

<p style="text-align: center;">SUMMARY OF MAJOR CHANGES TO DoD 7000.14-R, VOLUME 5, CHAPTER 31 “DEBT COMPROMISE, SUSPENSION, TERMINATION, REMISSION, AND WAIVER”</p> <p style="text-align: center;">Substantive revisions are denoted by a ★ preceding the section or paragraph with the substantive change or revision.</p>		
SECTION	EXPLANATION OF CHANGE/REVISION	PURPOSE
3102	Adds guidance that restricts consideration of noncash compromise offers to the Department of Justice (DoJ) and injects the consideration of the magnitude of a violation when arriving at a compromise determination.	Adds new guidance
3103	Adds guidance on debt recovery processes associated with bankruptcy. Establishes the requirement for maintaining documentation for litigation as required by the “Federal Claims Collection Standards” (FCCS) regulation.	Establishes new policy requirements
3104	Clarifies the Department’s policies on debt write-offs and closeouts consistent with the Office of Management and Budget guidance in Circular A-129, “Policies for Federal Credit Programs and Non-Tax Receivables.”	Clarifies policy requirements

TABLE OF CONTENTS

★DEBT COMPROMISE, SUSPENSION, TERMINATION, REMISSION, AND WAIVER

3101	Applicability
★3102	Debt Compromise
★3103	Suspension and Termination of Collection Activity
★3104	Debt Write-Off and Discharge
★3105	Remission of Indebtedness Due the United States from Active Duty Enlisted Members
★3106	Waiver of Indebtedness Due the United States Arising from Erroneous Payments

CHAPTER 31

DEBT COMPROMISE, SUSPENSION, TERMINATION, REMISSION AND WAIVER3101 APPLICABILITY

This chapter covers all indebtedness to the Department of Defense unless otherwise stated. Refer to Table 28-1 (in [Chapter 28](#) of this volume) for further amplification on the coverage of debt collection in other volumes and chapters of this Regulation.

3102 DEBT COMPROMISE

★ 310201. Authority to Compromise. The Secretary of Defense has authority to compromise debts of \$100,000 or less, exclusive of interest, penalties, and administrative costs. Delegations of this authority to reconsideration and/or hearing officials are described in Table 30-1 (in [Chapter 30](#)) and [Appendix E](#) of this volume. Only the Department of Justice (DOJ) has the authority to compromise debts exceeding \$100,000, exclusive of interest, penalties, and administrative costs. No compromise action, however, is authorized on a debt referred to the DOJ unless the debt is returned to the Department of Defense (DoD) for disposition. Only the DOJ can consider noncash compromise offers for debts exceeding \$100,000. Any debt based in whole or in part on conduct in violation of the antitrust laws, or any claim involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the debt, will not be compromised. Such debts will be referred promptly to the DOJ. If such debt is otherwise below the threshold for DOJ referral, then the DOJ may retain the debt or may return the debt with instructions for further handling.

★ 310202. Referring Compromise Offers to the DOJ. Offers of compromise of the principal balance of a debt, exclusive of interest, penalties and administrative costs, exceeding \$100,000 that are acceptable must be referred to the appropriate litigating Division in the DOJ using a Claims Collection Litigation Report (CCLR). Obtain the CCLR from the DOJ or any United States Attorney's office. The referral shall include appropriate financial information and a recommendation for the acceptance or compromise offer by the DOJ. DOJ approval is not required if a decision is made to reject a compromise offer.

★ 310203. Review of Compromise Offers by the DOJ. A firm, written substantive compromise offer on a debt within the delegated compromise authority of \$100,000 or less may be referred to the DOJ if there is uncertainty whether the offer should be accepted. Use the CCLR to refer the offer along with supporting data and particulars concerning the debt. The DOJ may act upon the offer or return it with instructions or advice for further action.

★ 310204. Compromises in General. Debts may be compromised for any one or a combination of several valid reasons. When assessing the merits of a compromise proposal, it may be beneficial to obtain a current financial statement from the debtor, and a credit report or other financial information to aid in evaluating the debtor's assets, liabilities, income, and expenses. In negotiating a compromise with a business concern, consider that payment of the underlying debt in a lesser amount may result in a loss situation for the debtor and have tax consequences to the government. In this situation, consider requiring a waiver of tax loss carry-forward and tax loss carry-back rights of the debtor in the compromise agreement and furnish a copy to the Internal Revenue Service. In appropriate circumstances, implement an accepted compromise by means of a mutual release, whereby the debtor is released from further nontax 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 that the debtor may have against them arising from the same transaction. Possible grounds for compromise include the following:

★ A. Compromise Because of Litigative Risks. If there is significant doubt concerning the government's ability to prove its case in court for the full amount of the debt, a compromise may be appropriate. The amount accepted in a compromise agreement should reflect such factors as the complexity of the legal issues, the probability of a bona fide dispute as to the facts, the availability of witnesses and supporting evidence, and the probability of successful prosecution. In determining the litigative risks involved, the DoD Component shall consult with agency counsel and the DOJ to consider the probable amount of court costs and attorney fees that may be imposed against the government if litigation is unsuccessful.

