

clerk of the court, with respect to an offense committed on or before December 31, 1984, and to the Attorney General, with respect to an offense committed after December 31, 1984.”

§ 3612. Collection of unpaid fine or restitution

(a) NOTIFICATION OF RECEIPT AND RELATED MATTERS.—The clerk or the person designated under section 604(a)(18) of title 28 shall notify the Attorney General of each receipt of a payment with respect to which a certification is made under subsection (b), together with other appropriate information relating to such payment. The notification shall be provided—

(1) in such manner as may be agreed upon by the Attorney General and the Director of the Administrative Office of the United States Courts; and

(2) within 15 days after the receipt or at such other time as may be determined jointly by the Attorney General and the Director of the Administrative Office of the United States Courts.

If the fifteenth day under paragraph (2) is a Saturday, Sunday, or legal public holiday, the clerk, or the person designated under section 604(a)(18) of title 28, shall provide notification not later than the next day that is not a Saturday, Sunday, or legal public holiday.

(b) INFORMATION TO BE INCLUDED IN JUDGMENT; JUDGMENT TO BE TRANSMITTED TO ATTORNEY GENERAL.—(1) A judgment or order imposing, modifying, or remitting a fine or restitution order of more than \$100 shall include—

(A) the name, social security account number, mailing address, and residence address of the defendant;

(B) the docket number of the case;

(C) the original amount of the fine or restitution order and the amount that is due and unpaid;

(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));

(E) a description of any modification or remission;

(F) if other than immediate payment is permitted, a requirement that, until the fine or restitution order is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs; and

(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.

(2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.

(c) RESPONSIBILITY FOR COLLECTION.—The Attorney General shall be responsible for collec-

tion of an unpaid fine or restitution concerning which a certification has been issued as provided in subsection (b). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid. Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

(1) A penalty assessment under section 3013 of title 18, United States Code.

(2) Restitution of all victims.

(3) All other fines, penalties, costs, and other payments required under the sentence.

(d) NOTIFICATION OF DELINQUENCY.—Within ten working days after a fine or restitution is determined to be delinquent as provided in section 3572(h), the Attorney General shall notify the person whose fine or restitution is delinquent, to inform the person of the delinquency.

(e) NOTIFICATION OF DEFAULT.—Within ten working days after a fine or restitution is determined to be in default as provided in section 3572(i), the Attorney General shall notify the person defaulting to inform the person that the fine or restitution is in default and the entire unpaid balance, including interest and penalties, is due within thirty days.

(f) INTEREST ON FINES AND RESTITUTION.—

(1) IN GENERAL.—The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment. If that day is a Saturday, Sunday, or legal public holiday, the defendant shall be liable for interest beginning with the next day that is not a Saturday, Sunday, or legal public holiday.

(2) COMPUTATION.—Interest on a fine shall be computed—

(A) daily (from the first day on which the defendant is liable for interest under paragraph (1)); and

(B) at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the first day on which the defendant is liable for interest under paragraph (1).

(3) MODIFICATION OF INTEREST BY COURT.—If the court determines that the defendant does not have the ability to pay interest under this subsection, the court may—

(A) waive the requirement for interest;

(B) limit the total of interest payable to a specific dollar amount; or

(C) limit the length of the period during which interest accrues.

(g) PENALTY FOR DELINQUENT FINE.—If a fine or restitution becomes delinquent, the defendant shall pay, as a penalty, an amount equal to 10 percent of the principal amount that is delinquent. If a fine or restitution becomes in default, the defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default.

(h) WAIVER OF INTEREST OR PENALTY BY ATTORNEY GENERAL.—The Attorney General may waive all or part of any interest or penalty under this section or any interest or penalty re-

lating to a fine imposed under any prior law if, as determined by the Attorney General, reasonable efforts to collect the interest or penalty are not likely to be effective.

(i) APPLICATION OF PAYMENTS.—Payments relating to fines and restitution shall be applied in the following order: (1) to principal; (2) to costs; (3) to interest; and (4) to penalties.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 2004; amended Pub. L. 100-185, §11, Dec. 11, 1987, 101 Stat. 1283; Pub. L. 100-690, title VII, §7082(c), (d), Nov. 18, 1988, 102 Stat. 4408; Pub. L. 101-647, title XXXV, §3592, Nov. 29, 1990, 104 Stat. 4931; Pub. L. 104-132, title II, §207(c)(2), Apr. 24, 1996, 110 Stat. 1237; Pub. L. 106-554, §1(a)(7) [title III, §307(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-635; Pub. L. 107-273, div. B, title IV, §4002(b)(15), Nov. 2, 2002, 116 Stat. 1808.)

PRIOR PROVISIONS

For a prior section 3612, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3601 of this title.

AMENDMENTS

2002—Subsec. (f)(2)(B). Pub. L. 107-273 substituted “preceding the first day” for “preceding, the first day”.

