



Treasury Financial Manual

Chapter 5000

COLLECTING DELINQUENT NONTAX DEBT THROUGH THE TREASURY CROSS-SERVICING PROGRAM

This TFM chapter describes how the U.S. Department of the Treasury's Bureau of the Fiscal Service (Fiscal Service) provides delinquent nontax debt collection services through its Cross-Servicing program to federal agencies. It describes:

- Federal agencies' responsibilities to transfer eligible delinquent debts to the Cross-Servicing program for collection action,
- Fiscal Service's responsibilities to provide delinquent debt collection services for federal agencies, and
- Fees charged by Fiscal Service for delinquent debt collection services.

Section 5010—Scope and Applicability

The provisions of this TFM chapter:

- Apply to all federal agencies that are required or authorized to transfer debts to the Cross-Servicing program per 31 U.S.C. § 3711(g), and
- Govern the collection of debts that have been transferred to the Cross-Servicing program per 31 U.S.C. § 3711(g).

This TFM chapter does not apply to Fiscal Service's operation of [Centralized Receivables Service](#) (CRS) nor the Treasury Offset Program (TOP). However, a federal agency complies with the requirement to notify Treasury of a debt for offset pursuant to 31 U.S.C. §§ 3716(c)(6) and 3720A(a) when it: (1) transfers a debt to the Cross-Servicing program at 121 days or less delinquent, and (2) through the agency profile form, authorizes Fiscal Service to refer the debt to TOP for collection through offset of all eligible payments.

Section 5015—Authority

5015.10—Authority to Promulgate Regulations and Service Debts

Fiscal Service is authorized to promulgate regulations and establish guidelines to assist federal agencies in the performance of debt collection activities, including the referral of eligible, nonexempt debts to the Cross-Servicing program. See 31 U.S.C. §§ 3711(g) and 3711 note, and 31 CFR § 285.12.

As Treasury's designated debt collection center pursuant to 31 CFR § 285.12(a), Fiscal Service is responsible for collecting and otherwise servicing transferred debts.

5015.20—Authority to Charge Fees

Fiscal Service is authorized to charge creditor agencies fees to cover up to the full cost of servicing transferred debts, which creditor agencies generally must pass on to debtors as costs of collection. 31 U.S.C. §§ 3711(g)(6), 3717(e). For a further discussion of fees and costs, see Subsection 5040, Fees and Costs.

5015.30—Authority to Collect and Compromise

Fiscal Service provides services through the Cross-Servicing program pursuant to its statutory authorities to service, collect, or compromise transferred debts, or to suspend or terminate collection action thereon. See 31 U.S.C. § 3711(g).

With regard to debts that have been transferred to the Cross-Servicing program, Fiscal Service generally has the same authority available to the head of the creditor agency to compromise transferred debts or collect transferred debts in installments. In addition, the Department of Justice has delegated to Fiscal Service the authority to compromise debts with a principal balance of up to \$500,000. In general, Fiscal Service may accept proposed compromises of debts with a principal balance of over \$500,000 only with the approval of the Department of Justice.

5015.40—Authority to Suspend and/or Terminate Collection Action

Per 31 U.S.C. §§ 3711(g)(1)(B), 3711(g)(4), and 3711(g)(5), and the authority delegated to Fiscal Service by the Department of Justice, Fiscal Service is authorized to suspend and/or terminate collection action on transferred debts with a principal balance of up to \$500,000. Fiscal Service generally may approve the suspension or termination of collection action for debts with a principal balance of over \$500,000, only with the approval of the Department of Justice.

Per subsection 5035.60, Suspend and/or Terminate Collection Action, Fiscal Service may suspend and/or terminate collection action in accordance with applicable federal law, including the Federal Claims Collection Standards (31 CFR Parts 900-904).

Section 5020—Terms and Definitions

The following terms are defined for the purposes of this TFM chapter:

Centralized Receivables Service—The program through which Fiscal Service provides servicing for federal nontax, administrative debt from the point at which a federal agency establishes a debt until the debt is paid, otherwise resolved, or referred to the Cross-Servicing program for further action.

