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# Treasury Financial Manual

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## Chapter 5200

### EXEMPTION OF A CLASS OF DEBT FROM TRANSFER TO THE TREASURY CROSS-SERVICING PROGRAM

This Treasury Financial Manual (TFM) chapter provides the standards that the U.S. Department of the Treasury (Treasury), acting through the Bureau of the Fiscal Service (Fiscal Service), uses to exempt federal agencies from the requirement to transfer a specific class of delinquent debt to Treasury for collection pursuant to 31 U.S.C. § 3711(g).

#### Section 5210—Scope

The provisions of this TFM chapter:

- Apply to all federal agencies seeking an exemption of a class of debts from the mandatory transfer requirement, and
- Supersede all versions of the “Standards and Procedures for Exemption of Classes of Debts from the Requirement of Referral to Treasury under the Debt Collection Improvement Act” previously issued by Treasury.

Any prior decisions to exempt, deny, or withdraw an exemption for a class of debts from mandatory transfer to Treasury remain in effect.

#### Section 5220—Definitions

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

**Agency or Federal Agency**—A department, agency or subagency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the federal government, including government corporations.

**Cross-Servicing Program**—The program through which Fiscal Service provides delinquent debt collection services pursuant to 31 U.S.C. § 3711(g).

**Debt**—Has the same definition as set forth in 31 U.S.C. § 3701(b). Debt includes any amount of money, funds, or property that has been determined by an agency official of the federal government to be owed to the United States by a person. As used in this TFM chapter, debt does not include a debt arising under the Internal Revenue Code of 1986.

**Debt Collection Improvement Act (DCIA)**—The Debt Collection Improvement Act of 1996, Pub. L. 104-

134, 110 Stat. 1321– 358, § 31001 (as amended).

**Head of the agency**—The Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of an agency, or, if appropriately delegated, the Chief Financial Officer or other senior agency official of an equivalent level. For purposes of this section, the head of an agency does not include the head of a subordinate organization within a department or agency.

**Mandatory transfer**—The requirement for federal agencies to transfer debts more than 180 days delinquent to Treasury’s Cross-Servicing Program for collection pursuant to 31 U.S.C. § 3711(g).

**Person**—An individual, corporation, partnership, association, organization, state or local government, or any other type of entity, other than a federal agency.

**Secretary**—The Secretary of the Treasury, or his or her designee. The authority to exempt classes of debts from mandatory transfer has been delegated to the Commissioner of Fiscal Service.

**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.

### **Section 5230—Authority**

The Secretary has authority to grant, deny, and withdraw exemptions for specific classes of debts from the requirement to transfer debts to the Cross-Servicing Program. See 31 U.S.C. § 3711(g)(2)(B). The DCIA also authorizes the Secretary to establish rules, regulations, and procedures for granting exemptions pursuant to 31 U.S.C. § 3711(g)(10).

### **Section 5240—Background**

The DCIA generally requires federal agencies to transfer any debt that is more than 180 days delinquent to the Cross-Servicing Program. There are five specific statutory exemptions from this requirement. These exemptions cover debts that: (1) are in litigation or foreclosure, (2) will be disposed of under an established asset sales program within a specific timeframe, (3) have been referred to a private collection contractor for a period of time determined by Treasury, (4) have been referred by, or with the consent of, the Secretary to a Treasury-designated debt collection center for a period of time determined by the Secretary, or (5) are being collected by the agency through internal offset, if such offset will be sufficient to collect the claim within three years of delinquency. Treasury regulations at 31 CFR 285.12 include, among other things, more specific descriptions of the exemptions described above.

In addition to the five specific exemptions, the DCIA also granted the Secretary authority to exempt, or withdraw the exemption for, any other class of debts from the mandatory transfer requirement. The Secretary may grant such exemptions at the request of a federal agency or upon the Secretary’s own initiative.

