

VA Financial Policies and Procedures  
Compromise of Debts

CHAPTER 1C

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## 0101 OVERVIEW

This chapter establishes the Department of Veterans Affairs (VA) financial policies and procedures relating to the compromise of debts, as authorized in 31 U.S.C. 3711, *Collection and Compromises* and 38 U.S.C. 3720(a), *Powers of Secretary*.

010101 AUTHORITY FOR COMPROMISE OF DEBTS. VA may exercise compromise authority for debts not exceeding \$100,000, exclusive of interest, penalties and administration costs; any higher amount must be authorized by the U.S. Attorney General.

010102 ACTIONS FOR COMPROMISE OF DEBTS. VA may accept an offer of compromise of debt when collection of the full amount will create a financial hardship, when the amount cannot be collected within a reasonable timeframe, when a significant doubt exists concerning the ability to prove its case in court, or when the cost of collecting the debt in full is greater than the debt itself.

## 0102 POLICIES

010201 AUTHORITY FOR COMPROMISE OF DEBTS. When debtors have been notified and have submitted compromise offers, VA will fully consider all such offers and will advise the debtors of the acceptance or rejection after review by the appropriate individual or office having jurisdiction.

010202 ACTIONS FOR COMPROMISE OF DEBTS. VA will notify debtors of their rights, advising them of available remedies and informing them of subsequent actions if they fail to pay, by promptly forwarding them demand letters for overpayments (e.g., compromise, waiver, or suspension). Refer to Volume XII, Chapter 1, “*VA Debt Collection Standards*,” for the required information related to debt or demand letters.

VA will fully consider the feasibility of all compromise offers when debtors are unable or unwilling to pay. VA may accept compromise offers, including any reservations or specific conditions on the approvals, or reject such compromise offers. If rejected, VA will advise debtors of the reasons for rejecting the offers and, if appropriate, the amount that would be acceptable. Rejection decisions of compromise offers may not be appealed by debtors (38 C.F.R. 1.958).

## 0103 AUTHORITY AND REFERENCES

010301 [28 U.S.C. 2415, Time for Commencing Actions Brought by the United States](#)

010302 [28 U.S.C. 2416, Time for Commencing Actions Brought by the United States - Exclusions](#)

010303 [31 U.S.C. 3711, Collection and Compromise](#)

010304 38 U.S.C. 3720, Powers of Secretary

010305 38 C.F.R. 1.930-1.936, Scope and Application – Mutual Releases of the Debtor and VA

010306 38 C.F.R. 1.955, Regional Office Committees on Waivers and Compromises

010307 38 C.F.R. 1.956, Jurisdiction

010308 38 C.F.R. 1.957(a)(2)(B), Committee Authority

010309 38 C.F.R. 1.958, Finality of Decisions

010310 38 C.F.R. 1.970, Standards for Compromise

010311 38 C.F.R. 17.103, Referrals of Compromise Settlement Offers

010312 38 C.F.R. 17.62, Definitions

#### **0104 ROLES AND RESPONSIBILITIES**

010401 The Assistant Secretary for Management/Chief Financial Officer (CFO) oversees all financial management activities relating to the Department's programs and operations, as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309. Specific responsibilities include the direction, management and provision of policy guidance and oversight of VA's financial management personnel, activities and operations. The CFO establishes financial policy, systems and operating procedures for all VA financial entities and provides guidance on all aspects of financial management.

010402 Under Secretaries, Assistant Secretaries, Chief Financial Officers, Fiscal Officers, Chief Accountants and other key officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

010403 Delegations of Authority.

A. Compromise Authority up to \$1,000. The Chief of the Finance Activity, except for home loan debts under 38 U.S.C. Chapter 37, has the authority on all debts (including salary, travel, vendor, etc.) up to \$1,000, exclusive of interest, administrative costs, penalties and other charges, to perform the following:

1. Reject an offer of compromise;
2. Accept an offer of compromise for payment greater than 50 percent of the total debt;  
or

3. Recommend the Committee on Waivers and Compromise (COWC) accept an offer of compromise for payment less than 50 percent of the total debt.

B. Compromise Authority up to \$100,000<sup>1</sup> – COWC at Debt Management Center (DMC). A special Committee on Waivers and Compromises at the DMC has compromise authority on all benefit debts up to \$100,000 under its collection jurisdiction. The DMC has jurisdiction on VA benefit debts including compensation, education and pension. Exceptions to this statement are Chapter 32 education debts, which are the responsibility of the four education Regional Processing Offices (Atlanta, Buffalo, Muskogee and St. Louis). The Restored Entitlement Program for Survivors (REPS) is the sole responsibility of the St. Louis Regional Processing Office.

C. Compromise Authority up to \$100,000 – COWC at Pension Maintenance Centers (PMC). The COWCs located at the PMCs in the Milwaukee, Philadelphia or St. Paul Regional Offices will consider all compromise offers on all other debts (e.g., erroneous payment of pay and allowances, medical care and services, etc.).

