

**UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION**



OFFICE OF INSPECTOR GENERAL

**OPPORTUNITIES EXIST TO ENSURE CPSC EMPLOYEES ARE SATISFYING IN
GOOD FAITH THEIR JUST FINANCIAL OBLIGATIONS**

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U.S. CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MD 20814

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Date: September 30, 2014

TO : Elliot F. Kaye, Chairman
Robert S. Adler, Commissioner
Marietta S. Robinson, Commissioner
Ann Marie Buerkle, Commissioner
Joseph P. Mohorovic, Commissioner

FROM : Christopher W. Dentel
Inspector General

SUBJECT : Evaluation of the CPSC's Dealings with Employee Debt

The U.S. Consumer Product Safety Commission (CPSC) Office of Inspector General (OIG) conducted an evaluation of the CPSC's efforts to ensure its employees are, in good faith, satisfying their financial obligations, especially those of Federal, State or local taxes imposed by law. According to the 2011 *Federal Employee/Retiree Delinquency Initiative Report*, prepared by the Internal Revenue Service (IRS), Federal civilian employees owed \$2,976,279 in back taxes. Included in that amount were 20 CPSC civilian employees, who collectively owed \$194,164 in unpaid tax liabilities.

The OIG conducted this evaluation in accordance with the Quality Standards for Inspection and Evaluation established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) in 2011. We reviewed tax withholdings and garnishment activity of the CPSC's employees during the period between October 1, 2012 and December 31, 2013. This included reviews of the respective employee's 2013 Form W-2 *Wage and Tax Statement* information with the related tax withholdings data and the relevant key internal controls. Finally, we assessed the CPSC's compliance with identified applicable laws, regulations, and provisions.

We identified four employees who had no (\$0) federal income taxes withheld, due to claiming an exempt status. These employees had gross annual wages of \$30,456, \$34,075, \$65,393, and \$65,393, respectively. In addition, we identified 15 employees that did have federal taxes withheld, but claimed an excessive amount of exemptions, ranging from 10 to 99, as a means to curtail the amount of taxes withheld and possibly avoid payment of federal taxes.

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We determined that the CPSC Office of Human Resources (EXRM) has not established proper oversight procedures over wage garnishments processed by their service provider, the Interior Business Center (IBC) of the U.S. Department of the Interior (DOI). As a result, they are unable to implement timely corrective/adverse actions on employees whose failure to meet their financial obligations relating to Federal taxes have resulted in involuntary court orders and salary offsets. EXRM's current process to identify involuntary garnishment or unpaid financial obligation by employees does not rely on any sort of "active monitoring" but instead on infrequent background/suitability investigations which are conducted internally once every five years.

We found that EXRM relies exclusively on DOI's IBC to both perform and ensure the completeness and accuracy of the processing of CPSC's garnishments. While IBC provides services over specific aspects of payroll processing, to include debt management for active federal employees, the CPSC still has the legal responsibility to ensure the accuracy and timeliness of these processes. As previously stated, EXRM has not established proper oversight procedures over wage garnishments processed by IBC. Thus, EXRM is unable to ensure garnishments are processed accurately and timely.

Management did not concur with our findings.

Should you have any questions, please contact me at (301) 504-7644.

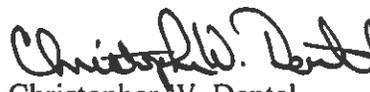

Christopher W. Dentel
Inspector General

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EXECUTIVE SUMMARY

BACKGROUND

The U.S. Consumer Product Safety Commission (CPSC) Office of Inspector General (OIG) conducted an evaluation of the CPSC's efforts to ensure its employees are, in good faith, satisfying their financial obligations, especially those of Federal, State or local taxes imposed by law. According to the 2011 *Federal Employee/Retiree Delinquency Initiative Report*, prepared by the Internal Revenue Service (IRS), Federal civilian employees owed \$2,976,279 in back taxes. Included in that amount were 20 CPSC civilian employees, who collectively owed \$194,164 in unpaid tax liabilities.

The OIG conducted this evaluation in accordance with the Quality Standards for Inspection and Evaluation established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) in 2011. We reviewed tax withholdings and garnishment activity of the CPSC's employees during the period between October 1, 2012 and December 31, 2013. This included reviews of the respective employee's 2013 Form W-2 *Wage and Tax Statement* information with the related tax withholdings data and the relevant key internal controls. Finally, we assessed the CPSC's compliance with identified applicable laws, regulations, and provisions.