Recall—As set forth in subsection 5030.50d, Recall Transferred Debt, the

notification to Fiscal Service by the creditor agency that Fiscal Service must cease its debt collection efforts for a particular debt and that the responsibilities for servicing, collecting, or compromising the debt, or for suspending or terminating collection action on the debt, have been transferred back to the creditor agency.

Return—As set forth in subsection 5035.50, Return Transferred Debt, the notification by Fiscal Service to the creditor agency that Fiscal Service has ceased collection efforts on behalf of the creditor agency and that the responsibilities for servicing, collecting, or compromising the debt, or for suspending or terminating collection action on the debt, have been transferred back to the creditor agency.

Privacy Act—The Privacy Act of 1974 (5 U.S.C. § 552a), as amended.

Transfer—The referral of the responsibilities for servicing, collecting, or compromising a delinquent debt, or for suspending or terminating collection action on a delinquent debt, from a creditor agency to the Cross-Servicing Program. For accounting and reporting purposes, however, the debt remains on the books and records of the creditor agency. For the purpose of the certification requirement (see Section 5030.20, Certify Debt), the term “transferring debts” includes the transfer to Fiscal Service of any information or documentation related to a debt; any documentation or information related to a debtor; and any updates, changes, corrections, or modifications made to any debt or debtor information previously transferred to Fiscal Service.

The above terms are defined for the purposes of this chapter. For additional terms related to this chapter, please see the [TFM Glossary](#).

Section 5025—Background

The Cross-Servicing program is a Fiscal Service program managed by its Debt Management Services (DMS) area. It provides collection services on delinquent debt owed to federal agencies. It collects debt through various means, including by contacting debtors through demand letters and telephone calls, negotiating payment agreements, referring debts to private collection contractors, referring debts to the Department of Justice for litigation, reporting debts to credit bureaus, initiating administrative wage garnishment, and submitting debts to the Treasury Offset Program (TOP) for offset of federal and state payments.

Section 5030—Creditor Agency Responsibilities

5030.10—Complete an Agency Profile Form

Each creditor agency must identify the programs under which debts arise. For each program, before transferring debts to the Cross-Servicing program, the creditor agency must complete an agency profile form. Creditor agencies may combine programs with the same requirements on one agency profile form. Creditor agencies must transfer debts secured by collateral under a separate agency profile than unsecured debts. Creditor agencies must update this form as

necessary to reflect program changes. Agencies are encouraged to use the electronic version of the form available through the Cross-Servicing system.

In the agency profile form, the creditor agency must:

- Authorize Fiscal Service to use all available collection tools to service the debts, including administrative wage garnishment, compromise, and collection of its debts through installment agreements (for any duration determined by Fiscal Service to be appropriate), except as provided in subsection 5030.30,
- List and describe any statutory or regulatory provisions or policies that uniquely affect its collection activities,
- State whether it anticipates submitting any protected health information (as defined under the Health Insurance Portability and Accountability Act of 1996, as amended, and associated regulations) and, if so, advise of any limitations on re-disclosure,
- If the head of the creditor agency does not have full authority with regard to the compromise of its debts and/or the collection of its debts in installments (or if there is a legal prohibition on the delegation of this authority to Fiscal Service), specify such limitations, including citations to specific legal authorities, and
- Provide any other information requested by Fiscal Service.

5030.20—Certify Debt

To certify its debt meets certain requirements, the creditor agency must execute an annual written agreement with Fiscal Service, which must include a statement that any debt the creditor agency is transferring to Fiscal Service is valid and legally enforceable.

The creditor agency must ensure that any person authorized to transfer debt to the Cross-Servicing program for the creditor agency understands that, by transferring the debt, he or she is making a certification to Fiscal Service under penalty of perjury that, among other things, the debt is valid and legally enforceable. The creditor agency must ensure that only appropriate persons are authorized to transfer debts to the Cross-Servicing program.

5030.30—Comply with Relevant Laws and Authorize Use of All Appropriate Debt Collection Tools

The creditor agency must comply with all relevant statutes and regulations and must advise Fiscal Service of any statutory or regulatory provisions that uniquely affect the creditor agency's debt collection activities.

