

Internal Revenue Service, Treasury

§ 301.6159-1

§ 301.6159-1 *Agreements for the payment of tax liabilities in installments.*

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[T.D. 9473, 74 FR 61528, Nov. 25, 2009]

§ 301.6159-1 **Agreements for payment of tax liabilities in installments.**

(a) *Authority.* The Commissioner may enter into a written agreement with a taxpayer that allows the taxpayer to make scheduled periodic payments of any tax liability if the Commissioner determines that such agreement will facilitate full or partial collection of the tax liability.

(b) *Procedures for submission and consideration of proposed installment agreements—(1) In general.* A proposed installment agreement must be submitted according to the procedures, and in the form and manner, prescribed by the Commissioner.

(2) *When a proposed installment agreement becomes pending.* A proposed installment agreement becomes pending when it is accepted for processing. The Internal Revenue Service (IRS) may not accept a proposed installment agreement for processing following reference of a case involving the liability that is the subject of the proposed installment agreement to the Department of Justice for prosecution or defense. The proposed installment agreement remains pending until the IRS accepts the proposal, the IRS notifies the taxpayer that the proposal has been rejected, or the proposal is withdrawn by the taxpayer. If a proposed installment agreement that has been accepted for processing does not contain sufficient information to permit

the IRS to evaluate whether the proposal should be accepted, the IRS will request the taxpayer to provide the needed additional information. If the taxpayer does not submit the additional information that the IRS has requested within a reasonable time period after such a request, the IRS may reject the proposed installment agreement.

(3) *Revised proposals of installment agreements submitted following rejection.* If, following the rejection of a proposed installment agreement, the IRS determines that the taxpayer made a good faith revision of the proposal and submitted the revision within 30 days of the date of rejection, the provisions of this section shall apply to that revised proposal. If, however, the IRS determines that a revision was not made in good faith, the provisions of this section do not apply to the revision and the appeal period in paragraph (d)(3) of this section continues to run from the date of the original rejection.

(c) *Acceptance, form, and terms of installment agreements—(1) Acceptance of an installment agreement—(i) In general.* A proposed installment agreement has not been accepted until the IRS notifies the taxpayer or the taxpayer's representative of the acceptance. Except as provided in paragraph (c)(1)(iii) of this section, the Commissioner has the discretion to accept or reject any proposed installment agreement.

(ii) *Acceptance does not reduce liabilities.* The acceptance of an installment agreement by the IRS does not reduce the amount of taxes, interest, or penalties owed. (However, penalties may continue to accrue at a reduced rate pursuant to section 6651(h).)

(iii) *Guaranteed installment agreements.* In the case of a liability of an individual for income tax, the Commissioner shall accept a proposed installment agreement if, as of the date the individual proposes the installment agreement—

(A) The aggregate amount of the liability (not including interest, penalties, additions to tax, and additional amounts) does not exceed \$10,000;

(B) The taxpayer (and, if the liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding five taxable years—

(1) Failed to file any income tax return;

(2) Failed to pay any required income tax; or

(3) Entered into an installment agreement for the payment of any income tax;

(C) The Commissioner determines that the taxpayer is financially unable to pay the liability in full when due (and the taxpayer submits any information the Commissioner requires to make that determination);

(D) The installment agreement requires full payment of the liability within three years; and

(E) The taxpayer agrees to comply with the provisions of the Internal Revenue Code for the period the agreement is in effect.

(2) *Form of installment agreements.* An installment agreement must be in writing. A written installment agreement may take the form of a document signed by the taxpayer and the Commissioner or a written confirmation of an agreement entered into by the taxpayer and the Commissioner that is mailed or personally delivered to the taxpayer.

(3) *Terms of installment agreements.* (i) Except as otherwise provided in this section, an installment agreement is effective from the date the IRS notifies the taxpayer or the taxpayer's representative of its acceptance until the date the agreement ends by its terms or until it is superseded by a new installment agreement.

(ii) By its terms, an installment agreement may end upon the expiration of the period of limitations on collection in section 6502 and § 301.6502-1, or at some prior date.