RESULTS OF EVALUATION AND FINDINGS

The purpose of our review was twofold: first, to identify instances of potential tax delinquency of the CPSC's employees; and, second, to determine whether the CPSC's relevant internal controls, policies, and procedures established to monitor and manage employee wage garnishments were functioning in a reasonable manner. In summary, our findings include:

1. **Possible Employee Federal Tax Delinquency**

We identified four employees who had no (\$0) federal income taxes withheld, due to claiming an exempt status. These employees had gross annual wages of \$30,456, \$34,075, \$65,393, and \$65,393, respectively. In addition, we identified 15 employees that did have federal taxes withheld, but claimed an excessive amount of exemptions, ranging from 10 to 99, as a means to curtail the amount of taxes withheld and possibly avoid payment of federal taxes.

Employee's use of excessive tax exemptions...
pg. [5](#)

2. **EXRM Could Strengthen the Timeliness of Implementing Adverse Actions**

The CPSC Office of Human Resources (EXRM) has not established proper oversight procedures over wage garnishments processed by their service provider, the Interior Business Center (IBC) of the U.S. Department of the Interior (DOI). As a result, they are unable to implement timely corrective/adverse actions on employees whose failure to meet their financial obligations relating to Federal taxes have resulted in involuntary court orders and salary offsets. EXRM's current process to identify involuntary garnishment or unpaid financial obligation by employees does not rely on any sort of "active monitoring" but instead on infrequent background/suitability investigations which are conducted internally once every five years.

Lack of internal controls over the service provider to implement adverse actions timely...pg. [6](#)

3. **Improved Controls Needed to Ensure Accurate and Timely Withholding Processing**

EXRM relies exclusively on DOI's IBC to both perform and ensure the completeness and accuracy of the processing of CPSC's garnishments. While IBC provides services over specific aspects of payroll processing, to include debt management for active federal employees, the CPSC still has the legal responsibility to ensure the accuracy and timeliness of these processes. As previously stated, EXRM has not established proper oversight procedures over wage garnishments processed by IBC. Thus, EXRM is unable to ensure garnishments are processed accurately and timely.

General lack of internal controls over the service provider...pg. [8](#)

MANAGEMENT'S RESPONSE

Overall, based on the written response provided by management, we have concluded management did not concur with OIG's findings and recommendations. Management asserts that it is ultimately the personal responsibility of each CPSC employee to determine and take the appropriate number of tax exemptions. Management also asserts that appropriate and timely action is taken if an employee is not meeting their just financial obligations, and that wage garnishment reports are appropriately monitored for compliance and accuracy. OIG therefore forwarded the management response to the Office of the Executive Director for facilitation of resolution on this matter.

RESULTS AND FINDINGS

1. Possible Employee Federal Tax Delinquency

Federal tax abuse by Federal employees and contractors has received recent Congressional attention. In 2013, the U.S. House of Representatives rejected a bill that would have established a process for firing federal workers who have “seriously delinquent tax debts” and prevent individuals in that situation from being hired by the Federal government. As noted above, the 2011 IRS *Federal Employee/Retiree Delinquency Initiative* report stated that the CPSC had 20 employees who collectively owed \$194,164 in delinquent federal taxes. Thus, we found it appropriate to conduct a separate review of Federal taxes withheld to identify instances of potential tax delinquency by CPSC employees. This review was conducted based on information regarding employee tax withholdings effective as of the calendar year-end 2013.

We performed the analysis by reviewing the Form W-2 records of 521 CPSC employees for 2013 and identified the following:

- Employees that did not have any federal taxes withheld for calendar year 2013:

Employee	Salary	Amount Fed Tax Withheld YTD
1	\$65,393	\$0
2	\$34,075	\$0
3	\$30,456	\$0
4	\$65,393	\$0

- At the end of calendar year 2013, the following employees claimed an excessive number (over 10) of exemptions, but at least some Federal taxes were withheld:

Employee	Salary	Amount of Fed Tax Withheld YTD	Number of Tax Exemptions
1	\$140,259	\$14,749	99
2	\$129,758	\$14,217	99
3	\$103,872	\$5,314	99
4	\$67,114	\$4,948	99
5	\$60,765	\$1,601	89
6	\$97,936	\$375	50
7	\$94,969	\$4,502	30
8	\$94,969	\$6,437	11
9	\$112,774	\$7,372	10
10	\$61,952	\$4,607	10
11	\$77,368	\$4,297	10
12	\$89,033	\$3,611	10
13	\$68,712	\$1,229	10
14	\$53,350	\$646	10
15	\$59,207	\$389	10

- In addition to having no federal taxes withheld, the following employees (from the first bullet, above) also claimed an excessive number of exemptions:

