

CHAPTER 3

ANNEX 1INTEREST, PENALTIES, AND ADMINISTRATIVE CHARGESA. General

1. Accounting for receivables shall include provisions for accruing interest, penalty, and administrative charges on **all delinquent debts owed by the public** in accordance with 31 United States Code (USC) 3717. **These charges shall continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges.** Debts owed by any federal agency (including nonappropriated fund instrumentalities (NAFIs)) are exempt from interest, penalty, and administrative charges.

2. Payments of amounts owed to the federal government by organizations, businesses, and individuals are expected to be made in accordance with terms specified in contracts, agreements, or notifications of indebtedness. The Federal Acquisition Regulation is the authority for the collection of contractual indebtedness. For those debts owed to the federal government that are not covered by contracts or agreements, the initial notification of indebtedness shall inform the debtor of the basis for the indebtedness, the date payment is to be made (due date), and the requirement for interest, penalty, and administrative charges, unless otherwise prohibited by law.

3. The intent of interest, penalty, and administrative charges is to stimulate prompt payment, to recover to the Department of the Treasury the cost of borrowing necessitated by a delinquent receivable, and to recover the cost of processing and handling delinquent **receivables**, including referral to credit bureaus or collection agencies.

B. Application of Charges. Guidance on assessing interest, penalty, and administrative charges is contained in Title 31, Code of Federal Regulations, Sections 900-904 (Federal Claims Collection Standards). Interest, penalty, and administrative charges, unless prohibited by law, shall be applied according to the following:

1. Interest charges shall be assessed on all **delinquent debt** whether the debt is to be paid in a lump sum or by installments. **Debts paid through installment plans are not considered delinquent as long as the payments are made; however, interest will continue to be assessed until the debt is paid in full.** The minimum rate shall be the average investment rate on Department of Treasury's Tax and Loan Account for the 12-month period ending September 30 of each year, as prescribed by the Department of the Treasury. The rate is published annually but is subject to quarterly revisions if the annual average changes more than two percent. See www.fms.treas.gov/debt.

2. Fixed or variable interest rates shall be established for each type of loan receivable and for overdue accounts receivable from the public. The factors that affect the variability of interest rates (e.g., legislation, type of contract, occurrence of an event, passage of time, debtor's

income level, federal funds rate, etc.) shall be identified. In the absence of specific authority embodied in statute, regulation required by statute, contract, or other public notice, the interest rate shall be the current rate on funds to the Department of Treasury.

3. The DoD Components shall assess a penalty charge, not to exceed 6 percent per annum on any portion of a debt that is delinquent more than 90 days.

4. In addition to interest and penalty charges, administrative charges shall be assessed on delinquent **debt** to cover the costs of processing and handling the **delinquent debt**.

5. Accrued interest, administrative, and penalty charges shall be recorded in appropriate general ledger accounts contained in Volume 1, Chapter 7 of this regulation. General ledger subaccounts may be established under existing accounts prescribed for interest and penalty charges. Interest, **penalties, and administrative** charges are non-entity assets and a liability must be established upon identification of these amounts. .

6. When a debt is paid in partial or installment payments, amounts received shall be applied first to outstanding penalties, second to administrative charges, third to interest, and last to principal.

C. Disposition of Charges

1. Interest charges collected shall be deposited directly into Department of Treasury receipt account 3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified."

2. Penalty charges shall be deposited directly into Department of Treasury's receipt account 3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified" or 1099, "Miscellaneous Fines, Penalties, and Forfeitures", as appropriate.

3. Administrative charges required to pay for contractor collection fees or claims collection litigation reports shall be paid directly to the General Services Administration designated contractor. Any excess amounts shall be deposited monthly to Department of Treasury receipt account 3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified."

D. Computation of Amounts

1. Interest Charges shall be computed using the following formula:

$$I = DNF$$

Where: I = Interest charge
D = Amount of delinquent account receivable
N = Number of days delinquent
F = Interest rate per day

2. A penalty charge cannot exceed 6 percent per year of that portion of the debt that is delinquent more than 90 days. A debt becomes delinquent if not paid by the established due date, therefore, a penalty charge of up to 6 percent shall be applied on a debt that has been delinquent for 91 days past the established due date. Penalty charges shall be applied to those accounts reported in the aging category 91-180 days delinquent and beyond. The DoD Components may determine what percentage, up to the maximum 6 percent, will be applied to delinquent accounts.

3. An administrative charge shall be assessed to cover the added costs incurred in handling a debt beyond the date on which payment was due. Unlike the interest charge, which begins to accrue on the date the delinquent notice actually is mailed, the administrative charge is applied only if payment is not made by the due date specified in the notice. The DoD Components shall calculate administrative charges based upon actual costs incurred. If actual cost is not available, DoD Components may base administrative charges upon other historical costs or cost analyses so long as the method used supports determination of the charge. The administrative charge shall be applied to all delinquent debts with due regard given to the length of time the debts are delinquent, such as the age categories identified in Figure 3-1 found in chapter 3 of this volume.

E. Application of Interest Charges. Rules for application of interest charges are as follows:

1. The first interest rate used to determine charges on a delinquent **debt** shall be applicable for the life of the **debt**, unless the **debt** is rescheduled or other events occur that justify an interest rate adjustment. The Department of the Treasury provides federal agencies with the percentage rate to be used in applying interest by publishing the applicable rate in the Federal Register each quarter at the website: <http://www.gpoaccess.gov/fr/index.html>. The rate is published annually but is subject to quarterly revisions if the annual average changes more than two percent. See <http://www.fms.treas.gov/debt>.

2. Payment terms specified in the **invoice, demand letter, or** notice of indebtedness shall be consistent with payment terms in the related contract or formal agreement.

3. Unless other provisions have been included in a contract or prior agreement, interest charges shall not be assessed until the debtor has been notified in writing that interest and penalty charges will accrue.

4. Interest and penalty charges shall continue to accrue after “date of death” when a claim is to be filed against an estate.

F. Payment within 30 Days. Interest shall not be charged if payment is made within 30 days after the date from which interest begins to accrue (30 days after date notification was mailed).

G. Waiver of Accrual of Interest, Penalty, and Administrative Charges. The head of a DoD Component, or designee, may promulgate regulations identifying circumstances appropriate to waive collection of interest, penalty, and administrative charges in conformity with the Federal

Claims Collection Standards. If a DoD Component publishes regulatory guidance, then the following general guidelines must be adhered to:

1. The accrual of interest, penalty, and administrative charges may be waived when a debt is terminated, or compromised, or when the additional charges would cause extreme hardship or would not be in the best interest of the government.
2. Decisions to waive the accrual of interest, penalty, and administrative charges shall be considered on a case-by-case basis (no blanket waivers will be granted). Decisions on such waivers shall be documented, including an explanation as to the reasons for the waiver, and retained as a part of the official debt file.
3. Waiver of the accrual of interest, penalty, and administrative charges shall be approved at the same organizational level or by the same designee authorized to approve requests for waiver or remission of indebtedness.
4. Accrued interest, penalty, and administrative charges shall be collected, reported, compromised, or written off in the same manner as the basic debt.