

§5.6

www.treas.gov/regs. Legal counsel approval is not required to waive such charges. Cf., §§5.7 and 5.8 of this part, which require legal counsel approval when compromising a debt or terminating debt collection activity on a debt.

(c) *Accrual during suspension of debt collection*. In most cases, interest, penalties and administrative costs will continue to accrue during any period when collection has been suspended for any reason (for example, when the debtor has requested a hearing). Treasury entities may suspend accrual of any or all of these charges when accrual would be against equity and good conscience or not in the Treasury entity's best interest, in accordance with Treasury guidelines for waiving claims against Treasury employees for erroneous overpayments. See Treasury Directive 34-01 (Waiving Claims Against Treasury Employees for Erroneous Payments), set forth at Appendix A of this part and *http://www.treas.gov/regs*.

§5.6 When will Treasury entities allow a debtor to pay a Treasury debt in installments instead of one lump sum?

If a debtor is financially unable to pay the debt in one lump sum, a Treasury entity may accept payment of a Treasury debt in regular installments, in accordance with the provisions of 31 CFR 901.8 and the Treasury entity's policies and procedures.

§5.7 When will Treasury entities compromise a Treasury debt?

If a Treasury entity cannot collect the full amount of a Treasury debt, the Treasury entity may compromise the debt in accordance with the provisions of 31 CFR part 902 and the Treasury entity's policies and procedures. Legal counsel approval to compromise a Treasury debt is required as described in Treasury Directive 34-02 (Credit Management and Debt Collection), which may be found at *http://www.treas.gov/regs*.

§5.8 When will Treasury entities suspend or terminate debt collection on a Treasury debt?

If, after pursuing all appropriate means of collection, a Treasury entity determines that a Treasury debt is

31 CFR Subtitle A (7-1-12 Edition)

uncollectible, the Treasury entity may suspend or terminate debt collection activity in accordance with the provisions of 31 CFR part 903 and the Treasury entity's policies and procedures. Legal counsel approval to terminate debt collection activity is required as described in Treasury Directive 34-02 (Credit Management and Debt Collection), which may be found at *http://www.treas.gov/regs*.

§5.9 When will Treasury entities transfer a Treasury debt to the Treasury Department's Financial Management Service for collection?

(a) Treasury entities will transfer any eligible debt that is more than 180 days delinquent to the Financial Management Service for debt collection services, a process known as "cross-servicing." See 31 U.S.C. 3711(g) and 31 CFR 285.12. Treasury entities may transfer debts delinquent 180 days or less to the Financial Management Service in accordance with the procedures described in 31 CFR 285.12. The Financial Management Service takes appropriate action to collect or compromise the transferred debt, or to suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and the collection action to be taken. See 31 CFR 285.12(b)(2). Appropriate action includes, but is not limited to, contact with the debtor, referral of the debt to the Treasury Offset Program, private collection agencies or the Department of Justice, reporting of the debt to credit bureaus, and administrative wage garnishment.

(b) At least sixty (60) days prior to transferring a Treasury debt to the Financial Management Service, Treasury entities will send notice to the debtor as required by §5.4 of this part. Treasury entities will certify to the Financial Management Service, in writing, that the debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection. In addition, Treasury entities will certify their compliance with all applicable due process and other requirements as described in this part and other Federal laws. See 31 CFR 285.12(i) regarding the certification requirement.

(c) As part of its debt collection process, the Financial Management Service uses the Treasury Offset Program to collect Treasury debts by administrative and tax refund offset. *See* 31 CFR 285.12(g). The Treasury Offset Program is a centralized offset program administered by the Financial Management Service to collect delinquent debts owed to Federal agencies and states (including past-due child support). Under the Treasury Offset Program, before a Federal payment is disbursed, the Financial Management Service compares the name and taxpayer identification number (TIN) of the payee with the names and TINs of debtors that have been submitted by Federal agencies and states to the Treasury Offset Program database. If there is a match, the Financial Management Service (or, in some cases, another Federal disbursing agency) offsets all or a portion of the Federal payment, disburses any remaining payment to the payee, and pays the offset amount to the creditor agency. Federal payments eligible for offset include, but are not limited to, income tax refunds, salary, travel advances and reimbursements, retirement and vendor payments, and Social Security and other benefit payments.

§ 5.10 How will Treasury entities use administrative offset (offset of non-tax Federal payments) to collect a Treasury debt?

(a) *Centralized administrative offset through the Treasury Offset Program.* (1) In most cases, the Financial Management Service uses the Treasury Offset Program to collect Treasury debts by the offset of Federal payments. *See* § 5.9(c) of this part. If not already transferred to the Financial Management Service under § 5.9 of this part, Treasury entities will refer any eligible debt over 180 days delinquent to the Treasury Offset Program for collection by centralized administrative offset. *See* 31 U.S.C. 3716(c)(6); 31 CFR part 285, subpart A; and 31 CFR 901.3(b). Treasury entities may refer any eligible debt less than 180 days delinquent to the Treasury Offset Program for offset.

(2) At least sixty (60) days prior to referring a debt to the Treasury Offset Program, in accordance with paragraph

(a)(1) of this section, Treasury entities will send notice to the debtor in accordance with the requirements of § 5.4 of this part. Treasury entities will certify to the Financial Management Service, in writing, that the debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, Treasury entities will certify their compliance with the requirements described in this part.

(b) *Non-centralized administrative offset for Treasury debts.* (1) When centralized administrative offset through the Treasury Offset Program is not available or appropriate, Treasury entities may collect past-due, legally enforceable Treasury debts through non-centralized administrative offset. *See* 31 CFR 901.3(c). In these cases, Treasury entities may offset a payment internally or make an offset request directly to a Federal payment agency. If the Federal payment agency is another Treasury entity, the Treasury entity making the request shall do so through the Deputy Chief Financial Officer as described in § 5.20(c) of this part.

(2) At least thirty (30) days prior to offsetting a payment internally or requesting a Federal payment agency to offset a payment, Treasury entities will send notice to the debtor in accordance with the requirements of § 5.4 of this part. When referring a debt for offset under this paragraph (b), Treasury entities making the request will certify, in writing, that the debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, Treasury entities will certify their compliance with these regulations concerning administrative offset. *See* 31 CFR 901.3(c)(2)(ii).

(c) *Administrative review.* The notice described in § 5.4 of this part shall explain to the debtor how to request an administrative review of a Treasury entity's determination that the debtor owes a Treasury debt and how to present evidence that the debt is not delinquent or legally enforceable. In addition to challenging the existence and amount of the debt, the debtor may seek a review of the terms of repayment. In most cases, Treasury entities will provide the debtor with a