

§ 792.11

7 CFR Ch. VII (1-1-02 Edition)

of funds rate or the rate of interest assessed under the Prompt Payment Act, determined as of the date specified in paragraphs (d)(1) and (d)(2) of this section. The rate of interest assessed under the Prompt Payment Act was chosen as an alternative rate to ensure that the Government would recoup interest at a rate which was at least as high as that which it pays for late payments.

(d)(1) When a debt results from a statute, regulation, contract, or other agreement with specific provisions for late payment interest and payment due date, late payment interest shall accrue on the amount of the debt from the first day the debt became delinquent, unless otherwise provided by statute.

(2) With respect to debts not resulting from a statute, regulation, contract, or agreement containing specific provisions for late payment interest and payment due date, late payment interest shall begin to accrue from the date on which notice of the debt, including notice of late payment interest, is first mailed or hand-delivered to the debtor.

(3) The rate of late payment interest initially assessed will be fixed for the duration of the indebtedness, except when a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement. FSA may then set a new rate of interest which reflects the late payment interest rate in effect at the time the new agreement is executed. All charges which accrued, but which were not collected under the defaulted agreement, shall be added to the principal to be paid under a new repayment agreement.

(4) The late payment interest on delinquent debts will accrue on a daily basis.

(e) Except as specified in paragraph (a)(2) of this section, a penalty charge of three (3) percent per annum will be assessed on any portion of a debt which remains unpaid ninety (90) days after the date described in paragraph (d)(1) or (d)(2) of this section, if no repayment schedule satisfactory to FSA has been agreed upon. Such penalty charge will be assessed retroactively from the date late payment interest began to accrue and applied on a daily basis. Such

rate shall continue to accrue until the delinquent debt has been paid.

(f) FSA shall assess as administrative charges the additional costs of processing delinquent debts against the debtor, to the extent such costs are attributable to the delinquency. Such costs include, but are not limited to, costs incurred in obtaining a credit report, costs of employing commercial firms to locate debtor, costs of employing contractors for collection services, costs of selling collateral or property to satisfy the debt.

(g) When a debt is paid in partial or installment payments, payments will be applied first to administrative charges, second to the penalty charge assessed in accordance with paragraph (e) of this section and late payment interest, and third to outstanding principal.

**§ 792.11 Waiver of late payment interest, penalty charge and administrative charges.**

(a) FSA shall waive the collection of late payment interest and administrative charges on a debt or any portion of a debt which is paid within 30 days after the date on which late payment interest began to accrue.

(b) FSA may waive the assessment and collection of all or a portion of the penalty charge on debts which are appealed in accordance with 7 CFR part 780 or other applicable appeal procedures from either the date of the appeal or the date such interest began to accrue, whichever is later, until the date a final administrative determination is issued. Such waiver shall not apply for any delay due to:

(1) The appellant's request for a postponement of the scheduled hearing;

(2) The appellant's request for an additional time following the hearing to present additional information or a written closing statement; or

(3) The appellant's failure to timely present information to the reviewing authority.

(c) Assessment and collection of late payment interest, the penalty charge and administrative charges under this part may be waived by FSA in full, or in part, if it is determined by the Controller, FSA, or his or her designee,

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that such action is in the best interest of FSA.

### § 792.12 Administrative appeal.

If the opportunity to appeal the determination has not previously been provided under part 24 of this title or part 780 of this chapter or any other appeal procedure, a debtor may obtain an administrative review under part 780 of this chapter, or other applicable appeal procedures, of FSA's determination concerning the existence or amount of a debt, if a request is filed with the authority who made the determination within 15 days of the date of FSA's initial demand letter, unless a longer period is specified in the initial demand letter.

### § 792.13 Additional administrative collection action.

Nothing contained in this part shall preclude the use of any other administrative or contractual remedy which may be available to FSA to collect debts owed to the Government.

### § 792.14 Contact with debtor's employing agency.

When a debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, FSA may contact the employing agency to arrange for payment of the debt by allotment or otherwise, in accordance with section 206 of Executive Order No. 11222, May 8, 1965, 30 FR 6469, 3 CFR, 1964-1965 Comp., p 306.

### § 792.15 Prior provision of rights with respect to debt.

FSA will not provide an administrative appeal with respect to issues which were raised or should have been raised at any administrative review requested by the debtor as provided under another statute or regulation before:

- (a) Effecting administrative offset;
- (b) Referring the debt to private collection or credit reporting agencies;
- (c) Referring the debt for salary offset against the current pay of a present or former Government employee; or

(d) Referring the debt to IRS for tax refund offset.

### § 792.16 Discharge of debts.

(a) Except as required by other applicable regulation or statute, a debt or part thereof owed FSA shall be discharged with the concurrence of the Department of Justice, if applicable, and the records and accounts on that debt closed in the following situations:

- (1) When an obligation or part thereof is discharged in bankruptcy;
  - (2) When an obligation or part thereof is the subject of a final judgment entered by a court of competent jurisdiction which is adverse to FSA and no appeal will be taken by FSA;
  - (3) When a debt or part thereof is compromised and paid, the amount of such compromise;
  - (4) When collection of a debt by administrative offset is barred in accordance with § 792.7(b)(5).
- (b) Debts discharged in accordance with this section may be reported to the Internal Revenue Service pursuant to § 792.20.

### § 792.17 Referral of delinquent debts to credit reporting agencies.

(a) This section specifies the procedures that will be followed by FSA and the rights that will be afforded to debtors when FSA reports delinquent debts to credit reporting agencies.

(b) Before disclosing information to a credit reporting agency in accordance with this part, FSA shall review the claim and determine that it is valid and delinquent.

(c) Before a debt may be referred to a credit reporting agency, the debtor must be notified, pursuant to § 792.4, of FSA's intent to make such a report. Such notification shall include:

- (1) FSA's intent to disclose to a credit reporting agency that the debtor is responsible for the debt, and that such disclosure will be made not less than 60 days after notification to such debtor.
- (2) The information intended to be disclosed to the credit reporting agency under paragraph (g)(1) of this section.
- (3) The debtor's right to enter a repayment agreement on the debt, including, at the discretion of FSA, installment payments, and that if such