Chapter 4000

DEBT MANAGEMENT SERVICES COLLECTION OF DELINQUENT NONTAX DEBT

This Treasury Financial Manual (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 for Federal agencies. It describes:

- Federal agencies’ responsibilities to transfer eligible delinquent debts to Fiscal Service 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 4010—Background

Federal agencies are required to aggressively pursue collection action on all debts arising out of their activities. Debts owed to the United States can arise from various Federal Government programs and actions, including loan and loan guarantee programs; overpayments to beneficiaries, Federal employees, or contractors; or penalties and fines owed from violations of law, etc. Each Federal agency should establish and implement effective collection strategies that suit its needs. Collection strategies must meet all statutory and regulatory requirements, and should include use of all authorized and appropriate debt collection tools. One such tool is the referral of nontax debts to Fiscal Service for debt collection services.

The Debt Collection Improvement Act of 1996 (DCIA) generally requires Federal agencies to transfer any nontax debt delinquent 180 days or more to Fiscal Service for debt collection services. After transfer, Fiscal Service must take appropriate action to service, collect, compromise, or suspend or terminate collection action on the debt (commonly referred to as “Cross-Servicing”). The Digital Accountability and Transparency Act of 2014 amended the DCIA to require agencies to notify Fiscal Service of all debts delinquent over 120 days for purposes of administrative offset.

Fiscal Service has been providing delinquent debt collection services to Federal agencies since the enactment of the DCIA in 1996. Before publication of this TFM chapter, Fiscal Service and Federal agencies entered into Letters of Agreement describing their respective roles and responsibilities. This TFM chapter replaces and supersedes all existing Letters of Agreement. To the extent that this TFM chapter changes current processes, Fiscal Service will work with each Federal agency to implement the provisions of this TFM chapter.
Section 4015—Scope

There are two provisions requiring Federal agencies to submit debts to Fiscal Service for collection:

- 31 U.S.C. § 3711(g) requires Federal agencies to transfer any nontax debt delinquent 180 days or more to Fiscal Service for general debt collection services; and

- 31 U.S.C. § 3716(c)(6) requires Federal agencies to notify Fiscal Service of all nontax debts delinquent over 120 days for purposes of administrative offset.

The provisions of this TFM chapter:

- Apply to all Federal agencies that are required or authorized to transfer debts to Fiscal Service per 31 U.S.C. § 3711(g); and

- Govern the collection of debts required to be, or that have been, transferred to Fiscal Service per 31 U.S.C. § 3711(g).

When a Federal agency refers a debt to Fiscal Service pursuant to 31 U.S.C. § 3711(g) at 120 days or less delinquent, and authorizes Fiscal Service in the agency’s profile form to submit the debt to the Treasury Offset Program, the agency will also be in compliance with the requirement to notify Treasury of the debt for administrative offset purposes at or prior to 120 days delinquent.

Section 4020—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.

Agency Profile Form—The document(s) the creditor agency completes to provide information to Fiscal Service about the creditor agency’s debt collection program, including, among other things, relevant statutory and regulatory authorities, general descriptions of each type of debt arising out of the creditor agency’s operations, and contact information for the creditor agency’s personnel who are available to assist Fiscal Service with questions related to the transferred debt. The agency profile form is a document that Fiscal Service sends to Federal agencies for completion.

Creditor Agency—Any Federal agency that is owed a delinquent nontax debt.

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.

Debtor—A person who owes a debt to the United States.

Eligible Debt—A debt that is valid, legally enforceable, and has no legal bars to collection.

Internal Offset—Withholding of funds payable to the debtor by the creditor agency to satisfy a debt owed
by the debtor to the creditor agency.

**Nonexempt Debt**—An eligible debt that has been delinquent for 180 days. Nonexempt debts do not include debts that, as further set forth by 31 CFR § 285.12(d), are in litigation, foreclosure, or forbearance; are being collected by internal offset; or, have been scheduled for sale.

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

**Recall**—As set forth in subsection 4035.60, Recall and Return 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 4040.50, 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.


**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 the creditor agency to Fiscal Service. For accounting and reporting purposes, however, the debt remains on the books and records of the creditor agency.

**Section 4025—General Rule**

Creditor agencies must transfer all nonexempt debts that are delinquent 180 days or more to Fiscal Service for debt collection services. However, if an agency relies on Fiscal Service to submit its debts for administrative offset on the agency’s behalf, the agency must transfer the debts to Fiscal Service no later than 120 days delinquent. Fiscal Service strongly encourages creditor agencies to transfer all eligible delinquent debts to Fiscal Service for debt collection services as early as possible without waiting for the debt to be 120 days delinquent. Fiscal Service provides delinquent debt collection services to creditor agencies in compliance with applicable law. Creditor agencies are strongly encouraged to use all available debt collection tools.

