



Minnesota Management & Budget Statewide Operating Policy

Minnesota Management and Budget, General Accounting
Issued: July 1, 2011

Number 0504-01
Revised: June 10, 2014

Debt Collection Process and Actions

Objective

All state agencies are responsible for managing their accounts receivable and/or loans receivable to maximize the collection of state revenues through sound debt management practices consistent with statewide policies, Generally Accepted Accounting principles (GAAP) and to ensure compliance with Minnesota Statutes, federal and other state laws.

Statute	Statute Name
16A.124	Prompt Payment of State Agency Bills Required (https://www.revisor.mn.gov/statutes/?id=16A.124)
16D	State Debt Collection (https://www.revisor.mn.gov/statutes/?id=16D)
270A	Revenue Recapture (https://www.revisor.mn.gov/statutes/?id=270A)
270C.40	Interest Payable to Commissioner (https://www.revisor.mn.gov/statutes/?id=270C.40)
270C.65	Right of Setoff (https://www.revisor.mn.gov/statutes/?id=270C.65)

Policy

All state agencies must maintain internal policies that take all appropriate, fair, consistent and cost-effective actions to assertively collect their debt. State agencies are wholly accountable for the management and collection of their loans and accounts receivables in accordance with Minnesota Statutes, and any agency specific federal or other state laws. Where debt collection-related conflict exists between Minnesota Statutes and agency-specific laws, the agency specific law takes precedence.

State agencies must establish service level agreements and maintain a relationship with the Minnesota Department of Revenue (DOR). Once a debt becomes 121 days past due, it must be referred to DOR. State agencies must notify the debtor of the intent to refer the account for collection in writing at least 20 days before referral. Upon referring a debt to DOR, the state agency must discontinue all billing and collection efforts. Accounts should not be referred when:

- An unresolved dispute over the validity of the debt exists;
- The debt is the subject of legal action or administrative proceedings;
- The debtor is making satisfactory progress on a payment agreement;
- Or, the debt is determined to be uncollectible. Each uncollectible debt write-off must be approved in writing by agency management prior to processing.

Send Follow-up Invoices on Past Due Accounts

Past due invoices should be sent to customers that have invoices that are 5 days past due, 31 days past due, 61 days past due and each month continuing until the invoice is paid, written off or referred to DOR. Agencies can create their own schedules if they determine that the above schedule is not appropriate due to the nature of the receivable.

Due to the sensitive nature of the communications in follow-up invoices, agencies should restrict access to it. A limited number of persons at each agency should be granted security access to modify this information. Each agency is responsible for assuring the security these communications.

Charging Interest on Past Due Receivables

A state agency shall charge simple interest on debts owed to the state if notice of the past due account has been sent according to the schedule above, or their own schedule, with no response from the customer. Agencies must charge interest unless otherwise provided by a contract out of which the debt arises, by state or federal law, or by a written justification from an agency, approved by Minnesota Management and Budget (MMB), showing the costs charging interest exceed the benefit. The interest rate is determined by DOR no later than October 15 of each year.

Writing-off Uncollectable Accounts

State agency internal policies and procedures must establish a formal process for determining when an account is uncollectible, as well as procedures for approving and writing-off the debt determined to be uncollectible. When a debt is determined by a state agency to be uncollectible, the debt must be written off from the state agency's financial accounting records in a timely manner and no longer recognized as a debt for financial reporting purposes. A debt is considered uncollectible when it meets one of the following criteria:

1. All reasonable collection efforts have been exhausted,
2. The cost of further collection action will exceed the amount recoverable,
3. The debt is legally without merit or cannot be substantiated by evidence,
4. The debtor cannot be located,
5. The available assets or income, current or anticipated, that may be available for payment of the debt are insufficient,
6. The debt was discharged in bankruptcy,
7. The applicable statute of limitations for collection of the debt has expired,
8. It is not in the public interest to pursue collection of the debt.

The term write-offs and the list of criteria above, do not distinguish between account write-offs and account adjustments. Write-offs are to remove a valid debt, not to correct errors.

