

4 FAM 490

DEBT COLLECTION

(CT:FIN-415; 6-21-2012)
(Office of Origin: RM/FPRA/FP)

4 FAM 491 GENERAL

4 FAM 491.1 Purpose

(CT:FIN-378; 05-03-2006)

This subchapter contains policies and procedures for the Department of State for the collection of claims owed to the United States Government. These policies and procedures supplement the regulations contained in 22 CFR 34.

4 FAM 491.2 Authority

(CT:FIN-378; 05-03-2006)

- a. Under the provisions of the Federal Claims Collection Act of 1966, 31 U.S.C. 3701 - 3720E, as amended through the Debt Collection Improvement Act of 1996 (Public Law 104-134), the Department of State shall try to collect claims of the United States for money or property arising out of the activities of or referred to the Department of State.
- b. Other key guidance and regulations related to debt collection include:
 - (1) Office of Management and Budget (OMB) Circular A-129; and
 - (2) Federal Claims Collection Standards (FCCS).
- c. The Department's regulations relating to the collection of debts owed to the Department of State are found at 22 CFR 34.

4 FAM 491.3 Definitions

(CT:FIN-378; 05-03-2006)

The following terms are used in debt management at the Department of State. Additional terms are identified in 22 CFR 34.4.

Accounts Receivable - A claim against a debtor for an amount owed the Department of State for a service, advance, overpayment or loan.

Administrative costs - The expenses associated with processing and handling a debt from the date of the delinquency.

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Advance Decision - A determination as to the propriety of a debt collection action requested from and rendered by an authorized official prior to the action being taken.

Bankruptcy - A legal proceeding in Federal court for dealing with debt problems of individuals and businesses.

Close-out - When the Department of State determines that further debt collection actions are prohibited (for example, a debt released from liability in bankruptcy court) or when the Department of State does not plan to take any future actions (either active or passive) to try to collect the debt.

Currently not collectible (CNC) - The classification for writing-off a debt that indicates that the Department of State will continue debt collection actions after write-off.

Day - Calendar day.

Initial Notice - A demand letter from the Federal agency/designated collection center notifying an individual or vendor of a debt. The notice informs the debtor of their due process/rights under 22 CFR 34.8.

Discharge - A release of a debtor from personal liability for a debt.

Employee - A current employee of the Federal government, including a current member of the Armed Forces and a Reserve of the Armed Forces.

Interest - A charge assessed under 31 U.S.C. 3717 to cover the cost of processing and handling a delinquent claim.

Penalty - An amount assessed under 31 U.S.C. 3717 not to exceed six percent a year, on the amount due on a claim that is delinquent for more than 90 days.

Settlement - A resolution to litigation or to an administrative grievance, complaint or claim preceding that is mutually agreed upon by the parties involved rather than imposed by a judge or other deciding official.

Suspension - The temporary cessation of collection action in accordance with the FCCS at 31 CFR 903.2.

Termination - The cessation of collection action on a debt in accordance with the FCCS at 31 CFR 903.3.

Write-off - An accounting procedure that results in reporting a debt or receivable as having no value on the agency's accounting and financial reports.

4 FAM 492 DEBT MANAGEMENT

4 FAM 492.1 Debt Determinations

(CT:FIN-378; 05-03-2006)

- a. A debt or claim means an amount of money that has been determined to be owed to the United States from any person.
- b. The management, financial management, or program officer at the post, bureau, or office responsible for the allotment, activity or program under which the debt arises is responsible for:
 - (1) Determining whether a debt exists, and if so the amount owed;
 - (2) Undertaking appropriate initial collection measures in accordance with 4 FAM 493.1;
 - (3) Maintaining records of the debt and monitoring uncollected debts (i.e., open receivables) until the debt is referred to RM/GFS/F/R;
 - (4) Timely referral under 4 FAM 493.1 of uncollected debts with the necessary documentation to RM/GFS/F/R;
 - (5) Referring the debt to the appropriate official under 4 FAM 494 for compromise, suspension, termination of collection, advance decision, settlement and/or waiver of claims; and
 - (6) Paying for any required outside hearing costs.
- c. The Office of Inspector General may provide findings to the Department of State that indicates a debt may exist. All debt determinations, however, must be made by the post, bureau, or office within the Department of State responsible for the allotment, activity or program under which the debt arises. A post, bureau, or office may determine that a debt exists irrespective of the outcome of any disciplinary action or criminal prosecution.

