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Debt collectors are ready to deal

With more delinquent accounts and fewer people able to pay, collection agencies are more willing than ever to accept settlements. These tips will strengthen your hand.

Bad economic times haven't spared [debt collectors](#). Although the number of delinquent accounts has rocketed in the recession, job losses mean fewer people are able to pay.

That is, perversely, good news if you owe money, once you can finally afford to repay it.

"Debt collectors are more willing than ever to negotiate," said credit and debt expert Gerri Detweiler of [Debt Collection Answers](#). "If you can come up with the money to pay a collector, you may be able to get a really good deal. We're hearing about settlements that are 10 cents on the dollar."

In its latest survey of collectors, collection industry tracker Kaulkin Ginsberg found 72% were accepting more payment arrangements, 54% were making more settlement offers and 39% had lowered the settlement amounts they would accept.

"During the real-estate boom, there was a lot of liquidity out there. People had access to [home equity](#). . . . Collectors were less inclined to enter into payment arrangements or settlements. They were insisting on payment in full," said Patrick Lunsford, the senior editor of Kaulkin Ginsberg's newsletter, Inside ARM. "Now, obviously, there are a lot of constraints on consumers, and (collection agencies) are trying other strategies."

Negotiation is often the last thing on people's minds when they start receiving calls from a [collection agency](#) or an attorney hired to collect a debt. Fear, embarrassment, anger and denial often lead people to say the wrong things or to ignore the calls completely, which, unfortunately, can lead to harassment or even lawsuits, as I wrote in "[Don't ignore that debt collector](#)."

Here's how to talk to debt collectors the right way:

Make your first contact a fact-finding mission. The first time you talk to a [debt collector](#), keep your cool. Don't admit you owe the money or make excuses about why you haven't paid it. Your goal at this point isn't to confirm or confess; it's to find out as much as possible about the collection agency and how it operates.

Keep good notes of your conversation, including the date and time it takes place. (Detweiler's Web site has a free worksheet to help you keep track of your conversations.) Also:

- Ask the collector for his or her name and contact information.
- Ask for the name of the collection agency and its address.
- Ask also for the name of the original creditor that says you owe the money and how much is supposedly owed.

A legitimate, above-board collector will freely provide all of the above information. An unethical one will balk and may start harassing or threatening you -- violations of the [Fair Debt Collection Practices Act](#), which allows you to sue rogue collectors (more on that later). **Don't tip your hand.** This is too early in the process to discuss how much or whether you can pay. Don't reveal your income or any other aspect of your finances. Don't say where you work (if you still have a job) or where you bank, and certainly don't give out private personal information such as your Social Security number or bank account numbers over the phone.

Also, unless you're positive this isn't your debt, don't tell a collector not to contact you, and don't send a so-called cease-and-desist letter. Such actions can trigger a lawsuit if the collection agency believes it has no other option to get your attention.

Ask for a letter verifying the debt. By federal law, collectors are supposed to send you a letter within five days after they first contact you that details the name of the creditor to whom the debt is owed, how much is owed and what to do if you don't think you owe the money. Once you've made the request, say goodbye and hang up. If the collector calls again before you receive the letter, remind him or her that you can't respond until you see the written notice you requested.

Dispute any errors. After you receive the letter from the collector, you have 30 days to send back a written dispute (if you don't think you owe the debt, for example, or the amount seems wrong). The collection agency is supposed to stop contacting you until it can provide written verification of the debt, such as the loan agreement you signed or a copy of your last bill. A copy of your name on a list of supposed debtors, along with an amount, isn't considered sufficient proof (although it may be all the documentation the collection agency has).

Use the time to do your research. The process of requesting and getting back various letters from the agency should give you a few weeks to do some research. If the debt is yours, you'll want to investigate the [statute of limitations](#), which varies by state and type of debt. An expired statute doesn't erase the debt, but it does limit the collector's ability to use the courts to get you to pay. (The collector can still sue, but all you need to do to counter the lawsuit is to show up in court and point out that the statute has expired.)