In the agency profile form, creditor agencies must authorize Fiscal Service to use all collection tools listed in subsection 5040.10, Collect and Compromise Transferred Debt. Alternatively, if after consultation with Fiscal Service, the creditor agency determines that the use of a particular collection tool is not in the best interest of the government or is not legally authorized, then the creditor agency must provide to Fiscal Service a written explanation of its determination. Fiscal Service, in its discretion, will make the final

determination regarding whether the use of a collection tool is not in the best interest of the government, or is not legally authorized. Fiscal Service will inform the creditor agency of its determination.

Creditor agencies should consult with their counsel for assistance with establishing regulations and/or procedures. Creditor agencies must establish regulations and/or procedures with regard to:

- Collection of delinquent debt, generally,
- Collection of delinquent debt through offset of federal nontax payments and state payments (including salary offset) and tax refund offset,
- Reporting delinquent debt to credit bureaus;
- Collection of delinquent debt through administrative wage garnishment,
- Responding to debt disputes and credit bureau disputes;
- Responding to requests for additional information and, if applicable, requests to accept proposed compromise or installment agreements, and
- Collection of delinquent debt through any other debt collection tools for which regulations and/or established procedures are required.

5030.40—Transfer Eligible Debts to the Cross-Servicing Program; Provide Debt and Debtor Information to Fiscal Service

5030.40a—Transfer Eligible Debts

Fiscal Service strongly encourages creditor agencies to transfer all eligible delinquent debts to the Cross-Servicing program as early as legally allowable. Creditor agencies must transfer all nonexempt debts that are more than 120 days delinquent to the Cross-Servicing program and must allow the Cross-Servicing program to refer its debts to TOP (unless a request by the creditor agency not to do so is approved by Fiscal Service, as described below).

If a creditor agency requests that the Cross-Servicing program not refer its debts to TOP and Fiscal Service agrees, the creditor agency must: (1) itself refer debts delinquent 120 days or more directly to TOP, and (2) separately transfer those debts to the Cross-Servicing program by or before the time that they are 180 days delinquent. If an agency refers separately to TOP and Cross-Servicing, the agency must keep the balances in both systems updated appropriately.

Except as otherwise stated in the agency profile form, by transferring a receivable to the Cross-Servicing program, the creditor agency delegates to the Fiscal Service the authority for Fiscal Service to take all appropriate action to collect the debt, including, but not limited to the actions listed in Section 5040.10—Collect and Compromise Transferred Debt.

5030.40b—Prerequisites to Transfer

Before transferring debt to the Cross-Servicing program, the creditor agency must make written demand from the debtor for payment and must provide the debtor with all required due process.

At the time of transfer, the creditor agency must provide Fiscal Service, in the form that Fiscal Service directs, the following information:

- Name of the debtor,
- Address of the debtor,
- Taxpayer identification number, if available,
- Principal balance of the debt and any other components of the debt, including pre-transfer administrative costs and accrued interest and penalties,
- Date on which the debt became delinquent,
- Applicable statute of limitations for pursuing litigation, if available, and
- Any other information Fiscal Service requires to be included in the transfer file.

In addition, at the time of transfer or as soon thereafter as practicable, the creditor agency must provide Fiscal Service with accurate, appropriate information, in the manner that Fiscal Service directs, to facilitate the performance of Fiscal Service's debt collection operations and to support the validity of the debt, including, if applicable:

- Copies of signed promissory notes,
- Copies of citations and/or notifications of fines or penalties,
- Copies of initial demand letters establishing debts,
- Copies of due-process notices, and
- Any other supporting documentation, as appropriate or as may be requested by Fiscal Service.

Unless otherwise agreed to by Fiscal Service, the creditor agency will transfer each debt to the Cross-Servicing program in a separate record (which may be combined in a batch file) and may not aggregate more than one debt into a single record unless the aggregated debts: (i) have the same delinquency date, (ii) bear interest at the same rate, (iii) incur the same penalty charge, and (iv) will be assessed the same administrative costs.

