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A. Purpose and Scope

This item establishes policies and procedures prescribed by the Director of the Budget for all State agencies regarding the assessment of interest on past-due non-tax debt.

State agencies should use the assessment of interest as a tool to collect the principal debt. The imposition of interest is intended to motivate a debtor to make a timely payment in order to avoid an additional charge.

It should be noted that the interest rate and calculation techniques discussed in this item do not refer to interest that, by law, can be charged if the State has been granted a legal judgment.

B. Statutory Reference

Section 18 of the State Finance Law authorizes State agencies to impose interest on past-due non-tax debt:

> **Unless provided otherwise by contract, statute or regulation, a debtor that fails to make payment of a debt within the period set forth in subdivision three of this section shall pay, in addition to the amount of the debt, the greater of: (a) interest on the outstanding balance of the debt, accruing on the date on which the receipt of the first billing invoice or first notice occurs, computed at the underpayment rate which is in effect on the date which the receipt of the first billing invoice or first notice occurs; or (b) a late payment charge of ten dollars. For purposes of this section, the underpayment rate shall be that rate set by the commissioner of taxation and finance and published in the state register pursuant to subsection (e) of section one thousand ninety-six of the tax law.**

C. Assessing and Calculating Interest on Past-Due Debt

If a debtor pays a debt in full within 30 days from the assumed receipt of the first bill, then the State agency cannot assess interest or a late payment charge.

However, if a debtor does not pay the debt in full within 30 days of the assumed receipt of the first bill (day 36), then the State agency shall assess interest from the day of the bill's assumed receipt by the debtor (day 6) — not from the end of the 30 day due and owing period. For example, if a debtor does not pay a debt until 40 days after assumed receipt of the first bill, then the State agency shall assess a late payment charge of $10 or interest based on 40 days (whichever is greater).

1. Components of Interest Calculation

   The algorithm for the calculation of interest must incorporate the following conditions:

   a. Interest is calculated at the corporate underpayment rate of the Department of Taxation and Finance in effect on the due date of the first bill.

   b. Interest is compounded daily. This means that interest is computed on the principal plus interest that was previously assessed.

   c. Interest is not assessed on any collection fee or returned check charge.

   d. Any partial payments made are applied in the following order:

      1. Returned check charge;
      2. Collection fee; and
      3. Debt (principal and interest or late payment charge).

   e. Until the calculation of interest on a past-due debt exceeds $10, the State agency shall assess a late payment charge of $10. This is a one time charge and an additional late payment charge cannot be assessed each time a bill is sent to a debtor. Once the calculation of interest exceeds $10, the State agency shall assess this interest compounded from the due date.

   The Division of the Budget will make available an interest computation software program that may be used on a State agency's mainframe or personal computers.

   Refer to Item K-035 for policies on waiving interest or a late payment charge.

D. Debtor Notification

1. Before Assessment

   In all cases, before a State agency assesses interest, late payment charges, collection fees of up to 22 percent of past-due debt, or returned check charge, it must inform debtors that they are liable these charges.

   Any State agency that assesses fees, fines or other assessments shall post a readily visible notice in any area set aside for collection of such charges. This public posting should inform the public of possible late payment charges, interest, collection fees, returned check charges and offset authority if prompt payment is not made.

All agency billing invoices or written notices must inform individuals or businesses of the possible late payment charges, interest, offset authority, etc.

In the case of a contract between a State agency and an individual or business, the contract must identify the possible late payment charges, interest, offset authority, etc.

2. After Assessment

Once a State agency has begun assessing a late payment charge or interest, the late payment charge or interest becomes part of the total amount due to the State agency. Any subsequent contact with the debtor (such as telephone calls or payment request letters) should make clear that the new total amount due includes a late payment charge or interest.