

BUDGET POLICY AND REPORTING MANUAL

<i>date</i> 4/1//93	<i>subject</i> DEFINITIONS OF TERMS	<i>item</i> K-011
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A. Purpose and Scope

This item establishes the definitions of terms used in these Guidelines. These standardized definitions should be used by all State agencies.

B. Definitions

"Accounts Receivable — Governmental": Any amount owed to a State agency by a local government, the Federal government or an agency or instrumentality thereof, other state governments, foreign governments or any other governmental entity, generally arising from goods, services, permits or licensing privileges, or penalties imposed by State agencies. Governmental accounts receivable are not subject to Chapter 55 of the Laws of 1992.

"Accounts Receivable — Interagency": Any amount owed to a State agency by another State agency, including a State public authority, for goods and services provided or any other type of transaction. Interagency receivables are not subject to Chapter 55 of the Laws of 1992.

"Accounts Receivable — Medical": Any amount owed to a State agency for medical services or other health related services. These include inpatient, outpatient and ancillary services provided by hospitals and institutions administered by State agencies including but not limited to, the State University, the Department of Health, the Office of Mental Health, and the Office of Mental Retardation and Developmental Disabilities.

"Accounts Receivable — Non-governmental": Any amount owed to a State agency by an individual, not-for-profit organization, or business, generally arising from the purchase or sale of goods and services, tortious damage to State property, the issuance of permits or licensing privileges, or penalties imposed by State agencies. This account receivable includes the principal amount owed plus any applicable interest and fees that result from late or non-payments by the debtors. In these Guidelines, "accounts receivable" refers to a non-governmental account receivable but does not include medical accounts receivable.

"Administrative Offset": An intra-agency collection method whereby a monetary payment from a State agency is withheld, in whole or in part, to satisfy a non governmental accounts receivable owed to that State agency. The monetary payment is withheld by the State Comptroller on behalf of that State agency. This intra-agency collection method is not an offset as defined in Section 91-a of the State Finance Law.

"Aging": A process by which a debt is categorized, based on the length of time since the debt's due date.

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"Allowance for Uncollectible": A prospective estimate of the amount of receivables that a State agency believes will be ultimately uncollectible. While the procedure for estimating an allowance for uncollectibles may vary from agency to agency, generally, the procedure for an agency's estimate is based upon its historical collection experience, category of debt and the age of receivables.

"Billing Invoice or Notice": A notification sent by a creditor State agency to an individual or business that states the reason for the bill (e.g., for goods, services or fees) and requests a set amount on or before a specified due date.

"Certification": The written notice by which a State agency, including the Attorney General's Office, attests to the Department of Taxation and Finance that a non-tax debt submitted by the State agency for tax offset or other offset is past-due and legally enforceable, as defined in Section 171-f of the State Tax Law. (See the definition of Past-due Legally Enforceable Debt and Item K-052 for the certification process.)

"Collection Fee": An additional charge that a State agency, including the Attorney General's Office, may assess on a debt if the debt is more than 90 days past-due. (See definition of Past-due Accounts.) The collection fee may be up to 22 percent of the outstanding debt that is owed but may not exceed the State agency's estimated cost of collection. The purpose of the collection fee is to cover a State agency's estimated cost of processing, handling and collecting a debt.

"Coupon Book": A payment booklet issued by a State agency that contains a series of detachable coupons. Each coupon represents a billing notice and states the amount due, the due date, and other information generally contained in a billing invoice or notice.

"Credit Bureau": A private business that furnishes information concerning individuals' payment habits and use of credit. These businesses are linked together by computer to form electronic networks nationwide. The credit rating and payment history can be used in judging the debtor's fiscal reliability.

"Debt": Any liquidated sum that is due and owing any State agency and that has accrued pursuant to law or through contract, subrogation, tort or other cause of action, except a liability resulting from taxes or other impositions administered by the Department of Taxation and Finance. This means that any money owed by a non-governmental debtor to a State agency, except taxes or fees administered by the Department of Taxation and Finance, is a debt. In these Guidelines, "debt" means a non-governmental account receivable.

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"Debtor — Governmental": The Federal government or any instrumentality thereof, a non-New York State agency or instrumentality thereof, a local government or any other governmental entity owing a debt to a State agency. For purposes of these Guidelines, "Debtor — Governmental" includes other states and foreign governments. This definition does not include State agencies.

"Debtor — Non-governmental": An individual, business or other entity, including a not-for-profit corporation, which is not a State agency, municipal corporation or district corporation, owing a debt to a State agency. For the purposes of these Guidelines, "debtor" shall mean a non-governmental debtor.

"Deferred Payment Arrangement": A written agreement entered into by a debtor and a State agency, agent of a State agency, or the Attorney General that establishes a set payment schedule in order to satisfy an outstanding debt owed to that State agency.

