

BUDGET POLICY AND REPORTING MANUAL

<i>date</i> 4/1/93	<i>subject</i> INTRODUCTION	<i>item</i> K-010
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A. Purpose and Scope

This item establishes the goals and responsibilities prescribed by the Director of the Budget for all State agencies regarding the management of accounts receivable and collection of non-tax debt owed to the State.

A significant portion of these Guidelines represents step-by-step instructions and reference material that State agencies should use for managing accounts receivable and collecting outstanding obligations. Many of these instructions provide flexibility in terms of how agencies administer certain collection procedures within their organizational structure. Certain components of these Guidelines, however, specify requirements to ensure statutory compliance and to provide a comprehensive statewide approach for the management of accounts receivable.

Full and comprehensive implementation of these Guidelines is a major initiative. Following the issuance of these Guidelines agencies are required to submit to the Division of the Budget for approval detailed implementation plans which describe the actions they propose to take and the associated timeframes for complying with these Guidelines. This will require agencies to assess their current accounts receivable management operations to determine what modifications will be needed in such areas as staffing, systems, and administrative procedures. Agencies will also need to provide reasonable timeframes for implementation benchmarks relative to gathering data, collecting accounts receivable, tracking, and reporting activities. Specific components of agency implementation plans are fully addressed in the accompanying Budget Bulletin K-1001.

B. Goals

In addition to revenue from taxes, the State collects revenue from a variety of sources to support the services it provides. The State charges fees for the issuance of licenses or the use of State facilities. It assesses fines for the violation of laws or regulations. It charges tuition to attend State colleges and universities. These charges reduce the need to support such activities through general tax dollars. Those who use the service should share in its cost.

Each State agency has a responsibility to collect all the revenue to which it is legally entitled. This helps the State maintain the high level of quality services expected by its citizens. Efficient revenue collection methods minimize the need for additional tax measures to make up for unnecessary loss of income. Equally important, by collecting revenue from those who owe it, the State can assure that other taxpayers do not bear an unfair burden or support costs which rightfully should be borne by delinquent individuals or businesses.

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Fairness and equity demand that State agencies use legitimate and effective methods for collecting debts. These measures should provide incentives for the prompt settlement of outstanding debt and the means to impose penalties against those who fail to pay their legal obligations to the State in a timely manner.

The Guidelines which follow are intended to provide agencies with consistent collection policies and procedures similar to those commonly used by other governments and by private industry. Their purposes are to improve our ability to collect outstanding debts, ensure that delinquent accounts are settled, and prevent unnecessary delays in the payment of debts owed to the State.

These Guidelines have four basic goals:

1. ***Implement effective and efficient management and collection of accounts receivable.***

All State agencies must use their best efforts to collect non-tax debts owed to them. The full and timely collection of non-tax debts will assist in maintaining program levels and mitigate the need to enact general revenue increases.

2. ***Reduce the level of uncollectible accounts receivable and the age of accounts receivable.***

With the implementation of an efficient and effective accounts receivable management system, State agencies should reduce the level of uncollectible receivables — in terms of number and dollar amount — and reduce the age of accounts receivable. These measures will help improve cash flow and ensure receipts at budgeted levels.

3. ***Standardize practices across State agencies, while recognizing existing applicable statutes, rules and regulations.***

In the interest of equity and efficiency, State agencies should employ standardized practices for accounts receivable management and collection. Debtors with similar outstanding obligations owed for the same period of time should not be treated differently. In addition, standard statewide practices should increase overall efficiency in debt collection. Of course, these guiding principles of equity and efficiency do not override applicable statutes, regulations, rules and taxpayer rights, and these Guidelines provide, therefore, for exceptions where they exist.

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4. ***Centralize State agencies' accounts receivable.***

In the long term, State agencies are expected to centralize the management of their accounts receivable. This will enhance both accountability and consistent application of these Guidelines and of the agency's internal policies.

In order to achieve the above goals, these Guidelines provide general policies and procedures. In some instances, agencies will be required to further adapt these statewide policies and procedures to their specific operations.

C. Statutory Basis

Chapter 55 of the Laws of 1992 provides several tools for collecting non-tax debt that most State agencies did not previously possess. Applicable sections of Chapter 55 appear in Appendix A. Specifically, the applicable provisions of law authorize:

1. Assessment of computed interest or a \$10 late payment charge, whichever is greater, if a non-tax debt is past-due;
2. Assessment of a collection fee on a debt that is more than 90 days past-due, up to 22 percent of the outstanding debt;
3. Imposition of a charge if a check is dishonored;
4. Non-renewal of a license, permit, etc. by a State agency if a debtor owes a past-due debt to that State agency; and
5. Offset of a past-due legally enforceable non-tax debt against State payments, such as tax refunds and contract payments.

These Guidelines describe the procedures for the assessment of interest and other fees and the process for establishing that a non-tax debt is past-due and legally enforceable.

