

## REQUESTING A WAIVER

### What is a waiver?

Under 5 U.S.C. 5584, the United States may waive its right to collect the debt you owe if collection would be against equity and good conscience and not in the best interest of the United States. The debt must be the result of an erroneous payment of pay or allowances. A debt may be waived in whole or in part. Collection of your debt generally will not be suspended during the waiver review process.

### May I apply for a waiver and simultaneously request a hearing?

No. By submitting an application for a waiver, you acknowledge that you do not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of your debt. If your waiver application includes arguments concerning the validity or amount of your debt, your application may be denied. In order to contest the validity or amount of your debt, you must file a petition for a hearing on your debt.

### Is there a time limit for filing a waiver application?

Per VA Policy and Procedures for Debt Management Volume XII - Chapter 1B, paragraph C (2) reflects waiver requests must be received within 3 years following the date the debt was discovered.

### Where should the application be submitted?

Submit a written request for waiver of the debt and include a copy of the DFAS debt letter to the VA local payroll Office.

### What are the repayment options while awaiting a waiver decision?

Biweekly deductions will begin after 30 days at 15% of net disposable earnings on a due process debt if employee does not respond to the debt letter within 30 days to pay the debt in full, elect a payment plan or request a waiver. Suspension of collection on the debt may occur if the waiver request and Report of Investigation was received before the debt reaches the 30 days suspense. Waiver requests received after collections have begun cannot be stopped or placed in suspense until the debt is paid in full or a waiver has been approved. DFAS will automatically resume deductions for debts places in a holding status in excess of 6 months without further notification from VA.

### Where Do I Find Additional Information?

See 32 C.F.R. Part 284 for the standards for determining whether a waiver should be granted.

## **REQUESTING A HEARING**

You may request a hearing to contest the validity of your debt or the amount of your debt. If your debt will be collected by involuntary salary offset (other than pursuant to a Voluntary Repayment Agreement), you may also request a hearing to contest the terms of the involuntary salary offset schedule. You may also request a hearing to appeal the denial of a Voluntary Repayment Agreement you propose.

**Where do I file a hearing petition?** Submit a written request for hearing of the debt and include a copy of the DFAS debt letter to your local VA Payroll Office.

**Is a hearing always the first step?** No. General questions about your debt may be answered by your Personnel Office or your Customer Service Representative. If you file a petition for a hearing, the local payroll office will first perform an informal reexamination ("reconsideration") of your pay records to validate the amount of debt you owe. The VA local payroll office will perform the reconsideration and issue written results to you. Reconsideration is an informal review performed to satisfy any doubts you may have regarding the amount or validity of your debt. A reconsideration is not a formal hearing before an hearing official. After reviewing the results of the reconsideration, you may decide not to proceed with the formal hearing process. To continue with a formal hearing, you must notify your local payroll office of your intent within the time limit stated in the written reconsideration results you receive.

**What happens during the hearing process?** If you file a petition for a hearing in a timely manner, a hearing official will make a written determination regarding the validity or the amount of your debt, or will make a ruling on the proposed involuntary repayment schedule. The hearing official will consider any written statements and/or documentary evidence you submit, as well as internal agency debt files. You are entitled to a "Paper Hearing" wherein the hearing official makes a determination based on a review of the documents only, without the parties present. Rarely is an oral hearing granted and only if the VA determines that the matter cannot be resolved by a review of the documents alone. You will receive a written decision within 60 days after filing your petition, unless the hearing official grants a delay. Collection of your debt, and any interest and penalty charges will be suspended until the hearing official issues a written decision.

**Is there a time limit for requesting a hearing?** You must file a petition for a hearing within 30 days from the date of the attached letter (extended to 45 days if OCONUS). Upon receipt of your petition, VA will perform a reconsideration of your debt (as explained above) and if you wish to proceed with a formal hearing, you must notify VA of your intent within the time limit stated in the written reconsideration results you receive. If you requested records related to your debt, you must file a petition for a hearing within 45 days after the date the records are distributed to you. If you petition to appeal the denial of a proposed Voluntary Repayment Agreement, you must submit your petition by the date stated in the denial letter.

**What must be included in a hearing petition?** Your written hearing petition must contain the following information:

- Your name, daytime phone number, email address, mailing address and social security number.
- The reason for your hearing request, presented as follows:
  - 1) To Contest the Validity of Your Debt or the Amount of Your Debt: Provide a statement concerning why you believe the debt (or the amount of the debt) is erroneous. To support your argument, include a written summary of the facts of your case for the hearing official; include the date and manner in which you became aware of any overpayment. Include all documentary evidence you want the hearing official to review (such as Leave and Earning Statements (LES)). Include the written testimony of any witness you wish the hearing official to consider.
  - 2) To Contest the Proposed Schedule for Collection of Your Debt by Involuntary Salary Offset: Provide an alternate payment schedule and a statement explaining your financial status. Provide copies of records to be considered by the hearing official.

**Sign and date your hearing petition and include your Social Security number. Identify your submission as a "HEARING PETITION" and forward to your local VA payroll CSR.**