

Legislative Recommendation #18**Eliminate Installment Agreement User Fees for Low-Income Taxpayers and Those Paying by Direct Debit****SUMMARY**

- *Problem:* Taxpayers who cannot pay their tax liabilities on time may make monthly payments through an installment agreement (IA). The IRS generally charges these taxpayers a “user fee” to manage IA payment plans. Although user fees are modest, they may discourage some taxpayers from applying for IAs and settling their tax liabilities voluntarily.
- *Solution:* Require the IRS to waive the user fee for IAs with taxpayers whose adjusted gross incomes are equal to or less than 250 percent of the Federal Poverty Level and taxpayers who enter into direct debit IAs (DDIAs).

PRESENT LAW

In cases where a taxpayer is unable to pay the full amount of their tax liability in a single lump sum, IRC § 6159(a) authorizes the IRS to enter into an IA under which the taxpayer will pay the liability in monthly installments. A taxpayer can apply for an IA on paper, over the phone, or in person (these three are considered “Regular IA origination”), or by using an online payment agreement (OPA).

Under 31 U.S.C. § 9701, the IRS is authorized to set user fees by regulation.¹ Pursuant to Treas. Reg. § 300.1, the IRS currently charges \$178 for entering into regular IAs and \$69 for entering into OPAs.² If a taxpayer authorizes the IRS to direct debit monthly payments from a bank account, the fee is reduced to \$107 for regular IAs and \$22 for OPAs. These fees are designed to enable the agency to recover the full costs of administering IAs.

For low-income taxpayers – those with adjusted gross incomes at or below 250 percent of the Federal Poverty Level – Treas. Reg. § 300.1 caps the IA fee at \$43.³ In addition, IRC § 6159(f)(2)(A) waives the fee for low-income taxpayers who enter into DDIAs. Low-income taxpayers who cannot enter into DDIAs (*e.g.*, because they do not have a bank account) must pay the \$43 fee. If they make all payments required under the IA, IRC § 6159(f)(2)(B) requires the IRS to reimburse the amount of the fee. In 2018, Congress amended IRC § 6159(f)(1) to prohibit the IRS from increasing the IA user fees.

REASONS FOR CHANGE

Taxpayers who are low-income and cannot afford to pay their tax bills are, almost by definition, experiencing a financial hardship. Requiring them to pay upfront user fees in addition to their tax liabilities, which include interest charges and may include penalties, is likely to discourage some from entering into IAs. In addition,

1 See also OFF. OF MGMT. & BUDGET (OMB), CIRCULAR No. A-25 (revised), <https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf> (establishing a general policy that agencies should charge user fees “against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.”).

2 The IRS fee for OPAs is lower than the amount prescribed by regulations. Treas. Reg. § 300.1(b)(2) states: “The fee is \$149 for entering into online payment agreements on or after January 1, 2017,” TAS has been advised that the IRS Office of Chief Counsel has initiated a project to amend the regulation to match the current fee in the Internal Revenue Manual (IRM). IRM 5.14.1.2(10), Installment Agreements and Taxpayer Rights (July 2, 2024), https://www.irs.gov/irm/part5/irm_05-014-001r.

3 In determining a taxpayer’s eligibility for these low-income provisions, the IRS determines adjusted gross income based on the taxpayer’s last filed tax return.

the cost of processing OPAs and DDIAAs is so minimal that charging a user fee could cost the government more in lost tax revenue and increased enforcement expenses than the user fee recovers.

RECOMMENDATION

- Amend IRC § 6159 to require the IRS to waive the user fee for all IAs with taxpayers whose adjusted gross incomes⁴ are at or below 250 percent of the Federal Poverty Level and for all DDIAAs.⁵

4 Collectibility determinations should be based on the taxpayer's current financial situation – not the taxpayer's financial situation at the time the liability was incurred. The National Taxpayer Advocate supports the use of a taxpayer's current income for IA user fee waiver determinations when adjusted gross income is either unavailable or not reflective of the taxpayer's current financial situation. For a more detailed discussion of this issue, see *Require the IRS to Consider a Taxpayer's Current Income When Determining Whether to Waive or Reimburse an Installment Agreement User Fee*, *infra*.

5 For legislative language generally consistent with this recommendation, see Affordable Payment Agreements for Taxpayers Act, H.R. 2675, 118th Cong. § 2 (2023).