If the statute has expired, the balance of power shifts to you; you can play hardball in negotiations or even ignore the debt without worrying about having your wages garnisheed or your bank account attached.

Beware, though: Some debts, including student loans, have no statute of limitations, and student lenders have extra powers to get you to pay. Also, you can extend the statute of limitations in some debts merely by admitting the debt is yours.

Consider a consultation with a bankruptcy attorney. If your debts are within the statute of limitations and they're significant -- several thousand dollars or more -- you may end up needing legal protection from your creditors. Bankruptcy law is complex and varies by state, so you'll want an experienced attorney to explain your options.

Choose your words carefully if you cannot pay. When the collector calls back, keep your responses short and simple. You don't need to explain every financial hardship you've faced that led up to your current situation -- in fact, the less said, the better, said Detweiler, of Debt Collection Answers.

If the debt is still within the statute, you can say, "I've lost my job," or, "My income has been cut," and "I can't pay you right now. I'll get back in touch with you as soon as I get a job," Detweiler recommended. "Be a broken record," she added.

Explaining too much simply gives the collector more ammunition to use against you, but not responding at all can lead to a lawsuit if the debt's statute hasn't expired.

If you can pay, negotiate. Often, the original creditor to whom you owed the money has written the debt off as uncollectible, taken a tax break for the loss and sold the debt for pennies on the dollar to the collection agency. Even if you settle for a fraction of what you owe, the collector will make a profit. The easiest way to settle debts is to offer a lump sum, if you have the cash available.

"On a thousand-dollar debt, you might say, 'I've taken a cut in pay, and I can manage to pay you \$300, but that's all I can afford,'" Detweiler said. "If it's your debt, you should try to pay as much as possible, but you don't want to get into a payment arrangement you can't afford."

If the debt's statute has expired, you may need to conduct these negotiations without ever admitting the debt is yours if you want to avoid reviving the collector's ability to sue. It's a difficult dance, but possible. Also, the more you can pay, the more leverage you have to negotiate a "deletion" from your credit files. Although the collection agency can't erase what the original creditor says about you, including any late payments or charge-offs, it can delete its own report of the collection account from your files, which could help your credit scores.

Understand the tax consequences. The difference between what you pay and what you originally owed can be considered taxable income to you. If the amount of forgiven debt is \$600 or more, expect it to be reported to the Internal Revenue Service. If you have to pay the taxes on this phantom income, though, you'll want to make sure the unpaid portion of your debt isn't resold to another collector -- which is, unfortunately, very common.

Part of your negotiations should be the collector's commitment in writing not to resell any portion of the debt. Speaking of which:

Get it all in writing. Before you send any money, get a written agreement that spells out the deal you negotiated, including how much you'll pay, the fact that the settlement is to be considered payment in full and any promises the collector made, including deleting the collection from your credit report and not reselling the unpaid portion of the debt.

If the collector is violating the law, consider hiring an attorney. A caveat: Not everyone who contacts you about a debt is considered a debt collector under the federal fair-collection law. The law doesn't apply, for example, to creditors who hire in-house employees to collect debts or to state or federal agencies.

For third-party collection agencies and attorneys hired to collect debt, the law is pretty clear about what a collector is supposed to do, but some agents ignore the law. They refuse to provide validation or verification of the debt or engage in other prohibited practices, such as:

- Using a false company name or refusing to give you the collection agency's name.
- Repeatedly calling with the intent to annoy you into paying.
- Pretending to be lawyers, government agents or your local sheriff.
- Threatening you with physical harm, arrest or jail.
- Saying that they'll garnishee your wages, sell your property or file a lawsuit when they don't intend to do so.

If you're dealing with such a company, you can sue the collection agency for federal violations and may win punitive damages, Detweiler said.

"I've seen cases where the punitive damages were \$50,000," she said.

Interestingly, the names of people who've successfully sued collection agencies are gathered and sold to other agencies as a kind of "warning list" of consumers to beware. Getting on that particular list might make any future negotiations you have with collection agencies a bit easier.

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