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How to Collect from Debtors Yourself



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How to Collect from Debtors Yourself

Use a Tax Form, Letter, and Phone Script to Bring that Money Home

Lots of people suffer from inability to collect debts others owe them. Want some examples?

- Child support
- Divorce settlements
- Personal loans to friends, family, neighbors
- Sales of products or services on credit
- Judgment liens
- Damage to your car or other property, or your person from an uninsured motorist or other injurer









You can always sue to collect the debt. While government will not jail a person for the debt, the court will certainly jail a debtor for contempt of court arising from disobeying a judge's order without good cause. But, as everyone knows, lawsuits cost a lot of time and money and unreliably produce rulings favoring the creditor or other injured party. The party who ought to win will often lose against the party who ought to lose, just because of having an incompetent lawyer. For that and many more reasons, people often forgive or cancel the debts others owe them.

That just does not seem right to me. So, I write to propose a method of enlisting the support of the IRS in collecting an otherwise uncollectable debt.

The 1099-C IRS form provides a mechanism for reporting your debtor's forgiven/cancelled/uncollectable debt to the IRS. This adds to the taxable income of the debtor and puts the debtor on the IRS radar. That could spell "DISASTER" for the debtor, striking fear into the debtor's heart and motivating the debtor to pay up to avoid becoming noticed by the IRS.

The W-9 form allows you to obtain the debtor's Taxpayer Identification Number (TIN) which you will need to put on the 1099-C.

If you fill out both forms and send them with a dun letter alerting the debtor of your need for the TIN and intent to file the 1099-C for cancellation of the debt if the debtor refuses to pay, that might stimulate the debtor to pay up fast.

<u>Product</u>		<u>Revision</u>	<u>Posted</u>
<u>Number</u>  	<u>Title</u>  	<u>Date</u>  	<u>Date</u>  
Form W-9	Request for Taxpayer Identification Number and Certification	0111	01/29/2011
Inst W-9	Instructions for the Requestor of Form W-9, Request for Taxpayer Identification Number and Certification	0111	02/19/2011
Inst 1099-A and 1099-C	Instructions for Forms 1099-A and 1099-C, Acquisition or Abandonment of Secured Property and Cancellation of Debt	2011	05/12/2011
Form 1099-C	Cancellation of Debt (Info Copy Only)	2011	11/11/2010

Obey Credit Extension, Reporting, and Collection Laws

I would make certain I complied with state and federal laws regarding credit extension, reporting, and collection.

In particular, review 15 USC 1692, the Fair Debt Collection Practices Act, and 15 USC 1681, the Fair Credit Reporting Act, and other consumer credit laws beginning with 15 USC 1601.

In debt collection, you might have extended credit without a wordy contract, but with a simple invoice on 30-day net terms. The Uniform Commercial Code provides guidance when you have no contract. In the event your customer violates the terms of your invoice, and you have to go to extraordinary lengths to collect the debt, you have the right and the moral duty to report the customer to the credit reporting agencies, and similarly make a report when the customer pays the debt.

Here I provide links to the afore-mentioned laws. Click on the Section numbers to view the text on-line.

United States Code [TITLE 15](#) > [CHAPTER 41](#) > SUBCHAPTER V - DEBT COLLECTION PRACTICES

- [§ 1692. Congressional findings and declaration of purpose](#)
- [§ 1692a. Definitions](#)
- [§ 1692b. Acquisition of location information](#)
- [§ 1692c. Communication in connection with debt collection](#)
- [§ 1692d. Harassment or abuse](#)
- [§ 1692e. False or misleading representations](#)
- [§ 1692f. Unfair practices](#)
- [§ 1692g. Validation of debts](#)
- [§ 1692h. Multiple debts](#)
- [§ 1692i. Legal actions by debt collectors](#)
- [§ 1692j. Furnishing certain deceptive forms](#)
- [§ 1692k. Civil liability](#)
- [§ 1692l. Administrative enforcement](#)
- [§ 1692m. Reports to Congress by the Commission; views of other Federal agencies](#)
- [§ 1692n. Relation to State laws](#)
- [§ 1692o. Exemption for State regulation](#)
- [§ 1692p. Exception for certain bad check enforcement programs operated by private entities](#)

United States Code [TITLE 15](#) > [CHAPTER 41](#) > SUBCHAPTER III - CREDIT REPORTING AGENCIES

- [§ 1681. Congressional findings and statement of purpose](#)
- [§ 1681a. Definitions; rules of construction](#)
- [§ 1681b. Permissible purposes of consumer reports](#)
- [§ 1681c. Requirements relating to information contained in consumer reports](#)