Chapter 55 applies to non-tax debt owed by an individual or business to a State agency, with the exception of overpayments of certain Department of Social Services grants. In Chapter 55, a State agency is defined as any State department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other governmental entity performing a governmental or proprietary function for the State. The provisions of Chapter 55 do not apply to debts owed to a State agency by the Federal government, another State agency, a locality, another state, or a foreign government.

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D. State Agency Responsibilities

In order to maximize the collection of non-tax debt, every State agency has, at a minimum, eight basic responsibilities. These Guidelines describe the appropriate methods and procedures to fulfill the basic responsibilities:

1. Collect necessary debt and debtor information.

Efficient debt collection necessitates the compilation of basic information about both the debt and the debtor. A key element of this information is the debtor's Social Security Number or Employer Identification Number. In addition, agencies must use their best efforts to collect necessary information when the debt is established, such as correct names, addresses and amount and nature of the debt. Without this basic information about the debtor and the debt, collection and communication with debtors will be far more difficult, if not impossible.

2. Issue timely bills.

Efficient debt collection requires that State agencies request payment by issuing bills or coupon booklets to debtors as soon as possible. In general, agencies should send this notice after a good or service has been provided or a transaction has been initiated and can be measured.

3. Conduct appropriate collection actions.

Effective debt collection requires systematic follow-up to issued bills. This follow-up depends on the type and level of debt. The collection practices for most debts, however, involve some combination of written and telephone contact with the debtor.

4. Refer debts over 120 days past-due to external entities.

In most cases, a State agency has 120 days to collect or otherwise resolve a past-due debt. If 120 days pass without collection or resolution of the debt, then the State agency must refer the debt to the appropriate external entity for additional collection activities. These entities include private collection agencies and the Attorney General's Office. Alternatively, agencies may certify debts that are past-due and legally enforceable to the Department of Taxation and Finance.

5. Certify past-due legally enforceable debts to the Department of Taxation and Finance.

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If a private collection agency or the Attorney General's Office has not collected payment for a debt or initiated legal action within six months after referral, then, if the debt is past-due and legally enforceable, it shall be certified to the Department of Taxation and Finance.

6. Document all collection efforts.

In order to substantiate its legal claim that a debt is past-due and that a debtor has received appropriate due process, an agency must document its collection efforts. This requirement is particularly important if the debt is certified to the Department of Taxation and Finance for offset or referred to the Attorney General for litigation.

7. Follow appropriate due process procedures.

Every State agency is responsible for knowing and following the due process appropriate for the type and level of debts owed to the agency. At a minimum, however, every debtor protesting a debt must be given an opportunity to be heard.

8. Submit quarterly and annual reports to the Division of the Budget.

Every State agency is required to submit quarterly and annual reports regarding its accounts receivable to the Division of the Budget.

E. Roles of the Division of the Budget, Attorney General's Office, Department of Taxation and Finance, and Office of the State Comptroller

The effort to improve the State's accounts receivable management and debt collection practices involves virtually every State agency. The Division of the Budget, Attorney General's Office, Department of Taxation and Finance, and Office of the State Comptroller have specific roles in this effort:

1. The Division of the Budget

In addition to establishing and amending these Guidelines, the Division of the Budget has several functions:

- a. Approve State agencies' implementation plans.
- b. Review quarterly and annual reports on the status of accounts receivable.

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- c. Monitor State agencies' progress in their accounts receivable management and debt collection practices.

2. The Attorney General's Office

The Attorney General's Office has a two-fold role in augmenting non-tax debt collection:

- a. The Attorney General's Office pursues judgments and other legal remedies, generally on behalf of State agencies.
- b. The Attorney General's Office pursues money judgments and their collection through its Civil Recoveries Bureau.

The Civil Recoveries Bureau is responsible for general collection activities statewide. Its Income Fund Reimbursement Units conduct specialized collection operations at State hospitals. The Mental Hygiene Unit protects the financial interests of those committed to State institutional care as well as the State's interest in estate proceedings. The Oil Spill Fund Unit recovers petroleum product clean-up costs expended by the State.

3. The Department of Taxation and Finance

As an agent of the State Comptroller, the Department of Taxation and Finance administers the offset of past-due legally enforceable debt against such State payments as tax refunds and contract payments. Certification of debts to the Department of Taxation and Finance occurs after due process and notification requirements are met. State agencies or the Attorney General certify debts to the Department of Taxation and Finance via magnetic media. Agencies or the Attorney General's Office periodically certify new debts, modify previously certified debts, or delete previously certified debts.

4. The Office of the State Comptroller

- a. The Comptroller's various payment systems may be used in the offset process.
- b. The Comptroller issues payment checks reflecting appropriate offsets.
- c. The Comptroller manages, maintains, and makes deposits and transfers and interchanges into the Revenue Arrearage Account.

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- d. The Comptroller pays any refunds or reimbursements to debtors upon certification by a State agency, subject to the Comptroller's procedures.
- e. The Comptroller has constitutional and statutory authority to offset State payments. For intra-agency administrative offset, agencies shall adhere to procedures established by the Comptroller.