



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

May 24, 2012

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MEMORANDUM FOR DIRECTORS, COLLECTION AREA OPERATIONS

FROM: Scott D. Reisher /s/ **Scott D. Reisher**
Director, Collection Policy

SUBJECT: Interim Guidance for Allowing Payments for Student Loans and
Delinquent State and Local Tax Liabilities

The purpose of this memorandum is to provide interim guidance to IRM 5.15.1, *Financial Analysis*, to clarify when to allow payments for student loans and to revise the procedures for allowing payments on delinquent state and local income tax liabilities.

When analyzing income and expenses to determine a taxpayer's ability to pay, minimum payments on student loans guaranteed by the federal government will be allowed for the taxpayer's post-high school education. Taxpayers must verify that the loan is guaranteed and substantiate that the payments are being made.

- Taxpayers with student loan debt, who have not yet made arrangements to repay the loan, should be allowed 10 days to set up a payment plan for the student loan and provide verification so the loan payment can be allowed. Additional time may be allowed if a taxpayer has extenuating circumstances. Taxpayers must be advised that if they do not respond by the due date, the installment agreement amount will be established without allowing for a student loan payment. Taxpayers must also be advised that if they later make arrangements to pay the student loan, they can request the installment agreement be revised.
- Taxpayers who have student loan debt, but are unable to make payments on the debt because they are suffering an economic hardship or have medical problems, should be advised to request a deferment or forbearance of the student loan payments. The installment agreement amount will be established without allowing for a student loan payment. Taxpayers must be advised that if they later make arrangements to pay the student loan, they can request the installment agreement be revised.

When a taxpayer owes both delinquent federal taxes and state or local taxes, and does not have the ability to full pay the liabilities, monthly payments to state or local taxing authorities may be allowed in certain circumstances, as shown in the attachment.

The updates will be included in the next revision of IRM 5.15.1, *Financial Analysis*, and are effective May 21, 2012. Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, is also being revised and will reflect these changes.

Please distribute this information to all affected employees within your organization.

If you have any questions, please contact me, or a member of your staff may contact Lynn Greer, Senior Program Analyst.

Attachments: (1)

cc: Director, Field Collection
Director, Campus Compliance Services
Director, Filing and Payment Compliance
Assistant Division Counsel, SBSE
National Taxpayer Advocate
Chief, Appeals
www.irs.gov

ALLOWING PAYMENTS FOR DELINQUENT STATE AND LOCAL TAXES

Payments for delinquent state and local (county or municipal) tax liabilities may be allowed in certain circumstances:

- When a taxpayer owes both delinquent federal taxes and delinquent state or local taxes, and does not have the ability to full pay the tax liability.
- When a taxpayer is cooperative and provides complete financial information.
- When a taxpayer advises IRS that he/she owes delinquent state or local taxes and provides verification of the state or local tax liability and agreement, if applicable.

Determining Allowable Payments for Delinquent State or Local Tax Debts

IF...	AND...	THEN...
the taxpayer does not have an existing agreement for payment of the delinquent state or local tax debts,	provides a complete Collection Information Statement (CIS) and verification of state or local tax debts,	follow procedures under Determining Allowable Payments for Delinquent State or Local Tax Debts below to establish the calculated percentage amount that will be listed as the allowable monthly payment for delinquent state or local taxes on the CIS.
the taxpayer has an existing agreement for delinquent state or local tax debts, and that agreement was established after the earliest IRS date of assessment,	the payment amount on the state or local agreement is less than the calculated percentage amount,	the monthly amount due on the existing state or local agreement will be listed as the allowable delinquent state or local tax payment on the CIS. The payment to IRS will be increased by the amount allowed for the monthly state or local payment one month after the date the state or local liability is scheduled to be fully paid.