The determination of the uncollectibility of a debt must be maintained by the state agency along with the basis for that decision and reported as part of its quarterly reports to the commissioner of MMB. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

Minimum Collection Efforts

Agencies must make every reasonable effort to collect an account before the debt is written-off. Internal policies and procedures must identify key marginal cost benefit points and the internal write-off approval procedure.

Using Revenue Recapture

Each state agency should participate in the Revenue Recapture Program prior to referral and after a debt is returned as means to collect past due accounts due from individuals. The Minnesota Department of Revenue can take ("recapture") tax refunds and use them to pay outside agencies or Federal tax debts through the Revenue Recapture process. All Minnesota income tax, political contribution and property tax refunds are eligible for revenue recapture. Each state agency should develop criteria for which past due accounts will be referred to the program.

Vendor Offset

The Minnesota Department of Revenue may take ("intercept") payments made to individuals and businesses that provide goods and services to the State of Minnesota. Individuals and businesses are considered the vendor and the state the agency.

Intercepted payments are applied to delinquent debts of the vendor. Debts within 10 years of the original assessment date qualify for vendor offset. All referrals are done electronically via the Statewide Integrated Financial Tools (SWIFT) system.

The Department of Revenue may intercept payments from the Minnesota Department of Human Services, Minnesota Management & Budget, and the University of Minnesota.

Collection Agency

Debts are referred to private collection agencies when collection by the Minnesota Department of Revenue is not cost effective or collection action has resulted in minimal results, the debtor resides outside the state of Minnesota, or the current address for the debtor cannot be located.

Compromise of Debt

Unless expressly prohibited by other federal or state law, Minnesota Statutes 16D.15 authorizes state agencies to compromise debts owed to the state, whether reduced to judgment or not, where the agency determines it is in the best interest of the state to negotiate a partial payment on the debt. This may be the case, when:

- The cost of collection action will exceed the amount recovered, the available assets or income, (current or anticipated), are insufficient
- Available assets or income, (current or anticipated) are insufficient
- It is not in the public interest to pursue the debt, or
- Federal or state law prohibits.

An agency may accept these decreased amounts as full payment under approval of the Attorney General's Office, if necessary. These actions are called compromises and the deduction of the debt from financial records is entered be reported as a write-off. DOR cannot compromise a debt referred by a state agency

Definitions

State agency

“State agency” means a state office, officer, board, commission, bureau, division, department, authority, agency, public corporation, or other unit of state government.

Write-Offs

A billed amount that has been determined to be valid and properly valued, but full payment is not likely to be received despite collection efforts.

Account Adjustments

Transactions to correct an invoice. This transaction is entered similarly to write-offs. Using the correct Entry Type on the maintenance worksheet distinguishes write-offs from refunds or offset items.

Legal Merit

A claim that has a valid basis by sufficient facts that a court could find a valid claim of deprivation of a legal right.

Marginal Cost Benefits

Marginal cost is the incremental costs of one more; in this case, pursuing an overdue account. Marginal benefit is the incremental benefit resulting from the cost of one more; in this case, payment on an overdue account. The marginal cost benefit is the decreasing benefit resulting from the additional cost.

Compromise Debts

A negotiated settlement where the payment of a specific amount less than what is owed is accepted in exchange for the balance of the debt being written-off.

Reduced to judgment

A court order to pay the debt. This judgment can be used to attach to bank accounts, or seize assets.

Assessment Date

The date your debt was officially considered due.

Related Policies and Procedures

[MMB Statewide Operating Policy 0501-01 Managing and Reporting of Accounts Receivable](http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-5/0501-01-managing-reporting-ar-policy.pdf)

(<http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-5/0501-01-managing-reporting-ar-policy.pdf>)

[MMB Statewide Operating Procedure 0504-01.1 - Debt Collection Process and Actions](http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-5/0504-01-01-debt-collection-procedure.pdf)

(<http://mn.gov/mmb-stat/documents/accounting/fin-policies/chapter-5/0504-01-01-debt-collection-procedure.pdf>)

See also

[Minnesota Department of Revenue Collections](http://www.revenue.state.mn.us/collections/Pages/Topic.aspx)

(<http://www.revenue.state.mn.us/collections/Pages/Topic.aspx>)