2000—Subsec. (f)(2)(B). Pub. L. 106-554 substituted “the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding.” for “the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled before”.

1996—Pub. L. 104-132, §207(c)(2)(A), substituted “Collection of unpaid fine or restitution” for “Collection of an unpaid fine” in section catchline.

Subsec. (b)(1). Pub. L. 104-132, §207(c)(2)(B)(i), inserted “or restitution order” after “fine” in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 104-132, §207(c)(2)(B)(ii), inserted “or restitution order” after “fine”.

Subsec. (b)(1)(E). Pub. L. 104-132, §207(c)(2)(B)(iii), struck out “and” at end.

Subsec. (b)(1)(F). Pub. L. 104-132, §207(c)(2)(B)(iv), inserted “or restitution order” after “fine” and substituted “; and” for period at end.

Subsec. (b)(1)(G). Pub. L. 104-132, §207(c)(2)(B)(v), added subpar. (G).

Subsec. (c). Pub. L. 104-132, §207(c)(2)(C), inserted “or restitution” after “unpaid fine” in first sentence and inserted at end “Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

“(1) A penalty assessment under section 3013 of title 18, United States Code.

“(2) Restitution of all victims.

“(3) All other fines, penalties, costs, and other payments required under the sentence.”

Subsec. (d). Pub. L. 104-132, §207(c)(2)(D)(ii), which directed substitution of “or restitution is delinquent, to inform the person of the delinquency” for “is delinquent, to inform him that the fine is delinquent”, was executed by making the substitution for “is delinquent to inform him that the fine is delinquent” to reflect the probable intent of Congress.

Pub. L. 104-132, §207(c)(2)(D)(i), inserted “or restitution” after “Within ten working days after a fine”.

Subsec. (e). Pub. L. 104-132, §207(c)(2)(E), inserted “or restitution” after “days after a fine” and substituted “the person that the fine or restitution is in default” for “him that the fine is in default”.

Subsec. (f). Pub. L. 104-132, §207(c)(2)(F)(i), which directed amendment of heading by inserting “and restitution” after “on fines”, was executed by inserting the material after “on fines” to reflect the probable intent of Congress.

Subsec. (f)(1). Pub. L. 104-132, §207(c)(2)(F)(ii), inserted “or restitution” after “any fine”.

Subsec. (g). Pub. L. 104-132, §207(c)(2)(G), inserted “or restitution” after “fine” in two places.

Subsec. (i). Pub. L. 104-132, §207(c)(2)(H), inserted “and restitution” after “fines”.

1990—Subsec. (a). Pub. L. 101-647 substituted “604(a)(18)” for “604(a)(17)” wherever appearing.

1988—Subsec. (d). Pub. L. 100-690, §7082(d), struck out “; by certified mail,” after “fine is delinquent”.

Subsec. (e). Pub. L. 100-690, §7082(d), struck out “; by certified mail,” after “the person defaulting”.

Subsec. (h). Pub. L. 100-690, §7082(c), inserted “or any interest or penalty relating to a fine imposed under any prior law” after “under this section”.

1987—Subsec. (a). Pub. L. 100-185, §11(a), substituted “Notification of receipt and related matters” for “Disposition of payment” in heading and amended text generally. Prior to amendment, text read as follows: “The clerk shall forward each fine payment to the United States Treasury and shall notify the Attorney General of its receipt within ten working days.”

Subsec. (b). Pub. L. 100-185, §11(b), substituted “Information to be included in judgment; judgment to be transmitted to Attorney General” for “Certification of imposition” in heading and amended text generally. Prior to amendment, text read as follows: “If a fine exceeding \$100 is imposed, modified, or remitted, the sentencing court shall incorporate in the order imposing, remitting, or modifying such fine, and promptly certify to the Attorney General—

“(1) the name of the person fined;

“(2) his current address;

“(3) the docket number of the case;

“(4) the amount of the fine imposed;

“(5) any installment schedule;

“(6) the nature of any modification or remission of the fine or installment schedule; and

“(7) the amount of the fine that is due and unpaid.”

Subsec. (d). Pub. L. 100-185, §11(c)(1), substituted “section 3572(h)” for “section 3572(i)”.

Subsec. (e). Pub. L. 100-185, §11(c)(2), substituted “section 3572(i)” for “section 3572(j)”.

Subsec. (f). Pub. L. 100-185, §11(d), amended subsec. (f) generally, substituting provisions relating to interest on fines, computation of interest, and modification of interest by court, for provisions relating to interest and monetary penalties for delinquent fines.