**Section 4030—Authority**

**4030.10—Fiscal Service Authority to Service Debts and Promulgate Regulations**

This TFM chapter is issued under the authority of Section 31001(m)(1) of the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-358 (1996), codified at 31 U.S.C. § 3711(g), and
corresponding regulations codified at 31 CFR § 285.12. Fiscal Service, as a designated debt collection center, is responsible for collecting and otherwise servicing transferred debts. Fiscal Service is also responsible for promulgating regulations governing the roles and responsibilities of Fiscal Service and creditor agencies regarding the collection of delinquent Federal nontax debt.

4030.20—Fiscal Service Authority to Charge Fees

Per 31 U.S.C. § 3711(g)(6), Fiscal Service is authorized to charge fees to creditor agencies to cover the costs of servicing transferred debts. Per 31 U.S.C. § 3717(e), creditor agencies are generally required to charge debtors for the costs of collection, including the fees charged by Fiscal Service for the servicing of such debts. For a further discussion of fees and costs, see Section 4045, Fees and Costs.

4030.30—Fiscal Service Authority to Compromise Debts and/or Collect Debts in Installments

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 take appropriate action to collect or compromise transferred debts. With regard to debts that have been transferred to Fiscal Service for debt collection services, Fiscal Service 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. 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.

Fiscal Service may collect and/or compromise debts in accordance with applicable Federal law, including the Federal Claims Collection Standards (31 CFR Parts 900-904). Prior to transferring debts, the creditor agency must provide to Fiscal Service a detailed description of any agency or debt-specific laws, policies, and procedures that govern the compromise and/or collection of its debts. See subsection 4035.10, Complete an Agency Profile Form.

4030.40—Fiscal Service 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 terminate collection action on transferred debts with a principal balance of up to $500,000. Fiscal Service may approve the 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 4035.20, Certify Debt, when a creditor agency transfers a debt to Fiscal Service, the creditor agency certifies that the debt is valid, legally enforceable, and that all requisite due process has been completed. Fiscal Service may, but is not obligated to, suspend collection activity if Fiscal Service determines that the creditor agency’s certification is incomplete, inaccurate, or unreliable, or if Fiscal Service determines that facts have changed since the creditor agency certified the debt and the debt is no longer valid and/or legally enforceable. In addition, 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 4035—Creditor Agency Responsibilities
4035.10—Complete an Agency Profile Form

Each creditor agency must identify the programs for which Fiscal Service’s debt collection services are required or desirable. For each such program, before transferring debts to Fiscal Service, 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 update this form as necessary to reflect program changes. The agency profile form must be in the medium or media that Fiscal Service directs.

The creditor agency must, in the agency profile form, advise Fiscal Service of any statutory or regulatory provisions that uniquely affect its collection activities. The creditor agency should also describe any relevant policies it has with regard to the collection of its transferred debts.

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), the creditor agency must fully describe such limitations in the agency profile form, including citations to specific legal authorities. The creditor agency also must describe thoroughly the specialized process through which these debts can be compromised and/or collected in installments, including the relevant factors that would be considered through this specialized process. For these debts, the creditor agency must approve or disapprove any compromise agreements proposed by Fiscal Service within 10 business days of such a request, or within such other time period as allowed by Fiscal Service.

4035.20—Certify Debt

The creditor agency must execute an annual written agreement with Fiscal Service certifying, among other things, that, at the time of the transfer of any debts:

- The debts are delinquent;
- The debts are valid;
- The debts are legally enforceable in the amount stated;
- There are no legal bars to collection; and
- The creditor agency has completed all requisite due process.

For the purpose of this certification requirement, 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 debts or debtor information previously transferred to Fiscal Service.

The creditor agency must ensure that any person authorized to transfer a debt to Fiscal Service for the creditor agency understands that, by transferring the debt, he or she is making a certification to Fiscal Service under penalty of perjury. The creditor agency must ensure that only appropriate persons are authorized to transfer debts to Fiscal Service.

4035.30—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 4040.10, Collect and Compromise Transferred Debt, or provide a specific explanation of why a collection tool is not legally authorized. Alternatively, if, in 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, 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.

Creditor agencies must establish regulations and/or procedures with regard to:

- Collection of delinquent debt, generally;
- Collection of delinquent debt through administrative offset (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.

Creditor agencies should consult with their counsel for assistance with establishing regulations and/or procedures.

4035.40—Transfer Eligible Debts to Fiscal Service; Provide Debt and Debtor Information to Fiscal Service

Creditor agencies must transfer all nonexempt debts that are delinquent 180 days or more to Fiscal Service for debt collection services, and are strongly encouraged to transfer all eligible debts sooner. If an agency relies on Fiscal Service to submit its debts for administrative offset, however, the agency must transfer those debts to Fiscal Service once they are over 120 days delinquent. After transfer, the creditor agency should cease all collection activity and communication with the debtor and must refer all inquiries from the debtor to Fiscal Service. The creditor agency remains solely responsible at all times for ensuring the continued validity and enforceability of the debt.

Before transferring a debt to Fiscal Service, the creditor agency must make written demand on 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 medium or media that Fiscal Service directs, the following information:

- Name of the debtor;
Address of the debtor, if available;

Taxpayer identification number, if available;

Principal balance of the debt;

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 medium or media 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.

