

Legislative Recommendation #18**Require the IRS to Waive User Fees for Taxpayers Who Enter Into Low-Cost Installment Agreements or Who Have an Adjusted Gross Income Equal to or Less Than 250 Percent of the Federal Poverty Level****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 (DDIAs). Low-income taxpayers who cannot enter into DDIAs (*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 reimburse 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 the reduced IA user fee for low-income taxpayers may deter these taxpayers from applying for IAs and paying their taxes voluntarily. Taxpayers ineligible for the reduced fee may also be experiencing some level of financial hardship, as evidenced by their inability to pay their balance at once. The cost to the IRS of OPAs and DDIAs is so low that requiring a user fee may cost the government more in lost tax revenue and increased enforcement costs than the user fee generates.

The IRS is required to identify low-income individuals who request an installment agreement, and it does so systemically by placing an indicator on a taxpayer’s account based on the taxpayer’s last filed return. Taxpayers whose accounts are marked with a low-income indicator do not pay the \$43 fee when they request an IA. Low-income taxpayers without the indicator on their accounts may complete and submit Form 13844, Application for Reduced User Fee for Installment Agreement, for fee waiver approval. Removing the requirement to pay for an IA could encourage more low-income taxpayers to become compliant with their tax obligations. Taxpayers whose incomes exceed the 250 percent threshold and who enter into DDIAs should also be relieved of paying an IA user fee. This would incentivize more taxpayers to shift to an online resolution and acknowledge that this virtual transaction involves minimal employee cost for the IRS.

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

RECOMMENDATION

- Amend IRC § 6159 to require the IRS to waive the user fee for all direct-debit IAs and for IAs with taxpayers whose adjusted gross income is equal to or less than 250 percent of the Federal Poverty Level.²

² 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).