

## § 15.47

with a business concern, the NRC should consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of the debtor. For information on reporting requirements, see § 15.60.

(b) When two or more debtors are jointly and severally liable, the NRC will pursue collection activity against all debtors, as appropriate. The NRC will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible. The NRC will ensure that a compromise agreement with one debtor does not release the NRC's claim against the remaining debtors. The amount of a compromise with one debtor shall not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.

[67 FR 30322, May 6, 2002]

### § 15.47 Finality of a compromise.

An offer of compromise must be in writing and signed by the debtor. An offer of compromise which is accepted by the NRC is final and conclusive on the debtor and on all officials, agencies, and courts of the United States, unless obtained by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact.

### § 15.49 Mutual releases of the debtor and the Government.

(a) In all appropriate instances, a compromise that is accepted by NRC should be implemented by means of a mutual release.

(1) The debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromised amount.

(2) The Government and its officials, past and present, are released and discharged from any and all claims and causes of action arising from the same transaction held by the debtor.

(b) If a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to

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the transaction giving rise to the compromised debt.

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### Subpart D—Suspension or Termination of Collection Action

#### § 15.51 When collection action may be suspended or terminated.

The NRC may suspend or terminate collection action on a claim not in excess of the monetary limitation of \$100,000 or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any of the debt has not been referred to the DOJ for litigation. If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds \$100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the DOJ. If the NRC believes that suspension or termination of any debt in excess of \$100,000 may be appropriate, the NRC shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ, using the CCLR. The referral should specify the reasons for the NRC's recommendation. If, prior to referral to the DOJ, the NRC determines that a debt is plainly erroneous or clearly without legal merit, the NRC may terminate collection activity, regardless of the amount involved, without obtaining DOJ concurrence.

[67 FR 30323, May 6, 2002]

#### § 15.53 Reasons for suspending collection action.

The NRC may suspend collection activity when:

(a) The NRC cannot locate the debtor;

(b) The debtor's financial condition is not expected to improve; or

(c) The debtor has requested a waiver or review of the debt.

(d) Based on the current financial condition of the debtor, the NRC may suspend collection activity on a debt

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when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

(1) The applicable statute of limitations has not expired; or

(2) Future collection can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, with due regard to the 10-year limitation for administrative offset prescribed by 31 U.S.C. 3716(e)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(e)(1) The NRC shall suspend collection activity during the time required for consideration of the debtor's request for waiver or administrative review of the debt, if the statute under which the request is sought prohibits the NRC from collecting the debt during that time.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, the NRC may use discretion, on a case-by-case basis, to suspend collection. Further, the NRC ordinarily should suspend collection action upon a request for waiver or review, if the NRC is prohibited by statute or regulation from issuing a refund of amounts collected prior to NRC consideration of the debtor's request. However, the NRC should not suspend collection when the NRC determines that the request for waiver or review is frivolous or was made primarily to delay collection.

(f) When the NRC learns that a bankruptcy petition has been filed with respect to a debtor, in most cases, the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless the NRC can clearly establish that the automatic stay has been lifted or is no longer in effect. The NRC should seek legal advice immediately from its Office of the General Counsel and, if legally permitted, take the necessary steps to ensure that no funds or money are paid by the NRC to the debtor until

relief from the automatic stay is obtained.

[67 FR 30323, May 6, 2002]

### § 15.55 Reasons for terminating collection action.

The NRC may terminate collection activity when:

(a) The NRC is unable to collect any substantial amount through its own efforts or through the efforts of others;

(b) The NRC is unable to locate the debtor;

(c) Costs of collection are anticipated to exceed the amount recoverable.

(d) The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;

(e) The debt cannot be substantiated;

or

(f) The debt against the debtor has been discharged in bankruptcy.

[67 FR 30323, May 6, 2002]

### § 15.57 Termination of collection action.

(a) Before terminating collection activity, the NRC should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude the NRC from retaining a record of the account for purposes of:

(1) Selling the debt, if the Treasury determines that such sale is in the best interests of the United States;

(2) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(3) Offsetting against future income or assets not available at the time of termination of collection activity; or

(4) Screening future applicants for prior indebtedness.

(b) Generally, the NRC will terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. However, the NRC may continue collection activity, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization.

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