B. Compromise Because of Debtor Inability to Pay Full Amount. DoD Components may compromise debts if the debtor is unable to pay the full amount due in a reasonable time or if the full amount due could not be collected in a reasonable time using enforced collection. Consider, as a minimum, the following factors, in determining a debtor's ability to pay the full amount of the debt:

1. Current financial statement from the debtor;
2. Credit reports and other financial information;
3. Debtor's age and health;
4. Debtor's present and potential income;
5. Debtor's inheritance prospects;
6. The possibility that assets have been concealed or improperly transferred by the debtor; and
7. The availability of assets or income that may be realized by enforced collection proceedings.

C. Compromise Because Collection Costs Exceed Amounts Recoverable or Collection is not Likely. A DoD Component may compromise a debt if the cost of collection does not justify the enforced collection of the full amount. Collection costs may be a substantial factor in the compromise of smaller debts. An amount accepted in compromise may reflect a discount for the administrative and litigation costs of collection along with consideration for the time involved to effect collection. In determining whether the cost of collection justifies enforced collection of the full amount, the DoD Component shall consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcing principle, such as the willingness to aggressively pursue defaulting or uncooperative debtors.

★ 310205. Compromise With Joint and Several Liability. When two or more debtors are jointly and severally liable, collection shall be pursued against all debtors, as appropriate. Do not attempt to allocate payment of the debt between debtors, but proceed to liquidate the debt as quickly as possible. A compromise agreement with one debtor will not release the indebtedness with the remaining debtors. The amount of a compromise with one debtor should not be considered a precedent or binding in determining the amount that would be required from other jointly or severally liable debtors.

★ 310206. Compromises Payable in Installments. Installment payment of compromised debts generally should not be accepted since this is not an advantageous form of compromise in terms of time and administrative expense. If installment payment of a compromise is necessary, however, then the DoD Component shall obtain a legally enforceable written agreement that stipulates immediate payment of the original debt, less sums already paid, in the event of default. Whenever possible, obtain security for installment repayment agreements.

★ 310207. Enforcement Policy. Accidental or minor violations of regulations that result in indebtedness may be treated with less severity than willful and substantial violations. Statutory penalties, forfeitures, or debts established as an aid to enforcement and to compel compliance may be compromised so long as no present or future harm is done to standards for enforcement, deterrence, or compliance.

3103 SUSPENDING AND TERMINATING COLLECTION ACTIVITY

★ 310301. Authority to Suspend or Terminate Collection Activity

A. The Secretary of Defense has the authority to suspend or terminate collection activity of most debts with a principal balance of \$100,000 or less, excluding interest, penalties and administrative costs, and prior partial payments and collections. Delegations of this authority are described in Table 30-1 and in [Appendix E](#) of this volume. Any debt, based in whole or in part on the violation of antitrust laws shall be referred promptly to the DOJ for a decision on the disposition of the debt. Likewise, any claim involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the debt, will not be

suspended or terminated within the DoD, but promptly will be referred to the DOJ for a decision on the appropriate disposition of the debt. The DOJ may retain the debt for processing or may return the debt with instructions for further handling.

B. Only the DOJ may suspend or terminate collection activity on a debt with a principal balance exceeding \$100,000 after deducting any partial payments or collections, exclusive of interest, penalties, and administrative costs. If suspension or termination is appropriate for these debts, then the cognizant DoD Component shall refer such debts to DOJ using the CCLR and specifying the reasons for referral. Suspend or terminate collection activity on a debt prior to referring it to the DOJ for litigation.

★ 310302. Suspension of Collection Action. Suspend collection action on a debt when any of these conditions arise:

- A. The debtor cannot be located;
- B. The debtor's financial condition is expected to improve;
- C. The debtor has requested a waiver or review of the debt; or
- D. The debtor's current financial condition or future financial prospects justify retention of the debt for periodic review and collection activity based on any of the following factors.
 - 1. The applicable statute of limitations has not expired;
 - 2. Future collection can be effected by administrative offset because of the 10-year statute of limitations provided in 31 U.S.C. 3716(e)(1), notwithstanding the expiration of the applicable statute of limitations for litigation of the debt; or
 - 3. The debtor agrees to pay interest on the suspended debt amount and the suspension is likely to enhance the debtor's ability to pay the full debt principal amount at a later date with interest.

★ 310303. Suspension During Waiver or Review. A DoD Component shall not suspend collection activity if it is determined that a request for waiver or review is frivolous or made primarily to delay collection. Suspend collection activity, however, during the time required for consideration of a debtor's good faith request for waiver or review of the debt if any of the following factors apply:

- A. The statute under which the request is sought prohibits collection activity during that time;
- B. The amount collected during that time cannot be refunded under the applicable statute;

- C. There is reasonable possibility that the debtor will prevail; or
- D. There is reasonable assurance that the debt could be collected if the debtor does not prevail.

