

Presidio Trust

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explain in the notice to the debtor described in §1011.4 of this part how interest, penalties, administrative costs and other charges are assessed, unless the requirements are included in a contract or repayment agreement.

(f) *Waiver.* (1) The Presidio Trust may waive collection of all or part of accrued interest, penalties and administrative costs when it would be against equity and good conscience or not in the Presidio Trust's best interest to collect such charges.

(2) A decision to waive interest, penalties or administrative costs may be made at any time before a debt is paid. However, unless otherwise provided in these regulations, when these charges have been collected before the waiver decision, they will not be refunded.

(g) *Accrual during suspension of debt collection.* In most cases, interest, penalties and administrative costs will continue to accrue during any period when collection has been suspended for any reason (for example, when the debtor has requested a hearing). The Presidio Trust may suspend accrual of any or all of these charges when accrual would be against equity and good conscience or not in the Presidio Trust's best interest.

[70 FR 73588, Dec. 13, 2005; 71 FR 2109, Jan. 12, 2006]

§ 1011.6 When will the Presidio Trust allow a debtor to enter into a repayment agreement?

(a) *Voluntary repayment.* In response to a notice of a debt, the debtor may propose to the Presidio Trust the voluntary repayment of the debt in lieu of the Presidio Trust taking other collection actions under this part.

(b) *Debtor's request.* The request from the debtor must:

- (1) Be in writing;
- (2) Admit the existence of the entire debt; and
- (3) Either propose payment of the debt (together with interest, penalties and administrative costs) in a lump sum, or set forth a proposed repayment schedule.

(c) *Repayment schedule.* The Presidio Trust will collect debts in one lump sum whenever feasible. The Presidio Trust may accept payment in regular

installments that bear a reasonable relationship to the size of the debt.

(d) *Repayment agreement.* The Presidio Trust will consider a request to enter into a voluntary repayment agreement in accordance with the FCCS. The Presidio Trust may request additional information from the debtor, including, without limitation, financial statements, in order to determine whether to enter into a voluntary repayment agreement. The Presidio Trust will set the necessary terms of any repayment agreement. No repayment agreement will be binding on the Presidio Trust unless it is in writing and signed by both the debtor and an authorized Presidio Trust representative. The Presidio Trust is not required to enter into a repayment agreement.

§ 1011.7 When will the Presidio Trust compromise a debt?

(a) *Authority.* The Presidio Trust may compromise a debt in accordance with the FCCS and such procedures as the Presidio Trust may adopt. (See §1011.16 of this subpart).

(b) *Report to IRS.* The uncollected portion of a debt owed to the Presidio Trust that is not recovered as the result of a compromise will be reported to the IRS as income to the debtor in accordance with IRS and Presidio Trust procedures.

§ 1011.8 When will the Presidio Trust suspend or terminate debt collection on a debt?

If, after pursuing all appropriate means of collection, the Presidio Trust determines that a debt is uncollectible, the Presidio Trust may suspend or terminate debt collection activity in accordance with the FCCS and the Presidio Trust's procedures.

§ 1011.9 When will the Presidio Trust transfer a debt to the Financial Management Service for collection?

(a) *Cross-servicing.* The Presidio Trust will transfer any eligible debt that is more than 180 days delinquent to the FMS for debt collection services, a process known as "cross-servicing." The Presidio Trust may transfer debts delinquent 180 days or less to the FMS in accordance with the procedures described in 31 CFR 285.12. The FMS

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takes appropriate action to collect or compromise the transferred debt, or to suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and the collection action to be taken. Appropriate action includes, without limitation, contact with the debtor, referral of the debt to the Treasury Offset Program, private collection agencies or the Department of Justice, reporting of the debt to credit bureaus, and administrative wage garnishment.

(b) *Notice; certification.* At least 60 days prior to transferring a debt to the FMS, the Presidio Trust will send notice to the debtor as required by § 1011.4 of this part. The Presidio Trust will certify to the FMS, in writing, that the debt is valid, delinquent, legally enforceable and that there are no legal bars to collection. In addition, the Presidio Trust will certify its compliance with all applicable due process and other requirements as described in this part and other Federal laws.

(c) *Treasury Offset Program.* As part of its debt collection process, the FMS uses the Treasury Offset Program to collect debts by administrative and tax refund offset. The Treasury Offset Program is a centralized offset program administered by the FMS 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 FMS 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 FMS (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, without limitation, income tax refunds, salary, travel advances and reimbursements, retirement and vendor payments, and Social Security and other benefit payments.

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§ 1011.10 How will the Presidio Trust use administrative offset (offset of non-tax federal payments) to collect a debt?

(a) *Centralized administrative offset through the Treasury Offset Program.* (1) If not already transferred to the FMS under § 1011.9 of this part, the Presidio Trust will refer any eligible debt over 180 days delinquent to the Treasury Offset Program for collection by centralized administrative offset. The Presidio Trust may refer any eligible debt less than 180 days delinquent to the Treasury Offset Program for offset.

(2) At least 60 days prior to referring a debt to the Treasury Offset Program, in accordance with paragraph (a)(1) of this section, the Presidio Trust will send notice to the debtor in accordance with the requirements of § 1011.4 of this part. The Presidio Trust will certify to the FMS, in writing, that the debt is valid, delinquent, legally enforceable and that there are no legal bars to collection by offset. In addition, the Presidio Trust will certify its compliance with the due process requirements under 31 U.S.C. 3716(a) and with the requirements described in this part.

(b) *Non-centralized administrative offset for a debt.* (1) When centralized administrative offset through the Treasury Offset Program is not available or appropriate, the Presidio Trust may collect delinquent, legally enforceable debts through non-centralized administrative offset. In these cases, the Presidio Trust may offset a payment internally or make an offset request directly to a federal paying agency.

(2) At least 30 days prior to offsetting a payment internally or requesting a federal paying agency to offset a payment, the Presidio Trust will send notice to the debtor in accordance with the requirements of § 1011.4 of this part. When referring a debt for offset under this paragraph (b), the Presidio Trust will certify, in writing, that the debt is valid, delinquent, legally enforceable and that there are no legal bars to collection by offset. In addition, the Presidio Trust will certify its compliance with the due process requirements under 31 U.S.C. 3716(a) and with these regulations concerning administrative offset.