

## Authorities

The Department of Justice's (DOJ) 1994 Appropriation Act (PL. 103-121) authorized DOJ to retain up to 3% of all amounts collected as the result of its civil debt collection litigation activities. The Debt Collection Act of 1982 (P.L. 97-365) authorized agencies to assess fees to cover the administrative costs associated with handling and processing delinquent debts. The agency can assess the litigation collection fee against the debtor only if it has so notified the debtor in an earlier demand letter.

## Agency Options for Handling the Fee

The options described below are based on the following:

Assumptions	\$7,000 principal	\$500 interest accrued at DOJ
	\$ 800 interest	
	\$ 400 administrative charges	
	<u>\$ 700 penalties</u>	
	<u>\$8,900 TOTAL</u>	

**Examples 1 and 2 also assume that the agency is not assessing the litigation collection fee against the debtor, whereas Example 3 assumes that the agency is.**

### Example #1

DOJ collects the full referred amount of \$8,900 plus the interest that has accrued since referral of \$500; DOJ retains as its fee of \$282 ( $9,400 \times .03$ ) before returning the balance to the agency (\$9,188). The agency would:

- (1) waive all or part of the \$282 fee retained by DOJ and apply the balance to liquidate the remainder of the debt; and
- (2) charge the collection fee against either salaries and expenses or the appropriate program/revolving fund.

Since the fee was waived, the agency would not report the amount of the fee to IRS on Form 1099-C.

### Example #2

DOJ collects a partial payment of \$7,100, leaving an uncollected balance of \$2,300 (\$8,900 amount referred + \$500 interest accrued - \$7,100 collected); DOJ retains as its fee \$213 before returning the balance of \$6,887 to the agency. The agency would

## Handling the Department of Justice's 3% Fee

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- (1) waive the collection fee of \$213 and write-off the debt balance of \$2,300;
- (2) charge the collection fee against either salaries and expenses or the appropriate program/revolving fund; and (3) refer \$2,300 to IRS on Form 1099-C. The agency would not report any waived amounts to IRS. The agency would handle the application of this partial collection as it would for any other.

### Example #3

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The agency decides to add the amount of the 3% fee to the amount referred and calculates it in the same way as it would for a collection agency.

$$\$8,900 \times (1.03) = \$9,167$$

The agency refers a total of \$9,167 for collection, including the litigation collection fee of \$275, recording this amount as administrative fee due DOJ. Full collection: DOJ collects the full referred amount of \$9,167 plus the interest that has accrued since referral of \$500; DOJ retains its fee of \$290 ( $\$9,667 \times .03$ ) before returning the balance to the agency (\$9,377). Because of the collection of the interest which had accrued since the agency referred the debt, the agency will not collect the full amount due DOJ; the agency will need to cover the balance of \$15 from the appropriate account.

**Partial collection:** A partial collection of \$7,100 results in an uncollected balance of \$2,567 ( $\$9,167$  referral + \$500 interest accrued - \$7,100 collections). DOJ retains \$213 and returns \$6,887 to the agency. The agency would (1) adjust or 'back out' of its records \$62 since that is the difference between the amount recorded as the litigation collection fee on the full amount (\$275) and the amount actually paid as the collection fee (\$213); (2) write-off the adjusted debt balance of \$2,505 ( $\$2,567 - \$62$ ); and (3) refer \$2,505 to IRS on Form 1099-C. The agency would handle the application of this partial collection as it would for any other.

**Returned account/no collection:** If DOJ decides not to pursue litigation on an account referred by an agency and returns the case or does not collect any monies on a litigated case, then the agency needs to adjust its records to the original account balance of \$8,900 (i.e., 'back out' the collection fee of \$275). The agency would write-off and report \$8,900 to IRS on Form 1099-C.

**For further information, please contact the DOJ Debt Collection Management Staff at (202) 514-5343.**