

Other Multiemployer Deadlines

Under the PBGC's regulations governing multiemployer plans, various persons (e.g., the plan sponsor) are subject to deadlines for making filings with the PBGC, issuing notices to persons other than the PBGC, and taking other actions. If the person responsible for meeting the deadline is a Designated Person, and the deadline falls on or after September 11, 2001, and before February 12, 2002, the PBGC will neither assess a penalty under ERISA section 4302 nor take any other enforcement action with respect to any failure to comply with the deadline during the period ending on February 12, 2002.

The PBGC recognizes that persons other than the PBGC may have rights to enforce some of these deadlines. The PBGC expects these persons to act reasonably—fully taking into account the effects of the recent disasters—in deciding whether and to what extent to exercise these rights.

The PBGC will grant other relief where appropriate on a case-by-case basis for deadlines relating to multiemployer plans. See "*Case-by-case relief*" above.

Issued in Washington, DC, this 5th day of October 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510-AA87

Administrative Wage Garnishment

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule makes technical amendments to the regulations issued by the Department of the Treasury concerning implementation of the administrative wage garnishment provisions of the Debt Collection Improvement Act of 1996.

DATES: This rule is effective October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, Debt Management Services, at (202) 874-6660, or Ronda Kent, Senior Attorney, at (202) 874-6680,

Financial Management Service, Department of the Treasury, 401 14th Street SW, Washington, DC 20227. This document is available for downloading from the Financial Management Service web site at the following address: <http://www.fms.treas.gov/debt>.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1998, the Department of the Treasury's Financial Management Service (FMS) issued a final rule (63 FR 25136) concerning implementation of the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358 (Apr. 26, 1996), codified at 31 U.S.C. 3720D. FMS published a technical amendment to the rule on April 28, 1999 (64 FR 22905), which deleted the requirement that Federal agencies issue an administrative wage garnishment order on agency letterhead. The requirement to issue the order on a form prescribed by the Secretary of the Treasury remains unchanged. This rule makes further technical amendments to the regulations concerning administrative wage garnishment, which are codified at 31 CFR 285.11.

Technical Amendments

Section 285.11(b) Scope

In § 285.11(b)(3), the citation to the Federal Claims Collection Standards (FCCS) is updated to reflect the revised FCCS published on November 22, 2000 (65 FR 70390). The revised FCCS are found at 31 CFR parts 900-904.

Section 285.11(c) Definitions

In § 285.11(c), the term "certificate of service" is replaced with the term "evidence of service." Conforming changes are made in §§ 285.11(e)(3) and 285.11(g)(3). Unlike a certificate of service, evidence of service does not need to be in the form of a document signed by an agency official. The purpose of evidence of service is the same as that of the certificate of service, that is, to retain evidence that a document has been sent to the debtor or employer for wage garnishment purposes. Evidence of service may be retained electronically or otherwise, so long as the manner of retention is sufficient for evidentiary purposes.

Section 285.11(g) Wage Garnishment Order

Section 285.11(g)(1) is amended to clarify the time frame within which an agency is required to issue a wage garnishment order after sending notice to the debtor of the agency's intent to do

so. While agencies are encouraged to issue the wage garnishment order within the 30 day time period suggested, nothing in this rule is intended to imply that any wage garnishment order issued after such 30 day period is invalid.

Section 285.11(g)(2) is amended to allow the wage garnishment order to contain either the signature of, or the image of the signature of, the agency official authorized to issue the wage garnishment order. For purposes of this rule, the lack of an original signature on the wage garnishment order does not necessarily prove that the agency did not authorize the wage garnishment order. Evidence of such approval to garnish a debtor's wages may be retained by the agency electronically or otherwise, so long as the manner of retention is sufficient for evidentiary purposes. Employers must comply with a wage garnishment order that contains an original, or image of an original, signature.

Regulatory Analysis

This rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act do not apply.

Special Analysis

FMS is promulgating this final rule without opportunity for prior public comment and without a delayed effective date pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (the "APA"). FMS has determined that a comment period and a delayed effective date are unnecessary because nothing in this rule impacts the rights or obligations of debtors or changes the authorities under which Federal agencies collect debt.

List of Subjects in 31 CFR Part 285

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Authority and Issuance

For the reasons set forth in the preamble, 31 CFR 285.11 is amended as follows:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

1. The authority citation for part 285 continues to read as follows:

Authority: 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3720A, 3720B, 3720D; E.O. 13019; 3 CFR, 1996 Comp., p. 216.

2. Section 285.11 is amended by revising paragraphs (b)(3), (c), (e)(3), and (g) to read as follows:

285.11 Administrative wage garnishment.

* * * * *

(b) Scope.

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(3) Nothing in this section precludes the compromise of a debt or the suspension or termination of collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR parts 900-904.

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(c) Definitions. As used in this section the following definitions shall apply:

Agency means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal Government, including government corporations. For purposes of this section, agency means either the agency that administers the program that gave rise to the debt or the agency that pursues recovery of the debt.

Business day means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

Debt or claim means any amount of money, funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by an individual, including debt administered by a third party as an agent for the Federal Government.

Delinquent nontax debt means any nontax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made. For purposes of this section, the terms "debt" and "claim" are synonymous and refer to delinquent nontax debt.

Debtor means an individual who owes a delinquent nontax debt to the United States.

Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any

amounts required by law to be withheld. For purposes of this section, "amounts required by law to be withheld" include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

Employer means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government.

Evidence of service means information retained by the agency indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom the document is being sent. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

Garnishment means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

Withholding order means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of this section, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

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(e) Notice requirements.

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(3) The agency will retain evidence of service indicating the date of mailing of the notice.

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(g) Wage garnishment order. (1)

Unless the agency receives information that the agency believes justifies a delay or cancellation of the withholding order, the agency should send, by first class mail, a withholding order to the debtor's employer:

- (i) Within 30 days after the debtor fails to make a timely request for a hearing (i.e., within 15 business days after the mailing of the notice described in paragraph (e)(1) of this section), or,
(ii) If a timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the agency to proceed with garnishment, or,
(iii) As soon as reasonably possible thereafter.

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury. The withholding order shall contain the signature of, or the image of the signature of, the head of the agency or

his/her delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and social security number, as well as instructions for withholding and information as to where payments should be sent.

(3) The agency will retain evidence of service indicating the date of mailing of the order.

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Dated: September 28, 2001.

Richard L. Gregg, Commissioner.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4140a; FRL-7079-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NOx RACT Determinations for Eight Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 31, 2001 (66 FR 45933), EPA stated that if it received adverse comment by October 1, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 31, 2001 (66 FR 45954). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814-2108.