4 FAM 492.2 Types of Debt

(CT:FIN-378; 05-03-2006)

Examples of debt include, but are not limited to:

- (1) Loss or damage related to shipments of supplies and equipment (see 14 FAM 500 and 600);
- (2) Loss, damage, or destruction of Government property (see 14 FAM 500 and 600);
- (3) Overpayment to an employee of pay or allowances;
- (4) Overpayment to an annuitant under the Foreign Service Retirement and Disability System or the Foreign Service Pension System;
- (5) Overpayment or refund of travel, transportation and relocation expenses or allowances;

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- (6) Contractual claims, such as an overpayment, as determined by a contracting officer, and any interest, administrative charge, or penalty relevant to the contract from which the claim arose (41 U.S.C. Chapter 9);
- (7) Any negotiable instrument (e.g., check) proffered to the Department of State for any reason (e.g., accommodation exchange, loan or advance repayment, refund or reimbursement of services, or simple check cashing) that is returned as non-negotiable by a financial institution or that creates a debit voucher to U.S. disbursing officer (USDO) accountability;
- (8) Any claim against an individual (i.e., U.S. citizen, Government employee, contractor) for a service, advance, overpayment or loan (i.e., nonpayment of rent, utilities, telephone charges, medical payments or services, repatriation loans, emergency evacuation assistance to private citizens) where a payment has been made by the U.S. Government that requires the individual to repay or reimbursement to the Government; or
- (9) Any claim based on a fiscal irregularity.

4 FAM 493 COLLECTION ACTIONS

4 FAM 493.1 Notices to Debtors

4 FAM 493.1-1 Initial Notices

(CT:FIN-378; 05-03-2006)

- a. All debtors must be notified of their indebtedness. The management, financial management, or program officer at the post, bureau, or office responsible for the allotment, activity or program under which the debt arises will take the initial collection effort. The promissory note associated with a repatriation loan, an evacuation, or an emergency medical and dietary assistance loan must be forwarded immediately to the Bureau of Resource Management, Global Financial Services, Accounts Receivable office (RM/GFS/F/R) for processing and collection. The notice given under 4 FAH-3 463.2-3 is the first notice with respect to travel advances.
- b. The debtor is provided initial notice under the provisions of 22 CFR 34.8. Notices issued by post should conform to local law in cases of debts owed by local entities (i.e., foreign nationals, individuals, contractors, and vendors).
- c. When the Department of State accepts a written installment repayment schedule, the responsible office should ensure that the written arrangement reflects an acknowledgment of the debt and a promise to pay it in full in accordance with the installment schedule (22 CFR 34.7).

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4 FAM 493.1-2 Follow-Up Notices

(CT:FIN-378; 05-03-2006)

- a. Overseas: If payment has not been recovered within 30 days after the initial notice, the management or financial management officer at post must (except as specified in paragraph b, below) send a second notice. In addition, the post may contact the debtor by personal visit or telephone. The responsible officer must document all contacts (i.e., personal visits, telephone) made and send a follow-up letter to the debtor noting the interest due on the debt.
- b. As an alternative, post may forward the debt and supporting documentation to RM/GFS/F/R for further collection activity. Whether or not the post issues the second notice depends on factors such as the location of the debtor. If, for example, the debtor is not at post and is a U.S. citizen employee, the debt should be referred to RM/GFS/F/R. On the other hand, if the debtor is a host country national or vendor, post is in a better position to collect the debt and should send a second notice.

4 FAM 493.1-3 Referral for Further Action

(CT:FIN-378; 05-03-2006)

- a. Overseas: Except in cases where post referred the debt to RM/GFS/F/R, if the debtor does not respond to follow-up notices and telephone calls within 60 days of the initial notice, the post management or financial management officer will send a third notice to the debtor restating the information previously provided, including the cumulative interest, administrative charges and penalties. The third notice will inform the debtor that all further collection action will be undertaken by RM/GFS/F/R. If the debtor does not respond within 10 days after the mailing of the third notice, the post management or financial management officer must forward the debt to RM/GFS/F/R for further collection action.
- b. Domestically: If payment has not been received within 30 days after the initial notice, the bureau or office management, financial management officer, or program officer must forward the debt to RM/GFS/F/R.