Employee	Salary	Tax Exemptions	Amount of Fed Tax Withheld YTD
1	\$65,393	15	0\$
2	\$34,075	11	0\$

- The following employees (from the second bullet, above) claimed an excessive number of exemptions, while simultaneously being subject to involuntary wage garnishment during calendar year 2013:

Employee	Salary	Garnishment Type
9	\$112,774	Federal Tax Levy
12	\$89,033	Child Support
14	\$53,350	Federal Tax Levy

Overall, our review revealed relatively few CPSC employees who had no federal taxes withheld and a low number of instances of employees claiming an exaggerated number of tax exemptions for the 2013 calendar year. Failure of a Federal employee to satisfy their just financial obligations violates 5 CFR 2635.101 (b)(12), *Standards of Ethical Conduct for Employees of the Executive Branch*, which mandates federal employees shall satisfy, in good faith, their financial obligations such as Federal, State, or local taxes which are imposed by law. Therefore, we referred all instances of potential tax delinquencies to the CPSC Inspector General for further investigative consideration. Please note, unlike the audit or review process, any investigative determination made by the Office of Inspector General will not result in the publication of a publicly available report or in recommendations being provided to CPSC management as part of this report.

2. EXRM Could Strengthen the Timeliness of Implementing Adverse Actions

The Standard of Ethical Conduct for Employees of the Executive Branch relating to the satisfaction of financial obligations is implemented by 5 CFR 2635.809, which reads, “Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State, or local taxes that are imposed by law. For purposes of this section, a just financial obligation includes any financial obligation acknowledged by the employee or reduced to judgment by a court. In good faith means an honest intention to fulfill any just financial obligation in a timely manner. In the event of a dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt or to collect a debt on the alleged creditor's behalf.”

Per 5 CFR 2635.106, “a violation of this part or of supplemental agency regulations may be cause for appropriate corrective or disciplinary action to be taken under applicable Government wide regulations or agency procedures...[I]t is the responsibility of the employing agency to initiate appropriate disciplinary or corrective action in individual cases.”

However, despite the impression made by a “literal” reading of the provisions cited above, the Merit System Protection Board (MSPB) has determined that agencies may only take disciplinary action against employees for failing to satisfy in good faith their financial obligations that have a relationship or “nexus” to the employees’ employment with the Federal Government. In general, the only such debts for which “nexus” is found by the MSPB relate to an employee’s failure to pay taxes.¹

Thus, the OIG performed a review of employees with involuntary garnishments related to their failure to pay taxes to determine the timeliness of adverse/corrective actions. Specifically, we discovered:

- a) EXRM failed to initiate adverse/corrective action on two (2) employees that have since separated from the CPSC; and,
- b) An employee that is currently under investigation by the OIG for possible criminal violations of the internal revenue code, but EXRM failed to implement adverse/corrective action prior to the pending investigation.

In addition to the above, EXRM does not have procedures in place to monitor the DOI IBC’s processing of involuntary garnishments for CPSC employees. Therefore, EXRM is unable to implement adverse/corrective action in a consistent or timely manner. Currently, EXRM relies on infrequently performed, once per five years of employment, background/suitability investigations conducted on the employee to identify involuntary garnishments and/or unpaid financial obligations. When these investigations result in actionable findings, EXRM follows 5 CFR 752, *Adverse Actions*, as a means of processing administrative or punitive personnel actions. The identified compliance weakness can contribute to non-compliance with the above described Federally mandated policies and provisions.

We recommend:

1. Although the DOI’s IBC is responsible for processing wage garnishments on behalf of the CPSC, we recommend that EXRM work with the IBC to develop and document a process to actively monitor involuntary wage garnishments of CPSC employees. The process should include receiving and retaining all copies of all wage garnishment orders, including garnishments transferred from the Department of the Treasury’s Treasury Offset Program.² This will ensure the CPSC has the opportunity to timely implement corrective actions/adverse actions and comply with CFR 2635.106(b). Also, EXRM

¹ The Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency in the Executive branch. The mission of the MSPB, according to their website, is to "Protect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices."

² The Treasury Offset Program is a centralized offset program, administered by Treasury’s Bureau of the Fiscal Service's Debt Management Services, to collect delinquent debts owed to federal agencies and states (including past-due child support), in accordance with 26 USC § 6402(d) (collection of debts owed to federal agencies), 31 USC § 3720A (reduction of tax refund by amount of the debts), and other applicable laws.

should coordinate with the Office of General Counsel regarding the appropriateness of initiating corrective/adverse actions.

