

***DRAFT OF THE BAD DEBT COLLECTION MOU REVISED 07-15-2013. A FINALIZED VERSION WILL BE SENT DIRECTLY TO YOUR AGENCY'S LEGAL DEPARTMENT.***

**MEMORANDUM OF UNDERSTANDING FOR  
DEBT COLLECTION SERVICES BETWEEN  
MONTANA DEPARTMENT OF REVENUE AND  
AGENCY**

**I. PURPOSE**

The Montana Department of Revenue (Department) and the AGENCY (Agency) enter into this Memorandum of Understanding (MOU) for the purpose of establishing a debt collection service agreement pursuant to Montana Code Annotated Title 17, chapter 4.

**II. AGENCY'S TRANSFER OF A DEBT TO THE DEPARTMENT**

- A. Prior to submitting any debt to the Department for collection services, the Agency shall establish criteria for determining the uncollectibility of its debts and submit that criteria to the Department. The criteria for uncollectibility shall consist of a list of actions the Agency will undertake to collect on its debts prior to submitting the debts to the Department. This list must include making a demand for payment. If the Agency changes its criteria for uncollectibility, it shall provide the Department with the updated criteria within 30 days.
- B. The Agency shall not submit to the Department any unliquidated debts or any debts where the combined amount of principal, interest and penalties is less than \$500. An unliquidated debt includes a debt where the amount is unassessed, unsettled, or disputed. The Agency must have followed its internal policies and procedures as well as any applicable laws regarding debtor notification and dispute resolution on any debts it submits to the Department. The age of the debt shall not exceed the applicable statute of limitations for civil collection actions. The Agency must provide the Department with a valid social security number or other federal identification number for each debtor.
- C. Upon determining that a debt is uncollectible in accordance with its criteria for uncollectibility, the Agency shall complete the Department's Debt Certification and Transfer Form to certify (1) the debt meets the Agency's criteria for uncollectibility; and (2) the amount of principal, interest, and penalties that is due and owing.
- D. Upon the Department's request, the Agency shall provide the Department with all relevant evidence or other information regarding the debt.
- E. Upon receiving notification that a debt is accepted for collection services, the Agency shall write the debt off by removing it from the Agency's accounts

receivable balance. Once a debt is transferred to the Department, the Agency shall cease any collection activities on the debt. The Agency shall forward to the Department any payments it receives on a transferred debt. Such payments are subject to the Department's collection service fee.

- F. Upon receiving notification that a debtor has filed for bankruptcy or receipt of updated contact information for the debtor, the Agency shall promptly notify the Department in writing at [dorotheagencydebt@mt.gov](mailto:dorotheagencydebt@mt.gov) or Montana Department of Revenue, PO Box 1712, Helena, MT 59624.

### **III. THE DEPARTMENT'S DEBT COLLECTION SERVICES**

- A. Upon the Department's acceptance of the submitted debt, the Department shall direct the Agency to write the debt off and transfer the debt to the Department.
- B. The Department will initiate collection activities to collect on a transferred debt. Collection activities may include filing suit, sending monthly billing statements, establishing payment plans, offsetting state funds due the debtor, utilizing the services of commercial collection agents, and filing a proof of claim in a bankruptcy proceeding.
- C. If a debtor timely objects to the validity of the debt or the debtor files for bankruptcy, the Department may transfer the debt back to the Agency.
- D. The Department will not calculate interest and/or penalties on transferred debts. If the Agency would like to ensure complete collection on transferred debts that continue to accrue interest and/or penalties, the Agency shall quarterly send the Department updated account balances.
- E. The Department shall deduct its collection service fee and any applicable costs from any amounts collected on transferred debts and then monthly remit the balance to the Agency.

The Department shall charge the Agency a percentage of collected proceeds for the cost of assistance. The current collection service fee is five percent. This percentage is subject to change. The Department shall notify the Agency of any change to this fee.

In addition to the collection service fee, the Department shall charge the Agency for any costs incurred in seeking a civil judgment against the debtor.

The collection service fee and the applicable costs charged to the Agency shall not exceed the amount recovered.

- F. The Department may write off transferred debts in accordance with its procedures.

#### IV. OTHER TERMS

- A. The Department agrees to protect the confidentiality of any information obtained from the Agency in accordance with applicable state and federal laws. The Department agrees to apply the same safeguard protection standards to any information obtained from the Agency that the Department applies to all federal and state tax information.
- B. Consistent with state of Montana retention schedules and public records laws, the Department agrees to destroy any printed information received from the Agency by shredding said information after the use for which the data was requested has expired.
- C. This MOU is governed by the laws of the state of Montana. The parties agree that any litigation concerning this MOU must be brought in the First Judicial District Court in Lewis and Clark County, Montana. Each party shall bear its own costs, fees, and expenses, including attorney fees, stemming from a dispute arising from or regarding this MOU, and each releases the other, its attorneys, employees, agents, and assigns from any liability for such costs, fees, and expenses and from any damages, known or unknown, liquidated or unliquidated, arising in any manner from the dispute.
- D. The terms of this MOU are mutually dependent and non-severable. If any court or other binding legal authority declares that any provision is illegal or void, the Agreement is not effective for any purpose.
- E. This MOU will remain in effect unless terminated by either party, with or without cause, upon ten (10) days written notice to the other party.

#### V. APPROVALS

Montana Department of Revenue

AGENCY

\_\_\_\_\_  
Mike Kadas, Director

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AGENT, TITLE

This \_\_\_\_ day of \_\_\_\_\_, 2013.

This \_\_\_\_ day of \_\_\_\_\_, 2013.

Approved for legal content:

Approved for legal content:

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Montana Department of Revenue

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AGENCY

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