Statewide Operating Policy

Minnesota Management and Budget, General Accounting | Number 0504-01
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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 collect their debt. A state agency is a state office, officer, board, commission, bureau, division, department, authority, agency, or other unit of state government. State agencies are accountable for the management and collection of their loans and accounts receivables in accordance with Minnesota Statutes, and agency-specific federal or other state laws. Generally, where debt collection-related conflict exists between Minnesota Statutes in M.S. 16D applicable to all state agencies and agency-specific Minnesota Statutes, the agency-specific statutes take 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. The notice must state the nature and amount of the debt, identify to whom the debt is owed, and inform the debtor of the remedies the debtor is entitled to and the collection costs that will be imposed. Upon referring a debt to DOR, the state agency must discontinue all billing and collection efforts. Exceptions to referring debt occur 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 by state agency management prior to processing. If the write-off is $100,000 or more, the state agency must report to the chairs and ranking minority members of the legislative committees with jurisdiction over the state agency's budget per Minnesota Statute 16D.09.

Send Follow-up Invoices on Past Due Debts

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 after until the invoice is paid, written off, or referred to DOR. State 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, state agencies should restrict access to those individuals that need to know. A limited number of persons at each state agency should be granted security access to modify this information. Each state agency is responsible for assuring the security of these communications.

Minimum Collection Efforts

Agencies must make every reasonable effort to collect debt before the debt is written-off.

Charging Interest on Past Due Receivables

A state agency shall charge simple interest on debts owed to the state, on the 30^{th} calendar day following the agency's first written demand for payment that includes notification to the debtor that interest will begin to accrue on the debt, with no response from the customer. State agencies must charge interest unless otherwise provided by a contract where the debt arises, by state or federal law, or by a written waiver request from a state agency, approved by MMB, showing the costs charging interest exceed the benefit. The interest rate is determined by DOR no later than October 15 of each.

Interest is deposited as a non-dedicated receipt to the General Fund unless the state agency has legal authority to retain these receipts. Interest is deposited to a state agency non-dedicated revenue budget and then moved to a statewide non-dedicated appropriation by MMB - General Accounting at fiscal year-end.

Using Revenue Recapture

Each state agency should participate in the DOR Revenue Recapture Program prior to referral and after a debt is returned as means to collect past due accounts due from individuals. DOR can take ("recapture") tax refunds and use them to pay state agencies or Federal tax debts through the Revenue Recapture process. All Minnesota income tax, political contributions, 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

DOR may take ("intercept") payments made to vendors that provide goods and services to the state of Minnesota. Individuals and businesses are considered vendors. Departments, agencies, and educational institutions including the University of Minnesota are considered the state of Minnesota for this purpose.

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

Collection Agency

DOR refers debts to private collection agencies when collection by the DOR 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 when 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;
- Available assets or income (current or anticipated) of the debtor are insufficient; or
- It is not in the public interest to pursue the full amount of the debt.

A state agency may accept these decreased amounts as full payment. If the compromised debt is material or complex, the state agency should work with the Attorney General's Office. These actions are considered compromises and the deduction of the debt from the state agencies' financial records is reported as a write-off. While a state agency may compromise their debt, DOR cannot compromise a debt referred to them by a state agency for collection.

Writing-off Uncollectible Debt

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. In most cases, determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

In accordance with Minnesota Statute 16D.09, a debt is considered uncollectible and may be written-off 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 This category is processed as an adjustment instead of a write-off. (See below);
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; or
8. It is not in the public interest to pursue collection of the debt.

State agencies must establish internal policies and procedures for determining when a debt is uncollectible, and for approving and writing-off the debt. These policies and procedures should consider the incremental cost of collecting the debt against the benefit of collection.

Distinguishing Between a Debt Write-off and Adjustment

A write-off is processed when a valid debt owed to the state is determined to be uncollectible or it is not in the public interest to collect the debt. Examples occur when the debt is valid, but the debtor cannot be located, has insufficient assets or income, or a lesser amount is negotiated to satisfy the debt.

An adjustment is processed as a reduction to the amount owed when it is determined that the debt amount was not correct or the debt is not valid. Examples include when an error occurs in the calculation of the debt or the debtor provides evidence that the debt is not valid, such as a claimed tax credit is initially denied but the debtor presents evidence that they are entitled to the credit.

It is crucial to update the debt in SWIFT using the proper coding to indicate whether the reduction to the amount of the debt is a write-off or adjustment to ensure accurate reporting.

- For write-offs in SWIFT, state agencies must use the correct “Entry Type” and “Reason” code on the maintenance worksheet. See the Write-Off AR Items Training Guide (linked below) for procedures.
- For adjustments in SWIFT, state agencies must issue a credit memo in SWIFT to adjust/correct the invalid debt.
- For Non-SWIFT write-offs and adjustments, amounts must be reported in the appropriate columns in the quarterly accounts receivable worksheet.

Reporting Write-offs

Minnesota Statute 16D.09 requires state agencies to report accounts receivable write-offs as part of the quarterly reporting to MMB. The basis for the determination of the uncollectability of the debt must be maintained by the state agency. The required reporting shall include:

Write-offs less than $10,000 (summary totals)

- Agency;
- Account/Revenue Type;
- Total number of write-offs;
- Summary total of the amount in category less than $10,000; and
- Classification as public or nonpublic information.

Write-offs of $10,000 or more (detailed)

- Agency;
- Account/Revenue Type;
- Amount of the debt;
- Classification as public or nonpublic information
    - If public, provide customer name
    - If nonpublic, provide legal authority that classifies debtor as nonpublic; and
- Justification of allowable reason debt was written-off.

In addition, if debt written off is $100,000 or more, state agencies must report to the legislature. The state agency shall notify the chairs and ranking minority members of the legislative committees with jurisdiction over the state agency’s budget at the time the debt is determined to be uncollectible. The information reported is required to contain:

- Legal citation if the debt is considered nonpublic;
- Debtor name if the debt is considered public;
- Amount of the debt;
- Revenue type;
- Reason(s) the debt was written-off; and
- Duration the debt has been outstanding.

MMB must report to the chairs and ranking minority member of the legislative committees with jurisdiction over MMB a summary of the number and dollar amount of debts written-off during the previous fiscal year by October 31 of each year. MMB will use the information reported in the quarterly accounts receivable report as a basis for this report to the legislative committees.

Definitions

Write-Offs
Write-off represents valid debt owed to the state which management has determined to be uncollectible or not in the public interest to pursue collection of the debt.

Account Adjustments
An adjustment to the amount owed when it is determined that the debt is not a valid debt owed to the state. An adjustment represents an error in the amount of the receivable, or it has been substantiated that the debt is invalid.

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.

Compromised 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.

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.docx)

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.docx)

See also

Write-Off AR Items Training Guide (https://mn.gov/mmb-stat/documents/swift/training/trainingguides/swift-ar-write-off.pdf)

Minnesota Department of Revenue Collections (https://www.revenue.state.mn.us/collection-information)

Minnesota Department of Revenue – Revenue Recapture Program (https://www.revenue.state.mn.us/revenue-recapture-agencies)