5030.40c—Coordination

After transferring a debt to the Cross-Servicing program, the creditor agency should cease all collection activity and all communication with the debtor with regard to the debt and must refer all inquiries about the debt to Fiscal Service. If the creditor agency determines that communication with the debtor or other parties is necessary, the creditor agency will inform Fiscal Service to ensure that Fiscal Service remains adequately informed of any such communications.

To ensure that the same debt is not transferred to the Cross-Servicing program from more than one agency, the creditor agency will coordinate with any other agencies that have been involved with incurring, establishing or collecting a debt, including the Department of Justice or any agency providing shared services (including salary paying agencies) to the creditor agency.

5030.50—Post-Transfer Responsibilities

5030.50a—Continued Validity and Enforceability of the Debt

The creditor agency remains solely responsible for ensuring the continued validity and enforceability of the debt.

5030.50b—Assist with Responding to Debtors and Defending Litigation; Notify Fiscal Service of Updates about Debt or Debtor

The creditor agency must promptly notify Fiscal Service about any litigation resulting from Fiscal Service's collection efforts or impacting the government's debt collection authorities. The creditor agency also must assist Fiscal Service in defending any litigation, resulting from Fiscal Service's or the agency's collection efforts, including by, upon request, providing supporting documentation, live witnesses, or other litigation support. In addition, with regard to Fiscal Service's efforts to collect debt through affirmative litigation, the creditor agency must, upon request, assist Fiscal Service by providing supporting documentation, live witnesses, and other litigation support.

The creditor agency must reply within 30 business days to any request by Fiscal Service for information regarding a transferred debt or debtor, including requests for:

- Information needed to respond to a dispute (whether received from the debtor or another source),
- Approval of a compromise agreement, if the creditor agency could not delegate full compromise authority to Fiscal Service,
- Information needed to respond to inquiries resulting from the government's collection efforts. Such inquiries may be from Congress, inspectors general, requestors under the Freedom of Information Act (FOIA) or the Privacy Act, or other relevant parties, and
- Any other supporting documentation requested by Fiscal Service.

The creditor agency must provide Fiscal Service with any updated information it receives about a debtor in a timely manner, including:

- Updated addresses,
- Taxpayer identification numbers,
- Responses to disputes, reviews, and/or hearings, if requested by Fiscal Service or as otherwise required by law, and
- Other information needed to collect debts.

5030.50c—Maintain Records

The creditor agency must maintain timely and accurate delinquent debt records, including updated information such as debtor information and debt balances. The creditor agency remains the owner of the debt throughout Fiscal Service's debt collection process.

Per subsection 5035.30, Modify Records, Fiscal Service will, if appropriate, update and/or modify its delinquent debt and debtor records with information obtained from its skip tracing and asset location services. The creditor agency must notify Fiscal Service as soon as it learns that any such updates or modifications to such records are incorrect.

5030.50d—Recall Transferred Debt

The creditor agency must recall a transferred debt immediately if:

- The debtor has filed for bankruptcy and the automatic stay is in effect,
- The debt is not enforceable,
- The debt is not delinquent,
- The debt is not valid,
- The federal agency discovers that it incorrectly certified the debt,
- The federal agency discovers any other reason that would render its certification invalid, or
- The federal agency, after consultation with Fiscal Service, agrees the federal agency should service the debt.

Upon the recall of a debt in accordance with this section or the return of a debt by Fiscal Service in accordance with subsection 5035.50, Return Transferred Debt, the creditor agency must service, collect, or compromise the debt, or must suspend or terminate collection action on the debt. If the creditor agency determines that termination of collection action is authorized and appropriate, it should consider whether offset per 31 U.S.C. § 3716 might still be appropriate.

The creditor agency may transfer previously returned or recalled debts back to the Cross-Servicing program for servicing, if appropriate.

