

the debtor. For information on discharge of indebtedness reporting requirements see § 30.32.

§ 30.27 Mutual release of the debtor and the Government.

In all appropriate instances, a compromise that is accepted by the Secretary will be implemented by means of a mutual release. The terms of such mutual release shall provide that 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.

Subpart D—Suspending and Terminating Collection Activities

§ 30.28 Scope and application.

(a) *Scope.* The standards set forth in this subpart 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 Justice for litigation, the Secretary may suspend or terminate collection under this subpart with respect to debts arising out of activities of, or referred or transferred for collection services to, the Department.

(b) *Application.* (1) If, after deducting the amount of partial payments or collections, the principal amount of the debt exceeds \$100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with Justice.

(2) If the Secretary believes that suspension or termination of any debt in excess of \$100,000 may be appropriate, the Secretary shall refer the debt to the Civil Division or other appropriate litigating division in Justice, using the CCLR. The referral will specify the reasons for the Secretary's recommendation. If, prior to referral to Justice, the Secretary determines that a debt is plainly erroneous or clearly without merit, the Secretary may terminate collection activity regardless of the amount involved without obtaining Justice concurrence.

§ 30.29 Suspension of collection activity.

(a) *Generally.* The Secretary may suspend collection activity on a debt when:

- (1) The Department cannot locate the debtor;
- (2) The debtor's financial condition is expected to improve; or
- (3) The debtor has requested a waiver or review of the debt.

(b) *Financial condition.* Based on the current financial condition of a debtor, the Secretary 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;
- (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) *Waiver or review.* (1) The Secretary 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 the Secretary from collecting the debt during that time.

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

(d) *Bankruptcy*. Upon learning that a bankruptcy petition has been filed with respect to a debtor, in most cases the Secretary must suspend collection activity on the debt, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless the Secretary can clearly establish that the automatic stay has been lifted or is no longer in effect. The Office of the General Counsel should be contacted immediately for legal advice, and the Secretary will take the necessary legal steps to ensure that no funds or money are paid by the Department to the debtor until relief from the automatic stay is obtained.

§ 30.30 Termination of collection activity.

(a) The Secretary may terminate collection activity when:

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

(2) The Department 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)(1) Collection activity will not be terminated before the Secretary has pursued all appropriate means of collection and determined, based upon the

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results of the collection activity, that the debt is uncollectible.

(2) Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude the Secretary from retaining a record of the account for purposes of:

(i) Selling the debt, if the Secretary of the Treasury determines that such sale is in the best interest of the United States;

(ii) 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;

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

(iv) Screening future applicants for prior indebtedness.

(c) Generally, the Secretary shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. The Secretary 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, when the Department is a known creditor of a debtor the claims of the Department may survive a discharge if the Department did not receive formal notice of the bankruptcy proceedings. When the Department believes that it has claims or offsets that may have survived the discharge of the debtor, the Office of the General Counsel should be contacted for legal advice.

§ 30.31 Exception to termination.

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

§ 30.32 Discharge of indebtedness; reporting requirements.

(a)(1) Before discharging a delinquent debt, also referred to as close out of the

debt, the Secretary shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g)(9), and parts 30 through 33 of this chapter, including, as applicable, administrative offset; tax refund offset; Federal salary offset; credit bureau reporting; administrative wage garnishment; litigation; foreclosure; and referral to Treasury, Treasury-designated debt collection centers, or private collection contractors.

(2) Discharge of indebtedness is distinct from termination or suspension of collection activity under this subpart, 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 part and 31 CFR parts 900 through 904.

(3) When the Department discharges a debt in full or in part, further collection action is prohibited. Therefore, before discharging a debt, the Secretary must:

(i) Make the determination that collection action is no longer warranted; and

(ii) Terminate debt collection action.

(b) In accordance with 31 U.S.C. 3711(i), the Secretary shall use competitive procedures to sell a delinquent debt upon termination of collection action if the Secretary of the 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, the Secretary may not discharge a debt until the requirements of 31 U.S.C. 3711(i) have been met.

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

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

Subpart E—Referrals to the Department of Justice

§ 30.33 Prompt referral.

(a)(1) The Secretary promptly shall refer to Justice for litigation debts on which aggressive collection activity has been taken in accordance with subpart B of this part, and that cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with subpart D of this part.

(2) The Secretary may refer to Justice for litigation those debts arising out of activities of, or referred or transferred for collection services to, the Department.

(b)(1) Debts for which the principal amount is over \$1,000,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs shall be referred to the Civil Division or other division responsible for litigating such debts at the Department of Justice, Washington DC.

(2) Debts for which the principal amount is \$1,000,000 or less, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs shall be referred to the Nationwide Central Intake Facility at Justice as required by the CCLR instructions.

(c)(1) Consistent with aggressive agency collection activity and the standards contained in this part and 31 CFR parts 900 through 904, debts shall be referred to Justice as early as possible, and, in any event, well within the period for initiating timely lawsuits against the debtors.

(2) The Secretary shall make every effort to refer delinquent debts to Justice for litigation within one year of the date such debts last became delinquent. In the case of guaranteed or insured loans, the Secretary will make every effort to refer these delinquent debts to Justice for litigation within one year from the date the loan was presented to the Department for payment or re-insurance.

(d) Justice has exclusive jurisdiction over debts referred to it pursuant to this subpart. Upon referral of a debt to Justice, the Secretary shall: