



Department of Veterans Affairs

Financial Policy

Volume XII

Debt Management

Chapter 11B

Compromise of Debt - COWC

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1101 Overview

This chapter establishes the Department of Veterans Affairs (VA) financial policies for the evaluation of a compromise request on a debt owed to VA.

Key items presented in this chapter include how the Committee on Waiver and Compromise (COWC) will:

- Ensure only compromises from eligible parties are considered;
- Ensure only debts subject to compromise are considered;
- Adhere to all applicable laws, regulations, and policies governing compromises; and
- Agree that VA will not collect on a portion of a debt if a compromise offer is accepted. However, the debtor will not be entitled to benefits in that program until the uncollected portion of a compromised amount is paid. This is referred to as entitlement charging.

1102 Revisions

| Section | Revision | Office | Reason for Change | Effective Date |
|---------------------------------|---|------------|---|----------------|
| Various | Reformatted to new policy format | OFP (047G) | Reorganized chapter layout | February 2021 |
| Volume and Chapter Number | Combined Vol. XII Ch. 1B and Vol XI Ch 5 Volume XII, Ch 11B Compromises of Debt | OFP (047G) | Combined chapters to simplify and reduce repetitive information | February 2021 |
| 1103 Definitions | Updated definitions | OFP (047G) | Updated and added definitions | February 2021 |
| 1104 Roles and Responsibilities | Changed title of Chief of Finance Activity to Chief of Local Finance Activity | OFP (047G) | Updated role titles for clarity | February 2021 |
| 1107 Rescissions | Vol. XI, Ch 5 Compromise of Debt - COWC | OFP (047G) | No longer applicable | February 2021 |

1103 Definitions

Compromise – Governed by 31 U.S.C. § 3711, a compromise is 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.

Debt – Money or property owed to VA.

Entitlement Charges – Charges made against a program a Veteran is entitled to according to a law and/or regulation. Education assistance and Home Loans are two examples of an entitlement.

Fraud – A knowing misrepresentation of the truth or concealment of it to induce another to act to his/her detriment, a criminal act of corruption, attempt to cheat the Government, and/or to corrupt the Government's agents.

1104 Roles and Responsibilities

Chief of the Local Finance Activity is responsible for ensuring compliance with the policies and appropriate procedures which provide guidance for administration of VA's debt collection activities and has the authority to accept compromise offers on debts, with some exception, up to \$1,000. Any reference to the Chief of the Local Finance Activity can also refer to the: Executive Director of the Debt Management Center (DMC), Director of the Financial Service Center (FSC) where appropriate, as well as Chief Financial Officers in VA Medical Centers, Chief Finance Officers in Regional Offices, and Chief Financial Officers in the Consolidated Patient Account Centers (CPAC).

Committee on Waivers and Compromises (COWC) is the decision-making panel composed of one or more members, making decisions on a request for a waiver or compromise. The Committee is under the direction of and has authority vested in the Director of the office of jurisdiction. The Committee will have independent decision-making authority.

Debt Management Center (DMC) is a franchise fund (fee-for-service) organization at VA. The DMC offers a wide range of debt management services including debt resolution activities, as well as waivers and compromises under their jurisdiction, with the authority to refer compromise offers.

1105 Policies

110501 Who Can Apply for a Compromise

- A. Any debtor or beneficiary, including a fiduciary on behalf of a Veteran/beneficiary, may apply for a compromise on any debt, except for Loan Guaranty debts.

- B. For Loan Guaranty Program debts; a Veteran-borrower, Veteran-transferee, Veteran-purchaser on a vendee account, spouse, former spouse, widow, or widower of a Veteran may apply for a compromise. In addition, a spouse, former spouse, or surviving spouse of a Veteran can request a compromise of collection of a debt in connection with a loan that is either guaranteed, insured, made to, or acquired by the Veteran under 38 U.S.C. § Chapter 37, when such spouse was a co-obligor with the Veteran who is indebted to VA. A spouse can request a compromise in his or her own right, even if the Veteran has already requested a compromise and been denied. See 38 U.S.C. § Chapter 37.
- C. A spouse, parent, sibling, or representative of the estate of a deceased payee charged with an overpayment if the debt was established before their death may request a compromise. Since the reduction of a payee's estate by the collection of the overpayment affects living individuals, such as heirs, assignees, or creditors, the representative may request compromise, on the estate's behalf.

