

Legislative Recommendation #17**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 low-income 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 his or her 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 being considered “Regular IA origination”), 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. Pursuant to Treas. Reg. § 300.1, the IRS currently charges \$225 for entering into regular IAs and \$130 for entering into OPAs.¹ If a taxpayer authorizes the IRS to “direct debit” monthly payments from a bank account each month, the fee is reduced to \$107 for regular 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 – those with incomes at or below 250 percent of the Federal Poverty Level – Treas. Reg. § 300.1 caps the IA fee at \$43.² 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 them for 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, even if the user fees are modest, is likely to discourage some from entering into IAs. In addition, the cost of processing OPAs and DDIAs 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.

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

² The IRS is required to identify low-income individuals who request an IA, and it does so systemically by placing an indicator on the taxpayer’s account based on the taxpayer’s last filed return.

RECOMMENDATION

- Amend IRC § 6159 to require the IRS to waive the user fee for all DDIAAs and for IAs with taxpayers whose adjusted gross incomes are at or below 250 percent of the Federal Poverty Level.³

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).