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# Alphabet Soup for Installment Agreements

## I. What is an installment agreement?

An installment agreement is an option for those who cannot pay their entire tax bills by the due date. It allows taxpayers to pay the amount due over a period of time.

## II. Introduction

a. Although revenue officers are instructed to request immediate payment of an outstanding liability, it will be obvious to the IRS when a taxpayer is unable to comply with such a request.

b. Deferred payments: As an alternative to enforced collection action, the IRS may be willing to defer payment. The revenue officer can grant an extension of time to pay for up to 120 days without supervisor approval if the taxpayer needs additional time to access funds.

c. Formal installment agreements: These are meant for taxpayers who have serious liquidity problems. Payments under a formal installment agreement ordinarily include an interest charge computed on the unpaid balance.

d. What happens if the IRS rejects a proposed installment agreement?

> i. The taxpayer has 30 days in which to file an administrative appeal with the IRS Appeals Division.
>
> ii. Taxpayers can appeal the rejection of a proposed installment agreement as part of a Collection Due Process (CDP) hearing.

## III. Application Process

a. Taxpayers must submit Form 9466, Installment Agreement Request. The IRS is authorized to collect a small fee for entering the agreement and for modifying the agreement. If the IRS accepts the installment agreement, it will charge the taxpayer a processing fee: $105 for a basic agreement and $45 for restructuring an existing agreement.

b. Installment agreements need not provide for the full amount of the accrued taxes, penalties, and interest. In that sense, they bear some of the attributes of offers in compromise.

c. During the period that an installment agreement request is pending, the IRS may not levy on the taxpayer's property.

d. Automatic Acceptance

i. Statutory or Guaranteed Agreements

1. In limited circumstances, the Code requires the IRS to accept an individual taxpayer's installment agreement request.

2. The IRS must accept the agreement if:

a. The unpaid amount is less than $10,000 (exclusive of interest and penalties);

b. Within the last five years, the taxpayer has filed all required income tax returns and paid any tax shown on those returns;

c. The taxpayer agrees to pay the outstanding liability in full within three years; and

d. The taxpayer agrees to comply with the tax laws and the agreement while the agreement is in effect.

3. For statutory agreements, no Collection Information Statement needs to be completed.

ii. Streamlined Agreements and the "Fresh Start Program"

1. The IRS also has a "streamlined" applications process that results in automatic acceptance.

2. The Fresh Start program provides more taxpayers with the opportunity to use streamlined installment agreements to catch up on back taxes. Its purpose is to help individuals and businesses pay back taxes more easily and with less burden. So long as the taxpayer meets his obligations under the agreement, the IRS will not file liens or take other collection action.

3. Effective as of March 2012, the threshold for using an installment agreement – without having to submit a financial statement to the IRS – was raised from $ 25,000 to $ 50,000.

4. Taxpayers who owe up to $ 50,000 in back taxes may now enter into a streamlined agreement with the IRS that stretches the payment out over a series of months or years. The maximum term for streamlined installment agreements has also been raised to 72 months from the previous 60-month maximum.

5. Taxpayers seeking installment agreements exceeding $ 50,000 must still supply the IRS with a Collection Information Statement. Taxpayers may also pay down their balance due to $ 50,000 or less to take advantage of this payment option.

6. In order to qualify for the new expanded streamlined installment agreement, taxpayers must agree to monthly direct debit payments.

e. Conditional Acceptance

i. Under a conditional acceptance, the taxpayer's ability to enter into an installment agreement is largely within the discretion of the IRS.

ii. The IRS will only approve such an agreement if:

1. The taxpayer is compliant with filing and payment obligations for the current year, and

2. The taxpayer is truly unable to make an immediate payment in full. Taxpayers must furnish a financial statement, Form 433-A, describing their assets and liabilities, bank accounts, employment information, and future income prospects.

iii. The IRS will review Form 433-A to determine whether the taxpayer's assets provide a readily available source for payment. In doing so, the IRS will determine:

a. The taxpayer's equity in assets and his or her ability to use these assets as collateral to borrow from third parties in order to pay the liability.

b. Whether the taxpayer has any big ticket items (i.e., airplanes and yachts) that could be sold to satisfy the liability, and

c. The taxpayer's cash flow (based on monthly income and expense information).

iv. If the taxpayer's assets do not provide a readily available source for payment – i.e., the taxpayer has no equity in the assets or they are not readily disposable – the IRS will collect the tax through payments based on the taxpayer's disposable income.

1. A taxpayer's disposable income is based on information in the Collection Information Statement (Form 433-A).

2. When evaluating the amount to be paid, the revenue officer must make an objective economic judgment as to how much the IRS can collect without jeopardizing the taxpayer's ability to support his family, pay current taxes, and earn income from which to pay future installments.

3. The idea is to give the taxpayer a minimum fair living amount, subtract that amount from income, and require him to pay the balance in installments. In allowing living expenses, the revenue officer will generally be constrained by national and local standards for reasonable amounts of living expenses (food, housing, entertainment), although special circumstances (i.e., medical needs) may cause the IRS to deviate from those standards.

v. If the revenue officer approves an installment agreement, the officer will generally insist on an immediate payment of part of the outstanding liability, followed by equal monthly payments.

vi. If the taxpayer can show an urgent need for assets and net cash flow, the IRS may allow him to keep all or some of it. The taxpayer must convince the IRS that:

1. It would be inequitable to grab the asset now, or

2. The IRS will be better off if the taxpayer is allowed to retain more of the assets or cash flow than the national standards indicate.

vii. If the installment payments are to continue for more than 12 months, the IRS may insist that the taxpayer provide follow-up financial information, which the IRS can use to modify or terminate the installment agreement in the event that there is a significant change in the taxpayer's financial condition.

viii. The IRS can modify or terminate the agreement if the taxpayer: (1) provides inaccurate or incomplete information with the request, (2) accrues additional tax liabilities, or (3) fails to make scheduled installment payments.

## IV. Partial Payment Installment Agreements

These can be used to reduce or settle a taxpayer's final liability. However, it does not have the finality associated with an offer in compromise. Instead, it is merely an agreement that allows the taxpayer to pay part of the liability over time.

## V. Effect of Installment Agreement on Collection Activity

a. The statute of limitations for collection is suspended during the period that the proposed installment agreement is pending with the IRS.

b. If the IRS rejects the proposed agreement, the statute of limitations period for collection remains suspended for 30 days following the rejection.

c. If the taxpayer defaults on an installment agreement and the IRS terminates it, the statute of limitations for collection tolls for 30 days following termination.

d. If the taxpayer appeals the rejection or termination, the statute of limitations period is suspended while the appeal is pending.

## VI. Prohibitions against levying on the taxpayer's property

The IRS is prohibited from levying on the taxpayer's property during …

i. Any period that an installment agreement is pending or actually in effect;

ii. The 30-day period after the IRS rejects the installment agreement request;

iii. The 30-day period following termination of the agreement; and

iv. The appeal of a termination or rejection.