(iii) As a condition to entering into an installment agreement with a taxpayer, the Commissioner may require that—

(A) The taxpayer agree to a reasonable extension of the period of limitations on collection; and

(B) The agreement contain terms that protect the interests of the Government.

(iv) Except as otherwise provided in an installment agreement, all payments made under the installment agreement will be applied in the best interests of the Government.

(v) While an installment agreement is in effect, the Commissioner may request, and the taxpayer must provide, a financial condition update at any time.

(vi) At any time after entering into an installment agreement, the Commissioner and the taxpayer may agree to modify or terminate an installment agreement or may agree to a new installment agreement that supersedes the existing agreement.

(d) *Rejection of a proposed installment agreement—*(1) *When a proposed installment agreement becomes rejected.* A proposed installment agreement has not been rejected until the IRS notifies the taxpayer or the taxpayer's representative of the rejection, the reason(s) for rejection, and the right to an appeal.

(2) *Independent administrative review.* The IRS may not notify a taxpayer or taxpayer's representative of the rejection of an installment agreement until an independent administrative review of the proposed rejection is completed.

(3) *Appeal of rejection of a proposed installment agreement.* The taxpayer may administratively appeal a rejection of a proposed installment agreement to the IRS Office of Appeals (Appeals) if, within the 30-day period commencing the day after the taxpayer is notified of the rejection, the taxpayer requests an appeal in the manner provided by the Commissioner.

(e) *Modification or termination of installment agreements by the Internal Revenue Service—*(1) *Inadequate information or jeopardy.* The Commissioner may terminate an installment agreement if the Commissioner determines that—

(i) Information which was provided to the IRS by the taxpayer or the taxpayer's representative in connection with either the granting of the installment agreement or a request for a financial update was inaccurate or incomplete in any material respect; or

(ii) Collection of any liability to which the installment agreement applies is in jeopardy.

(2) *Change in financial condition, failure to timely pay an installment or another Federal tax liability, or failure to provide requested financial information.* The Commissioner may modify or terminate an installment agreement if—

(i) The Commissioner determines that the financial condition of a taxpayer that is party to the agreement has significantly changed; or

(ii) A taxpayer that is party to the installment agreement fails to—

(A) Timely pay an installment in accordance with the terms of the installment agreement;

(B) Pay any other Federal tax liability when the liability becomes due; or

(C) Provide a financial condition update requested by the Commissioner.

(3) *Request by taxpayer.* Upon request by a taxpayer that is a party to the installment agreement, the Commissioner may terminate or modify the terms of an installment agreement if the Commissioner determines that the financial condition of the taxpayer has significantly changed. The taxpayer's request will not suspend the statute of limitations under section 6502 for collection of any liability. While the Commissioner is considering the request, the taxpayer shall comply with the terms of the existing installment agreement.

(4) *Notice.* Unless the Commissioner determines that collection of the tax is in jeopardy, the Commissioner will notify the taxpayer in writing at least 30 days prior to modifying or terminating an installment agreement pursuant to paragraph (e)(1) or (2) of this section. The notice provided pursuant to this section must briefly describe the reason for the intended modification or termination. Upon receiving notice, the taxpayer may provide information showing that the reason for the proposed modification or termination is incorrect.

(5) *Appeal of modification or termination of an installment agreement.* The taxpayer may administratively appeal the modification or termination of an installment agreement to Appeals if, following issuance of the notice required by paragraph (e)(4) of this section and prior to the expiration of the 30-day period commencing the day after the modification or termination is to take effect, the taxpayer requests an appeal in the manner provided by the Commissioner.

(f) *Effect of installment agreement or pending installment agreement on collection activity—(1) In general.* No levy

may be made to collect a tax liability that is the subject of an installment agreement during the period that a proposed installment agreement is pending with the IRS, for 30 days immediately following the rejection of a proposed installment agreement, during the period that an installment agreement is in effect, and for 30 days immediately following the termination of an installment agreement. If, prior to the expiration of the 30-day period following the rejection or termination of an installment agreement, the taxpayer appeals the rejection or termination decision, no levy may be made while the rejection or termination is being considered by Appeals. This section will not prohibit levy to collect the liability of any person other than the person or persons named in the installment agreement.