Section 5035—Fiscal Service Responsibilities

5035.10—Collect and Compromise Transferred Debt

Fiscal Service, or its private collection contractor in accordance with Fiscal Service's contract requirements, will take appropriate action to collect and/or compromise transferred debts per applicable statutory and regulatory requirements, and Fiscal Service procedures. Fiscal Service, or its private collection contractor, will take one or more of the following actions unless the creditor agency and Fiscal Service agree that such actions are not legally permitted or otherwise not in the best interest of the government:

- Send demand letters,
- Call the debtor,
- Refer the debt to TOP for all types of offset, including the offset of payments made by States that participate in the State Reciprocal Program, tax refund payments, salary payments, and other federal nontax payments,

- Enter into installment payment agreements,
- Enter into compromise agreements,
- Refer the debt to private collection contractors,
- Report the debt to credit bureaus,
- Gather information about the debtor, including purchasing credit reports to assist in the collection effort and using skip tracing and asset-location services,
- Administratively garnish wages after:
 - Locating the debtor's employer,
 - Sending any required due process notice to the debtor,
 - Issuing the garnishment order to the employer,
 - If requested by or on behalf of the debtor, providing the hearing request to the creditor agency for adjudication or, if agreed to by the creditor agency providing the hearing on the creditor agency's behalf, and
 - Taking necessary steps to enforce the order against the employer including, if necessary, initiating litigation.
- Refer the debt to the Department of Justice for litigation,
- Report compromised debt to the Internal Revenue Service on the appropriate Form 1099-C, and
- Take any additional appropriate steps necessary to service the debt.

5035.20—Maintain and Update Records

Fiscal Service will make available to the creditor agency sufficient information for the creditor agency to update its delinquent debt records, maintain accurate debt balance information, reconcile its debt information, and run status reports on all collection activities. Fiscal Service will provide the creditor agency with a complete accounting of all fees charged (per Section 5040, Fees and Costs) if requested by the creditor agency.

As appropriate, Fiscal Service will provide the creditor agency with access to other relevant information regarding transferred debts.

5035.30—Modify Records

Fiscal Service will, if appropriate, update and/or modify its delinquent debt and debtor records with information obtained from its skip tracing and asset location services. This information may include, among other things, contact information for the debtor (including mailing addresses, physical addresses, phone numbers, and email addresses), alternative debtor names (including alternative spellings, maiden names, married names, nicknames, and other aliases), taxpayer identification numbers, and employer information.

5035.40—Respond to Disputes and Inquiries

Fiscal Service, or its private collection contractor in accordance with Fiscal Service's contract requirements, will respond to all debtor inquiries received

while Fiscal Service is servicing the debt. Fiscal Service will consult with the creditor agency as necessary to receive assistance with its responses.

If a debtor (or someone on the debtor's behalf) disputes the validity or enforceability of a debt, Fiscal Service may, if appropriate, submit such disputes to the creditor agency for resolution. Disputes may be based on assertions that the debt is not owed, that the debt was paid in full, that an automatic stay in bankruptcy precludes collection, that the debt was discharged in bankruptcy, or a variety of other bases.

If the creditor agency determines that it must communicate directly with third parties about a matter while Fiscal Service is servicing the debt (see Section 5030.40c, Coordination) or thereafter, Fiscal Service will provide the information necessary for the creditor agency to respond to inquiries. Such inquiries may be from Congress, inspectors general, requestors under the FOIA or the Privacy Act, or other relevant parties.

Fiscal Service will assist the creditor agency in defending litigation resulting from the government's collection efforts.

5035.50—Return Transferred Debt

Fiscal Service may return a debt to the creditor agency if Fiscal Service determines that one or more of the following factors is met:

- The balance of the debt, as reported to Fiscal Service by the creditor agency, is below \$25.00,
- Fiscal Service has been unable to locate the debtor,
- Fiscal Service has been unsuccessful in its debt collection efforts,
- The creditor agency has requested the debt be returned, and Fiscal Service, in its discretion, believes that return of the debt is appropriate,
- The creditor agency's certification is incomplete, inaccurate, or unreliable, including because:
 - The debtor has filed for bankruptcy and the automatic stay is in effect,
 - The debt is invalid or unenforceable, or
 - Collection is otherwise precluded.
- Facts have changed since the creditor agency certified the debt, and the debt is no longer valid and/or legally enforceable,
- The debtor (if an individual) is deceased,
- The debtor (if an entity) is no longer in business and has dissolved in accordance with applicable law,
- The debtor has a total inability to pay, or
- Fiscal Service otherwise determines that the return of the debt is appropriate.