D. Compromise Authority for Home Loan Program debts – COWC. The COWC at the St. Paul Regional Office has unlimited authority to consider compromise offers on home loan program debts regardless of the amount of the debt (38 U.S.C. Chapter 37).

E. Compromise Authority over \$100,000 – Department of Justice. VA will forward compromise offers for debts (other than a home loan program debt) greater than \$100,000, exclusive of interest, administrative cost, penalties, or other charges, to DOJ.

010404 The Committee on Waivers and Compromises (COWC) is the particular decision-making body which may be composed of one person or a panel with two or more members. The COWC may be part of a centralized system or a regional office committee system. For more information on the regional office COWC, refer to 38 C.F.R. 1.955(d).

010405 The DMC in St Paul, MN, is responsible for collecting debts resulting from an individual's participation in VA's education, pension or disability compensation programs within their jurisdiction. The DMC consults with Veterans and their families in the management and liquidation of their benefit debts. In addition, the DMC has authority to offset VHA first-party pharmacy co-payment debts received from the Veterans Health Administration (VHA) after the debt has become 90 days old.

010406 The Regional Counsel (RC) and designated staff attorneys are authorized, in any matter within the jurisdiction of the VA's Office of General Counsel, delegated or otherwise assigned, to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations and certify copies of public or private documents. The

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<sup>1</sup> For detailed information on compromise offers from the perspective of the COWC, refer to Volume XI, Chapter 5, "Compromise of Debts."

RC is authorized to and shall, under the guidance of the General Counsel, provide legal services, advice and assistance to VA installations within the region assigned. In any area of regulatory, assigned or delegated responsibility, the RC may delegate to staff members or other VA attorneys authority to perform, to the extent specified, any legal function under the professional direction of the RC. The RC may modify, suspend, or rescind any authority delegated hereunder. For more information on the RC, refer to 38 C.F.R. 14.501.

## 0105 PROCEDURES

010501 AUTHORITY FOR COMPROMISE OF DEBTS. When VA has determined a debt exists, VA will promptly demand payment of the debt in writing. VA will notify the debtor of his or her rights, available remedies and the consequences of failure to cooperate with collection efforts. Generally one demand letter is sufficient, but subsequent demand letters may be issued as needed<sup>2</sup>.

The debtor has the right to informally dispute the existence or amount of the debt (e.g., telephone call), request a waiver of collection of the debt, have a hearing on the waiver request, make a compromise offer on the debt, or appeal VA's decision underlying the debt. These rights may be exercised separately or simultaneously, but the exercise of any of these rights will not stop any collection proceeding except as provided in 38 C.F.R. 1.912, *Collection by Offset* and 38 C.F.R. 1.912a, *Collection by Offset – from VA benefit payments*.

### 010502 ACTIONS FOR COMPROMISE OF DEBTS.

A. The Chief of the Finance Activity will fully consider the feasibility of a compromise offer when the debtor is clearly unable to pay the full amount within a reasonable length of time or when the debtor refuses to pay the debt in full and VA is unable to enforce full collection. The Chief of the Finance Activity will either make a decision on an offer of compromise for debts up to \$1,000 or refer it to the respective COWC for debt greater than \$1,000 exclusive of interest and other late payment charges.

1. The Chief of the Finance Activity will pursue an offer of compromise, except where:
  - a. The debtor is deceased and no evidence of an estate or assets exists;
  - b. The debt has been discharged in bankruptcy; or
  - c. The case has been referred for enforced collection.

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<sup>2</sup> Refer to Volume XII, Chapter 1, "VA Debt Collection Standards," for the required information related to debt or demand letters.

2. The action(s) taken on cases considered for compromise will be documented in the “Remarks” section of VA Form 1042, “*Referral of Indebtedness to COWC*,” or in an appropriate accounts receivable record.

3. If the Chief of the Finance Activity is uncertain of the legality of a compromise offer, the advice of the Regional Counsel (RC) having jurisdiction should be obtained. Where a co-obligor is named, it is important to ensure the compromise does not legally release the other debtor.

B. The Chief of the Finance Activity (for debt up to \$1,000) may reject an offer of compromise, regardless of the amount of the offer. However, he or she may accept a compromise payment offer greater than 50 percent of the total debt amount or may recommend to the appropriate Committee of that jurisdiction a compromise payment offer of less than 50 percent be accepted.

1. The Chief of the Finance Activity may reject a compromise offer when, in his or her opinion, the debt should be collected in full or the amount proposed as a compromise is not acceptable. In accordance with 38 C.F.R. 1.970, an acceptable compromise offer must be advantageous to the Government.

2. The Chief of the Finance Activity will use VA Form 5658, “*Decision on Offer for Compromise of Indebtedness*,” to reflect actions he or she has taken on compromise offers.