The creditor agency must, at the time of transfer and from time to time as it receives updated information, provide Fiscal Service with information about a debtor, in a timely manner, including:

- Updated addresses;
- Taxpayer identification numbers; and
- Other information needed to collect debts.

The creditor agency must reply within 10 business days to any request by Fiscal Service for information regarding a transferred debt or debtor, including requests for:

- Relevant documentation or accounting records.
- 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 or the Privacy Act, or other relevant parties; and
- Information needed to respond to a dispute (whether received from the debtor or another source).

The creditor agency must promptly conduct all required reviews and hearings or must authorize Fiscal Service to do so on its behalf pursuant to a written agreement.
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 litigation, resulting from Fiscal Service’s collection efforts. In addition, with regard to Fiscal Service’s efforts to collect debt through litigation, the creditor agency must, upon request, assist Fiscal Service by providing supporting documentation, live witnesses, and other litigation support.

4035.50—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 the debt collection process.

Per subsection 4040.30, Modify Records, Fiscal Service will, if appropriate, update and/or modify its delinquent debt and debtor records with information obtained from its skiptracing 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.

4035.60—Recall and Return Transferred Debt

The creditor agency must recall a transferred debt 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 or has been paid in full;
- The creditor agency discovers that it incorrectly certified the debt; or
- The creditor agency discovers any other reason that would render its certification invalid.

Upon the recall of a debt in accordance with this section or the return of a debt by Fiscal Service in accordance with subsection 4040.50, 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 administrative offset per 31 U.S.C. § 3716 might still be appropriate.

The creditor agency may transfer previously returned or recalled debts back to Fiscal Service for servicing, if appropriate.

Section 4040—Fiscal Service Responsibilities

4040.10—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. Fiscal Service, or its private collection contractor, will take one or more of the following actions, if authorized by the creditor agency in the agency profile form, as Fiscal Service deems
appropriate:

- Send demand letters;
- Call the debtor;
- Refer the debt to TOP;
- Enter into repayment 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 skiptracing 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, 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, if instructed to do so by the creditor agency; and
- Take any additional steps necessary to enforce recovery.

4040.20—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 4045, 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.

4040.30—Modify Records
Fiscal Service will, if appropriate, update and/or modify its delinquent debt and debtor records with information obtained from its skiptracing 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.

**4040.40—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 during the time period that Fiscal Service is servicing the debt. As necessary, Fiscal Service will consult with the creditor agency to assist 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 repaid, that the automatic stay in bankruptcy precludes collection, that the debt was discharged in bankruptcy, or a variety of other bases.

Fiscal Service will provide the information necessary for the creditor agency 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 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.

**4040.50—Return Transferred Debt**

Fiscal Service may, but is not required to, 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 $0;
- 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 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, or
  - The debt is invalid or unenforceable;
- 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 an inability to pay; or

- Fiscal Service determines that return 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 the final determination about whether the circumstance exists.

**4040.60—Suspend and/or Terminate Collection Action**

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

If appropriate, upon return of a transferred debt with a principal balance of up to $500,000, Fiscal Service may approve the 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, if Fiscal Service returns a debt with a principal balance of up to $500,000 for any of the following reasons, Fiscal Service will be deemed to have granted its approval to terminate collection action:

- 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.

The creditor agency is responsible for determining whether it is appropriate to terminate collection action.

**4040.70—Credit Collections to the Creditor Agency**

Fiscal Service will credit collections (less the fees charged to the creditor agency, per Section 4045, 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 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 4045—Fees and Costs**

**4045.10—Fees Charged to the Creditor Agency**

**4045.10a—Fiscal Service Fees**
The creditor agency must pay fees to Fiscal Service. The fees are set forth in the Debt Management Services Fee Schedule, which Fiscal Service will make available to creditor agencies. 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), other than collections generated by the creditor agency through internal offset.

### 4045.10b—Other Fees

In addition to the fees described in subsection 4045.10a, Fiscal Service Fees, the creditor agency must pay other fees and charges due to Fiscal Service for debt collection-related costs, including fees charged by private collection contractors, the Department of Justice, or the Internal Revenue Service. These fees are set forth in the Debt Management Services Fee Schedule.

### 4045.10c—Refund of Fees

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.

Notwithstanding, Fiscal Service will refund to the creditor agency any fees (if such fees are more than $10):

- If Fiscal Service, through no fault of the creditor agency, collects an amount greater than the debt balance and charged fees on such overcollections; or
- If Fiscal Service erroneously charged the creditor agency a fee, regardless of whether Fiscal Service or the creditor agency caused the error.

### 4045.20—Costs Charged to the Debtor

Unless prohibited or otherwise provided for by law, the creditor agency, pursuant to 31 U.S.C. § 3717, must charge the debtor for the costs of processing and handling the transferred debts, including any fees the creditor agency is charged by Fiscal Service.

The creditor agency must credit each debt with all payments made by a debtor on account of a debt, including payments for fees paid by the creditor agency to Fiscal Service.

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