★ 310304. Suspension for Bankruptcy. When a bankruptcy petition has been filed with respect to a debtor, collection activity on a debt must be suspended pursuant to 11 U.S.C. 362, 1201, or 1301, unless it can be clearly established that the automatic stay has been lifted or no longer is in effect. With the coordination and assistance of the supporting legal office, seek action to prevent disbursement of funds to the debtor until relief from the automatic stay is obtained.

★ 310305. Termination of Collection Activity. Active collection of a debt may be terminated after all appropriate means of collection have been pursued and a determination is made, based upon the results of collection activity, that the debt cannot be collected. Termination results in removal of the debt from the active collection files; write-off from the accounting records generally follows. Terminate collection activity when a determination is made that any of the following conditions apply:

- A. No substantial amount can be collected using all tools available;
- B. The debtor cannot be located;
- C. Costs of collection are anticipated to exceed amounts recoverable;
- D. The debt is legally without merit;
- E. Enforced collection is barred by any applicable statute of limitations;
- F. Documentation indicates that further collection action would be futile;
- G. The debt cannot be substantiated; or
- H. The debt has been discharged in bankruptcy.

★ 310306. Record of Terminated Accounts. Although a debt may be terminated for collection activity, the DoD Component shall retain a record of the debt for the purposes of:

- A. Selling the debt, if the Department of the Treasury determines the sale is in the best interest of the United States;
- B. Pursuing collection activity at a later date in case there is a change in the debtor's status or a new collection tool becomes available;
- C. Offsetting against future income or assets not available at the time of termination of collection activity; or

D. Screening future applicants for prior indebtedness.

★ 310307. Termination for Bankruptcy. Generally, DoD Components shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of amount. Subject to the provisions of the Bankruptcy Code, however, collection activity can continue for any debt payments specified under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy, and under some circumstances, debts also may survive the discharge. For example, the debt of a known creditor of a debtor may survive a discharge if the known creditor did not receive formal notice of the proceedings. As with other bankruptcy issues, the DoD Component shall seek the counsel of the supporting legal office regarding debts or offsets that may survive the discharge of a debtor in bankruptcy.

★ 310308. Exception to Termination. When a significant enforcement policy is involved or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, debts may be referred to the DOJ for litigation even though termination of collection action otherwise might be appropriate.

3104 DEBT WRITE-OFF AND DISCHARGE

★ 310401. General. Once a decision has been made by an authorized official to terminate collection activity, debts are removed from the active collection files, followed by write-off from the accounting records. When a debt is written off, no further collection action is contemplated and the debt no longer is carried as an active receivable. Write-off procedures help to portray accurately the costs of collection programs and assist management in focusing efforts on debts most likely to be collected. Usually debt write-off occurs in close time proximity to a termination of collection activity. A written-off debt is inactive but the debt can be reopened should future collection possibilities be discovered. Refer to [Volume 4, Chapter 3](#), of this Regulation for detailed instructions to properly account for and report on debt write-offs and closeouts.

★ 310402. Debt Write-Off. Components shall base decisions to write-off debts on the same criteria used for terminations (see paragraph 310305 of this volume). Thus, when a decision to terminate is reached, a simultaneous decision generally will be made to write-off the debt. Write-off applies equally to a judgment debt that becomes uncollectible. There is no need first to attempt execution on the judgment where the facts indicate that such action would not be warranted.

★ 310403. Retention of Written Off Debts. Unless documentation indicates there is no potential for future collection, Component DMOs shall retain debts written off, for which collection costs are not a factor, in an inactive administrative file until the 10-year administrative offset statute of limitations expires. The “Debt Collection Act of 1996” requires agencies to transfer uncollectible delinquent debts that have aged more than 180 days to the Department of the Treasury. Debts that DoD Components determine are uncollectible within 3 years from the date of the indebtedness shall be referred to the Department of the Treasury Offset Program for a specified period for cross-servicing and the debt collection efforts shall be reviewed at least annually for a redetermination as to whether a debt should be written off or closed out.

★ 310404. Debt Closeout. When a debt is nearing expiration of the 10-year statute of limitation, or at any time after write-off, the DoD Component shall make a determination whether retaining an inactive debt for collection is futile. If so, the debt will be closed out. Debt write-off and closeout may occur at the same time or discharge may follow write-off by a substantial period of time. Once a debt is closed-out, it cannot be reactivated and the federal government cannot take any further administrative or legal action to collect the debt. Use Form 1099-C to report discharged debts of a debtor totaling \$600 or more in a calendar year to the Internal Revenue Service, Department of the Treasury.

★3105 REMISSION OF INDEBTEDNESS DUE THE UNITED STATES FROM ACTIVE DUTY ENLISTED MEMBERS. See [Volumes 7A and 7B](#) for coverage of this information.

★3106 WAIVER OF INDEBTEDNESS DUE THE UNITED STATES ARISING FROM ERRONEOUS PAYMENTS. See [Volume 7A, Chapter 50](#); [Volume 7B, Chapters 28 and 47](#); and [Volume 8](#) for information regarding waivers affecting active duty and retired military and civilian employees.