3. The Chief of the Finance Activity will not refer a compromise offer to COWC if it is determined to be a frivolous offer or has not been made in earnest. In such cases, the debtor will be advised that the offer is refused based upon documentation received and why the offer is not acceptable.

4. The Chief of the Finance Activity will refer an offer of compromise exceeding his or her authority (\$1,000) to the Committee or office of jurisdiction.

a. For offers of compromise on debt from \$1,000 up to \$100,000, the Chief of the Finance Activity will submit the offer and supporting documentation along with VA Form 5658 to the respective COWC. Upon review and determination, the COWC will advise the Finance Activity of its determination.

b. For offers of compromise on debt greater than \$100,000, the Chief of the Finance Activity will submit the offer and supporting documentation along with a Claims Collection Litigation Report (CCLR) to the RC of jurisdiction for review and approval.

(1) The RC will review and provide a recommendation to the Cash and Debt Management Division in VA Central Office (VACO) for the appropriate action.

(2) The Cash and Debt Management Division will review the requests and submit the package to the Commercial Litigation Branch, Civil Division, DOJ, for a determination of recommendation.

(3) Once DOJ has made its determination, it will inform the Cash and Debt Management Division. The Cash and Debt Management Division will then inform the Chief of the Finance Activity of the determination.

C. VA will advise the debtor of the acceptance of a compromise offer, including any reservations or specific conditions stated in the memorandum of determination. It is especially important to include a statement regarding the reservation of the Government's right to collect from other obligors. On a home loan program debt, VA will advise the debtor that the acceptance of a compromise of the debt does not restore entitlement for another loan unless the full amount of the debt (principal and interest at the time of write-off) is paid.

D. VA will advise the debtor of the reasons for rejecting a compromise offer and, if appropriate, an acceptable amount for any future compromise offers. The original decision accepting or rejecting the compromise offer will be signed by the Chief of the Finance Activity or the appropriate office of jurisdiction and filed in the Veteran's, employee's, or vendor's folders. All decisions are subject to VACO review. There is no right of appeal from a decision rejecting a compromise offer.

E. When feasible, VA will collect the total amount of a compromised debt in one lump sum payment. If a debtor is financially unable to pay in one lump sum, either by funds or administrative offset, VA may accept payment in regular installments. VA will also obtain a financial status report from debtors to confirm they are unable to pay in one lump sum. VA will independently verify such representations.

1. When an agreement to accept payments in regular installments is reached, VA will obtain a legally enforceable written agreement from the debtor specifying all the terms and conditions of the agreement and a provision making the debt payable in full in the event of a default.

2. VA will ensure the amount and frequency of the payments reasonably relate to the total amount of the debt and the debtor's ability to pay. Whenever feasible, the installment agreement will provide for full payment, including interest and charges, in three years or less. On a case by case basis, VA may extend a payment installment plan beyond three years if extenuating circumstances exist.

3. VA will not construe the deposit of a partial remittance accompanied by a compromise offer to be acceptance of the compromise offer and is not bound to an offer of compromise by depositing the funds. Any funds submitted as a compromise offer will be returned or refunded to the remitter if the compromise is rejected. If funds are not returned, further collection action may be delayed.

F. Entitlement Charging if Compromise Offer is Accepted. If a VA debt is compromised, the amount compromised must be paid in full to restore previously used entitlement for the following benefits:

1. Education Benefit Entitlement Charging. Entitlement is charged equivalent to the amount written off when an education debt is compromised.
2. Home Loan Program Entitlement Charging and Restoration. Basic loan entitlement is reduced by entitlement used to obtain a direct guaranteed or insured housing loan. If the loan is defaulted and VA incurs a loss on such a loan, a debt is established against the Veteran. When the debt is compromised, the amount compromised must be paid in full to restore the previously used entitlement.

### 0106 DEFINITIONS

010601 Compromise. An offer and acceptance of a partial payment in settlement and full satisfaction of the offeror's indebtedness, as it exists at the time the offer is made. It is a final settlement, binding on the parties to the compromise, unless procured by fraud, misrepresentation of a material fact or mutual mistake of fact.

010602 Debt. A claim for money made by or owed to the Government, arising out of VA activities.

010603 Frivolous Offer. This offer is one that is clearly lacking in substance or clearly insufficient.

010604 Waiver. A decision that conditions exist, under the applicable statutes (38 U.S.C. 5302 and 5 U.S.C. 5584) and implementing regulations (38 CFR 1.955 - 1.969, 17.105), that prohibit recovery by VA of certain debts as defined in the statutes and regulations, including interest and other late payment charges assessed on such debts.

### 0107 RESCISSIONS

010701 VA Handbook 4800.4, Compromise of Debts

### 0108 QUESTIONS

Questions concerning these financial policies and procedures should be directed as shown below:

|            |                                 |
|------------|---------------------------------|
| VHA        | VHA Accounting Policy (Outlook) |
| VBA        | VAVBAWAS/CO/FINREP (Outlook)    |
| All Others | OFP Accounting Policy (Outlook) |