

**CHAPTER 12**  
**ACCEPTANCE OF CHECKS, DRAFTS AND FEES**  
**FOR RETURNED CHECKS**

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**NOTE:** Rule-making authority cited for formulating of Acceptance of Checks, Drafts and Fees for Returned Checks by the Director of Administration, § GCA.

The regulations of the Acceptance of Checks, Drafts, Fees for Returned Checks are reprinted here in form as exact as possible to those filed on July 31, 1991 with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the editor.

**§12101. Statement of Policy.** It is the policy of the Department of Administration that use of checks or drafts by and drawn on the accounts of individuals partnerships and corporations is a privilege and not a right. As such, the Government of Guam accepts checks or drafts from the maker with the expectation that the maker is faithfully presenting

these as sufficient credit or funds to cover the amount of the check or draft made when presented to the drawee.

It is further the policy of this department that when checks or drafts are returned to the Government by the drawer for collection for reasons stated as follows then that faith by the maker is determined to be illusory, and that the costs to the government in processing the check should be borne by those persons who have caused the government to incur collection costs. It is the department's belief that the costs associated with collection should not pass to the general public, which faithfully disposes its obligation to the public treasury, but rather to those persons who contribute to the problem of collection expense.

**§12102. Definitions.** As used in this Chapter:

(a) *Cashier's Check* means a check issued by an officer of the bank to another bank, authorizing the payee to receive upon demand the amount of the check.

(b) *Certified Check* means a check containing a certification by an officer of the bank on which the check is drawn that the drawer has sufficient funds in the account presented on the check to cover payment; and

(c) *Checks* mean orders, in writing, directing a person other than the maker to pay a specified sum to the Treasurer of Guam. As used in this chapter, checks are synonymous to drafts.

(d) *Days* mean calendar days unless otherwise specified.

(e) *Department* means the Department of Administration and its Divisions, including the Treasurer of Guam.

(f) *Draft* means orders, in writing, directing a person other than the maker to pay a specified sum to the Treasurer of Guam. As used in this chapter, draft is synonymous to checks or bills of exchange.

(g) *Drawee* means one whom a draft directs to pay to another a specified sum of money, generally a bank or financial institution.

(h) *Drawer* means one who is authorized to withhold money by means of a draft or check or bill of exchange in a bank or other depository; used synonymously with maker.

(i) *Employees* means those active, full-time workers who are compensated by draft under the signature of the Treasurer of Guam.

(j) *Government* means the Executive Branch of the Government of Guam, specifically all line departments, agencies and or any of its autonomous bodies, which funds are held by the Treasurer of Guam.

(k) *Maker* means one who is authorized to withhold money by means of a draft or check or bill of exchange in a bank or other depository; used synonymously with drawer.

**§12103. Acceptance of Checks. (a) Types of Checks Accepted.** Only personalized checks and only in the amount of payment due the Treasurer of Guam will be accepted. Only payroll checks issued by the Treasurer of Guam or checks issued by the United States Government will be accepted for payments due less than the amount of the check. Only checks drawn on a bank in the Federal reserve System will be accepted. The Treasurer of Guam, and Treasury Agents have the right to

refuse payments by checks which do not meet these conditions or which are on the bad check list prepared by or for the Treasurer of Guam.

(b) **Information Required of the Payor.** Checks presented for payment are required to have the name of the payor, address and telephone numbers. The Treasurer may further require alternative work or home telephone numbers, photo identification and identification number as well as the payor's signature of the payor acknowledging the payor's responsibility for paying charges should a check be returned to the Government of Guam for collection. A payor's signature shall not be required prior to notices of the fee being posted.

(c) **Limit on Amounts.** The Treasurer of Guam, may upon posting a written notice at all Treasury windows, prohibit checks as a form of payment below a minimum or above a maximum amount.

(d) **Checks by Mail.** Checks received by mail are subject to the same rules and when received contrary to Section 1803.01 and .02, shall be returned to the drawer and not credited to the drawers account as payment for a tax liability or fee for licenses or services provided.

(e) **Exceptions for Employees.** Employees of the Government, as defined herein, are authorized to cash checks of not more than \$100 weekly for as long as they are active paid employees. Acceptance of this privilege by the employee authorizes the Treasurer to withhold payroll checks from the employee, for the amount of checks returned plus a fee for collection.

**§12104. Charge for Returned Checks.** (a) **Charge Established.** There is established a bad check processing charge of \$25.00 for each check or draft returned to the Treasurer of Guam for collection. The charge shall be imposed upon the maker for each and every check which is returned to the Treasurer of Guam for reason for insufficient funds, or lack of credit to pay for reason of uncollected funds, or account closed with the drawee.

(b) **Exception for Payment of Income Taxes.** The exception to the \$25.00 charge shall be ball checks returned which were presented to the Treasurer of Guam as payment for income taxes defined under the United States Internal Revenue Code. In these cases the charge shall be 1% of the amount of check, or as may otherwise be allowed by the Internal Revenue Code, as amended.

**§12105. Form of Payment on Returned Checks.** Makers of bad checks are required to make good the amount of the check and the processing charge with a U.S. postal money order, certified check or cashier's check drawn on a bank whose accounts are federally insured and/or may be cleared through the federal reserve system, or in cash if the payor makes the payment in person.

**§12106. Privilege to Use Checks as a Form of Payment.** A maker of a bad check is placed on the Treasurer of Guam's bad check list after the first occurrence until the check amount and charge are paid.

The second occurrence of a bad check returned to the Treasurer of Guam makes mandatory a six (6)

months period during which the maker will not be allowed to make payments of any kind of check or draft drawn on the maker's account, except for a cashier's check drawn on a member bank in the federal reserve system. A second occurrence shall result whether two different checks are presented on the same day or not.

**§12107. Right of Government to Refer Names to Credit Bureaus.** The government reserves the right to make available any and all names of makers of bad checks to credit bureaus to credit groups.

**§12108. Rights of Makers of Bad Checks.** (a) **Written Notice.** Makers of bad checks payable to the Treasurer of Guam or the line departments of the Government of Guam have a right to be informed in writing of specific bad checks held by the government. Written notice shall be given through certified mail. Changes in this policy may be made periodically by changes in Section 3443 of the Civil Code without requiring further amendment to the Department's rules and regulations.

(b) **Period of Notice.** Makers of bad checks have thirty (30) calendar days from the date a letter to the maker is received which requests the maker to make good the bad check amount and charge as appropriate. When the maker refuses to accept delivery of certified mail, the thirty (30) day period shall commence from the date delivery was rejected, and if that is not clear, the date the certified mail is returned to the Department.

After such time, accounts may be referred to the Treasurer's legal officer or other authority for collection.

**§12109. Rights of Government to Impose Charges Otherwise Allowed by Law.** The Government of Guam, by accepting payment of the bad check amount and charge established herein makes no promise nor implies any waiver of its right to impose such additional charges upon the maker for penalties for failure to pay or interest authorized and accruing under the various tax laws or applicable to Guam.