3. Improved Controls are Needed to Ensure Accurate and Timely Withholding Processing

The DOI IBC is responsible for the processing of third party debts on behalf of the CPSC. These debts consist of bankruptcies, child support, alimony withholding orders, commercial garnishments, IRS tax levies, state and local tax levies, Treasury salary offsets, and government credit card debts. The IBC sends a written notification to the employee about the debt type or a change to an existing order or third party debt. The notification includes the pay period that the deduction will begin or change; the amount of the deduction; and, any other pertinent information. On the 15th and 30th of each month the IBC will upload status reports to the Debt Management System, DataMart, for debt activity processed for the previous pay period.

Because EXRM has not developed mechanisms for overseeing the collection efforts performed by the service provider, it appears EXRM is solely relying on the DOI IBC's internal controls over wage garnishment processing. Although, the DOI IBC performs all debt management processing on behalf of the CPSC, it is still ultimately EXRM's responsibility to make sure that all withholdings for CPSC employees are processed in a timely and accurate manner. As noted above, such a weakness in internal controls can and does contribute to non-compliance with Federally-mandated policies and provisions.

We recommend:

2. Although the DOI IBC is responsible for processing wage garnishments on behalf of the CPSC, EXRM is ultimately responsible for the timeliness and accuracy of requested garnishments. We recommend that EXRM work with the IBC to develop and document a process to monitor wage garnishments processed by the IBC. The process should include obtaining and comparing the DataMart-processed garnishments reports to either the employee's court orders or the Treasury Offset Program data file. The review should conclude with evidence of review by signoff from the preparer followed by evidence of a supervisory review.

APPENDIX A: BACKGROUND

The Standards of Ethical Conduct for Employees of the Executive Branch, at 5 CFR 2635.101(b)(12), states that all executive branch employees are responsible for satisfying in good faith their just financial obligations, especially those (such as Federal, State, or local taxes) that are imposed by law. This is derived from section 101(l) of Presidential Executive Order 12674 (as modified by Executive Order 12731), which sets forth the Principles of Ethical Conduct for Government Officers and Employees. This obligations implemented by 5 CFR 2635.809, which reads, “Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State, or local taxes that are imposed by law. For purposes of this section, a just financial obligation includes any financial obligation acknowledged by the employee or reduced to judgment by a court. In good faith means an honest intention to fulfill any just financial obligation in a timely manner. In the event of a dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt or to collect a debt on the alleged creditor's behalf.”

Thus, agencies do not generally have authority to act as collection agents on behalf of an employee’s creditors, nor do agencies have the authority to determine what constitutes a debt “imposed by law.” Such a debt would generally only be an obligation that has been rendered into some final form, such as a final judgment from a tax or claims court.

Despite the impression made by a “literal” reading of the CFR provisions cited above, the Merit System Protection Board (MSPB) has determined that agencies may only take disciplinary action against employees for failing to satisfy in good faith their financial obligations that have a relationship or “nexus” to the employees employment with the Federal Government. In general, the only such debts for which “nexus” is found by the MSPB relate to an employee’s failure to pay taxes.

In response to a steady increase in the amount of delinquent debt owed to the United States, and concern that appropriate actions were not being taken to collect this delinquent debt, Congress passed the Debt Collection Improvement Act (DCIA) of 1996, Pub. L. 104-134. The DCIA authorized both Administrative Wage Garnishment and the Treasury Offset Program as means to satisfy delinquent federal tax and non-tax debt, whereby an employer withholds amounts from an employee’s wages and into a written repayment agreement.

Following receipt of a withholding order, employers are required to certify certain information about the debtor, such as the debtor’s employment status and disposable pay available for withholding. The employer must deduct from all disposable pay to the debtor whichever is the lesser of: (1) the amount indicated on the garnishment order, up to 15 percent of the debtor’s disposable pay; or, (2) the amount by which the debtor’s disposable pay exceeds an amount equivalent to 30 times the minimum wage. If multiple garnishments from various sources are applied to one debtor’s wages, the total garnishments may not exceed 25 percent of the individual’s disposable pay.

The CPSC's EXRM is responsible for the CPSC's payroll operations, which includes the responsibility of processing the receipt of employee wage garnishments. Currently EXRM has a contractual agreement with the Department of the Interior to perform payroll operations, including the processing of wage garnishments.

APPENDIX B: OBJECTIVES, SCOPE & METHODOLOGY

OBJECTIVES

The primary purpose of our evaluation was to determine whether the relevant internal controls, policies, and procedures established to monitor and manage employee wage garnishments were functioning in a reasonable manner. Specifically, this included determining:

1. Whether EXRM developed disciplinary actions and addressed CPSC employees with delinquent tax obligations;
2. Whether outstanding tax and non-tax delinquent debts are being collected timely and properly; and,
3. The CPSC employees who may be delinquent in paying future Federal income taxes due to their taking an excessive number of tax exemptions.