4 FAM 493.2 Referral to Accounts Receivable Office for Collection

(CT:FIN-378; 06-03-2006)

- a. RM/GFS/F/R is responsible for collection of debts referred by posts and domestic bureaus and offices. Debt collection techniques used by RM/GFS/F/R are outlined in 22 CFR 34.10 and may include administrative offset, salary offset, administrative wage garnishment (AWG) and/or referral to a private collection agency (PCA) or to the U. S Department of the Treasury. Only RM/GFS may use the methods of collection set forth in 22 CFR 34.10.

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- b. When a debt is referred to RM/GFS/F/R for collection or for negotiation of a repayment agreement, the bureau, office or post management, financial management, or program officer submits the appropriate documentation with a cover memorandum to RM/GFS/F/R. The bureau, office or post management, financial management, or program officer requests RM/GFS/F/R to set up a receivable account to monitor the collection or to process the claim for referral to the U. S. Department of the Treasury for collection. All accounts/claims transferred to RM/GFS/F/R for collection must include:
 - (1) All background documentation that verifies the debt;
 - (2) Accounting data;
 - (3) Social Security Number (SSN) or Tax Identification Number (TIN) of debtor (if applicable);
 - (4) Amount to be collected; and
 - (5) Last known street address.
- c. Even if the debt is referred to RM/GFS/F/R for collection, the officer who referred the debt may be contacted for additional information. If an issue arises that affects collection, the responsible officer must immediately inform RM/GFS/F/R.

4 FAM 493.3 Assessment of Charges

4 FAM 493.3-1 Interest, Penalties, and Administrative Costs

(CT:FIN-379; 06-28-2006)

- a. RM/GFS/F/R assesses interest, penalties, and administrative charges according to Federal debt collection regulations. The bureau, office or post responsible for the allotment or program under which the debt arose may also assess these charges, if applicable, prior to referral to RM/GFS/F/R.
- b. RM/GFS/F/R will prepare a request to the Deputy Assistant Secretary for Global Financial Services to waive interest, penalty and administrative charges on a case-by-case basis in accordance with 31 CFR 901.9g.
- c. RM/GFS/F/R or the responsible bureau, office or post will notify debtors charged for late payments in the case of obligations covered by contracts, agreements, or other formal arrangements. The notice will specify that interest and penalties will accrue and become payable from a stipulated due date established in accordance with 22 CFR 34.6.
- d. In the case of debtors with obligations not covered by contracts, agreements, or other formal arrangements, RM/GFS/F/R or the responsible post, bureau, or office will inform the debtor of late payment charges related to the initial notification of amounts due. Although interest accrues from the date of delinquency, it will be waived if the debt is paid in full within 30 days from the

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date of notification.

- e. RM/GFS/F/R or the responsible post, bureau, or office will calculate the administrative costs of processing and handling a delinquent claim based on the actual costs incurred or upon estimated costs and add these costs to the debt. Such costs may include, but are not limited to:
 - (1) Obtaining a credit report;
 - (2) Telephone, mail or cable costs; and/or
 - (3) A fee paid to a collection service.
- f. RM/GFS/F/R will review all open receivables for which it maintains the receivable records, to ensure interest assessment, penalty, and payments are correctly computed and applied. RM/GFS/F/R will notify the debtor of any revisions or adjustments to their account(s).

4 FAM 493.3-2 Charges Collected

(CT:FIN-378; 05-03-2006)

Amounts collected for interest, administrative, and penalty charges are credited as follows:

- (1) Interest to 19 3220, General Fund Proprietary Receipts, Not Otherwise Classified;

Penalty and administrative charges to 19 1099, Fines, Penalties, and Forfeitures, Not Otherwise Classified; and

Interest, penalty and administrative charges for repatriation loans are posted to 19X4107, Repatriation Loans, Financing Account.

