

TITLE 70: DEPARTMENT OF FINANCE

SUBCHAPTER 70-5.2 DEBT OFFSET REGULATIONS

Part 001	General Provisions	Procedures	
§ 70-5.2-001	Purpose		
§ 70-5.2-005	Authority		
Part 100	Voluntary Offset Procedures		Part 200
§ 70-5.2-101	Voluntary Offset		Involuntary Offset Procedures
			§ 70-5.2-201
			Involuntary Offset Procedures

Subchapter Authority: 4 CMC § 1853.

Subchapter History: Emergency and Proposed 29 Com. Reg. 27492 (Dec. 18, 2007) (effective for 120 days from Dec. 4, 2007);* Adopted 29 Com. Reg. 26471 (Mar. 15, 2007); Proposed 29 Com. Reg. 26422 (Feb. 15, 2007); Emergency and Proposed 27 Com. Reg. 25174 (Nov. 25, 2005) (effective for 120 days from Nov. 23, 2005).

Commission Comment: The Commission created the part titles for this subchapter.

1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department to, among other things, collect, control and disburse funds of the Commonwealth. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

Title 4, division 1 of the Commonwealth Code, 4 CMC §§ 1101-1991, as amended by PL 14-35 (effective Oct. 12, 2004), contains the revenue and taxation laws applicable in the Commonwealth. Pursuant to 4 CMC §§ 1402(e) and 1425, the Secretary of Finance is authorized to promulgate regulations to implement the provisions of these tax laws.

PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division 1, chapter 8 and 4 CMC division 1, chapter 9. PL 14-35 § 4 (§ 2001), codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

PL 14-35 § 1853, 4 CMC § 1853, provides the Secretary of Finance the authority to collect debts owed to Commonwealth agencies through the reduction in the amount of rebate or other over payment of taxes that are payable to a debtor.

* In December, 2007, the Department of Finance (DOF) temporarily repealed Part 100 in its entirety. 29 Com. Reg. 27492 (Dec. 2007). Emergency regulations are effective for 120 days. 1 CMC § 9104(b). As of the current date, a notice of adoption repealing Part 100 in this subchapter and adopting the emergency regulations promulgated by DOF had not been published.

Part 001 **General Provisions**

§ 70-5.2-001 **Purpose**

(a) The purpose of the regulations in this subchapter is to aid the Department of Finance in the fulfillment of the duties assigned by P.L. 14-35, which provides the Secretary with authority to offset debts owed to Commonwealth agencies against any tax

TITLE 70: DEPARTMENT OF FINANCE

rebates and/or overpayments due to the debtor and to provide structure for voluntary canceling of debts between the CNMI and individuals/entities.

(b) The Commonwealth of the Northern Mariana Islands (“CNMI”) is a significant economic enterprise and daily processes numerous payments to vendors and taxpayers and receives significant payments of accounts payable. In order to provide the CNMI with additional flexibility in meeting the requirements of accounts payable and receivable the Department of Finance has developed regulations that permit the offsetting of accounts receivable and payable when an individual/entity has balances in both of these accounts (“offsetting”).

(c) In order to avoid the violation of accounting principles and to ensure tracking of all offsets, the procedures in this subchapter are to be strictly limited to the type of transactions approved in this subchapter and that comply with the requirements stated in this subchapter. There are two types of offset procedures:

- (1) Voluntary; and
- (2) Involuntary.

These procedures are discussed in the sections that follow in this subchapter.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 29 Com. Reg. 26471 (Mar. 15, 2007); Proposed 29 Com. Reg. 26422 (Feb. 15, 2007); Emergency and Proposed 27 Com. Reg. 25174 (Nov. 25, 2005) (effective for 120 days from Nov. 23, 2005).

Commission Comment: The Commission created the title for part 001. The Commission changed “payables when” to “payable when” in the last sentence of subsection (b).

§ 70-5.2-005 Authority

The authority for the adoption and promulgation of the Department of Finance regulations in this subchapter is by virtue of the authority vested in the Secretary of Finance including, but not limited to: 1 CMC § 9104(b); 2 CMC § 2552; 2 CMC § 2557; 4 CMC § 1104; 4 CMC § 1402(d); 4 CMC § 1425; PL 14-35 § 1853 and, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 29 Com. Reg. 26471 (Mar. 15, 2007); Proposed 29 Com. Reg. 26422 (Feb. 15, 2007); Emergency and Proposed 27 Com. Reg. 25174 (Nov. 25, 2005) (effective for 120 days from Nov. 23, 2005).

Commission Comment: The Commission changed “DOF” to the Department of Finance and changed the comma after “limited to” to a colon. The Commission removed the “1” after “1 CMC § 9104(b),” changed “CMC § 2552” to “1 CMC § 2552” and changed “2 CMC § 2557” to “1 CMC § 2557” to correct manifest errors.

The original placed this section at the end of the regulations. The Commission moved this section to part 001 with the other general provisions.