- [§ 1681c-1. Identity theft prevention; fraud alerts and active duty alerts](#)
- [§ 1681c-2. Block of information resulting from identity theft](#)
- [§ 1681d. Disclosure of investigative consumer reports](#)
- [§ 1681e. Compliance procedures](#)
- [§ 1681f. Disclosures to governmental agencies](#)
- [§ 1681g. Disclosures to consumers](#)
- [§ 1681h. Conditions and form of disclosure to consumers](#)
- [§ 1681i. Procedure in case of disputed accuracy](#)
- [§ 1681j. Charges for certain disclosures](#)
- [§ 1681k. Public record information for employment purposes](#)
- [§ 1681l. Restrictions on investigative consumer reports](#)
- [§ 1681m. Requirements on users of consumer reports](#)
- [§ 1681n. Civil liability for willful noncompliance](#)
- [§ 1681o. Civil liability for negligent noncompliance](#)
- [§ 1681p. Jurisdiction of courts; limitation of actions](#)
- [§ 1681q. Obtaining information under false pretenses](#)
- [§ 1681r. Unauthorized disclosures by officers or employees](#)
- [§ 1681s. Administrative enforcement](#)
- [§ 1681s-1. Information on overdue child support obligations](#)
- [§ 1681s-2. Responsibilities of furnishers of information to consumer reporting agencies](#)
- [§ 1681s-3. Affiliate sharing](#)
- [§ 1681t. Relation to State laws](#)
- [§ 1681u. Disclosures to FBI for counterintelligence purposes](#)
- [§ 1681v. Disclosures to governmental agencies for counterterrorism purposes](#)
- [§ 1681w. Disposal of records](#)
- [§ 1681x. Corporate and technological circumvention prohibited](#)

Motivational Letter to Debtor

Most debtors don't want to cheat a supplier. However, in hard and good economic times, debtors sometimes put all kinds of other priorities ahead of paying the debt to a supplier. If one of your debtors does that for the debt owed to you, you must take some action to motivate the debtor to pay you before paying other obligations.

Fear often motivates debtors pretty well. Creditor A, a nice guy, never gets paid first. Creditor B, a belligerent bastard usually gets paid first because debtors fear the bellicose manners of the creditor. Thus, if you increase the fear the customer feels, such as fear of detection by the IRS, the customer might elevate the debt to you in his priority list.

You could sue, but that costs a lot of time and money and requires your presence in court. Ideally, you can use personal communication to motivate your debtor to pay you. Do you think a letter like the hypothetical one below might get that debt paid quickly? After tailoring it to your own use, and before mailing it out, clear its language with an attorney to make sure it does not violate any laws or put you at undue risk.

Be sure to use a yellow marker to highlight the "cancellation of debt" portion of the W-9 Form. This way, you make it really obvious that the form relates to the debtor's debt to you.

XYZ Company
XYZ Address
XYZ City, State ZIP

Date

Frankie Customer
Customer Address
Customer City, State, ZIP

Re: Account Number - Report to Credit Agencies and IRS Regarding Your Debt to XYZ

Dear Frankie:

I write to you about the money you owe my company XYZ on the attached overdue invoice. You might not realize it, but your failure to pay XYZ has put me, my family, and XYZ Company in a financial bind. Taken alone it might matter so much, but when others have also failed to pay XYZ as they agreed, your failure really HURTs us. So I ask once again that you pay the debt immediately.

Since you have failed to respond to my previous requests with payment, I have concluded that you intend not to pay us at all, not ever. That really hurts us because it means that I have to enter information into your account with us that prohibits our sales department from ever doing business with you again, not EVER, unless you pay the debt in full with interest and late fees.

As a consequence of your failure to pay XYZ after repeated requests for payment, I have given up hope that you might pay XYZ. And so, I have decided to take some actions that might motivate you not to hurt others with refusal to pay your debts.

1. I shall report your repeated refusal to pay XYZ to all three of the main credit reporting agencies - Transunion, Experian, and Equifax. They will notate your account with "not paid as agreed." That will hurt your credit score. Your lowered score might make it impossible for you to obtain any loan or credit, even in an emergency. Even your extended family might ignore your pleas for money. Maybe, only the Mafia might lend money to you, charging charge you 300% monthly interest and collectiong the debt at gunpoint or with a baseball bat.
2. I shall report your final refusal to pay XYZ to the IRS on a 1099-C form as an uncollectable debt.
 - a. The IRS will add the money you owe XYZ to your taxable income. If you have avoided paying your tax in the past, this might put you on the IRS radar. If it does, the IRS will come after you for ALL the debt you owe

them, including the tax on this unpaid debt. They will demand payment, and they will get it.