SCOPE

This evaluation covers court orders and Department of the Treasury offsets received as of December 31, 2013. To determine the timeliness and accuracy of collections, we examined transactions from October 2012 to December 2013, during which time the CPSC processed 16 garnishments for employees, resulting in monthly payments of \$72,447.96 in new and modified garnishments. All CPSC employees located at the headquarters and field locations throughout the United States were included in the scope of the evaluation. Our fieldwork took place from December 2013 through March 2014.

METHODOLOGY

We conducted this evaluation in accordance with the Quality Standards for Inspection and Evaluation established by CIGIE. Those standards require that we obtain sufficient data to provide a reasonable basis for reaching conclusions, and also require that we ensure evidence supporting findings, conclusions and recommendations is sufficient, competent, and relevant such that a reasonable person would be able to sustain the findings, conclusions, and recommendations.

To accomplish our evaluation objectives, we obtained an understanding of the wage garnishment processes to include the design, implementation, and operating effectiveness of internal controls, compliance with the CPSC governing policies and procedures, and compliance with applicable Federal laws, regulations, and provisions. To obtain this understanding, we conducted interviews with key EXRM personnel, inspected relevant supporting documentation, and examined data from the DOI, and data from the Department of Treasury.

Based on the procedures performed, we identified key control activities were in place to ensure the collection of withholdings accurately and timely. We also designed the procedures to review specific attributes of the program and to determine compliance with the identified laws, regulations, and provisions governing the program.

To perform our procedures at the transactional level, we obtained a population of garnishments from the Federal Personnel Payroll System (FPPS). To assess the reliability of FPPS's transactional data, we: (1) reviewed related documentation, including an Independent Service Auditors Report on the effectiveness of FPPS's internal controls; (2) interviewed CPSC officials knowledgeable about the data; and, (3) verified the completeness of the population by comparing withholdings to the applicable court case files. Based on this assessment, we determined that the data was sufficiently reliable for purposes of the report.

The FPPS population from the period of October 1, 2012 through December 31, 2013 included a universe of 235 transactions for 16 CPSC employees totaling \$72,447.96. The population included garnishments based on court orders totaling \$57,572.64, as well as those based on the Treasury Offset Program totaling \$14,875.32. For the court-ordered garnishments, we requested the associated employees file, which included the garnishment notification letter, a payroll deduction agreement (for voluntary deductions) and all modifications related to the garnishment. Due to IRS privacy laws, we were unable to obtain the Treasury Offset Files to verify the accuracy of the Treasury Offset Program garnishments.

APPENDIX C: ACRONYMS & ABBREVIATIONS

CFR	Code of Federal Regulations
CIGIE	Council of Inspectors General on Integrity and Efficiency
CPSC	Consumer Product Safety Commission
DCIA	Debt Collection Improvement Act
DOI	Departement of Interior.
EXRM	Office of Human Resources Management
FPPS	Federal Personnel Payroll System
IBC	Interior Business Center
IRS	Internal Revenue Service
OIG	Office of Inspector General

APPENDIX D: MANAGEMENT RESPONSE



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MD 20814

Memorandum

Date: September 15, 2014

TO : Christopher Dentel
Inspector General

FROM : Donna Simpson
Director
Office of Human Resources Management

SUBJECT : Management Response to IG Report on Employee Financial Obligations

The following comprises management's response to your draft report, Opportunities Exist to Ensure CPSC Employees are Satisfying in Good Faith Their Just Financial Obligations.

Evaluations and Findings:

1. Possible Employee Tax Delinquency – Tax elections can be made in Employee Express without EXRM review. Employees are responsible for determining their appropriate number of exemptions according to their own personal circumstances. A worksheet is provided to employees as well as a calculator to assist in determining the appropriate election. If an employee claims an "exempt" status, they need to provide documentation of their entitlement to that election. The only exception to permitting an election is when an employee has a tax garnishment. In that case, a tax exemption election is not permitted in Employee Express nor can it be changed by EXRM.
2. EXRM Could Strengthen the Timeliness of Implementing Adverse Actions – Upon hire and every five years, employees are required to complete a credit check as part of a background investigation. Appropriate action is taken if just financial obligations are not being met by employees.
3. Improved Controls Needed to Ensure Accurate and Timely Withholding Processing – EXRM receives reports from our payroll provider on debts and garnishments for our employees. These reports are monitored to ensure compliance and accuracy.

If you have any additional questions, please contact me on 301-504-7218.