



Treasury Financial Manual

Chapter 6200

EXEMPTION OF A CLASS OF FEDERAL PAYMENTS FROM THE TREASURY OFFSET PROGRAM (TOP)

This Treasury Financial Manual (TFM) chapter prescribes the standards and procedures regarding the exemption of classes of payments from centralized administrative offset. This TFM chapter replaces and supersedes the “Standards and Procedures: Exemption of Classes of Federal Payments from the Treasury Offset Program,” which was issued on January 4, 2001, and updated on September 3, 2013. Any payment exemptions previously granted by the Secretary of the Treasury (the Secretary) remain in effect, until or unless expressly revoked.

Section 6210—Background

The Bureau of the Fiscal Service (Fiscal Service), a bureau of the U.S. Department of the Treasury, serves as the primary disbursing office for the federal government. Fiscal Service also operates the Treasury Offset Program (TOP) to collect delinquent federal and state debts by offsetting or levying payments made to delinquent debtors.

Certain federal payments are statutorily exempt from centralized administrative offset. Other payments may be exempted from centralized administrative offset by the Secretary of the Treasury (Secretary) upon the request of the federal agency that issues the payments.

Section 6220—Scope

The provisions of this TFM chapter explain how a federal agency may submit a request to the Secretary for the exemption of a class of payments from centralized administrative offset and prescribes the standards under which the Secretary will evaluate and respond to such requests. This TFM chapter does not apply to any payments made under the Internal Revenue Code of 1986.

Section 6230—Definitions

The following terms are defined for the purposes of this TFM chapter:

Agency or Federal Agency—A department, agency or subagency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the federal government, including government corporations.

Centralized administrative offset—Offset conducted through TOP for the purpose of collecting nontax debts owed to federal agencies and debts owed to states.

Head of the payment agency—The Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of the payment agency, or his or her designee.

Means-tested program—A program for which eligibility is based on a determination that income and/or assets of the beneficiary are inadequate to provide the beneficiary with an adequate standard of living without program assistance. Examples include, but are not limited to, nutritional assistance programs, supplemental security income programs, and temporary assistance to needy families programs.

Payment agency or requesting agency—The federal agency responsible for making a class of payments for which it seeks an exemption.

Secretary—The Secretary of the Treasury or his or her designee. The authority to exempt classes of payments from centralized administrative offset has been delegated to the Commissioner of Fiscal Service.

State—Each of the several states of the United States, the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.

Treasury Offset Program or TOP—The program administered by Fiscal Service through which Fiscal Service and other disbursing officials conduct offsets.

Section 6240—General Rule

Federal payments are subject to offset through TOP unless exempted by federal statute or action of the Secretary.

Section 6250—Statutory Exemptions

There are some federal statutes that protect certain types of payments from creditors. Some of the statutes explicitly prohibit payment offset, either by use of the term “offset” or by reference to 31 U.S.C. § 3716. These types of payments are exempt from offset through TOP.

Other statutes may exempt certain payment from levies, garnishments, and “other legal process.” Because “other legal process” generally refers to a writ of process for the enforcement of a judgment, such statutes do not, on their face, exempt the payments from offset.

The head of the payment agency should notify the Secretary of any statutory exemptions from offset applicable to its payments, so that Fiscal Service and the payment agency can make any necessary adjustments to the payment process to ensure such payments are not offset. This notification should be made to the individual listed in subsection 6270.10 of this TFM chapter.

Section 6260—Exemptions by the Secretary

6260.10—Payments under Means-Tested Programs

When requested by the head of the payment agency, the Secretary will exempt from centralized administrative offset a class of payments made under a means-tested program. The Secretary may exempt classes of payments prospectively, but has no authority to grant retroactive exemptions.

6260.20—Payments under Programs which are Not Means-Tested

When requested by the head of the payment agency, the Secretary may exempt from centralized administrative offset a class of payments made under a program that is not means-tested. The Secretary may exempt classes of payments prospectively but has no authority to grant retroactive exemptions.

In evaluating a request for exemption of a class of payments under a non-means-tested program, the Secretary should consider the following questions.

6260.20a—Is the program purpose clearly articulated, and has the agency demonstrated that offset would tend to interfere substantially with or defeat this purpose?

The purpose of a program may be set forth in the program authorizing statute, accompanying legislative history, or congressional reports and other congressional materials describing an agency's mission. The Secretary will consider whether offset would tend to interfere substantially with or defeat the articulated purpose of the program.

Example: An agency wants a state to build a single bridge. The agency makes a payment to a state so that the bridge can be built; in this case, the bridge might not be built if payment is offset, so exempting the payment from offset may be warranted. If, on the other hand, the state built the bridge and then seeks reimbursement for its costs from the agency, the reimbursement payment would likely not warrant exemption; in this case, the offset of the reimbursement payment would not change the fact that the bridge was already built.

6260.20b—Are the proceeds received from the government earmarked, by statute or regulation, for a specific purpose? If so, has the agency demonstrated that offset would tend to interfere substantially with or defeat the program's purpose because the payment recipient would be unable to use the proceeds for the earmarked purpose?