110502 Debts Subject to Compromise

- A. In accordance with 31 U.S.C. § 3711; the following are examples of debts VA may compromise:
- benefit debts;
 - vendor debts;
 - employee/ex-employee debts;
 - debts resulting from services furnished in a medical emergency (38 C.F.R. § 17.102(b)); and
 - debts arising in connection with VHA transactions such as medical care or services furnished in error or based on tentative eligibility per (38 C.F.R. §§ 17.102(a) and 17.105(a)).
- B. When two or more debtors are jointly indebted to VA, the Committee may accept a compromise offer made by one of the debtors and authorize the issuance of an appropriate instrument to relieve him/her from further liability to the United States for this debt, (e.g., a covenant not to sue him/her or, if a court has issued a judgment on the debt, not to request execution, garnishment or other writs for collection or enforcement of the judgment).
- C. Payment of any individual share of a joint debt may constitute consideration, as well as justification for entering into a covenant not to sue or for any other agreement with respect to the remainder of the joint indebtedness, regardless if reduced to judgment. In implementing such an agreement, it is important to ensure the compromise decision does not legally release the other debtor(s) from their obligation to pay.

The decision of the Committee to accept the compromise offer from one party will set forth the reservation of the Government's right to collect from the other Debtor(s)

of a joint debt.

- D. Debts approved for compromise by the COWC or BVA will have the portion of the debt VA has agreed to compromise written-off within 90 days of the compromise being approved.

110503 Debts Excluded from Compromise

The Committee may not consider offers of compromise when:

1. The debt has already been referred to the Department of Justice (DOJ) or the District Counsel for enforced collection or other matters;
2. There is an indication of fraud;
3. There is a presentation of a false claim or the misrepresentation of a material fact on the part of the debtor or any other party having an interest in the claim;
4. The debt is based in whole or in part on conduct in violation of the antitrust laws;
5. When an offer of a percentage of a debtor's profits or stock in a debtor's corporation is presented for consideration and settlement;
6. The debt has been discharged in bankruptcy; or
7. When the offer is determined to be frivolous or not made in earnest.

110504 Compromise Authority Thresholds

- A. The chief of the local finance activity has the authority to accept a compromise offer (except for employee debt, loan programs, and loan guaranty program debts) under their respective jurisdiction if they do not exceed \$1,000, exclusive of interest and other late payment charges. A chief of the local finance activity can reject an offer of compromise, regardless of the amount of the offer. If a local finance activity chief accepts a compromise, the amount of the compromise must equal 50 percent or more of the total debt amount.

If the recommended compromise is less than 50% of the total debt amount, the local finance activity chief will send the recommendation to the Committee of jurisdiction for a decision. See Volume XII, Ch. 11 for a list of Committees and jurisdictions.

- B. Compromise offers on VA debts over \$1,000, exclusive of interest and other late payment charges, will be forwarded to the Committee of jurisdiction.

- E. For debt types other than home loans, the Committee can only accept compromise offers where the total indebtedness being compromised is less than \$100,000, exclusive of interest and other late payment charges.
- F. When the total indebtedness is equal to or over \$100,000, the Committee can submit a recommendation to accept a compromise offer to DOJ. DOJ will determine if the compromise offer is acceptable, DOJ's decision is considered final.
- G. The Committee has the authority to accept compromise offers on home loan indebtedness, regardless of the total amount of indebtedness.
- H. The Committee can reject a compromise offer regardless of the amount of total indebtedness.
- I. DMC has the authority to refer compromise offers directly to DOJ, or the District Counsel for a case within their jurisdiction or referral to the U.S. Attorney for amounts less than \$100,000 if they feel it is appropriate.
- J. Decisions rendered on a compromise offer are considered final and cannot be appealed.

