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Canada

Guideline on Collection of Receivables

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Guideline on Collection of Receivables

1. Effective date

1.1 This guideline takes effect on October 1, 2009.

1.2 It replaces appendices A and B of the *Policy on Receivables Management* (revised July 1, 2002).

2. Context

2.1 This guideline informs departmental officials responsible for managing receivables in the Government of Canada of the methods available for collecting and recovering debts due to the Crown. The guideline describes a range of collection methods that can be used from the routine to the more advanced processes. The responsibility of determining the most appropriate and cost-effective measure(s) for collecting receivables rests with departmental officials.

2.2 The guideline supports the [Directive on Receivables Management](#) (hereafter referred to as the Directive) and should be read in conjunction with [Debt Write off Regulations, 1994](#), [Security for Debts Due to Her Majesty Regulations](#), [Interest and Administrative Charges Regulations](#), and [Receipt and Deposit of Public Money Regulations](#).

2.3 Though the guideline elaborates on the Directive, it does not present new mandatory requirements, but rather reflects an existing obligation under an act, regulation, policy, directive, standard or other authority.

2.4 The Government of Canada has a broad range of tools to collect debts due to the Crown. Some are common methods used in everyday commerce in the public and private sectors, while other methods are more complex and may apply only to government. This guideline provides an overview of these methods.

2.5 This guideline also provides a brief listing of the types of debts managed by departments.

3. Definitions

Definitions of terms used in the guideline can be found in the [appendix of the Directive](#).

4. Types of debts and other claims

This section identifies the type of debts managed by departments that may need to be recognized and administered in the department's receivables management system. Not all of these debts will appear in the government's consolidated financial statements, although they may be reported in departmental reports. Examples of accounts that may not appear in the government's financial statements include debts between federal government departments and some disbursements made under repayable contribution agreements.

These debts include, but are not limited to, the following:

- Amounts due from taxation (including tax assessments), sales of goods, provision of services, use of facilities and statutory or other obligations, including dividends and transfers of profits and surpluses arising from the government's financial interest in outside organizations;
- Overpayments or erroneous payments of salaries, allowances, supplier accounts, grants, contributions and benefits;
- Disputed claims, at their estimated value;
- Gross amounts assigned to third parties for collection;
- Amounts due from repayable contributions when the conditions that make the contribution repayable have been met or when the amounts are unconditionally repayable;
- Amounts due from defaulted loans as a consequence of the department honouring a loan guarantee;
- Amounts due from penalties, fines and court awards;
- Interest, penalties or administrative charges on the amounts and items specified; and
- Amounts due from other federal government departments.

5. Collection methods and recovery activities

The collection method that is the most appropriate and cost-effective for each circumstance is recommended for departmental officials charged with the management of receivables. Collection actions will usually be based on the methods and information outlined below starting with routine processes and progressing to more complex procedures as the situation warrants.

5.1 Common routine collection actions

- Confirming the validity of the debt due to the Crown;
- Establishing the location of the debtor and if necessary, obtaining location information from other departments or agent Crown corporations;
- Providing timely statements or notices; and

- Communicating with the debtor to collect payment as required to establish a repayment schedule or to renegotiate an existing repayment schedule.

5.2 More advanced collection actions

5.2.1 Voluntary deduction or assignment

Acceptance of a debtor's voluntary authorization to deduct the amount of a debt from payments the Crown owes the debtor. For such voluntary transactions, it is not necessary to seek ministerial approvals that are required before processing a set-off. Voluntary assignments to the Crown of payments due to the debtor by a third party are to be sent to departmental legal advisors for review and guidance.

5.2.2 Present value payment

An account can be collected as payment-in-full by accepting payment that represents the present value of an established repayment schedule or an amount due at a future date. In calculating the amount of a present-value payment, departments are to determine and apply an appropriate discount rate. This discount rate should approximate the cost of borrowing to the federal government adjusted by the risk factors associated with the account. The [Debt Write-off Regulations, 1994](#) provide the authority to write off the balance that remains after a present-value payment has been accepted as full settlement of the debt. (Refer to section 5.2.6 of this guideline - "Compromise settlements".)

