

Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations, and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

(b) The Secretary shall report annually to the President concerning the implementation by departments and agencies of this order and the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations.

SEC. 4. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 3717. Interest and penalty on claims

(a)(1) The head of an executive, judicial, or legislative agency shall charge a minimum annual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter.

(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points.

(b) Interest under subsection (a) of this section accrues from the date—

(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or

(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the executive or¹ legislative agency, if notice is first mailed after October 24, 1982.

(c) The rate of interest charged under subsection (a) of this section—

(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and

(2) remains fixed at that rate for the duration of the indebtedness.

(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive, judicial, or legislative agency may extend the 30-day period.

(e) The head of an executive, judicial, or legislative agency shall assess on a claim owed by a person—

(1) a charge to cover the cost of processing and handling a delinquent claim; and

(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due.

(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

(g) This section does not apply—

(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

(h) In conformity with standards prescribed jointly by the Attorney General, the Secretary of the Treasury, and the Comptroller General, the head of an executive, judicial, or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section.

(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

(2) For the purpose of this subsection—

(A) the term “cost of living adjustment” means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

(B) the term “administrative claim” includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.

(Added Pub L. 97-452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2472; amended Pub. L. 104-134, title III, §31001(c)(1), (g)(1)(C), (q), Apr. 26, 1996, 110 Stat. 1321-359, 1321-363, 1321-372.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3717(a)	31 App.:952(e)(1) (1st-3d sentences).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, §3(e)(1) (1st-3d sentences), (2)-(7); added Oct. 25, 1982, Pub. L. 97-365, §11, 96 Stat. 1755.
3717(b), (c).	31 App.:952(e)(5).	
3717(d)	31 App.:952(e)(6).	
3717(e)	31 App.:952(e)(2).	
3717(f)	31 App.:952(e)(7).	
3717(g)(1)	31 App.:952(e)(3) (1st sentence).	
3717(g)(2)	31 App.:952(e)(4).	
3717(h)	31 App.:952(e)(3) (2d, last sentences).	

In subsection (a), the words “percentage point” and “percentage points” are substituted for “per centum” for clarity.

In subsections (a)(1) and (e), the words “Except as provided in paragraph (3)” are omitted as surplus.

In subsection (a)(2), the words “for a calendar quarter” are substituted for “quarterly”, and the words “prior calendar quarter” are substituted for “that calendar quarter”, for clarity.

In subsection (b), before clause (1), the words “Subject to paragraph (6)” and “except as provided in subparagraph (B)” are omitted as surplus. In clause (2), the words “on the claim” are omitted as surplus. The words “if notice is first mailed after October 24, 1982” are added for clarity.

¹ So in original. Probably should be “, judicial, or”.

In subsection (c), the words “on a claim” are omitted as surplus.

In subsection (g)(1), the words “applicable” and “either” are omitted as surplus. The word “assessing” is added for clarity. The words “that apply to claims involved” are omitted as surplus.

In subsection (h), the words “under this section” are added for clarity.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency” wherever appearing, was executed by substituting “The head of an executive, judicial, or legislative agency” for “The head of an executive or legislative agency”, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 104-134, §31001(c)(1), (g)(1)(C), inserted “, the Secretary of the Treasury,” after “Attorney General” and substituted “the head of an executive, judicial, or legislative agency” for “the head of an executive or legislative agency”.

Subsec. (i). Pub. L. 104-134, §31001(q), added subsec. (i).

§ 3718. Contracts for collection services

(a) Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets. The contract shall provide that—

(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5, to the extent provided in section 552a(m); and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States. Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private prac-

tice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness and whether the debtor is an individual or a business entity. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(B) The Attorney General shall use his best efforts to enter into contracts under this paragraph with law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act), so as to enable each agency to comply with paragraph (3).

(2) The head of an executive, judicial, or legislative agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection claims of indebtedness owed the United States arising out of activities of that agency.

(3) Each agency shall use its best efforts to assure that not less than 10 percent of the amounts of all claims referred to private counsel by that agency under paragraph (2) are referred to law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns. For purposes of this paragraph—

(A) the term “law firm owned and controlled by socially and economically disadvantaged individuals” means a law firm that meets the requirements set forth in clauses (i) and (ii) of section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)(i) and (ii)) and regulations issued under those clauses;

(B) “socially and economically disadvantaged individuals” shall be presumed to include these¹ groups and individuals described in the last paragraph of section 8(d)(3)(C) of the Small Business Act; and

(C) the term “qualified HUBZone small business concern” has the meaning given that term in section 3(p) of the Small Business Act.

(4) Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

(5) A contract made with a private counsel under paragraph (1) of this subsection shall include—

(A) a provision permitting the Attorney General to terminate either the contract or the private counsel’s representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government;

(B) a provision stating that the head of the executive or² legislative agency which refers a

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