110505 Entitlement Charging and Eligibility for Future Benefits

- A. 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 is charged equivalent to the amount written off.
 - 2. Home Loan - basic loan entitlement is reduced by the entitlement used to obtain a direct guaranteed or insured housing loan. If the loan defaults and VA incurs a loss on such a loan, the 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.
- B. If a compromise offer is accepted, VA is agreeing not to collect on a portion of a debt. When this occurs, the debtor will not be entitled to benefits in that program until the uncollected portion of a compromised amount is paid. This is referred to as entitlement charging.

For example, if VA accepts a \$10,000 offer to compromise a \$15,000 debt then the debtor would not be entitled to receive benefits in that program unless, and until, the remaining \$5,000 is paid.

110506 Requirements for Submission to Committee

- A. To apply for a compromise, an offer should contain the following:
1. An explanation of why the compromise offer is being requested.
 2. The amount of money the requestor wishes to pay.
- B. When an offer of compromise is received the following documentation must be gathered before the offer can be submitted to the committee:
1. The date of the establishment of the debt
 2. The amounts of the debt, including:
 - The original amount of the debt;
 - Any adjustments, interest or fees;
 - Principal reduction, if any; and
 - Principal balance as of the date of the offer of compromise.
 3. For individual debts, a signed VA Form 5655, Financial Status Report, completed in full or, in other than loan cases, other satisfactory financial data depending on debt type.
 4. A current credit report on the debtor and verification of employment, when allegations of ability to pay are uncorroborated or inconsistent with the evidence in the file.
 5. A statement whether the debtor is or has been a U.S. Government employee subject to CSRS or FERS and if so, the current balance of their retirement account in either CSRS or FERS.
 6. The debtor's written offer of compromise or the written offer of a third party made on behalf of the debtor.

110507 Acceptance of an Offer

VA may accept a compromise offer only when advantageous to the Government. The factors that establish practical advantages are discussed in 38 C.F.R. §§ 1.930, and can be found below:

- The debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;
- VA is unable to collect the debt in full within a reasonable time by enforced collection proceedings;
- The cost of collecting the debt does not justify the enforced collection of the full amount; or

- There is significant doubt concerning VA's ability to prove its case in court.
- A. When VA accepts a compromise offer, payment will be due 30 days from the date of the acceptance letter.
- B. VA may accept multiple payments or a payment plan as part of a compromise offer if circumstances warrant.
- C. VA will advise debtors of the rationale for rejecting a compromise offer and, if appropriate, the amount that would be considered acceptable to settle the indebtedness.

1106 Authorities and References

[5 U.S.C. § 5584, Claims for Overpayment of Pay and Allowances and of Travel, Transportation and Relocation Expenses and Allowances](#)

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

[38 C.F.R. § 1.900, Prescription of Standards, through 1.970, Standards for Compromise](#)

[38 C.F.R. § 1.930, Scope and Application, through 1.936, Mutual Releases of the Debtor and VA](#)

[38 C.F.R. § 1.955-1.969, Regional Office Committee on Waivers and Compromises](#)

[38 C.F.R. § 36.4318, Refunding of Loans in Default](#)

[38 C.F.R. § 17.102, Charges for Care or Services](#)

[38 C.F.R. § 17.105, Waivers](#)

[38 U.S.C. Chapter 37 Housing and Small Business Loans](#)

[38 U.S.C. § 3720, Powers of Secretary](#)

[38 U.S.C. § 5302, Waiver of Recovery of Claims by the United States](#)

1107 Rescissions

This chapter rescinds MP-4, Part I, Chapter 8, Section E, Compromise of Debts.

1108 Questions

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

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| VHA | CFO Accounting Policy (10A3A) (Outlook) |
| VBA | VAVBAWAS/CO/OPERATIONS (Outlook) |
| DMC | VAVBASPL/DMC/BDEV (Outlook) |
| All Others | OFF Accounting Policy (Outlook) |