A return based on a circumstance above is not a final determination by Fiscal Service that such a circumstance exists. The creditor agency must make its own

determination.

5035.60—Suspend and/or Terminate Collection Action

Fiscal Service may suspend or cease collection action on its own initiative, or at the request of the creditor agency, if appropriate.

If appropriate, upon return of a transferred debt with a principal balance of \$500,000 or less, Fiscal Service may recommend termination of collection action. Return of a debt, by itself, does not constitute Fiscal Service's approval to terminate collection action. However, unless otherwise specified, Fiscal Service will be deemed to have recommended termination of collection action on the debt if Fiscal Service returns a debt with a principal balance of \$500,000 or less for any of the following reasons:

- Fiscal Service has been unable to locate the debtor,
- Fiscal Service has been unsuccessful in its debt collection efforts,
- Fiscal Service has discovered that the debtor (if an individual) is deceased, unless a claim may be filed against the decedent's estate, or
- The debtor (if an entity) is no longer in business and has dissolved in accordance with applicable law.

If Fiscal Service returns a debt, the creditor agency is responsible for determining whether it is appropriate to terminate collection action.

If Fiscal Service returns a debt due to the filing of a bankruptcy petition, Fiscal Service will not be deemed to recommend termination of debt collection action. The creditor agency remains responsible for collecting the debt in compliance with applicable bankruptcy rules or suspending or terminating collection action on the debt, if appropriate.

5035.70—Credit Collections to the Creditor Agency

Fiscal Service will credit collections (less the fees charged to the creditor agency, per Section 5040, Fees and Costs) to the appropriate Agency Location Code via the Intra-governmental Payment and Collection System (IPAC).

If Fiscal Service's collection efforts result in a collection of funds greater than the total amount of debt owed by a debtor or result in a collection of funds in violation of the law, the creditor agency is responsible for refunding such erroneous collections, if such a refund is appropriate. If Fiscal Service is aware that an erroneous collection may have occurred, Fiscal Service will notify the creditor agency of the possible erroneous collection.

Section 5040—Fees and Costs

5040.10—Fees Charged to the Federal Entity

5040.10a—Fiscal Service Fees

The creditor agency must pay fees to Fiscal Service. These fees will be for up to the full cost of servicing transferred debts, including, but not limited to, Fiscal Service's internal costs and amounts charged by private collection contractors or the Department of Justice (including private counsel under contract with the Department of Justice).

Fiscal Service will announce its fee structure and fee amounts to creditor agencies prior to implementing any new fees, generally prior to the start of each Fiscal Year. Fees are based on all collections received after the transfer of the debt from the creditor agency to Fiscal Service (and before the debt has been returned to or recalled by the creditor agency), not including collections generated and properly identified by the creditor agency as collections through internal offset.

5040.10b—Refund of Fees

Except as specified below, Fiscal Service will retain its fees from amounts collected on behalf of the creditor agency, regardless of whether the collection on which the fee is based was, or is required to be, returned by the creditor agency to the debtor.

Fiscal Service generally will review and evaluate requests for refunds to the creditor agency fees in consideration of the following:

- Fiscal Service, through no fault of the creditor agency, collected an amount greater than the debt balance and charged fees on such over collections,
- Fiscal Service, through no fault of the creditor agency, collected on a debt after it has been recalled by the creditor agency and charged fees on such collections, or
- On a case-by-case basis, if: (1) the creditor agency's error caused the fee to be charged, (2) the fee charged did not relate to collections generated by Fiscal Service, and (3) Fiscal Service learned of the error within 12 months of charging the fees.

Fiscal Service will make the final determination on requests for refunds of collection fees, based on its sole discretion.

5040.20—Costs Charged to the Debtor

Unless otherwise prohibited or provided for by law, 31 U.S.C. § 3717 (e) requires creditor agencies to charge the debtor for the costs of processing and handling transferred debts, including fees charged by Fiscal Service.

The creditor agency must credit all payments made by a debtor to the debt, including payments for fees charged by Fiscal Service to the creditor agency.

Contacts

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