"Discharge, Compromise, Settlement": The legal extinguishment of disputes, claims, and controversies. This means that only the Attorney General's Office is authorized to extinguish a debt owed to a State agency, unless otherwise provided in statute or regulation.

"Dishonored Check": A check, draft or like instrument drawn on a bank, depository or financial institution as full or partial payment for an unpaid balance on an account, or for other extensions of credit or payments of money in connection with a transaction with the State, which is not paid or is dishonored or returned by such institution due to insufficient funds or other cause not attributable to the State.

"Due and Owing": The period of time from day 6 to day 36 that represents 30 days after the debtor's assumed receipt of the first billing notice (the due date). During this period of time, if the debtor makes full payment, then the State agency may not charge interest or a late payment charge.

"Due Date": The date on which a payment is required to be paid to a State agency by a debtor. The due date is the day on which the debtor is assumed to receive the first billing invoice or notice (five days after its mailing by a State agency — day 6). Note: However, as noted in the definition of Due and Owing, if the debtor makes full payment by day 36, the State agency may not assess interest.

Excluded from this definition: If a contract, coupon book, or other type of payment request specifies a due date, then this definition of due date does not apply. (See Item K-031.)

"Due Process": The opportunity given to a debtor to contest a debt. It is important to note that the appropriate due process depends on the type and level of a debt. To prove adherence

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to the appropriate due process standards, each State agency must maintain, in a retrievable form (electronic or written), certain information about the debt and debtor, the collection efforts regarding the debt, and the opportunity given to the debtor to resolve such debt. (See Item K-031.)

"Interest on Past-Due Accounts": A monetary charge added to an outstanding debt owed to a State agency because the debtor failed to make full payment by the specified due date. Unless provided otherwise in statute, regulation, or contract, interest charges shall be calculated using the corporate underpayment rate of the New York State Department of Taxation and Finance that is in effect on the specified due date. (See "Underpayment Rate".)

"Judgment": A final determination of a court that a debtor is indebted to a State agency for a specific amount. In certain instances, statute authorizes the head of an agency to render a judgment. A judgment allows for legal collection recourse. Generally, the Attorney General's Office pursues judgments on behalf of State agencies.

"Lien": A charge, hold or claim upon the property of a person or business as security for a debt, in this case, owed to the State.

"Notification of Certification": A letter sent by a creditor State agency or the Attorney General's Office that clearly informs a debtor that a debt will be certified to the Department of Taxation and Finance for collection through the offset of State payments, unless the debtor contacts the agency within 30 days to resolve the debt.

"Past-Due Account": A debt owed to a State agency for which full payment has been requested by a specified date and has not been received by the State agency by that date. (See Item K-022.)

"Past-Due Legally Enforceable Debt": A debt that a State agency may certify to the Department of Taxation and Finance in order to collect the amount owed through the offset of State payments, pursuant to Section 171-f of the State Tax Law. State agencies must satisfy certain due process and notification provisions. (See Item K-052.)

"Payment Request Letter": A written notice issued by a creditor State agency or its agent requesting immediate full payment that is sent to a debtor who fails to make payment in a timely manner after previously receiving a bill from that State agency.

"Private Collection Agency": A private entity that collects a past-due debt on behalf of a State agency, pursuant to a contractual agreement between the private collection agency and the State. This contract provides for payment for services rendered and stipulates other conditions.

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"Prohibited Practices": Collection practices that are deemed abusive or unreasonable and, therefore, prohibited by these Guidelines. (See Item K-031.)

"Revenue Arrearage Account": A miscellaneous special revenue fund used for the deposit of money collected through offset and for refunds thereof, with certain exceptions. At the end of the fiscal year, the State Comptroller transfers remaining moneys in the Revenue Arrearage Account to the General Fund.

"Skip-tracing": The process of attempting to locate a debtor who has moved from a last known address. Sources of information include telephone directories, the U.S. Postal Service, the Department of Motor Vehicles, and credit bureaus. (See Item K-020.)

"State Agency": 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.

"Uncollectible Accounts": Those actual accounts which, despite exhaustive collection efforts, are not expected to be paid or for which further collection efforts would not be practical or cost-effective.

"Underpayment Rate": The interest rate that is applicable to the corporate tax underpayment rate and is used by State agencies to calculate interest liabilities. This rate is set by the Commissioner of Taxation and Finance and published in the State Register on a quarterly basis. (See Item K-032.)

"Waiver": For the purposes of these Guidelines, a waiver refers to a State agency's decision not to pursue the collection of assessed interest, late payment fees, or collection fees because the State agency deems that further efforts to collect these penalties would not be administratively practical or cost-effective. A waiver does not refer to the discharge of the debt principal.

"Write-off": An accounting entry by which an account receivable deemed to be uncollectible is removed from the State agency's financial accounting records. A write-off is not a discharge of debt. Thus, a debt, although written-off, is still owed to a State agency.