- b. Unlike XYZ, the IRS might send agents to your home or workplace to collect the debt. They might subpoena your banking records and talk with your friends, family, and neighbors to find out what assets you have. They have become quite expert at finding hidden assets, and typically treat trusts as a taxpayer's alter ego.
- c. Like XYZ, the IRS will complaint about you to the credit reporting agencies. They will harass you with debt collection letters.
- d. Unlike XYZ, the IRS will, without a court order, file liens against you in your home county and surrounding counties where they suspect you have assets. They will find your bank accounts, gold and silver accounts, and investment accounts, and they will put liens on them.
- e. Unlike XYZ, the IRS will, without a court order, file notices of levy with your employer, the Social Security Administration, and banks. Those "friends of yours" will snatch the money they want from your wages and savings, and hand it over to the IRS.
- f. Unlike XYZ, the IRS will pad your debt to them with \$500 late penalties, with huge interest, and, when you present them with frivolous arguments, with \$5000 penalties.
- g. Unlike the Mafia, which might kill or maim you or your family to collect the debt, and unlike XYZ, which won't hurt anybody, the IRS will torture you financially and legally for what might seem like an eternity, costing you thousands in defense fees. Consequently, your spouse, children, friends, and associates might shun or abandon you as a thief or tax protestor.
- h. On top of that, once the IRS starts an investigation they might find all kinds of other unreported income, and that might lead them to accuse you of a tax crime. You might not know that the IRS wins an enormous number of their tax crime cases, probably well over 95% of them. If you lose such a case, you could do jail time, suffer a fine, and STILL have to pay the tax obligation. The IRS has a well-deserved reputation for ruthlessness.
- i. Neither I nor XYZ would do these things at all, but IRS agents seem to enjoy doing them. Maybe that's because they could thereby qualify for up to \$35,000 in secret cash bonuses, just for doing a good job handling your "account." See this article and laws (<http://law.cornell.edu>) on the subject of secret cash awards
 - i. <http://www.scribd.com/doc/26389312>
 - ii. 5 USC 4501 et seq.
 - iii. 5 USC 5401 et seq.
 - iv. Internal Revenue Manual 1.2.45.6 (10-16-1992) - Delegation Order 81 (Rev. 17)
 - v. 28 USC 602
 - vi. 5 USC 3771
 - vii. 5 USC 7342
 - viii. 5 CFR 870.103

- ix. 5 USC 101, 102 appendix - awards kept secret
 - x. 4 CFR 91.5 waiver of repayment of excess payment up to \$10,000
 - xi. 28 CFR 0.143, 0.11, 0.155 - waivers for others
 - xii. 28 USC 455 exonerates judges from conflict of interest for taking secret cash awards
- j. I have a simple purpose in presenting these laws to you – to get you to realize how motivated the IRS agents feel about collecting a tax debt from you on the income you obtain by not paying your debt to me. A \$35,000 Secret Cash Award provides a powerful motivation. And note that the IRS agent doesn't have to claim that secret money as taxable income. So the agent gets a fat "BOUNTY" for "busting" you and others who won't pay the tax they owe.

Frankie, I hate to have to report you to the Credit Agencies and the IRS, but if I have no way of collecting the money, I must let them know you became a deadbeat. It's the law. If I don't do it, I could get into trouble with XYZ shareholders. We value your business, but you have left me and XYZ no choice. We simply cannot give FREE products or services to customers who refuse to pay, for that would drive us out of business. And, I figure that if you won't pay XYZ, you won't pay the IRS either, so we might as well let *them* target your debt for collection. You do agree with this as a good business decision, right, Frankie?.

Okay, so let's get the ball rolling on XYZ's 1099-C IRS filing with respect to your debt.

In order for me to complete the 1099-C form, I shall need your Taxpayer Identification Number. For that purpose I have attached the IRS W-9 form. Please fill in the blanks on the W-9, include your Taxpayer Identification Number (TIN), and sign it. Do you believe the law will punish your refusal to supply your TIN?

You may also fill in your Taxpayer Identification Number on the attached 1099-C, but don't sign it. That's for XYZ to sign.

Send both forms back to me by return mail. If I don't receive them from you within one week from today, I'll simply tell the IRS that you refused to cooperate, and send them the 1099-c without your Taxpayer Identification Number, but with the contact information I have for you. I imagine you already have a place in their database, so they won't have too much trouble finding you.

If I receive the balance you owe by return mail, then I'll forget about reporting your uncollectable debt to the IRS, and we might continue doing business with one another. I like that idea. Don't you, Frankie?