The Secretary will consider whether payments made under a particular program must be used by the recipient for a specific purpose, and whether offset would tend to interfere substantially with or defeat that purpose.

Example: An agency awards a grant to a state. As specified in statute, the proceeds of the grant must be used solely for the development of a vaccine. If the grant payment is offset for debts unrelated to vaccine development, the offset would violate the terms of the grant. In this case, exemption may be warranted. Contrast this with recipients of federal salary payments who can use the funds for whatever purpose they choose.

6260.20c—Is administrative offset cost-effective?

The Secretary will consider whether the benefits of conducting administrative offset outweigh the costs. In considering this factor, the Secretary will consider the volume and dollar amounts of the payments for which an exemption is sought and, if available, historical offset information.

Example: An agency that does not disburse its payments through Fiscal Service makes a small number of payments each year under a single program. Based on the volume and dollar amount of the payments, it is unlikely that collections that result from offset, even in the long term, will exceed the system development costs necessary to offset the payments. In this case, exemption may be warranted.

6260.20d—Is administrative offset administratively feasible?

The Secretary will consider the administrative feasibility of conducting offsets.

Example: If payments made under a program include both means-tested and non-means tested components within a single payment, and the various components cannot be individually identified without great cost (as compared to what might be collected through offset), exemption may be warranted for both the non-means tested and the means-tested components.

6260.20e—Will administrative offset tend to interfere substantially with or defeat an important national interest?

The Secretary will consider whether offset would tend to interfere substantially with or defeat an important national interest, such as national security, foreign relations, or law enforcement. If so, the Secretary will consider whether that interest outweighs the U.S. Government's interest in collecting delinquent debts with regard to the class of payments at issue.

Section 6270—Submitting Exemption Requests

6270.10—Informal discussions

If a payment agency believes an exemption for a specific class of payments may be warranted, it should contact Fiscal Service to discuss informally the need for an exemption and other options to meet the agency's concerns.

The contact point for these informal discussions is:

Director
Treasury Offset Program Division
Debt Management Services
3201 Pennsy Drive, Bldg E,
Landover, MD 20785
Telephone: 202-874-6810
Fax: 202-874-6474

6270.20—Formal Request for Exemption

6270.20a—Generally

If, after informal discussions with Fiscal Service, a payment agency determines that a formal request for exemption is appropriate, the head of the payment agency may request that the class of payments be exempted from centralized administrative offset. This request must be in writing.

6270.20b—Required Information for All Exemption Requests

The requesting agency must submit information that clearly supports the request for exemption, including each of the following items:

- a narrative statement that clearly identifies the class of payments for which an exemption is requested,
- the specific purpose of the program,
- whether the agency believes the program is means-tested or non-means-tested, and

- citations to the relevant statutes and regulations governing the program.

6270.20c—Required Information for Exemption Requests for Means-Tested Payments

In addition to the information specified in subsection 6270.20b of this TFM chapter, the requesting agency must provide each of the following items:

- a clear indication that the program purpose is to provide an adequate standard of living to program beneficiaries, and
- a description of the beneficiaries of the program and the criteria used in the program to determine if the beneficiaries need program assistance.

6270.20d—Required Information for Exemption Requests for Non-Means-Tested Payments

In addition to the information specified in subsection 6270.20b of this TFM chapter, the requesting agency must provide each of the following items:

- a detailed justification for the exemption pursuant to the any applicable standards set forth in subsection 6260.20 in this TFM chapter, and
- if the request for exemption is justified in whole or in part on the basis that offset is not cost-effective or administratively feasible, the total number and dollar amounts of payments in the class that are estimated to be disbursed on an annual basis in the foreseeable future.

6270.20e—Addressing the Request

The agency must send the request to:

Commissioner
Bureau of the Fiscal Service
U.S. Department of the Treasury
3201 Pennsy Drive, Bldg E
Landover, MD 20785

The agency should send a copy of the request to:

Director
Treasury Offset Program Division
Debt Management Services
3201 Pennsy Drive, Bldg E,
Landover, MD 20785

Section 6280—Request for additional information

If Fiscal Service determines that a request is incomplete or that it needs more information, Fiscal Service will notify the requesting agency that the request is incomplete and describe the specific information that must be submitted to complete the exemption request.

If, after a reasonable period of time, the Secretary has not received this additional information, Fiscal Service will notify the requesting official that the request is considered withdrawn.

Section 6285—Secretary’s Response

The Secretary will provide a written response to the request after submission of a completed request.

In responding to any request for exemption, the Secretary may grant the exemption in whole or in part, or deny the exemption in whole or in part. The Secretary may also suggest alternative actions.

Section 6290—Revoking Exemption

In general, exemptions granted by the Secretary are permanent. However, the Secretary may revoke a previously-granted exemption if the Secretary determines it is appropriate to do so. Fiscal Service will notify the payment agency of any such revocation.

Contacts

Direct inquiries concerning this TFM chapter to:

Department of the Treasury
Bureau of the Fiscal Service
Debt Management Services
3201 Pennsy Drive, Building E
Landover, MD 20785
Telephone: 202-874-6810
Email: debt-tfm@fiscal.treasury.gov