of the same type and subject to 454.4, priority between administrative salary offsets and court judgment salary offsets is determined by the order in which they are received.

**454.4 Priority of Postal Service Indebtedness**

If a postal employee is indebted to the Postal Service, that debt takes priority over any debt he or she may owe another federal agency, even if the other agency's request for salary offsets was received first. Accordingly, if both the Postal Service and another agency request the maximum allowable deductions, collection of the other agency's debt must be interrupted or postponed until the entire postal debt is recovered. However, if an amount less than that requested by the other agency may be deducted in addition to the offsets requested by the Postal Service without exceeding the appropriate percentage ceiling, deductions for the lesser amount must be withheld and forwarded to the requesting agency along with an explanation for the smaller offsets.

**454.5 Garnishments**

Administrative salary offsets based on section 5 of the Debt Collection Act of 1982 and court judgment salary offsets based on section 124 of Public Law 97-276 are not, as a matter of law, considered garnishments. Rather, for purposes of determining an employee's "disposable earnings" under the Federal Consumer Credit Protection Act, 15 U.S.C. 1671, et seq., these withholdings are considered to be amounts required by law to be deducted. Accordingly, they should be deducted before the applicable garnishment ceilings are imposed and before deductions for garnishments are made.

**455 Action Upon Transfer or Separation****455.1 Withholdings From Any Amount Due**

If a postal employee whose wages are subject to offset transfers to another federal agency or separates from employment, the Postal Service applies any amount due the employee at the time of his or her separation to the debt owed the Postal Service. If the debt is still not satisfied, appropriate action as described in 455.2 or 455.3 should be taken.

**455.2 Transfer to Another Federal Agency**

If a postal employee whose wages are subject to offset transfers to another federal agency, and the full debt cannot be collected from amounts due the employee from the Postal Service, the Postal Service must request the former postal employee's new agency to continue offsetting the debtor's salary until the debt is satisfied. The request must specify the amount of the original debt, the amount collected by the Postal Service through salary offsets, the amount that remains to be collected, and the percentage of the debtor's disposable earnings or current pay that should be deducted each pay period. In addition, the Postal Service must certify that the former postal employee has been accorded all required rights of due process. When the Postal Service's request is sent to the new employing agency, a copy also must be sent to the former employee at his or her home address.

455.3 **Collection of Debt Upon Separation**

If the full debt cannot be collected from amounts due the employee at the time of his or her separation, the manager of the Postal Accounts Branch must attempt to recover the debt from any available retirement or disability payments due the former employee in accordance with the provisions of 5 CFR 831, Subpart R, or 5 CFR 845, Subpart D (see Handbook F-16, *Accounts Receivable*, 743).

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