

## § 19.9

Commerce entity's policies and procedures. Legal counsel approval to suspend or terminate collection on a Commerce debt is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at <http://www.osec.doc.gov/ofm/credit/cover.htm>). Termination of debt collection activity by a Commerce entity does not discharge the indebtedness.

### **§ 19.9 When will Commerce entities transfer a Commerce debt to the Treasury Department's Financial Management Service for collection?**

(a) Commerce entities will transfer any Commerce debt that is more than 180 days delinquent to the Financial Management Service for debt collection services, a process known as "cross-servicing." See 31 U.S.C. 3711(g) and 31 CFR 285.12. Commerce entities may transfer Commerce debts delinquent 180 days or less to the Financial Management Service in accordance with the procedures described in 31 CFR 285.12. The Financial Management Service takes appropriate action to collect or compromise the transferred Commerce debt, or to suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the Commerce debt and the collection action to be taken. See 31 CFR 285.12(b) and 285.12(c)(2). Appropriate action can include, but is not limited to, contact with the debtor, referral of the Commerce debt to the Treasury Offset Program, private collection agencies or the Department of Justice, reporting of the Commerce debt to credit bureaus, and administrative wage garnishment.

(b) At least sixty (60) days prior to transferring a Commerce debt to the Financial Management Service, Commerce entities will send notice to the debtor as required by § 19.4 of this Part. Commerce entities will certify to the Financial Management Service, in writing, that the Commerce debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection. In addition, Commerce entities will certify their compliance with all applicable due process and other requirements as described in this Part

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and other Federal laws. See 31 CFR 285.12(i) regarding the certification requirement.

(c) As part of its debt collection process, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by administrative and tax refund offset. See 31 CFR 285.12(g). The Treasury Offset Program is a centralized offset program administered by the Financial Management Service to collect delinquent debts owed to Federal agencies and states (including past-due child support). Under the Treasury Offset Program, before a Federal payment is disbursed, the Financial Management Service compares the name and taxpayer identification number (TIN) of the payee with the names and TINs of debtors that have been submitted by Federal agencies and states to the Treasury Offset Program database. If there is a match, the Financial Management Service (or, in some cases, another Federal disbursing agency) offsets all or a portion of the Federal payment, disburses any remaining payment to the payee, and pays the offset amount to the creditor agency. Federal payments eligible for offset include, but are not limited to, income tax refunds, salary, travel advances and reimbursements, retirement and vendor payments, and Social Security and other benefit payments.

### **§ 19.10 How will Commerce entities use administrative offset (offset of non-tax Federal payments) to collect a Commerce debt?**

(a) *Centralized administrative offset through the Treasury Offset Program.* (1) In most cases, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by the offset of Federal payments. See § 19.9(c) of this Part. If not already transferred to the Financial Management Service under § 19.9 of this Part, Commerce entities will refer Commerce debt over 180 days delinquent to the Treasury Offset Program for collection by centralized administrative offset. See 31 U.S.C. 3716(c)(6); 31 CFR part 285, subpart A; and 31 CFR 901.3(b). Commerce entities may refer to the Treasury Offset Program for offset any