

4 FAM 490

DEBT COLLECTION

(TL:FIN-361; 04-28-2003)
(Office of Origin: A/RPS/DIR)

4 FAM 491 AUTHORITY

(TL:FIN-352; 5-30-95)

a. Under the provisions of the Federal Claims Collection Act of 1966, 31 U.S.C. 3701-3719, as amended by the Debt Collection Act of 1982, Pub.L. 97-365 Stat 1749, the Department of State “shall try to collect a claim of the United States for money or property arising out of the activities of or referred to the [Department].”

b. The provisions of 22 CFR 34 are based upon the joint regulations of the General Accounting Office and the Department of Justice, pertaining to the Federal Claims Collection Standards (FCCS) (4 CFR 101-105). References in the text are to 22 CFR 34, unless otherwise indicated.

4 FAM 492 DEBT COLLECTION (22 CFR 34)

(TL:FIN-352; 5-30-95)

A complete statement of the Department’s policy, 22 CFR 34, is furnished in 4 FAH-3 H-492.

4 FAM 493 CLAIMS ADMINISTRATION

(TL:FIN-352; 5-30-95)

The Department shall attempt to collect all receivables as defined and recorded in the Department’s accounting systems.

4 FAM 494 COLLECTION ACTIONS

(TL:FIN-352; 5-30-95)

Mandatory compliance is required in providing notice actions to be taken at significant dates in the collection process.

4 FAM 495 COMPROMISE, SUSPENSION, OR TERMINATION OF CLAIMS

4 FAM 495.1 Compromise, Suspension, or Termination

(TL:FIN-361; 04-28-2003)

The Post *Management Officer*, the Director of FMP/F/DFS, and the Claims Settlement Committee have limited authority to compromise, suspend, or terminate a debt as provided by these regulations (See 4 FAH-3 H-492.3). For cases within its jurisdiction on claims exceeding \$500 but not exceeding \$100,000, the Committee of Inquiry into Fiscal Irregularity shall have exclusive authority to compromise, suspend or terminate a collection action in accordance with the standards set forth in this section, as well as, to waive employee overpayments not exceeding \$1,500 in accordance with the standards set forth in section 4 FAM 497 (see 3 FAM 4110).

4 FAM 495.2 Compromise (Collecting a Reduced Amount)

(TL:FIN-000; 00-00-2003)

A compromise may be sought by the debtor, by the post *management officer*, or by FMP/F/DFS/FO/AR (See 4 CFR 103.2 and 22 CFR 34.12), within the limits of 4 FAM 495.1, if it is determined that the full amount of the debt cannot be collected. On an individual basis, the authorizing official reviews periodically the agreements of authorized schedules of repayments to assure compliance and collection.

4 FAM 495.3 Suspending Collection Action

(TL:FIN-352; 5-30-95)

The Department may suspend collection action temporarily if the debtor cannot be located after a diligent effort and there is reason to believe that collection at a future time may be more productive (See 22 CFR 34.13).

4 FAM 495.4 Exceptions

4 FAM 495.4-1 Types of Exceptions

(TL:FIN-352; 5-30-95)

The criteria and actions to suspend or terminate a debt do not apply and full collection action must be pursued for any claim where there is an

indication of misrepresentation or fraud on the part of the debtor or any other party having an interest in the claim. As stated in 4 CFR 101.3, when such claims cannot be collected, they shall be referred by the Office of the Legal Adviser to the Department of Justice, which shall determine what further action will be taken.

4 FAM 495.4-2 Compromising Exceptions

(TL:FIN-352; 5-30-95)

Pursuant to 31 U.S.C. 3527, only the Comptroller General, or designee, may compromise a claim that arises out of an exception made by GAO in the account of an accountable officer.

4 FAM 496 DEPARTMENT REVIEW AND SETTLEMENT OF CLAIMS

4 FAM 496.1 FMP/F/DFS Review

(TL:FIN-352; 5-30-95)

A review by FMP/F/DFS is made on all debts in excess of \$500 but less than \$2,500, that are being recommended for compromise, suspension or termination. The Director, FMP/F/DFS, shall appoint a "Claims Settlement Committee" with a representative from each of the following offices: (1) Office of the Legal Adviser; (2) Bureau of Personnel; and (3) FMP/F/DFS staff. The Claims Settlement Committee will review and determine appropriate action on claims in excess of \$2,500 but less than \$100,000, originating at post or domestically.

4 FAM 496.2 Close Out

(TL:FIN-352; 5-30-95)

Close out occurs when the Department terminates all collection activities. The Internal Revenue Service (IRS) treats such written-off debt as income and FMP/F/DFS therefore reports this amount on Form 1099 MISC. FMP/F/DFS notifies the debtor by Form 1099 MISC of the debt write-off being reported to IRS. FMP/F/DFS shall promptly report the close out to IRS, except that reporting to IRS is not required if informed that the debt has been discharged pursuant to Chapter 11, Federal Bankruptcy Law.

4 FAM 496.3 Referrals of Unresolved Claims

(TL:FIN-352; 5-30-95)

Procedures for the referral of unresolved claims to GAO and the

Department of Justice are contained in 4 CFR, Part 105 and Title 4, section 70, GAO Policy and Procedures Manual.

4 FAM 497 COLLECTION WAIVER OF CERTAIN OVERPAYMENTS

(TL:FIN-352; 5-30-95)

a. Authority to waive claims of the government against civilian employees for overpayments is contained in 5 U.S.C. 5584 as follows:

- (1) Salary (pay) overpayments—Pub.L. 90-616, October 21, 1968;
- (2) Erroneous allowance payments—Pub.L. 92-453, October 2, 1972; and
- (3) Erroneous payments of travel, transportation and relocation expenses and allowances (but not retroactively) Pub.L. 99-224, December 28, 1985.

b. The Secretary of State, or designee, may waive an overpayment under the Foreign Service Retirement and Disability System if the employee was without fault and recovery would be against equity and good conscience or administratively infeasible (22 U.S.C. 4047(d)). Waivers will be made according to 22 CFR 17 and 4 FAM 570.

4 FAM 498 WAIVER AND REPAYMENT PROCESS

(TL:FIN-352; 5-30-95)

See 4 FAH-3 H-498 for the waiver and repayment procedures related to an employee separating from the government; report of investigation; employee notification of waiver action; refund to employee; and accounting for waivers and refunds.

4 FAM 499 UNASSIGNED