



United States
General Accounting Office
Washington, D.C. 20548

Accounting and Information
Management Division

B-259684

May 17, 1995

Ms. Evelyn M. White
Director of Personnel
Department of Agriculture

Dear Ms. White:

This letter responds to your request for guidance regarding the order of withholding precedence for deductions from federal employees' wages. You noted that Title 6, "Pay, Leave, and Allowances," of GAO's Policy and Procedures Manual for Guidance of Federal Agencies and the Office of Personnel Management (OPM) regulations require a different order of withholding for voluntary contributions to the Thrift Savings Fund, and that Title 6 is silent regarding garnishment of federal wages for commercial debts.

Section 5.3 of Title 6 lists 19 items in the order of withholding precedence from employees' wages, beginning with retirement amounts as the first and ending with the Internal Revenue Service levy for back federal income taxes as the last. However, OPM regulations that establish priority for withholding certain items before other items take precedence over Title 6. OPM's precedence results from the exercise of its authority to regulate garnishments. The laws requiring garnishment for child support and alimony payments¹ and for payment of commercial debts² authorize the President to promulgate regulations for implementation. By Executive Order, the President delegated those authorities to OPM.³ OPM's regulations define voluntary contributions to the Thrift Savings Plan as "normal retirement amounts" which are to be deducted from employees' pay in the same order of

¹Public Law 93-647.

²Public Law 103-94.

³Executive Order 12105, December 19, 1978, as amended by Executive Order 12107, December 28, 1978, and Executive Order 12897, February 3, 1994.

precedence as normal retirement deductions. The regulations also state that garnishment for commercial debts takes priority immediately after garnishment for child support and alimony payments.

Your question on the first item arose as a result of a conflict between Title 6 requirements and OPM's regulations. Title 6 lists voluntary contributions to the Thrift Savings Fund as number 18 in the order of precedence. However, OPM regulations define voluntary contributions to the Thrift Savings Fund as "normal retirement amounts," which are listed as the first item in Title 6.

Your question on the second item arose as a result of section 9 of the Hatch Act Reform Amendments of 1993, Public Law 103-94, which added a requirement that federal agencies comply with garnishment orders for commercial debts. The order of precedence in Title 6 is silent on garnishments for commercial debts since the Hatch Act was passed after the last revision of the Title. However, the recently issued OPM regulations⁴ state that garnishments for commercial debts should be the next item after garnishments for child support and alimony payments.

As noted in section 1.1 of Title 6, the requirements of the Title are to be used in conjunction with related payroll guidance issued by OPM. The purpose of section 5.3 of Title 6 is to offer guidance to agencies when the gross pay of an employee is not sufficient to permit the agency to make all deductions. The section is an order of withholding precedence to advise agencies of the rank of deductions. However, through its regulations, OPM has, in effect, established an order of withholding precedence, thus modifying the earlier GAO-developed precedence. Accordingly, to the extent Title 6 guidance on the order of withholding deductions conflicts with OPM regulations, OPM regulations take precedence. In the near future, we will update selected aspects of Title 6, including section 5.3 on the order of withholding precedence to eliminate any inconsistencies with OPM's regulations.

- - - - -

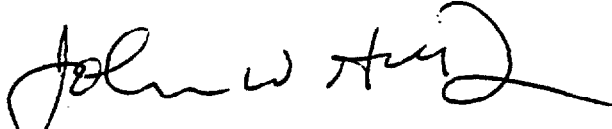
Our position was discussed with Cliff Lee of your staff. If you have any other questions or would like to discuss these

⁴Sections 581 and 582, Title 5, Code of Federal Regulations.

B-259684

matters further, please contact Bruce Michelson, Assistant
Director of my staff at (202) 512-9366.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John W. Hill, Jr.", with a long, sweeping underline.

John W. Hill, Jr.
Director, Financial Management
Policies and Issues

(922214)

3

GAO/AIMD-95-142R Withholding Precedence (USDA)