<p>the taxpayer has an existing agreement for delinquent state or local tax debts, which was established after the earliest IRS date of assessment,</p>	<p>the payment amount on the agreement, is more than the calculated percentage amount,</p>	<p>the amount listed as the delinquent state or local tax payment on the CIS will be the calculated percentage amount. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the additional amount due for the delinquent state or local tax payment.</p> <p>The payment to IRS will be increased by the amount allowed for the monthly state or local payment one month after the date the state or local liability is scheduled to be fully paid.</p>
<p>the taxpayer has an existing agreement for delinquent state or local tax debts, which was established prior to the earliest IRS date of assessment,</p>	<p>allowing the amount on the existing state or local agreement will not result in the case being reported uncollectible,</p>	<p>allow the existing state or local tax payment and increase the IRS payment one month after the date the state or local liability is scheduled to be fully paid.</p> <p>See explanation below if allowing the state payment will result in the account being reported Currently Not Collectible (CNC).</p>

Determining Allowable Payments for Delinquent State or Local Tax Debts

- Determine net disposable income on a CIS, Forms 433-A or 433-F. Do not include any amount that is being paid for outstanding state or local tax liabilities in the calculation. Net disposable income is the difference between gross income and allowable living expenses.
- Calculate the dollar amounts for IRS and state or local payments based on the total liability owed to each agency (including penalties and interest to date) - See Example 1.

Note: The IRS must receive at least \$25 monthly for Installment Agreements - See Example 2 and instructions below for CNC accounts.

Example 1

IRS Liability	\$10,000.00
State or Local Liability	\$5,000.00
Total	\$15,000.00
IRS	$10,000.00/15,000.00 = .67$
State or Local	$5,000.00/15,000.00 = .33$
Taxpayer's net disposable income	\$400.00
IRS Payment (400 x .67)	\$268.00
State or Local Payment (400 x .33)	\$132.00

Example 2

IRS Liability	\$1,000.00
State or Local Liability	\$500.00
Total	\$1,500.00
IRS	$1,000.00/1,500.00 = .67$
State or Local	$500.00/1,500.00 = .33$
Taxpayer's net disposable income*	\$35.00
IRS Payment (35 x .67)	\$23.45 (Actual IRS IA payment = \$25.00)
State or Local Payment (35 x .33)	\$11.55 (Actual State or Local IA payment = \$10.00)

*If the Net disposable income is less than \$25, the account should be reported CNC.

If allowing even a minimal payment for delinquent state or local taxes will result in the account being reported CNC due to hardship (IRS payment amount would be less than \$25)...

AND...	THEN...
the taxpayer does not have an existing agreement for the delinquent state or local tax debts,	a payment for delinquent state or local taxes will not be allowed. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the delinquent state or local tax payment.
the taxpayer has an existing agreement for the delinquent state or local tax debts, which was established after the earliest IRS date of assessment,	a payment for delinquent state or local taxes will not be allowed. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the delinquent state or local tax payment.

<p>the taxpayer has an existing agreement for delinquent state or local tax debts, which was established prior to the earliest IRS date of assessment,</p>	<p>the amount allowed for state and local taxes on the CIS should be reduced to allow for an IRS Installment Agreement payment of \$25.00. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the additional amount due for the delinquent state or local tax payment.</p> <p>The payment to IRS will be increased by the amount allowed for the monthly state or local payment one month after the date the state or local liability is scheduled to be fully paid. See Example below.</p>
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Example (IRS minimum payment of \$25 required)

Net disposable income (not including state or local payment)	\$70.00
State or local payment due on existing agreement established prior to the earliest IRS date of assessment	\$100.00
Amount allowed for "Delinquent state or local taxes" on CIS	\$45.00
Payment for IRS Installment Agreement	\$25.00
Advise the taxpayer that he/she can use the Miscellaneous allowance to pay the difference between what IRS has allowed and what is owed monthly for the state or local payment agreement	\$55.00

Note: Increase IRS Installment Agreement amount when the state or local agreement will be fully paid at \$45.00 monthly

Reminder: Calculations must be documented in the case history.

Other Considerations

- Allowing payments for delinquent state or local taxes when establishing an Installment Agreement has no effect on lien or levy priorities. This guidance only impacts determinations of ability to pay. Employees should use existing procedures and lien law to determine IRS interest in assets. If a taxpayer refuses to establish an Installment Agreement or defaults on an Installment Agreement, IRS employees should follow existing procedures and lien law to pursue collection.

- Minimal payments for delinquent state and local taxes are allowed for Installment Agreements using the six-year rule. If the six-year rule applies, taxpayers are required to provide financial information, but do not have to provide substantiation of reasonable expenses. If the taxpayer meets all other requirements for the six-year rule, the amount claimed for state or local taxes may be allowed. Employees would not be required to obtain verification of the state payment or calculate an amount due based on the percentage basis discussed above.
- If a state already has a Federal/State Memorandum of Understanding (MOU) for establishing joint Federal and State agreements, follow the MOU guidelines.