(2) *Exceptions.* Paragraph (f)(1) of this section shall not prohibit levy if the taxpayer files a written notice with the IRS that waives the restriction on levy imposed by this section, the IRS determines that the proposed installment agreement was submitted solely to delay collection, or the IRS determines that collection of the tax to which the installment agreement or proposed installment agreement relates is in jeopardy.

(3) *Other actions by the IRS while levy is prohibited—(i) In general.* The IRS may take actions other than levy to protect the interests of the Government with regard to the liability identified in an installment agreement or proposed installment agreement. Those actions include, for example—

(A) Crediting an overpayment against the liability pursuant to section 6402;

(B) Filing or refiling notices of Federal tax lien; and

(C) Taking action to collect from any person who is not named in the installment agreement or proposed installment agreement but who is liable for the tax to which the installment agreement relates.

(ii) *Proceedings in court.* Except as otherwise provided in this paragraph (f)(3)(ii), the IRS will not refer a case to the Department of Justice for the commencement of a proceeding in

court, against a person named in an installment agreement or proposed installment agreement, if levy to collect the liability is prohibited by paragraph (f)(1) of this section. Without regard to whether a person is named in an installment agreement or proposed installment agreement, however, the IRS may authorize the Department of Justice to file a counterclaim or third-party complaint in a refund action or to join that person in any other proceeding in which liability for the tax that is the subject of the installment agreement or proposed installment agreement may be established or disputed, including a suit against the United States under 28 U.S.C. 2410. In addition, the United States may file a claim in any bankruptcy proceeding or insolvency action brought by or against such person. If a person named in an installment agreement is joined in a proceeding, the United States obtains a judgment against that person, and the case is referred back to the IRS for collection, collection will continue to occur pursuant to the terms of the installment agreement. Notwithstanding the installment agreement, any claim or suit permitted will be for the full amount of the liabilities owed.

(g) *Suspension of the statute of limitations on collection.* The statute of limitations under section 6502 for collection of any liability shall be suspended during the period that a proposed installment agreement relating to that liability is pending with the IRS, for 30 days immediately following the rejection of a proposed installment agreement, and for 30 days immediately following the termination of an installment agreement. If, within the 30 days following the rejection or termination of an installment agreement, the taxpayer files an appeal with Appeals, the statute of limitations for collection shall be suspended while the rejection or termination is being considered by Appeals. The statute of limitations for collection shall continue to run if an exception under paragraph (f)(2) of this section applies and levy is not prohibited with respect to the taxpayer.

(h) *Annual statement.* The Commissioner shall provide each taxpayer who is party to an installment agreement under this section with an annual

statement setting forth the initial balance owed at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

(i) *Biennial review of partial payment installment agreements.* The Commissioner shall perform a review of the taxpayer's financial condition in the case of a partial payment installment agreement at least once every two years. The purpose of this review is to determine whether the taxpayer's financial condition has significantly changed so as to warrant an increase in the value of the payments being made or termination of the agreement.

(j) *Cross reference.* Pursuant to section 6601(b)(1), the last day prescribed for payment is determined without regard to any installment agreement, including for purposes of computing penalties and interest provided by the Internal Revenue Code. For special rules regarding the computation of the failure to pay penalty while certain installment agreements are in effect, see section 6651(h) and § 301.6651-1(a)(4).

(k) *Effective/applicability date.* This section is applicable on November 25, 2009.

[T.D. 9473, 74 FR 61528, Nov. 25, 2009]

EXTENSION OF TIME FOR PAYMENT

§ 301.6161-1 Extension of time for paying tax.

For provisions concerning the extension of time for paying a particular tax or for paying an amount determined as a deficiency, see the regulations relating to such tax.

§ 301.6162-1 Extension of time for payment of tax on gain attributable to liquidation of personal holding companies.

For provisions relating to the extension of time for payment of tax on gain attributable to liquidation of personal holding companies, see § 1.6162-1 of this chapter (Income Tax Regulations).

§ 301.6163-1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

For provisions relating to the extension of time for payment of estate tax