### **Section 5250—Standards for Issuance of an Exemption**

#### **5250.10—General Rule**

When analyzing a potential exemption, the Secretary will determine if granting the exemption is in the best

interest of the United States. See 31 CFR 285.12(d)(5). To do so, the Secretary will consider three factors:

- Factor 1: Whether an exemption is the best means to protect the government's financial interest.
- Factor 2: Whether transfer of the class of debts to Treasury would interfere with the program's goals.
- Factor 3: Whether an exemption would be consistent with the purposes of the DCIA.

The Secretary will give appropriate weight to these factors based on the circumstances and the specific exemption at issue. The Secretary may consider other factors in his or her discretion.

#### **5250.20—Factor 1: Best Means to Protect the Government's Financial Interest**

The Secretary will consider whether collections by the government would be greater, costs of collection would be lower, and/or some other type of financial gain would accrue to the government, if the agency does not transfer the applicable class of debts to the Cross-Servicing Program. The Secretary will consider the number, dollar amount, age, and collection rates of the applicable class of debts.

#### **5250.30—Factor 2: Transfer to Treasury Would Interfere with Program Goals**

The Secretary will also consider whether transfer of the applicable class of debts to the Cross-Servicing Program would interfere with the goals of the program under which the debts arose.

#### **5250.40—Factor 3: Exemption is Consistent with the Purposes of the DCIA**

Finally, the Secretary will consider whether the exemption of the class of debts is consistent with the purposes of the DCIA, which are as follows:

- To maximize collections of delinquent debts owed to the government by ensuring quick action to enforce recovery of debts and the use of all appropriate tools.
- To minimize the cost of collection by consolidating related functions and activities and utilizing interagency teams.
- To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among federal agencies.
- To ensure that the public is fully informed of the federal government's debt collection policies, and that debtors are cognizant of their financial obligations to repay amounts owed to the federal government.
- To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and request compromise of claims, and that they also have access to administrative appeals procedures which are both reasonable and protect the interests of the United States.
- To encourage agencies, when appropriate, to sell delinquent debts, particularly debts with underlying collateral.
- To rely on the experience and expertise of private sector professionals to provide debt collection services to federal agencies.

### **Section 5260—Submitting Exemption Requests**

#### **5260.10—Informal Discussions**

If an agency believes an exemption for a specific class of debts may be warranted, it should contact Fiscal Service to discuss informally the need for an exemption and other options to meet the agency's concerns. The contact point for these informal discussions is:

Director  
Receivables Management & Debt Services Division  
Debt Management Services  
Bureau of the Fiscal Service  
Department of the Treasury  
3201 Pennsy Drive, Building E  
Landover, MD 20785  
Telephone 202-874-6810

## **5260.20—Formal Request for Exemption**

### **5260.20a—Generally**

If, after informal discussions with Fiscal Service in accordance with subsection 5260.10, an agency determines that a formal request for exemption is appropriate, the head of the agency may request that the class of debts be exempted from mandatory transfer.

### **5260.20b—Required Information for All Exemption Requests**

The requesting agency must submit a narrative statement that clearly identifies the class of debts for which it is seeking an exemption, and that describes whether and how each of the factors described in Section 5250 apply. The requesting agency must also provide citations to any specific statutes and regulations applicable to the class of debts (e.g., laws that detail program purposes or provide the agency authority to utilize unique debt collection tools).

### **5260.20c—Required Information to Support Factor 1, Best Financial Interest of the Government**

If the requesting agency asserts that an exemption is in the best financial interest of the government, it must, to the extent possible, document the following with regard to the specific class of debts for which the agency is seeking an exemption:

- For each of the last five years, the total number and aggregate dollar amount of: (1) debts in the class (including both current and delinquent debt); (2) all delinquent debt in the class; (3) debts in the class less than or equal to 180 days delinquent; (4) debts in the class more than 180 days delinquent.
- For each of the last five years, annual collection rates for each of the four categories listed above.
- For each of the last five years, annual collection costs for each of the four categories listed above.
- The agency's use of all appropriate tools to collect delinquent debt (including, for example, due process notices, opportunities for review and inspection of records, demand and other letters, phone calls, credit bureau reporting, private collection agencies, litigation, offset, administrative wage garnishment, 1099-C reporting, and implementation of procedures to ensure that delinquent debtors do not receive financial assistance in the form of federal loans or loan guaranties). The description should also describe any unique tools available to the agency to collect the class of debts for which it is requesting an exemption, along with applicable statutory or regulatory citations.