4 FAM 493.4 Internal Administrative Review

(CT:FIN-378; 05-03-2006)

- a. If a debtor wishes to contest the existence or amount of the debt, he or she may request an internal administrative review of the debt. Overseas, a post official at an appropriate level who was not involved in the initial debt determination shall conduct an internal administrative review under 22 CFR 34.9. If a debt is referred to RM/GFS/F/R after an internal administrative review is conducted, a copy of the decision letter must be provided to RM/GFS/F/R.
- b. Domestically, the Deputy Assistant Secretary for Global Financial Services or his or her designee shall conduct internal administrative reviews under 22 CFR 34.9. No one who was involved in the initial debt determination may be designated to conduct an internal administrative review.

4 FAM 494 COMPROMISE, SUSPENSION, TERMINATION OF COLLECTION, ADVANCE DECISION, SETTLEMENT AND WAIVER OF CLAIMS

4 FAM 494.1 Delegation of Authority (DA)

(CT:FIN-378; 05-03-2006)

- a. Delegation of Authority 266-1, signed October 22, 2003, delegated authority from the Under Secretary for Management for the compromise, suspension, termination of Department of State collection, advance decision, settlement and waiver of claims of or against debtors of the Department of State to the Chief Financial Officer for all claims and to the following officers for claims in the following amounts:
 - (1) Up to and including \$500 - principal officer at post
 - (2) Up to and including \$35,000 - Deputy Assistant Secretary for Global Financial Services (RM/GFS)
 - (3) Over \$35,000 but not more than \$50,000 - Deputy Chief Financial Officer
- b. These dollar thresholds refer to the total amount owed, excluding interest penalties and administrative costs. These authorities may not be redelegated except by permission of the Under Secretary for Management. All actions taken under this delegation of authority shall be recorded in writing.
- c. If a debtor requests a compromise, suspension, or termination the Department of State will follow the guidance set forth in the Federal Claims Collection Standards (FCCS) 31 CFR Chapter IX Parts 900, 902 and 903 and in this subchapter.

4 FAM 494.2 Exceptions

4 FAM 494.2-1 Claims over \$100,000 and/or Debts Based on Fraud

(CT:FIN-378; 05-03-2006)

- a. Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties and administrative costs, exceeds \$100,000 or any higher amount authorized by the Attorney General, the authority to compromise, suspend or terminate collection rests with the U. S. Department of Justice (DOJ).
- b. The Department of State does not need to refer a debt for concurrence for termination of collection action if the Department of State referred the debt to

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DOJ for litigation or if DOJ determines that litigation is not appropriate and returns the debt to the Department of State. The Department of State will not refer debts to DOJ where it determines that the debt is legally without merit or cannot be substantiated.

- c. Compromise, suspension or termination of debts based on fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or anyone having an interest in the claim must be approved by the Attorney General regardless of the dollar amount.
- d. All debt collection related requests and referrals to DOJ must be submitted through the Office of the Legal Adviser.
- e. Final authority for waiver of debts remains within the Department of State as set out in section 4 FAM 494.1 regardless of the dollar amount.

4 FAM 494.2-2 Authority to Relieve Accountable Officials and Agents from Liability

(CT:FIN-378; 05-03-2006)

Pursuant to 31 U.S.C. 3527 and 31 U.S.C. 3528, the Comptroller General or designee may relieve accountable officials from liability related to fiscal irregularities, which include the physical loss or deficiency of public money as well as illegal or improper payments. In certain situations, the Department of State may be able to directly relieve accountable officials of liability without seeking a decision from the Comptroller General. (Refer to: DOJ Order 2110.39A, dated November 15, 1995, "Legality of and liability for obligation and payment of government funds by Accountable Officers.") The Department's policies and procedures concerning fiscal irregularities and the relief of accountable officials are contained in 4 FAM 370.

4 FAM 494.3 Suspension of Collection Activity Pending Waiver and Internal Administrative Review

(CT:FIN-378; 05-03-2006)

- a. The Department of State official delegated the authority stated in 4 FAM 494.1 may suspend collection activity in accordance with 31 CFR 903.2.
- b. When a debtor requests a waiver and/or internal administrative review of his or her debt, collection activity, including the accrual of interest, penalties, and administrative costs, will be suspended until a decision is rendered.
- c. RM/GFS/F/R shall retain permanent records of all suspended debts.
- d. RM/GFS/F/R shall periodically review all suspended debts, to determine if the debts should continue in a suspense status.