5.2.3 Security

The *Security for Debts Due to Her Majesty Regulations* and the [Guideline on Security for Debts](#) are intended to encourage departments to require security to protect the payment of amounts owing to the Crown. Neither the regulations nor the guideline obliges a debtor to provide security. It will be decided on a program basis, when requiring an amount to be paid to the Crown, whether security should be required in order to facilitate the collection of debt.

It is recommended that departmental officials assess when it is appropriate in their collection process to realize the securities provided to the Crown.

5.2.4 Set-off

Subsection 155(1) of the [Financial Administration Act](#) provides the general authority for the set-off of payments for debt collection when specific program legislation does not override this general authority.

Before initiating a set-off, every possible attempt is to be made and documented to advise the debtor that set-off action is being contemplated. If departments decide to pursue set-off against debtors that have already made satisfactory repayment arrangements, then it is recommended that debtors be advised of this process when repayment arrangements are being established.

The consent of the paying department's minister (or his or her delegate) is to be obtained for set-off except in cases of set-offs to recover overpayments of salaries, wages, outstanding travel advances and employment-related allowances of federal public service employees. Both the department responsible for collecting the debt and the department responsible for making the payment are to agree to the collection rate.

Set-offs against contractual payments are normally for the full amount.

It is recommended that every effort be made to avoid creating undue hardship when initiating set-offs against government payments.

5.2.5 Private-sector collection agencies (PCAs)

When using private-sector collection agencies and paying their fees, consider the following:

- The services of private-sector collection agencies (PCAs) are to be used to recover debts owed to the Crown when it is effective and efficient to do so.
- PCAs from the National Master Standing Offer established by the Department of Public Works and Government Services will be used.
- The following debts are not be turned over to PCAs for collection:
 - Debts owed by other government departments, government agencies, foreign governments and international organizations such as the United Nations;
 - Debts under appeal or in litigation; and
 - Debts owed by current employees.
- Active collection on accounts by departments will cease when the accounts are sent to PCAs. Preparing an account for set-off is not considered to be an active collection measure.
- Only commissions' payable for the successful collection of debts due to the Crown covered by section 17.1 of the *Financial Administration Act* can be charged to the statutory authority.
- Expenses for services not provided through the National Master Standing Offer, such as those for tracing, credit assessment and cheque verification are to be charged to departmental operating votes and not to the statutory authority.

5.2.6 Compromise settlement

A compromise settlement involves accepting partial payment as fully satisfying a debt and releasing the debtor from any obligation to pay the balance. The authority to accept a compromise settlement is held by the minister of Justice, who normally acts on the advice and recommendation of the appropriate minister.

Compromise settlements are normally considered in a process that is incidental to litigation. The necessary condition for accepting a compromise settlement is the determination that the cost of litigation would be more than the expected recoveries or, when the debtor is on the verge of bankruptcy, that the settlement exceeds what the departments would receive if the debtor went bankrupt. It may be determined that a compromise settlement should be accepted either before or after the commencement of legal proceedings.

For settlements based on compassionate grounds or public interest considerations, a forgiveness or remission authority is required.

Departmental officials are to write off the difference between the original debt and the amount of the compromise settlement according to the [Debt Write-off Regulations, 1994](#).

5.2.7 Garnishment

There is a need to differentiate between administrative garnishment initiated by departments under authority of their program legislation and garnishment proceedings issued under provincial law. In the former, the Department of Justice plays no role, except when departments consider it appropriate. In the latter, the departmental legal counsel is to be consulted.

5.2.8 Use of departmental legal counsel

Unless departmental legislation gives the department specific authority, all cases involving legal proceedings are to be referred to the Department of Justice Canada.

5.2.9 Limitation period

Unless the limitation period for collections of debts is specified in program legislation, the applicable provincial statute may apply to federal debts. Since the collection (including set-off) of Crown debts is not always bound by provincial legislation, advice is to be sought from departmental legal counsel to confirm the applicable limitation period.