- Any unique characteristics of the debts within the class that would make collection by the Cross-Servicing Program less effective, or which better positions the agency to maximize collections and/or minimize costs.
- A detailed explanation of its debt collection processes. The explanation should outline the steps the agency takes (or will take) in collecting delinquent debt and describe the agency's collection strategy for debts. The strategy should address the timeframes for, and use of, all appropriate debt collection tools.

**5260.20d— Required Information to Support Factor 2, Interference with Program Goals**

If the requesting agency is asserting that the transfer of a class of debts would interfere with program goals, it must provide a written explanation that describes:

- Specific goals to be achieved by the program.
- Adverse impact transfer of debts to the Cross-Servicing Program has (or is expected to have) on the agency meeting its program goals.
- Why the agency cannot sufficiently mitigate any adverse impact that transfer would have.

**5260.20e— Required Information to Support Factor 3, Consistency with DCIA's Purposes**

If the requesting agency is asserting that exemption of the class of debts is consistent with some or all of the purposes of the DCIA, it must provide a written explanation addressing:

- The specific purposes of the DCIA that would be fulfilled by exemption.
- Specific tools and resources that the agency has to collect debts within the class in furtherance of the DCIA's purposes.
- Any other data or information that supports the agency's position that exemption will be consistent with the DCIA.

**5260.20f—Addressing the Request**

The agency should address the request to:

Commissioner  
 Bureau of the Fiscal Service  
 Department of the Treasury  
 3201 Pennsy Drive, Building E  
 Landover, MD 20785

And send the request to:

Director  
 Receivables Management & Debt Services Division  
 Debt Management Services  
 Bureau of the Fiscal Service  
 Department of the Treasury  
 3201 Pennsy Drive, Building E  
 Landover, MD 20785

**5260.20g—Request for Additional Information**

If Fiscal Service determines that a request is incomplete, or that it needs more information, Fiscal Service will promptly notify the requesting agency that the request is incomplete and describe the specific information that must be submitted to complete the exemption request.

If, after a reasonable period of time, the Secretary has not received this additional information or notification from the requesting agency that more time is needed to provide the additional information, Fiscal Service will notify the requesting official that the request is considered withdrawn.

### **5260.30—Response to an Agency Request for Exemption**

The Secretary will provide a written response to the request after submission of a completed request.

In responding to any request for exemption, the Secretary may grant the exemption in whole or in part, or deny the exemption in whole or in part. The Secretary may also suggest alternative actions.

### **Section 5270—Exemptions Initiated by the Secretary**

The Secretary has authority to grant exemptions on his or her own initiative. If the Secretary determines that such an exemption is appropriate, the Secretary will communicate this decision to impacted agencies. Because exempt debts may, but are not required to be, transferred to the Cross-Servicing Program, an agency may still refer its debts to the Cross-Servicing Program even if the Secretary grants such an exemption.

### **Section 5280—Withdrawing Exemption**

In general, exemptions granted by the Secretary are permanent. However, the Secretary may withdraw a previously-granted exemption if the Secretary determines it is appropriate to do so. Fiscal Service will notify the payment agency of any such revocation.

### **Contacts**

Direct inquiries concerning this TFM chapter to:

Department of the Treasury  
Bureau of the Fiscal Service  
Debt Management Services  
3201 Pennsy Drive, Building E  
Landover, MD 20785  
Telephone: 202-874-6810  
Email: [debt-tfm@fiscal.treasury.gov](mailto:debt-tfm@fiscal.treasury.gov)