4 FAM 494.4 Compromise

(CT:FIN-378; 05-03-2006)

- a. The Department of State official delegated the authority stated in 4 FAM 494.1 may compromise a debt in accordance with 31 CFR 902, upon determination that the full amount cannot be collected.
- b. RM/GFS/F/R shall retain permanent records of all compromised debts.

4 FAM 494.5 Termination

(CT:FIN-378; 05-03-2006)

- a. The Department of State official delegated the authority stated in 4 FAM 494.1 may terminate the debt if one or more of the conditions stated in 31 CFR 903.3 exist.
- b. RM/GFS/F/R shall retain permanent records of all terminated debts in order to:
 - (1) Provide information for prescreening future debtors;
 - (2) Use previously unavailable collection actions; or
 - (3) Initiate offset against future payments.

4 FAM 494.6 Waivers

(CT:FIN-378; 05-03-2006)

- a. The Department of State official delegated the authority in 4 FAM 494.1 may waive a debt only as provided for in 22 CFR 34.18. Specific waiver authority exists for debts arising out of:
 - (1) Erroneous payments of pay and allowances (5 U.S.C. 5584);
 - (2) Advances in pay (5 U.S.C. 5524a);
 - (3) Advances in situations of authorized or ordered departures (5 U.S.C. 5522);
 - (4) Advances of allowances and differentials for employees stationed abroad (5 U.S.C. 5922);
 - (5) Employee training expenses (5 U.S.C. 4108);
 - (6) Under-withholding of life insurance premiums (5 U.S.C. 8707(d)); and
 - (7) Overpayments of the Foreign Service annuities (see 22 CFR Part 17).
- b. The debtor, his or her representative, or a Department of State official on behalf of the debtor must submit a request for waiver in writing to either the principal officer at post for debts under \$500 originating at post or to the Deputy Assistant Secretary, RM/GFS for all other debts.
- c. Post and RM/GFS shall retain permanent records of all waived debts.

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4 FAM 494.7 Actions for Suspension, Termination, Compromise, Advance Decision, Settlement, and Waiver of Claims

4 FAM 494.7-1 Overseas

(CT:FIN-378; 05-03-2006)

- a. Claims Not in Excess of \$500. Decisions of the Principal Officer at post to approve the compromise, suspension, termination of Department of State collection, advance decision, settlement or waiver of claims of or against debtors of the Department of State not in excess of \$500 shall be in writing and contain:
 - (1) The debtor's name;
 - (2) Amount of the claim;
 - (3) Basis for the claim;
 - (4) Brief statement of collection efforts;
 - (5) Legal basis for the action taken (e.g., Compromise under 31 CFR 902, Suspension or Termination under 31 CFR 903, settlement, or waiver under 5 U.S.C. 5584); and
 - (6) Statement as to how the legal standard was met in this case.
- b. The post management officer should request guidance as needed from RM/GFS/F/R to determine the legal basis and legal standard during a compromise, suspension, termination of Department of State collection, advance decision, settlement or waiver of claims of or against debtors of the Department of State.
- c. Claims in Excess of \$500. The post management officer may recommend compromise, suspension, termination of collection, settlement or waiver by memorandum to RM/GFS. RM/GFS will provide a copy to RM/GFS/F/R for its records. If the debt was not forwarded to RM/GFS/F/R for collection, they will not receive a copy of the letter. The memorandum must include complete documentation which, at a minimum, must contain the information stated in 4 FAM 494.7-1, paragraph a. The post financial management office will maintain a record of all such requests and decisions.

4 FAM 494.7-2 Domestically

(CT:FIN-378; 05-03-2006)

For claims originating in the United States, the bureau or office management officer or RM/GFS/F/R may recommend compromise, suspension, termination of Department of State collection, advance decision, settlement or waiver by

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memorandum to RM/GFS. Such memorandum should include complete documentation as outlined in 4 FAM 494.7-1.

