

Legislative Recommendation #14**Require the IRS to Waive User Fees for Taxpayers Who Enter Into Low-Cost Installment Agreements****PRESENT LAW**

In cases where a taxpayer is unable to pay the full amount of his or her tax liability in a single lump sum, IRC § 6159(a) authorizes the IRS to enter into an installment agreement (IA) under which the taxpayer will pay the liability in monthly installments. A taxpayer can apply for an IA on paper or by using an online payment agreement (OPA).

The Independent Offices Appropriations Act of 1952 (31 U.S.C. § 9701) and Office of Management and Budget Circular A-25 authorize the IRS to set user fees by regulation. In 2016, the IRS increased the IA fee.¹ Pursuant to Treas. Reg. § 300.1, it now charges \$225 for entering into paper IAs and \$149 for entering into OPAs. If a taxpayer authorizes the IRS to “direct debit” a bank account each month, the fee is reduced to \$107 for paper IAs and \$31 for OPAs. These fees are designed to enable the agency to recover the full costs of administering IAs.

For low-income taxpayers (*i.e.*, taxpayers whose incomes do not exceed 250 percent of the Federal Poverty Level), Treas. Reg. § 300.1 caps the IA fee at \$43. In addition, IRC § 6159(f)(2)(A) waives the fee for low-income taxpayers who enter into direct-debit IAs. Low-income taxpayers who cannot enter into direct-debit IAs (*e.g.*, because they do not have a bank account) must pay the IA fee, but if they make all payments required under the IA, IRC § 6159(f)(2)(B) requires the IRS to refund the amount of the IA fee to them. In 2018, Congress amended IRC § 6159(f)(1) to prohibit the IRS from increasing the IA user fees.

REASONS FOR CHANGE

Even a modest IA user fee may deter taxpayers from applying for IAs and paying their taxes voluntarily. Taxpayers who require IAs are, almost by definition, experiencing some level of financial hardship. Some taxpayers cannot afford to pay a fee, even if they do not qualify as low-income. Even taxpayers who qualify as low-income sometimes end up paying the full fee.² The cost to the IRS of OPAs and direct-debit IAs is so low that if the user fee discourages even a small percentage of taxpayers from paying voluntarily, this reduced compliance is likely to cost the government more in lost tax revenue and increased enforcement costs than the user fee generates.

RECOMMENDATION

- Amend IRC § 6159 to require the IRS to waive the user fee for all direct-debit IAs.³

¹ See *User Fees for Installment Agreements (IAs)*, T.D. 9798, 81 Fed. Reg. 86,955 (Dec. 2, 2016).

² See American Bar Association Section of Taxation, *Comments Concerning User Fees for Processing Installment Agreements and Offers in Compromise 2* (Oct. 1, 2013) (“many low-income taxpayers are charged the full user fee, despite qualifying for the reduced amount”).

³ For legislative language generally consistent with this recommendation, see Taxpayer Bill of Rights Enhancement Act of 2017, S. 1793, 115th Cong. § 301 (2017); Taxpayer Protection and Assistance Act, S. 1321, 109th Cong. § 301 (2006).