



## UNITED STATES BANKRUPTCY COURT Western District of New York

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### INTEREST RATES ON JUDGMENTS

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No. 01-03

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Amendments to the federal statutes dealing with the interest rate on federal judgments were contained in the Omnibus Appropriation Act (PL 106-554) enacted in December and took effect on all judgments entered on and after December 21, 2000. 28 U.S.C. §1961, 18 U.S.C. §3612, and 40 U.S.C. §258(3)(1) tie interest rates on judgments to Treasury's 52 week T-bill interest rate. Expecting that Treasury would discontinue auctions of the 52 week T-bills in the future, Congress passed legislation to establish a new interest rate index that was readily available. The auction of 52-week T-bills was discontinued at the end of February, 2001.

Only the rate that is applied to judgments has changed. All other computational procedures remain the same. The current rates can be found at <http://www.federalreserve.gov/releases/H15/Current>. The applicable rate is listed under US Government Securities - Treasury Constant Maturities - 1-year. The specific rate is found under the column headed week ending MM/DD, where MM/DD is the month and week ending date, e.g., Jan 26 or Feb 2. If there is a need for rates that were in effect for earlier periods, they can be found at <http://www.federalreserve.gov/releases/H15/data/wf/tcm1y.txt>.

The text of the revised sections as well as the links identified above can be found at our Court's website at [www.nywb.uscourts.gov](http://www.nywb.uscourts.gov).

**UNITED STATES CODE ANNOTATED**  
**TITLE 18. CRIMES AND CRIMINAL PROCEDURE**  
**PART II--CRIMINAL PROCEDURE**  
**CHAPTER 229 [FN1]--POSTSENTENCE ADMINISTRATION**  
**SUBCHAPTER B--FINES**

Current through P.L. 106-554, approved 12/21/00

§ 3612. Collection of unpaid fine or restitution

- (a) **Notification of receipt and related matters.** The clerk or the person designated under section 604(a)(18) of title 28 shall notify the Attorney General of each receipt of a payment with respect to which a certification is made under subsection (b), together with other appropriate information relating to such payment. The notification shall be provided,
- (1) in such manner as may be agreed upon by the Attorney General and the Director of the Administrative Office of the United States Courts; and
  - (2) within 15 days after the receipt or at such other time as may be determined jointly by the Attorney General and the Director of the Administrative Office of the United States Courts.

If the fifteenth day under paragraph (2) is a Saturday, Sunday, or legal public holiday, the clerk, or the person designated under section 604(a)(18) of title 28, shall provide notification not later than the next day that is not a Saturday, Sunday, or legal public holiday.

- (b) **Information to be included in judgment.** Judgment to be transmitted to Attorney General.
- (1) A judgment or order imposing, modifying, or remitting a fine or restitution order of more than \$100 shall include:
    - (A) the name, social security account number, mailing address, and residence address of the defendant;
    - (B) the docket number of the case;
    - (C) the original amount of the fine or restitution order and the amount that is due and unpaid;
    - (D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));

- (E) a description of any modification or remission;
  - (F) if other than immediate payment is permitted, a requirement that, until the fine or restitution order is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs; and
  - (G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.
- (2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.
- (c) **Responsibility for collection.** The Attorney General shall be responsible for collection of an unpaid fine or restitution concerning which a certification has been issued as provided in subsection (b). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid. Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:
- (1) A penalty assessment under section 3013 of title 18, United States Code.
  - (2) Restitution of all victims.
  - (3) All other fines, penalties, costs, and other payments required under the sentence.
- (d) **Notification of delinquency.** Within ten working days after a fine or restitution is determined to be delinquent as provided in section 3572(h), the Attorney General shall notify the person whose fine or restitution is delinquent, to inform the person of the delinquency.
- (e) **Notification of default.** Within ten working days after a fine or restitution is determined to be in default as provided in section 3572(i), the Attorney General shall notify the person defaulting to inform the person that the fine or restitution is in default and the entire unpaid balance, including interest and penalties, is due within thirty days.
- (f) **Interest on fines and restitution.**
- (1) **In general.** The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of

the judgment. If that day is a Saturday, Sunday, or legal public holiday, the defendant shall be liable for interest beginning with the next day that is not a Saturday, Sunday, or legal public holiday.

- (2) **Computation.** Interest on a fine shall be computed:
  - (A) daily (from the first day on which the defendant is liable for interest under paragraph (1)); and
  - (B) at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the first day on which the defendant is liable for interest under paragraph (1).
- (3) **Modification of interest by court.** If the court determines that the defendant does not have the ability to pay interest under this subsection, the court may:
  - (A) waive the requirement for interest;
  - (B) limit the total of interest payable to a specific dollar amount; or
  - (C) limit the length of the period during which interest accrues.
- (g) **Penalty for delinquent fine.** If a fine or restitution becomes delinquent, the defendant shall pay, as a penalty, an amount equal to 10 percent of the principal amount that is delinquent. If a fine or restitution becomes in default, the defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default.
- (h) **Waiver of interest or penalty by Attorney General.** The Attorney General may waive all or part of any interest or penalty under this section or any interest or penalty relating to a fine imposed under any prior law if, as determined by the Attorney General, reasonable efforts to collect the interest or penalty are not likely to be effective.
- (i) **Application of payments.** Payments relating to fines and restitution shall be applied in the following order:
  - (1) to principal;
  - (2) to costs;
  - (3) to interest; and
  - (4) to penalties.

**UNITED STATES CODE ANNOTATED**  
**TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE**  
**PART V--PROCEDURE**  
**CHAPTER 125--PENDING ACTIONS AND JUDGMENTS**

Current through P.L. 106-554, approved 12/21/00

§ 1961. Interest

- (a) Interest shall be allowed on any money judgment in a civil case recovered in a district court. Execution therefor may be levied by the marshal, in any case where, by the law of the State in which such court is held, execution may be levied for interest on judgments recovered in the courts of the State. Such interest shall be calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal judges.
- (b) Interest shall be computed daily to the date of payment except as provided in section 2516(b) of this title and section 1304(b) of title 31, and shall be compounded annually.
- (c)
  - (1) This section shall not apply in any judgment of any court with respect to any internal revenue tax case. Interest shall be allowed in such cases at the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621 of the Internal Revenue Code of 1986.
  - (2) Except as otherwise provided in paragraph (1) of this subsection, interest shall be allowed on all final judgments against the United States in the United States Court of Appeals for the Federal circuit, [FN1] at the rate provided in subsection (a) and as provided in subsection (b).
  - (3) Interest shall be allowed, computed, and paid on judgments of the United States Court of Federal Claims only as provided in paragraph (1) of this subsection or in any other provision of law.
  - (4) This section shall not be construed to affect the interest on any judgment of any court not specified in this section.

**UNITED STATES CODE ANNOTATED  
TITLE 40. PUBLIC BUILDINGS, PROPERTY, AND WORKS  
CHAPTER 3--PUBLIC BUILDINGS AND WORKS GENERALLY**

Current through P.L. 106-554, approved 12/21/00

§ 258e-1. Interest as part of just compensation

Interest required to be paid under this Act shall be calculated by the district court as follows:

- (1) Where the period for which interest is owed does not exceed one year, interest shall be calculated for such period from the date of taking at an annual rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of taking.
- (2) Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the combined amount of the principal (the amount by which the award of compensation exceeds the deposit referred to in the first section of this Act) and accrued interest at an annual rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the beginning of each additional year.

The Director of the Administrative Office of the United States Courts shall distribute to all Federal courts notice of the rates described in paragraphs (1) and (2).