4 FAM 494.7-3 RM/GFS Role for Processing of Claims for Compromise, Suspension, Termination, Advance Decision, Settlement, and Waiver

(CT:FIN-378; 05-03-2006)

- a. When RM/GFS receives requests for compromise, suspension, termination of Department of State collection, advance decision, settlement or waiver (other than those for less than \$500 originating at post) and is not the final approving official (i.e., involving claims over \$35,000), RM/GFS will prepare a memorandum and send it to the approving official.
- b. The decision memorandums must contain the following information:
 - (1) The debtor's name;
 - (2) Amount of the claim;
 - (3) Basis for the claim;
 - (4) Brief statement of collection efforts;
 - (5) Legal basis for the action taken (e.g., Compromise under 31 CFR 902, Suspension or Termination under 31 CFR 903, settlement, or waiver under 5 U.S.C. 5584); and
 - (6) Statement as to how the legal standard was met in this case.
- c. RM/GFS will maintain a record of decision memorandums.
- d. RM/GFS will refer debts to the Office of Legal Adviser (L) that need to be forwarded to the U. S. Department of Justice for compromise, suspension or termination. RM/GFS will contact L for status on each debt sent to the Department of Justice.

4 FAM 494.8 RM/GFS Notification and Refunds

4 FAM 494.8-1 RM Notification

(CT:FIN-378; 05-03-2006)

The authorized official conducting an internal administrative review or issuing a decision regarding waiver of a debt shall notify the debtor in writing of his or her decision. If the debtor is due a refund based on the decision, the deciding official will initiate the refund to the debtor.

4 FAM 494.8-2 Refunds

(CT:FIN-378; 05-03-2006)

- a. Where a partial or full refund is to be made to a debtor for repayment of a previously collected debt that was later waived or found not to be owed, RM/GFS or the post shall make such refund as outlined below:
 - (1) Current Employees. For refunds of repayments of pay and/or allowances, the office maintaining the employee's pay records shall process the refund on a subsequent regular payroll, or, if more convenient, on a supplemental payroll.
 - (2) Separated Employees. For employees separated from the Department of State, RM/GFS/C shall process refunds of repayments of pay and/or allowances.
 - (3) Other than Pay. RM/GFS/F shall process refunds of repayments of travel, transportation and relocation expenses, allowances and all other types of payments.
- b. Refunds must be charged to the appropriation and allotment to which the repayment was credited.

4 FAM 494.9 Employees Separating From the Government

(CT:FIN-378; 05-03-2006)

An employee separating from the government will have withheld from their final salary payment the amount of indebtedness involved in any pending debt cases. The employee's post of assignment, or the bureau or office executive office in the case of domestically assigned employees, will advise RM/GFS/C by memorandum of any pending indebtedness cases pertaining to employees who are to receive their final salary payment. RM/GFS/C will refund any amounts later waived or found not to be owed.

4 FAM 495 WRITE-OFF OF DEBT

(CT:FIN-378; 05-03-2006)

- a. A write-off is an accounting procedure that results in reporting a debt or receivable as having no value on the agency's accounting and financial reports.
- b. The Department of State will follow the policies outlined in OMB Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables, and the Federal Claims Collection Standards (FCCS) (see 31 CFR 903.5) with regard to write-offs.
- c. RM/GFS/F/R is responsible for reviewing delinquent debt quarterly as a

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minimum and identifying debts for write-off. RM/GFS may delegate authority to write-off delinquent debt to other domestic bureaus or offices or posts as appropriate.

- d. In accordance with OMB Circular A-129, RM/GFS/F/R will write-off delinquent debts as soon as they are determined to be uncollectible. RM/GFS/F/R will write-off any delinquent debt over two years old unless justified to OMB in consultation with Treasury. RM/GFS/F/R will write-off the delinquent debt prior to two years if termination of collection has been authorized.
- e. Before RM/GFS/F/R, other domestic office or post writes off a debt, the responsible officer(s) within the Department of State will take the appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g) as outlined in 4 FAM 490.
- f. When RM/GFS/F/R, another domestic office or post writes off a debt, it must evaluate the probability of collecting on the delinquent debt and either classifies the debt as currently not collectible (CNC) or closed-out.
- g. The office that writes off a debt must document and justify the reason(s) for write-off and enter the transactions for write-off. In accordance with OMB Circular A-129, all write-offs must be made through an allowance account. Under no circumstances are debts to be written off directly to expense.

4 FAM 495.1 Currently Not Collectible (CNC)

(CT:FIN-378; 05-03-2006)

- a. Currently not collectible (CNC) is the classification for writing-off a debt that indicates that the Department of State will continue debt collection actions after write-off.
- b. RM/GFS/F/R should continue debt collection activities, such as referral to the Department of the Treasury's Financial Management Service (FMS) for collection action through cross-servicing or the Treasury Offset Program (TOP), for debts with a CNC classification.