Sincerely,

My Signature
My Name, My Title, XYZ Company

Attachments:

1. Invoice
2. W-9
3. Sample 1099-C

CC:

1. Accounting Department – Receivables; Taxes
2. Legal Department – Tort Case File
3. Outside Attorney

***** End of Letter *****

Motivational Phone Script

You might save even more time and money by calling your debtor on the phone. This phone script might work for you. Clear it with your attorney before you use it. Emphasize the bold-faced words to give the script the punch in the right places.

***** Start of Hypothetical Phone Script *****

Mr. Frankie Customer? [ask expectantly and brightly, with your voice rising at the end]

Yes?

I am Melissa Collector and I work for XYZ company. I called you to **save** you some **trouble** regarding your debt to XYZ. Do you have a moment to discuss it?

Sure, no problem.

Good. The company assigned **me** to your account, to collect the debt, the **purpose** of this call. I wanted to chat briefly before I **do** something that I **cannot** undo. Frankie, XYZ does not want to **sue** its customers to collect debts. I have determined that your debt to XYZ seems **uncollectable**, so I decided to **notify** the **IRS** about it. I have to do this to comply with the **law** and mitigate XYZ's **loss**. If I didn't, we could get into **trouble**, and you want us to **stay** out of trouble, right Frankie?

Aw, HELL yes.

Now Frankie, the **IRS** will consider your unpaid **debt** to XYZ as **your** taxable **income**. They will expect **you** to pay the **tax** on that income, which could exceed **50%**, depending on your circumstances. Well, Frankie, I got worried that if you cannot **pay** XYZ, you **also** cannot pay the IRS. But unlike XYZ, the IRS will **investigate** and discover **ALL** of your taxable income. You do not want the **IRS** on your back, Frankie, because they can **go after** you for **years**, and you can't even escape them by running off to a foreign **country**. You want to **keep** them off your **back**, **right** Frankie?

I sure do. They're terrible.

Okay. SO, Frankie, you know the IRS will hound you mercilessly to collect any debt you owe them, and they nearly **always** get their money. Did you know they will file **liens** and **levies** and **snatch** your money from your employer and **right** out of your bank account if you don't **pay** what they say you **owe**? You would **hate** that happening to you, **wouldn't** you?

I sure would.

See, Frankie, the IRS doesn't treat you soft and gentle like we at XYZ do. The IRS comes at you **hard** and **mean**. IF the IRS agent finds other **unreported** income besides the money you **owe** XYZ, he might **accuse** you of a tax **crime** like tax **evasion, fraud, conspiracy**, or willful failure to file a **tax** return. You could land in jail for that. You do **file** tax returns, and tell the **truth** on them, don't you Frankie?

Well, uh... yeah.

Well anyway, Frankie, before I send the 1099-C form in to the IRS, telling them about your **failure** to pay the debt you **owe** to XYZ, I thought I'd give you a heads-up to let you know what kind of **tornado of insanity and disaster** they will turn your life into if you **don't** pay them like you **didn't** pay us. And I figured I should let you know that the 1099-C will surely **put you** on their **radar**, and once they start investigating they might **find other** things for which to come **after you**. We **wouldn't** want that to happen. That would be **terrible**, wouldn't it, Frankie?

Yes, it would.

I thought I'd toss out one **final** offer to you to **settle** your debt to XYZ. We can go ahead and put it on your credit card and that way you can **stop** this IRS **freight** train before it comes **crashing** into the **living** room of your **life**, so to speak. I can do that **favor** for you Frankie. You do want to **avoid** this impending **disaster** in your life, and **preserve** the **sanctity** of your **home** and private **affairs**, don't you, Frankie?

Oh, GOD yes!

Okay. So, I need one of two things from you right now before I hang up the phone. I need either your Taxpayer Identification Number or Social Security Number to go on the 1099-C form I plan to **send** to the IRS, or I need your credit card or PayPal account number to settle the debt.

Pause....

Okay, Frankie, so **which** card do you want to use - VISA, AMEX, Master Card, Discover, or Paypal?

Just a minute, I'll get my wallet

***** Start of Hypothetical Phone Script *****

Be sure to give me feedback as to improvements you make to the text of the letter and phone script, particularly if your lawyer fails to approve them as is.

Do this letter and script mean you can never collect the debt after sending in a 1099-C? No. I believe in two core principles regarding the law:

1. The squeaky wheel gets the grease, and
2. The law means what the judges say it means.

In other words, as long as judges exist and render binding opinions in this land, and so long as you rationally seek a redress for your injuries, a judge might someday opine in your favor. So, NEVER, NEVER, NEVER, **EVER** give up.

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