Guideline on Interest and Administrative Charges

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Guideline on Interest and Administrative Charges

1. Effective date

1.1 This guideline takes effect on July 1, 2010.

1.2 It replaces the bulletin on the *Interest and Administrative Charges Regulations – TB Circular 1996-03* dated April 29, 1996.

2. Application

This guideline applies to departments as defined in section 2 of the *Financial Administration Act* (FAA).

Although the *Interest and Administrative Charges Regulations* (hereafter "the Regulations") apply to all departments and agencies of the federal government and to amounts owing to departments by Crown corporations and provincial and foreign governments, they do not apply to the receivables of Crown corporations or to interdepartmental receivables.

Part I of the Regulations, concerning the charging of interest, does not apply to:

- amounts owed as taxes or duties;
- amounts owed under interest-bearing loans, capital market transactions or mortgages, except for concessionary loans as described in subsection 7(1); and
- amounts for which other Acts, regulations, orders, contracts or arrangements provide the charging of interest on those amounts.

3. Context

3.1 The purpose of this guideline is to assist departmental officials with charging interest on overdue non-tax receivables and charging administrative fees when any instrument payable to the Crown is dishonoured.

3.2 This guideline supports the *Interest and Administrative Charges Regulations*.

3.3 The Regulations help ensure that debtors have an incentive to pay their accounts on time and also permit the government to charge administrative fees when dishonoured payment instruments are received.

3.4 Though this guideline complements the Regulations, it does not present new mandatory requirements; rather, it reflects existing statutory and regulatory obligations.

4. Charging interest and issuing invoices

In keeping with sound business practices, bills, invoices and statements issued by departmental officials are to include payment terms, lists or schedules of applicable fees and rates, and note that interest will be charged on late payments. Proper implementation of subsection 5.(1) of the Regulations requires that monthly statements issued for overdue accounts explicitly state that the payment due date remains the original due date and not 30 days from the statement's issuance. Otherwise, no interest would accrue. Monthly statements should show the previous balance as well.

5. General description of the regulations

This section describes the main features of the Regulations.

5.1 When an account is overdue or a payment is late, departmental officials will charge interest compounded monthly at the average bank rate plus three per cent (3%) from the due date to the day before the date that payment is received; (this is the same interest rate that the government pays its suppliers for its own late payments.)

5.2 When the government makes overpayments or erroneous payments as a result of fraud, falsification, wilful misrepresentation or any other offence, these payments will incur interest charges from the date on which the overpayment or erroneous payment is made;

5.3 In other cases of government overpayment or erroneous payment, arrangements will be made for repayment and departmental officials will charge interest only when repayment is overdue;

5.4 Departmental officials are not to charge interest on small amounts for which an invoice or other demand for payment is normally not be issued. However, if there are several small amounts that total more than the cut-off limit, or the total outstanding exceeds that limit, departmental officials are to charge interest. Because each department sets its own cut-off limits, limits may vary among departments and between programs within a department;

5.5 Ministers may waive or reduce charges under certain circumstances, such as the following:

- When charges will be recovered from subsequent entitlements,
- When the government makes an error in processing a payment or in calculating the amount due; or

- When there are other circumstances beyond the control of the debtor, such as a breakdown in the electronic systems used to transfer funds and process payments;

5.6 An administrative charge of $25 will be levied when dishonoured items are processed by a financial institution and departmental officials have to requisition and issue a Receiver General payment instrument to reimburse the financial institution. If the financial institution recovers the amount by another means, the administrative charge is $15;

5.7 Departmental officials may also arrange with a financial institution to monitor the account of a debtor who has tendered a dishonoured item and, once the account contains sufficient funds, to certify the item, return it to the department or clear the item directly. Departmental officials may charge the debtor for fees it pays to a financial institution to monitor his or her account; and

5.8 Subject to any legislation or regulations governing programs or departments, departmental officials have complete flexibility in negotiating and setting repayment terms. Under subsection 6(3) of the Regulations, departmental officials may charge interest on the total amount outstanding and not just on missed or late payments. This is particularly appropriate when the debt involves an overpayment by the government that was not the result of an error on its part. To charge interest on the total amount outstanding, departmental officials are to include an interest provision in the repayment agreement,

6. Special considerations

6.1 Accountable advances

Though not explicitly stated, the Regulations suggest that interest may be charged on specific purpose and standing advances that are not settled within the time period specified in the *Accountable Advances Regulations*.

In the case of a trip or other specific purpose advance, the settlement period is 10 working days after fulfilment of the purpose for which the advance was made. In the case of a standing advance, the settlement period is 30 days from when a demand for repayment is received and or within 30 days following the end of the fiscal year, whichever is first.