Subsecs. (g) to (i). Pub. L. 100-185, §11(e), added subsecs. (g) to (i).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

COLLECTION OF OUTSTANDING FINES

Pub. L. 98-473, title II, §237, Oct. 12, 1984, 98 Stat. 2033, provided that:

“(a)(1) Except as provided in paragraph (2), for each criminal fine for which the unpaid balance exceeds \$100 as of the effective date of this Act [see section 235 of Pub. L. 98-473, as amended, set out as a note under section 3551 of this title], the Attorney General shall, within one hundred and twenty days, notify the person by certified mail of his obligation, within thirty days after notification, to—

“(A) pay the fine in full;

“(B) specify, and demonstrate compliance with, an installment schedule established by a court before enactment of the amendments made by this Act [Oct.

12, 1984], specifying the dates on which designated partial payments will be made; or

“(C) establish with the concurrence of the Attorney General, a new installment schedule of a duration not exceeding two years, except in special circumstances, and specifying the dates on which designated partial payments will be made.

“(2) This subsection shall not apply in cases in which—

“(A) the Attorney General believes the likelihood of collection is remote; or

“(B) criminal fines have been stayed pending appeal.

“(b) The Attorney General shall, within one hundred and eighty days after the effective date of this Act, declare all fines for which this obligation is unfulfilled to be in criminal default, subject to the civil and criminal remedies established by amendments made by this Act [see Short Title note set out under section 3551 of this title]. No interest or monetary penalties shall be charged on any fines subject to this section.

“(c) Not later than one year following the effective date of this Act, the Attorney General shall include in the annual crime report steps taken to implement this Act and the progress achieved in criminal fine collection, including collection data for each judicial district.”

§ 3613. Civil remedies for satisfaction of an unpaid fine

(a) ENFORCEMENT.—The United States may enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal law or State law. Notwithstanding any other Federal law (including section 207 of the Social Security Act), a judgment imposing a fine may be enforced against all property or rights to property of the person fined, except that—

(1) property exempt from levy for taxes pursuant to section 6334(a)(1), (2), (3), (4), (5), (6), (7), (8), (10), and (12) of the Internal Revenue Code of 1986 shall be exempt from enforcement of the judgment under Federal law;

(2) section 3014 of chapter 176 of title 28 shall not apply to enforcement under Federal law; and

(3) the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) shall apply to enforcement of the judgment under Federal law or State law.

(b) TERMINATION OF LIABILITY.—The liability to pay a fine shall terminate the later of 20 years from the entry of judgment or 20 years after the release from imprisonment of the person fined, or upon the death of the individual fined.

(c) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 of this title, or an order of restitution made pursuant to sections¹ 2248, 2259, 2264, 2327, 3663, 3663A, or 3664 of this title, is a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986. The lien arises on the entry of judgment and continues for 20 years or until the liability is satisfied, remitted, set aside, or is terminated under subsection (b).

(d) EFFECT OF FILING NOTICE OF LIEN.—Upon filing of a notice of lien in the manner in which

a notice of tax lien would be filed under section 6323(f)(1) and (2) of the Internal Revenue Code of 1986, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lienor or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid. The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section. The provisions of section 3201(e) of chapter 176 of title 28 shall apply to liens filed as prescribed by this section.

(e) DISCHARGE OF DEBT INAPPLICABLE.—No discharge of debts in a proceeding pursuant to any chapter of title 11, United States Code, shall discharge liability to pay a fine pursuant to this section, and a lien filed as prescribed by this section shall not be voided in a bankruptcy proceeding.

(f) APPLICABILITY TO ORDER OF RESTITUTION.—In accordance with section 3664(m)(1)(A) of this title, all provisions of this section are available to the United States for the enforcement of an order of restitution.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 2005; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-647, title XXXV, §3593, Nov. 29, 1990, 104 Stat. 4931; Pub. L. 104-132, title II, §207(c)(3), Apr. 24, 1996, 110 Stat. 1238.)

REFERENCES IN TEXT

Section 207 of the Social Security Act, referred to in subsec. (a), is classified to section 407 of Title 42, The Public Health and Welfare.

The Internal Revenue Code of 1986, referred to in subsecs. (a)(1), (c), and (d), is classified generally to Title 26, Internal Revenue Code.

PRIOR PROVISIONS

For a prior section 3613, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3601 of this title.

AMENDMENTS

1996—Pub. L. 104-132 amended section generally, re-enacting section catchline without change and substituting, in subsec. (a), provisions relating to enforcement for provisions relating to lien, in subsec. (b), provisions relating to termination of liability for provisions relating to expiration of lien, in subsec. (c), provisions relating to lien for provisions relating to application of other lien provisions, in subsec. (d), provisions relating to effect of filing notice of lien for provisions relating to effect of notice of lien, in subsec. (e), provisions relating to inapplicability of bankruptcy discharges of debt for provisions relating to alternative enforcement, and in subsec. (f), provisions relating to applicability to order of restitution for provisions relating to inapplicability of bankruptcy discharges of debt.

1990—Subsec. (c). Pub. L. 101-647, which directed amendment of “Section 3613(c)” by striking the period

¹ So in original. Probably should be “section”.