

section 2653 of the Deficit Reduction Act of 1984, Pub. L. 98-369, do not apply, see section 5129(d) of Pub. L. 101-508, set out as a note under section 6402 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section applicable with respect to refunds payable under section 6402 of Title 26, Internal Revenue Code, after Dec. 31, 1985, see section 2653(c) of Pub. L. 98-369, as amended, set out as an Effective Date of 1984 Amendment note under section 6402 of Title 26.

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

For provisions that nothing in amendments by section 2653 of Pub. L. 98-369, enacting this section, be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100-203, set out as a note under section 6402 of Title 26, Internal Revenue Code.

§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

(Added Pub. L. 104-134, title III, § 31001(j)(1), Apr. 26, 1996, 110 Stat. 1321-365; amended Pub. L. 106-387, § 1(a) [title VIII, § 845(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-65.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, as amended. Subtitle C of the Act is classified generally to subchapter III (§ 7231 et seq.) of chapter 100 of Title 7, Agriculture. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of Title 7 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-387 inserted “or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)” after “disaster loan”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-387, § 1(a) [title VIII, § 845(c)], Oct. 28, 2000, 114 Stat. 1549, 1549A-65, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] takes effect on the date of enactment of this Act [Oct. 28, 2000].

“(2) TRANSITION LOAN DEFICIENCY PAYMENTS.—If the producers on a farm lost beneficial interest in a crop during the period beginning March 21, 2000, and ending on the day before the date of enactment of this Act and were ineligible for a marketing assistance loan under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) because of section 3720B(a) of title 31, United States Code, as in effect before the amendment made by subsection (a), the producers shall be eligible for any loan deficiency payment under subtitle C of that Act that was available on the date on which the producers lost beneficial interest in the crop.”

PAYMENTS

Pub. L. 106-387, § 1(a) [title VIII, § 845(b)], Oct. 28, 2000, 114 Stat. 1549, 1549A-65, provided that: “Any payment made by the Commodity Credit Corporation to a producer as a result of the amendment made by section (a) [amending this section] shall be credited toward any delinquent debt owed by the producer to the Farm Service Agency.”

§ 3720C. Debt Collection Improvement Account

(a)(1) There is hereby established in the Treasury a special fund to be known as the “Debt Collection Improvement Account” (hereinafter in this section referred to as the “Account”).

(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

(2) Agency transfers to the Account may include collections from—

- (A) salary, administrative, and tax refund offsets;
- (B) the Department of Justice;
- (C) private collection agencies;
- (D) sales of delinquent loans; and
- (E) contracts to locate or recover assets.

(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

- (A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or
- (B) 5 percent of the average annual amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

(2) For purposes of this section, the term “qualified expenses” means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

- (A) account servicing (including cross-servicing under section 3711(g) of this title),
- (B) automatic data processing equipment acquisitions,
- (C) delinquent debt collection,
- (D) measures to minimize delinquent debt,
- (E) sales of delinquent debt,
- (F) asset disposition, and
- (G) training of personnel involved in credit and debt management.

(3)(A) Amounts transferred to the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriations Acts.

(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 104-134, title III, §31001(t)(1), Apr. 26, 1996, 110 Stat. 1321-373.)

REFERENCES IN TEXT

The Congressional Budget Act of 1974, referred to in subsec. (d), is titles I through IX of Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended. Title V of the Act, known as the Federal Credit Reform Act of 1990, is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

§ 3720D. Garnishment

(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

(2) The individual shall be provided written notice, sent by mail to the individual’s last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

- (A) the nature and amount of the debt to be collected;
- (B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and
- (C) an explanation of the rights of the individual under this section.

(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

- (A) the existence or the amount of the debt, and
- (B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5)¹ upon request, but such hearing need not be provided prior to issuance of a garnishment order.

(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(4) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(e)(1) An employer may not discharge from employment, refuse to employ, or take discipli-

¹ So in original. Probably should be subsection “(b)(5)”.