The recipient of an accountable advance is to have either receipts for expenditures incurred (when receipts are required) or the cash.

The "10-day rule" applies only to the initial accounting and repayment. It is satisfied when the claim and amount owing (if any) is submitted, not when it is approved or audited. If a travel claim is audited and adjusted, and the advance holder owes an additional amount, this becomes a normal debt due to the Crown. The standard 30-day collection period would apply, unless the department specifies otherwise in its notice to the advance holder.

Under the Regulations, interest is payable only on the amount owing the government, not on the total advance outstanding. If the advance holder does not file a claim, however, the amount owing the government is the amount of the advance.

When advance holders are late in filing their claims, departments are to notify them promptly that interest is accruing. For practical purposes, it may be necessary to wait until the claim is actually filed before billing and recording interest unless the claim has not been filed within 30 days of the required filing date.

When extenuating circumstances prevented the advance holder from filing his or her claim on time, or the interest accrued is a small amount, departments may consider a waiver under paragraphs 8(1)(b) or 9(1)(a) or subsection 9(2) of the regulations.

There is currently no authority under either collective agreements or the *Travel Directive* for the government to pay interest on amounts it owes the advance holder.

6.2 Concessionary loans

A concessionary loan is a loan made at no interest or at rates significantly below "market." A developing country is usually the borrower, although some loans to employees and First Nations and other housing loans may fall into this category as well.

When a repayment of a concessionary loan is in default, the "concession" is rescinded for the amount that is in arrears. Under the Regulations, interest at the "going" rate and not the concessionary rate would apply to those arrears. For example, if the concessionary rate is three per cent and the current "going" rate is seven, then an additional four per cent over and above the initial three would be payable on any arrears. However, this does not apply to loans to developing nations that are the subject of multilateral debt-relief agreements, like the "Paris Club" arrangements, or to agreements that already provide for interest on the arrears, in accordance with subsection 155.1(1) of the FAA.

6.3 Errors by the government

Under paragraph 8(1)(a) and section 11 of the Regulations, a department is not to apply interest or administrative charges when it makes an error that results in interest or administrative charges otherwise being applicable—for example, if it does not credit the right account, does not deposit or record the payment promptly, attempts to deposit a post-dated cheque early, or holds a cheque until it becomes stale-dated.

6.4 Goods and services tax (GST) and harmonized sales Tax (HST)

The GST/HST does not apply to interest and administrative fees imposed under these Regulations.

6.5 Payment receipt date

A payment's receipt date is either the day on which the payment is made at a financial institution or when it first arrives in the department. Hence, departments are to date-stamp or batch all incoming payments by date received and use that date in calculating any interest due.

6.6 Recoveries from contractors and suppliers

If the government has overpaid a contractor or supplier and has demanded repayment, interest would apply if the contractor or supplier does not repay as specified in the demand.

6.7 Non-sufficient funds (NSF) charges

For the most part, departments use Receiver General concentrator accounts for deposits and financial institutions obtain reimbursement for dishonoured items through charge-back. In such cases, no Receiver General payment is issued and the NSF charge would be $15. However, if a payment or settlement is to be issued because either the department is not using a concentrator account or chargeback is not possible, then section 10(2) of the Regulations applies and the NSF charge is $25.

6.8 Individual versus class waivers

Waivers under subsections 9(1) and 12(1) can be either on an individual or a class basis; those under 9(2) and 12(2) must be on an individual basis.

6.9 Penalty waivers

A waiver under paragraph 9(1)(d) does not require that the penalty match exactly the interest that would have been charged. However, if the penalty is significantly less, perhaps the waiver should not be used. Both interest and penalty could be imposed, as the Revenue Canada Agency does for tax fraud or evasion.

6.10 Effect of waiver

Under subsections 155.1(4) and (5) of the FAA, if departments have waive (or reduce) interest or administrative charges, then no amount (or the reduced amount) is payable. In such cases, there would be nothing to write off. If something has been recorded in the accounts, an adjusting entry must be made to reverse or reduce it.

6.11 Debt write-off

When departments write off a debt as uncollectible, they will have to write off the accrued or accumulated interest too. However, if the department ever resumes collection action, interest would be reinstated to the date of the write-off unless it was forgiven or remitted.

6.12 Spending of interest revenue

In most cases, departments do not currently pay interest on their use of capital. The Department of Finance absorbs these costs as part of the public debt and does not charge them back to departments' programs.

