

BUDGET POLICY AND REPORTING MANUAL

<i>date</i> 4/1/93	<i>subject</i> Waiver of Collection of Interest, Late Payment Charges, Collection Fee Charges and Returned Check Charges	<i>item</i> K-035
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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 waivers of interest, late payment charges, collection fee charges and returned check charges (for purposes of this discussion referenced as penalties).

State agencies may waive the collection of interest and penalties assessed on the principal of a past-due debt if the State agency determines that collection would not be administratively practical and cost-effective. The penalties that a State agency may waive on this basis are interest or a late payment charge, collection fee, and returned check charges. However, State agencies may not waive interest and other penalties based on a debtor's undocumented claim of financial inability to pay.

It is important to note that Section 18 of the State Finance Law does not authorize the waiver of any principal amounts owed to a State agency.

B. Statutory Reference

Section 18 of the State Finance Law specifies the waiver of collection of interest, late payment charge, and collection fees:

Any interest or late payment charges assessed pursuant to this section shall be paid upon notice and demand and shall be treated and collected in the same manner as the original debt which is due and owing and shall be collected by a state agency when such agency deems collection to be administratively practical and cost-effective. Any collection fee charges assessed pursuant to this section shall be paid upon notice and demand and shall be collected by a state agency when such agency deems collection to be administratively practical and cost-effective.

Section 19 of the State Finance Law also provides for the waiver of the collection of a returned check charge:

Any returned check charges assessed pursuant to this section...shall be collected by a state agency when such agency deems collection to be administratively practical and cost-effective.

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C. Procedure

State agencies are authorized to waive interest and penalties only in instances where the debtor has remitted payment in the amount of the original debt principal.

To determine if the waiver of outstanding interest, penalty or collection fee charge is appropriate, the State agency must compare the dollar value of the outstanding interest or penalty to the estimated cost of collection. If the estimated cost of collection is greater than the interest or penalty, then no further action should be taken to collect the remaining debt.

The level of collection efforts of a State agency are determined by the dollar value of the accumulated interest and other penalties. The following table indicates how a State agency should proceed if payment in the amount of the original debt principal has been remitted to an agency but outstanding interest and penalties exist.

DAYS PAST-DUE

Outstanding Interest/Penalties	31-60	61-90	91-120	121+
Less Than \$25	Mail One Letter; other collection efforts are optional.			No referral of account
\$25 or More	Appropriate Collection Efforts			Refer account.

If the outstanding interest and penalties are less than \$25, State agencies should mail one payment request letter, since this is a cost-effective collection technique.

If the outstanding interest and penalties are \$25 or more, State agencies should attempt collection through in-house efforts and then referral to an external collection entity.

A State agency cannot waive collection of interest and penalties simply because a debtor appeals to the agency to consider her/his fiscal hardship, requests consideration for leniency, or argues mitigating circumstances. An agency may waive interest and penalties only if it determines that collection of such payment is administratively impractical and not cost-effective.

An agency cannot choose to waive collection of interest and penalties because of the difficulty of calculating the appropriate interest and/or penalty.

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In the case of collection fees, State agencies are not required to impose such fees. However, if a State agency elects to impose a collection fee, the State agency may not waive such assessed fee unless it would not be cost-effective to pursue collection.

D. State Agency Responsibilities

State agencies are responsible for developing, implementing, and maintaining internal procedures for the waiver of collection of interest and penalties consistent with these Guidelines. These internal procedures shall be submitted to the Division of the Budget for review and approval.