

(4) There is significant doubt concerning the Government's ability to prove its case in court.

(b) In determining the debtor's inability to pay, GSA will consider relevant factors such as the following:

- (1) Age and health of the debtor.
- (2) Present and potential income.
- (3) Inheritance prospects.

(4) The possibility that assets have been concealed or improperly transferred by the debtor.

(5) The availability of assets or income that may be realized by enforced collection proceedings.

(c) GSA will verify the debtor's claim of inability to pay by using a credit report and other financial information as provided in paragraph (g) of this section. GSA will consider the applicable exemptions available to the debtor under State and Federal law in determining the Government's ability to enforce collection. GSA also may consider uncertainty as to the price that collateral or other property will bring at a forced sale in determining the Government's ability to enforce collection. A compromise effected under this section will be for an amount that bears a reasonable relation to the amount that can be recovered by enforced collection procedures, with regard to the exemptions available to the debtor and the time that collection will take.

(d) If there is significant doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or because of a bona fide dispute as to the facts, then the amount accepted in compromise of such cases will fairly reflect the probabilities of successful prosecution to judgment, with due regard given to the availability of witnesses and other evidentiary support for the Government's claim. In determining the litigative risks involved, GSA will consider the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412 that may be imposed against the Government if it is unsuccessful in litigation.

(e) GSA may compromise a debt if the cost of collecting the debt does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, with consideration given to the time it will take to effect collection. Collection costs may be a substantial factor in the settlement of small debts. In determining whether the cost of collection justifies enforced collection

of the full amount, GSA will consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcement principle, such as the Government's willingness to pursue aggressively defaulting and uncooperative debtors.

(f) GSA generally will not accept compromises payable in installments. This is not an advantageous form of compromise in terms of time and administrative expense. If, however, payment of a compromise in installments is necessary, GSA will obtain a legally enforceable written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated. Whenever possible, GSA will obtain security for repayment in the manner set forth in § 105-55.015.

(g) To assess the merits of a compromise offer based in whole or in part on the debtor's inability to pay the full amount of a debt within a reasonable time, GSA may obtain a current financial statement from the debtor, executed under penalty of perjury, showing the debtor's assets, liabilities, income and expenses. GSA also may obtain credit reports or other financial information to assess compromise offers. GSA may use their own financial information form or may request suitable forms from the Department of Justice or the local United States Attorney's Office.

§ 105-55.021 Enforcement policy.

Pursuant to this section, the General Services Administration may compromise statutory penalties, forfeitures, or claims established as an aid to enforcement and to compel compliance, if the Agency's enforcement policy in terms of deterrence and securing compliance, present and future, will be adequately served by the Agency's acceptance of the sum to be agreed upon.

§ 105-55.022 Joint and several liability.

(a) When two or more debtors are jointly and severally liable, the General Services Administration (GSA) may pursue collection activity against all debtors, as appropriate. GSA will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible.

(b) GSA will ensure that a compromise agreement with one debtor does not release the Agency's claim against the remaining debtors. The amount of a compromise with one debtor will not be considered a precedent or binding in determining the

amount that will be required from other debtors jointly and severally liable on the claim.

§ 105-55.023 Further review of compromise offers.

If the General Services Administration (GSA) is uncertain whether to accept a firm, written, substantive compromise offer on a debt that is within the Agency's delegated compromise authority, it may refer the offer to the Civil Division or other appropriate litigating division in the Department of Justice (DOJ), using a Claims Collection Litigation Report accompanied by supporting data and particulars concerning the debt. DOJ may act upon such an offer or return it to GSA with instructions or advice.

§ 105-55.024 Consideration of tax consequences to the Government.

In negotiating a compromise, the General Services Administration (GSA) may consider the tax consequences to the Government. In particular, GSA may consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of the debtor. For information on discharge of indebtedness reporting requirements see § 105-55.030.

§ 105-55.025 Mutual releases of the debtor and the Government.

In all appropriate instances, a compromise that is accepted by the General Services Administration may be implemented by means of a mutual release, in which the debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromise amount and the Government and its officials, past and present, are released and discharged from any and all claims and causes of action arising from the same transaction that the debtor may have. In the event a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to the transaction giving rise to the compromised debt.

§ 105-55.026 Suspending or terminating collection activity.

(a) The standards set forth in §§ 105-55.027 and 105-55.028 apply to the suspension or termination of collection activity pursuant to 31 U.S.C. 3711 on debts that do not exceed \$100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. Prior to referring a debt to the