OREGON ACCOUNTING MANUAL

SUBJECT: Accounting and Financial Reporting
DIVISION: Chief Financial Office
Number: 35.40.10
Effective date: July 1, 2013

Chapter: Accounts Receivable Management
Part: Account Assignments
Section: Assignments and Exemptions

APPROVED: George Naughton, Chief Financial Officer

PURPOSE: This policy provides criteria to determine when Mandatory Collection Agency Transfer (MCAT) accounts are subject to assignment to either the Department of Revenue Other Agency Accounts Unit or a private collection firm (PCF) or are exempt from assignment. This policy also provides information on how an agency may request an exemption from the assignment timeframe statutorily placed at 90 days. The provisions of this policy do not affect or limit the authority of an agency to assign accounts to a PCF.

AUTHORITY: ORS 291.015
ORS 291.060
ORS 293.231
ORS 293.233
ORS 293.250
ORS 293.590

APPLICABILITY: This policy applies to all state agencies included in the State's annual financial statements, except for those agencies specifically exempted by OAM 01.05.00.

DEFINITIONS:

Account - a debt relationship between a state agency and an individual or an entity, which may include multiple obligations and time periods

Consensual Security Interest - an enforceable interest in real or personal property voluntarily created by a debtor to secure an obligation to pay a debt (i.e., a mortgage, trust deed, security agreement, or pledged securities)

Delinquent (account) - receivable for which payment has not been received by the due date

Hardship - adverse circumstances, which significantly reduce a debtor's ability to pay; Examples include, but are not limited to, interruptions of income due to family or medical emergencies, job layoff or job skill retraining, long-term/permanent disability, social security, public assistance, or terminal illness.

Imprisoned - currently incarcerated

Litigation - a dispute is in "litigation" when it:

- Has been referred to the Department of Justice,
- Is in the administrative appeal or hearing process, or
- Is in arbitration, mediation, or in the state(s) or federal court system, including bankruptcy

Liquidated (account) - see OAM 35.30.30 for a complete definition.

Mandatory Collection Agency Transfer account (MCAT account) - an account that is:
- Liquidated,
- Delinquent, and
- Not prohibited by law from being transferred to a collection firm

Public Assistance - as defined in ORS 411.010 means all types of assistance administered by or in accordance with the provisions of federal and state laws. Examples include, but are not limited to, medical assistance, food stamp assistance, old-age assistance, temporary assistance for needy families, aid to the blind, general assistance, and aid to the permanently and totally disabled.

POLICY:

101. Agency management must ensure that agency personnel employ appropriate practices in the management and collection of accounts receivable.

PROCEDURES:

MCAT Accounts

102. The MCAT eligibility date of an MCAT account is the latter of any of the following dates that apply to the account:

   a. The first day the account became both liquidated and delinquent,
   b. The date an exemption under paragraph 105 has expired.

If an agency does not receive any payments on an MCAT account during any 90-day period following the MCAT eligibility date for that account, the agency must review the account for assignment to the OAA Unit or a PCF currently under contract with the State of Oregon. The 90-day period is not applicable to Department of Revenue or Employment Department accounts, which have one year from the later of the date of liquidation or the date of last payment.

103. The 90-day period also does not apply to agencies that the Department of Administrative Services Chief Financial Office (DAS CFO) has granted a time period exemption, as per paragraph 110.

   a. Unless the account is subject to an exemption under paragraph 105, the agency must refer the account for outside collection. If the review of the account arises from an MCAT eligibility date based on a referral to the OAA Unit or the expiration of an exemption exercised by the OAA Unit, then the agency must offer the account for assignment to a PCF. Otherwise, the agency may refer the account either to the OAA Unit for collection pursuant to ORS 293.250 or to a PCF.

   b. If an agency exercises the option available in paragraph 105 to exempt an account, no further action is required of the agency under this policy unless the agency determines that the exemption no longer applies. If the agency determines that an
exemption no longer applies, the agency must establish a new MCAT eligibility date and proceed with collection of the account. If an agency refers an account to the OAA Unit for collection, the OAA Unit may exercise an exemption.

104. Before an agency may write off an account using the procedures authorized by ORS 293.240, the agency must refer the account to a PCF, unless the law prohibits the account from assignment to a PCF or the agency has exempted the account from assignment as provided in paragraph 105.