Part 100 Voluntary Offset Procedures

§ 70-5.2-101 Voluntary Offset Procedures

(a) Voluntary offset is used when an individual/entity agrees to allow the Department of Finance to offset accounts payable owed to the individual/entity from the CNMI by accounts receivable owed by the individual/ entity. Voluntary offset can be initiated either by the CNMI or the individual.

(b) Implementation of voluntary offset requires the completion of an approved agreement between the Department of Finance and the affected individual/entity and procedures listed below.

(1) Completion of approved voluntary offset agreement form (“Agreement”);

(2) If the individual/entity has an existing CNMI contract and wishes to offset CNMI liabilities against contract payments, upon proper presentation of payment claim/invoice, a check will be issued by the CNMI on contract funds due to the individual/entity but payable to the CNMI for the amount of the agreed upon offset. Upon issuance, the contract balance will be reduced to reflect disbursement and check amount will be deposited and credited towards payment of individual/entity liability and both the individual and affected agency will be provided receipt of transaction.

History: Emergency and Proposed 29 Com. Reg. 27492 (Dec. 18, 2007) (effective for 120 days from Dec. 4, 2007);* Adopted 29 Com. Reg. 26471 (Mar. 15, 2007); Proposed 29 Com. Reg. 26422 (Feb. 15, 2007); Emergency and Proposed 27 Com. Reg. 25174 (Nov. 25, 2005) (effective for 120 days from Nov. 23, 2005).

Commission Comment: The Commission created the title for part 100. The Commission designated subsections (a) and (b), which were not designated in the original.

* In December, 2007, the Department of Finance (DOF) temporarily repealed Part 100 in its entirety. 29 Com. Reg. 27492 (Dec. 2007) on an emergency basis and proposed to permanently repeal it. Emergency regulations are effective for 120 days. 1 CMC § 9104(b). As of the current date, a notice of adoption repealing Part 100 in this subchapter and adopting the emergency regulations promulgated by DOF had not been published.

Part 200 Involuntary Offset Procedures

§ 70-5.2-201 Involuntary Offset Procedures

Involuntary offset is defined as actions undertaken by the Department of Finance unilaterally, or at the request of another CNMI agency (“agency”), to offset tax overpayment or rebate due to a taxpayer by any accounts receivable or debts owed to the CNMI. The following procedures are to be used in involuntary offset procedures.

(a) Only taxpayer liabilities of CNMI general fund accounts are eligible for participation in the involuntary tax offset program.

(b) Agencies submitting taxpayer liabilities for participation in this program must adopt regulations that conform to due process requirements identified in § 70-5.2-201(c).

TITLE 70: DEPARTMENT OF FINANCE

(c) Claim Collection Procedures

The following procedures shall be followed prior to the issuance of any final agency action which results in the imposition of penalty, fine, assessment of damages, reimbursement, restitution, compensation costs, charges or fees (collectively referred to as “claims”) upon an individual or entity (“debtor”): 1 CMC §§ 9101(a), (h), (o).

- (1) Written notice to the debtor at his/her the last known address of the amount of type and amount of the claim the intention of the agency to collect the claim through all available methods including but not limited to tax offset;
- (2) An opportunity for debtor to inspect and copy the records of the agency related to the claim;
- (3) Provision of a sixty day period from date of notice for the debtor to present evidence that all or part of the claim is not legally enforceable;
- (4) An opportunity for a review within the agency of the decision of the agency related to the claims and any evidence presented by the debtor;
- (5) An opportunity for debtor to enter into payment agreement to satisfy the claim;
- (6) An opportunity for the debtor to request a hearing to dispute the claim.

(d) Debts presented by agencies for inclusion must include certification by appropriate representative that claim collection procedures have been followed.

(e) Upon presentation of required certification to the Department of Finance, the affected taxpayer is to be provided notification by DOF of pending tax offset. Notice will be provided on DOF form and mailed to most recent address information provided by taxpayer to DOF for tax purposes.

(f) In instances where taxpayer has filed a joint return in the most recently filed income tax return, a duplicate notice of pending offset will be sent to the non-debtor spouse. Notice provided to taxpayers and non-debtor spouse will advise that in instances where a joint return is to be affected the offset will be against the whole amount of the joint return overpayment/rebate unless the non-debtor spouse provides acceptable evidence within thirty calendar days of date of receipt of notice establishing that debt is not part of community liability. Determination of debt liability will be at the sole discretion of the Department of Finance and copy of determination will be provided to taxpayer.

(e) At the end of the sixty day period, the agency will make adjustments to debt information to reflect any changes made in accounts receivable due to information provided by taxpayers.

(f) Upon re-certification, listing will be final.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Adopted 29 Com. Reg. 26471 (Mar. 15, 2007); Proposed 29 Com. Reg. 26422 (Feb. 15, 2007); Emergency and Proposed 27 Com. Reg. 25174 (Nov. 25, 2005) (effective for 120 days from Nov. 23, 2005).

TITLE 70: DEPARTMENT OF FINANCE

Commission Comment: The Commission created the title for part 200. The Commission designated subsection (c), which was not designated in the original. The Commission inserted the semi-colons at the end of subsections (c)(3) and (c)(5) and inserted the final period in subsection (c)(6).