4 FAM 495.2 Closed-Out

(CT:FIN-378; 05-03-2006)

- a. A debt is classified as closed-out when the Department of State determines either that further debt collection actions are prohibited (for example, a debt released from liability in bankruptcy court) or when the Department of State does not plan to take any future actions (either active or passive) to try to collect the debt. Once a debt is closed-out, it has been officially discharged meaning that no debt is owed. The Department of State no longer maintains a claim against the individual or entity previously indebted.
- b. Classification of a debt as closed-out may occur concurrently with the write-off

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of an account, or at a later date.

- c. To close out a debt, the debt must be written off for accounting purposes and collection terminated under an appropriate authority. When the Department of State classifies the debt as closed-out, RM/GFS/F/R determines if the amount discharged must be reported to the Internal Revenue Service (IRS) as potential income to the debtor under Section 6050P of the Internal Revenue Code (26 U.S.C. 6050P). If necessary, RM/GFS will report the amount of the discharged debt to the IRS on Form IRS-1099-C, Cancellation of Debt, as potential taxable income to the debtor.
- d. If a Form IRS-1099-C is issued, the debtor must be notified and sent a copy by January 31 of the following year. The IRS must receive its copy of the Form IRS-1099-C by February 28 of the same year in which the Form IRS-1099-C is sent to the debtor.

4 FAM 495.3 Bankruptcy

(CT:FIN-378; 05-03-2006)

- a. When the Department of State is notified that a bankruptcy petition has been filed with respect to a debtor of the Department of State, in most cases the collection on that debt must be suspended.
- b. When a notification is received from a bankruptcy court as to the disposition of a petition for bankruptcy, RM/GFS/F/R will notify the Office of the Legal Adviser immediately for guidance on how to handle the debt. The Department of State's particular claim may or may not be discharged based on the court's disposition of the bankruptcy petition.
- c. When the Department of State claims are discharged in bankruptcy court, they do not need to be approved by DOJ or the appropriate Department of State official for termination prior to being closed-out.

4 FAM 496 THROUGH 499 UNASSIGNED

4 FAM EXHIBIT 490

BASIC FACTS FOR TERMINATION AND WRITE-OFF OF DEBT

(CT:FIN-378; 05-03-2006)

The following charts provide basic information concerning termination of collection action, write-off, and the classification of debts as currently not collectible (CNC) and closed-out (see U.S. Treasury’s Managing Federal Receivables, Chapter 7, Termination of Collection Action, Write-Off and Close-Out/Cancellation of Indebtedness). These are separate legal and accounting actions associated with debt.

DEBT COLLECTION PROCESS ACTION

	Description	Authority	Timing	Comment
TERMINATION/SUSPENSION OF COLLECTION ACTION	Termination: Agency stops all active debt collection action; may continue passive collection. Suspension: Agency is likely to resume active collection action at a future time.	31 U.S.C. 3711(a)(3); 31 CFR Part 903	Not tied to write-off, but must occur before debt is closed-out.	Agency decision to terminate/suspend must comply with Federal Claims Collection Standards (31 CFR part 903). DOJ concurrence required for some debts.

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ACCOUNTING ACTION

	Description	Authority	Timing	Comment
WRITE-OFF	Agency reports debt as having no value on financial and management reports.	OMB Circular A-129	No later than 2 years after debt delinquency, unless approved by OMB; not tied to termination or suspension.	At time of write-off, agency must classify the debt as currently not collectible (CNC) or closed-out.
CURRENTLY NOT COLLECTIBLE (CNC)	A classification after write-off when the agency has determined that debt collection efforts should continue.	OMB Circular A-129	Determined at the time the debt is written-off.	CNC classification does not affect agencies' statutory and regulatory responsibilities to pursue debt collection.
CLOSE-OUT	A classification after write-off when the agency has determined that no further active or passive debt collection action will be taken.	OMB Circular A-129	Must occur after write-off and Termination of collection action. Can occur after CNC classification, if debt was initially classified as CNC at time of write-off.	Agency may not take any collection action after close-out; if required by internal Revenue Code and regulation, agency must report closed-out debt to IRS on Form IRS-1099-C as potential income to the debtor.