105. An agency may exempt from assignment to a PCF any MCAT account that:
   a. Is secured by a consensual security interest in real or personal property
   b. Is a court judgment that includes restitution or a payment to the Department of Justice Crime Victims Assistance Section
   c. Is in litigation
   d. Is a student loan owed by a student who is attending school
   e. Is owed to a state agency by a local or state government or by the federal government.
   f. Is owed by a debtor who is hospitalized in a state hospital as defined in _or who is on public assistance
   g. Is owed by a debtor who is imprisoned
   h. Is less than $100 including penalties
   i. Would, if assigned, result in a loss of federal funding or a loss of funding under a federal program
   j. Would constitute a hardship if assigned, and assignment would be inconsistent with an agency goal
   k. Is secured by a non-consensual lien against specific real or personal property identified by the agency
   l. Is secured by a bond
   m. Is one of multiple accounts owed to the agency by the same debtor, any one of which has received a payment within the preceding 90-day period, including accounts created and paid at the same time
   n. Is within the scope of an agency specific exemption approved under paragraph 107
   o. Would result in the referral of a monetary penalty, fee, or tax under ORS Chapters 825 or 826 related to a motor carrier operating authority unless the closing audit of the motor carrier operating authority is final
   p. Arises when a wage garnishment has been served on the debtor’s employer and no funds are available to the agency because a wage garnishment or order to withhold earnings of higher priority currently prevents any funds from being applied to the agency debt
   q. Arises from an administrative or judicial support order, judgment, or decree
   r. Is owed by a corporation that is not, and for the foreseeable future, will not be engaged in any income-producing activity, and there are no assets from which the debt could be collected
106. When an agency determines an MCAT account can be exempt from assignment to a PCF (based on the criteria in paragraph 105), the agency should document their conclusions on OAM form 75.35.01.FO, Agency Documentation for Self-Exempting Accounts (or equivalent). An agency is not required to file this form with the DAS CFO, but the form may prove useful to explain the reasoning for exempting accounts in the event of an inquiry or in response to an audit of the agency’s liquidated and delinquent accounts.

107. In addition to the specifically enumerated subparagraphs “a” through “r” of paragraph 105, an agency may request that the DAS CFO approve one or more agency specific exemptions. An agency must submit a request for an agency specific exemption from assignment on OAM form 75.35.02.FO, Request for Exemption from Assignment. This form should be used to:

- Propose and explain the type of account to be exempted;
- Identify the exemption as permanent or temporary; and
- Explain the necessity or legal condition that requires the exemption.

An agency may not use such exemption until approved by the DAS CFO. In its written approval of the request, the DAS CFO may specify that the exemption is for a limited duration, and if so, the agency’s right to use the exemption terminates upon expiration of the limited duration period.

108. For the purposes of this policy, a state agency has offered an account for assignment if the agency offers the account to collection firms through standard methods at a generally acceptable industry rate for the type of account, and no collection firm expresses interest in the account as offered.

109. Notwithstanding paragraph 108, an agency may not make an offer for assignment contrary to applicable state or federal laws or regulations governing offers for assignment.

**Request for Exemption From 90-day Timeframe**

110. To request an exemption from the 90-day turnover timeframe required in ORS 293.231, an agency must complete OAM form 75.35.11.FO, Exemption From 90-day Turnover Request. When approved, the exemption request will permit either a 180-day turnover period or a 365-day turnover period. This exemption is not permanent and must be filed with and reviewed bi-annually by the DAS CFO. The current requirement is that all agencies, except the Department of Revenue and Employment Department, turnover their liquidated and delinquent accounts that meet the MCAT eligibility and have not received a payment within 90-days from the liquidation date or the date of the most recent payment. The form requires agencies to prepare and submit the following information:

a. The agency's preferred timeframe turnover period of either a 180-day period or a 365-day period;

b. Identify if the exemption is for a specific program, or programs, or for all agency accounts. Identify the “type of account” and “fund category” as they are designated in the Legislative Fiscal Office (LFO) Report on Liquidated and Delinquent Accounts;

c. Information pertaining to accounts receivable (dollars) collected, dollar amount of accounts receivable, liquidated and delinquent account balances and collections, and the cost of collections as of the most recent fiscal year ended June 30. This information can be found in the agency’s accounting records, and needs to match what was reported in the statewide Comprehensive Annual Financial Report (CAFR); the LFO Report on Liquidated and Delinquent Accounts; and through the analysis of cost data in agency expenditure reports and accounting data;
d. Attach additional information including
   - program descriptions with statutory and Oregon Administrative Rule citations
   - number of FTEs
   - job classifications
   - a copy of the agency’s collection policies and procedures
   - methods for computing the allowance for doubtful accounts
   - a list of payment methods accepted
   - a list of special tools the agency has available to collect accounts
   - if necessary, an explanation of special circumstances and how this time exemption is different than a statutory exemption granted by law;

   An agency may provide links to the agency web sites that offer this information in lieu of the paper or electronic documents.

111. Agencies must submit requests for the exemption from the 90-day turnover timeframe to the DAS CFO by November 21. Each approved request will be valid for a two fiscal year period, beginning with the next fiscal year. For example, a request in November 2012 will become effective for the fiscal year July 1, 2013 through June 30, 2015. An agency may not use such exemption until approved by the DAS CFO. In the DAS CFO’s written approval of the request, the DAS CFO may specify that the exemption is for a limited duration, and if so, the agency’s right to use the exemption terminates upon expiration of the limited duration period.