Because departments are not incurring the interest expense for the use of capital, they must not treat revenue from interest charges on overdue receivables as additional funds to spend. Rather, they must account for such interest revenue as general, non-tax revenue to "offset" the Department of Finance's cost of financing the receivables.

However, if a department does incur costs by paying interest on its use of capital, which is in the case with some revolving funds, the interest charged on receivables may be offset against those costs.

Similarly, revolving funds and departments with appropriate net-voting authority may use the administrative charges to offset the handling costs incurred where a payment instrument is dishonoured.

6.13 Obtaining information on current interest rates

The interest rate applicable to Government of Canada overdue supplier accounts can be obtained from the Receiver General (RG) Payment on Due Date (PODD) web page.

7. References

For additional information regarding legislative and policy aspects of charging interest and administrative charges, the following may be consulted.

7.1 Other relevant legislation and regulations:

- *Financial Administration Act*, section 155.1
- *Interest and Administrative Charges Regulations*

- Accountable Advances Regulations

7.2 Related policy instruments and publications:

- *Directive on Receivables Management*
- *Policy on Internal Control*
- *Directive on Payment Requisitioning and Cheque Control*

8. Enquiries

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

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Financial Management and Analysis Sector
Office of the Comptroller General
Treasury Board Secretariat
Ottawa ON K1A 0R5

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Appendix A—Interest rate calculation and interest calculation examples

Interest rate calculation

The interest rate used to calculate the interest payable on overdue accounts is the same as the rate used under the Payment on Due Date Policy. This rate is available on the Payment on Due Date (PODD) webpage.

The rate can also be calculated by adding 3 per cent to the average bank rate of the month preceding the month for which interest is being calculated. A recorded message at 613-782-7506 gives cuurent Bank of Canada rates.

In the following example assume that the bank rates were as follows:

- February 22: 5.5%
- March 21: 5.25%

Calculation of the average bank rate for March would be based on 20 days (March 1 to 20 inclusive) at 5.5% and 11 days (March 21 to 31 inclusive) at 5.25%:

- (20 days **[Multiply by]** 5.5% **[Plus]** 11 days **[Multiply by]** 5.25%) **[Divide by]** 31 days = 5.41%

Therefore, the interest rate used during the month of April to calculate interest on overdue accounts would be:

- 5.41% **[Plus]** 3% = 8.41%

Interest calculation examples

In the following examples assume that the interest rate for May is 8.55%, the rate for June is 8.45%, the initial amount owing is $5,000 and the due date is April 30.

a. If payment is made in full on April 30, no interest is payable.
b. If payment is made in full on May 14, then interest is payable on $5,000 for 14 days (April 30 to May 13 inclusive) and on zero dollars for 1 day (May 14); note that interest is charged on the outstanding balance on each day, from the due date to the payment date inclusive:

    - (14 days **[Divide by]** 365) **[Multiply by]** 8.55% **[Multiply by]** $5,000 = $16.40

    - (1 day **[Divide by]** 365) **[Multiply by]** 8.55% **[Multiply by]** zero dollars = 0

c. If partial payment of $3,000 is made on May 14 and another partial payment of $600 on May 24, then the amount owing on June 1 would be the interest on $5,000 for 14 days (April 30 to May 13 inclusive) plus interest on $2,000 for 10 days (May 14 to 23 inclusive) plus interest on $1,400 for 8 days (May 24 to 31 inclusive) plus the outstanding principal amount of $1,400:

    - (14 days **[Divide by]** 365) **[Multiply by]** 8.55% **[Multiply by]** $5,000 = $16.40

    - (10 days **[Divide by]** 365) **[Multiply by]** 8.55% **[Multiply by]** $2,000 = $4.68

    - (8 days **[Divide by]** 365) **[Multiply by]** 8.55% **[Multiply by]** $1,400 = $2.62

- Outstanding principal amount = $1,400
- Total owing as of June 1 = $1,423.70

d. If another partial payment of $400 is made on June 25, then the amount owing on July 1 would be the interest on the amount owing as of June 1 ($1,423.70) for 24 days (June 1 to 24 inclusive) plus interest on $1,023.70 for 6 days (June 25 to 30 inclusive) plus the outstanding principal amount of $1,022.64:

    - (24 days **[Divide by]** 365) **[Multiply by]** 8.45% **[Multiply by]** $1,423.70 = $7.91
    - (6 days **[Divide by]** 365) **[Multiply by]** 8.45% **[Multiply by]** $1,023.70 = $1.42
    - Outstanding principal amount = $1,023.70
    - Total owing as of July 1 = $1,033.03

    Note that the interest is compounded monthly and added to the total amount outstanding once a month on the statement date.