5.2.10 Sharing of information

The authorities for the sharing of information to locate debtors for the purposes of collecting amounts due to the Crown are as follows:

- Paragraph 6.1.11 of the *Directive on Receivables Management*.
- Paragraph 7(1)(c) of the *Financial Administration Act* provides Treasury Board with the authority to set policy on receivables applicable to departments.
- Subsection 9(3) of the *Financial Administration Act* addresses the sharing of information for locating and set-off purposes.
- Paragraph 8(2)(b) of the [Privacy Act](#) addresses the disclosing of personal information for any purpose according to any Act of Parliament or any regulation made thereunder that authorizes its disclosure.
- Paragraph 8(2)(l) of the *Privacy Act* addresses the disclosing of personal information for the purpose of locating an individual to collect a debt due to the Crown.

Obligations under these acts and Directive include the following:

- The information is to be only provided when required to locate a person in order to collect the person's debt or to set off the debt against any sum of money that may be due or payable to the person by Her Majesty in Right of Canada.
- Any information provided in response to a request is to be obtained from any account, return, record, statement, document or report pertaining to the person. The information is not to be obtained from any account, return, record, statement, document or report pertaining to any other person such as a relative or a spouse.
- Information that is obtained for the purpose of collecting or setting off a debt is not to be used for any other purpose.
- Advice is to be sought from the organization's legal counsel to confirm the application of the Directive's requirement on sharing information in light of special program legislation providing for confidentiality of certain information. This requirement was established by the Treasury Board according to paragraph 7(1)(c) and subsection 9(3) of the *Financial Administration Act*.
- Before providing any requested information, authorized officials of departments and agent Crown corporations are to obtain assurance from authorized officials of the department requesting the information specified in paragraph 6.1.11 (a) of the Directive that it will be protected from disclosure in the manner consistent with the requirements of the program under which it was collected.
- Treasury Board policies regarding the administration of the *Privacy Act*, such as the [Policy on Privacy Protection](#), are to be observed.
- To ensure compliance with the provisions of the *Privacy Act*, parties are to establish bilateral agreements governing the exchange of personal information identified in paragraph 6.1.11 of the Directive regarding the requirements on sharing debtor information. The purpose of the agreements is to set out the parameters of the planned information exchange according to sections 4 through 8 of the *Privacy Act*, which refer to the collection, use, disclosure, retention, disposal and protection of personal information.

6. References

6.1 Relevant legislation and regulations

- [*Financial Administration Act*](#), subsections 7(1), 9(3) and 155(1)
- [*Privacy Act*](#)
- [*Personal Information Protection and Electronic Documents Act*](#)
- [*Receipt and Deposit of Public Money Regulations, 1997*](#)
- [*Interest and Administrative Charges Regulations*](#)
- [*Debt Write-off Regulations, 1994*](#)
- [*Security for Debts Due to Her Majesty Regulations, 1987*](#)

6.2 Related policy instruments and publications

- [*Policy on Allowances for the Valuation of Assets and Liabilities*](#)
- [*Policy on Internal Control*](#)
- *Policy on Financial Resources Management*
- [*Directive on Payment Requisitioning and Cheque Control*](#)
- [*Directive on Receipt, Deposit and Recording of Money*](#)
- [*Directive on Loans & Loan Guarantees*](#)
- [*Use and Disclosure of Personal Information*](#)
- [*Policy on Privacy Protection*](#)
- [*Policy on Data Matching*](#)
- [*Directive on the Social Insurance Number*](#)
- [*Policy on Government Security*](#)
- [*Recovery of Amounts due to the Crown*](#)
- [*Guideline on Security for Debts*](#)
- Receiver General - [*Payment on Due Date \(PODD\) Interest Rate*](#)

7. Enquiries

Please direct enquiries about this guideline to your departmental headquarters. For interpretation of this guideline, departmental headquarters should contact:

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