

(3) The debtor has requested a waiver or review of the debt.

(b) Based on the current financial condition of the debtor, DOE may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

(1) The applicable statute of limitations has not expired; or

(2) Future collection can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, with due regard to the 10-year limitation for administrative offset prescribed by 31 U.S.C. 3716(e)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(c)(1) DOE shall suspend collection activity during the time required for consideration of the debtor's request for waiver or administrative review of the debt if the statute under which the request is sought prohibits DOE from collecting the debt during that time. As indicated in § 1015.212(h), DOE will continue to accrue interest, penalties, and administrative costs during the period collection activity is suspended.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, DOE may use discretion, on a case-by-case basis, to suspend collection. Further, DOE ordinarily will suspend collection action upon a request for waiver or review if DOE is prohibited by statute or regulation from issuing a refund of amounts collected prior to DOE's consideration of the debtor's request. However, DOE will not suspend collection when DOE determines that the request for waiver or review is frivolous or was made primarily to delay collection.

(d) When DOE learns that a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless DOE can clearly establish that the automatic stay has been lifted or is no longer in effect. DOE will seek legal advice immediately from counsel and, if legally permitted, take the necessary legal steps to ensure that no funds or money is paid by DOE to the debtor until relief from the automatic stay is obtained.

§ 1015.403 Termination of collection activity.

(a) DOE may terminate collection activity when:

(1) DOE is unable to collect any substantial amount through its own efforts or through the efforts of others;

(2) DOE is unable to locate the debtor;

(3) Costs of collection are anticipated to exceed the amount recoverable;

(4) The debt is legally without merit, or enforcement of the debt is barred by any applicable statute of limitations;

(5) The debt cannot be substantiated; or

(6) The debt against the debtor has been discharged in bankruptcy.

(b) Before terminating collection activity, DOE will have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude DOE from retaining a record of the account for purposes of:

(1) Selling the debt, if Treasury determines that such sale is in the best interests of the United States;

(2) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(3) Offsetting against future income or assets not available at the time of termination of collection activity; or

(4) Screening future applicants for prior indebtedness.

(c) Generally, DOE shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. DOE may continue collection activity, however, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy and, under some circumstances, claims also may survive the discharge. For example, if DOE is a known creditor of a debtor, its claims may survive a discharge if DOE did not receive formal notice of the proceedings. DOE will seek legal advice from counsel if it believes it has claims or offsets that may survive the discharge of a debtor.

§ 1015.404 Exception to termination.

When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, DOE may refer debts for litigation even though termination of collection activity may otherwise be appropriate.

§ 1015.405 Discharge of indebtedness; reporting requirements.

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), DOE shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset, tax refund offset, Federal salary offset, referral to Treasury, Treasury-designated debt collection centers or private collection contractors, credit bureau reporting, wage garnishment, litigation, and foreclosure. Discharge of indebtedness is distinct from termination or suspension of collection activity under § 1015.400 of this part and is governed by the Internal Revenue Code. When collection action on a debt is suspended or terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the standards set forth in this subpart. When DOE discharges a debt in full or in part, further collection action is prohibited. Therefore, DOE will make the determination that collection action is no longer warranted before discharging a debt. Before discharging a debt, DOE must terminate debt collection action.

(b) 31 U.S.C. 3711(i) requires DOE to sell a delinquent non-tax debt upon termination of collection action if Treasury determines such a sale is in the best interests of the United States. Since the discharge of a debt precludes any further collection action (including the sale of a delinquent debt), DOE may not discharge a debt until the requirements of 31 U.S.C. 3711(i) have been met.

(c) Upon discharge of an indebtedness, DOE must report the discharge to the IRS in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P-1. DOE may request Treasury or Treasury-designated debt collection centers to file such a discharge report to the IRS on DOE's behalf.

(d) When discharging a debt, DOE must request that litigation counsel release any liens of record securing the debt.

Subpart E—Referrals to the Department of Justice

§ 1010.500 Scope.

This subpart sets forth the standards for referrals to the Department of Justice. This subpart corresponds to 31 CFR part 904 of the Treasury Federal Claims Collection Standards.