



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTOR, HEADQUARTERS COLLECTION
DIRECTOR, CAMPUS COLLECTION
DIRECTOR, FIELD COLLECION
DIRECTOR, SPECIALTY COLLECTION INSOLVENCY
DIRECTOR, ACCOUNTS MANAGEMENT

FROM: Kristen Bailey /s/ *Kristen Bailey*
Acting Director, Collection Policy

SUBJECT: Processing Installment Agreement Requests for Post-Petition
Liabilities when a Taxpayer is in Bankruptcy

This memorandum provides guidance on processing installment agreement requests when a taxpayer is in bankruptcy.

BACKGROUND

Taxpayers that are in bankruptcy could accrue post-petition liabilities and submit a request for an installment agreement (IA). IA requests from taxpayers in bankruptcy that are received by Compliance Services Collection Operations (CSCO), Accounts Management (AM), or any other function should be referred to the Centralized Insolvency Operation (CIO). CIO telephone and fax numbers for internal use can be found on SERP. If the taxpayer wishes to contact the CIO directly, the toll-free number for CIO is 1-800-973-0424.

In the past, taxpayers in specific bankruptcy court jurisdictions were granted an IA on post-petition liabilities while they were in Chapter 13. In order to avoid the potential for a violation of the bankruptcy automatic stay, this practice will be discontinued. The below guidance is being provided to address this circumstance, and is also being provided for closing actions when the IRS already granted the debtor an IA for post-petition liabilities and the taxpayer had a pre-petition IA.

This Interim Guidance Memorandum provides procedures for the following situations:

- How to address a taxpayer's request for a post-petition IA while they are still in bankruptcy
- What closing actions are needed when the taxpayer had a pre-petition IA, incurred an additional liability, and was granted a post-petition IA

IA Requests on Post-Petition Taxes when a Taxpayer is in Bankruptcy

Effective immediately, a request for an installment agreement on post-petition liabilities is non-processable when a taxpayer is in bankruptcy. As the IA is not processable, it is not a "pending" IA request and cannot be accepted, rejected, or withdrawn. Administrative appeal rights are not provided for a non-processable IA. A TC 971 AC 043 should not be input on these accounts. IA requests received in Accounts Management and ACS should be referred to CIO for resolution. Pending installment agreement criteria in IRM 5.14.1, *Installment Agreements, Securing Installment Agreements*, will be updated to reflect that taxpayers in bankruptcy cannot enter into installment agreements and as such, a pending IA status will not be input. Field Collection should not establish installment agreements on post-petition liabilities when there are open modules in bankruptcy. Field Collection should contact Insolvency to determine the current status of the bankruptcy and what collection actions, if any, are appropriate to each specific case with post-petition liabilities.

Upon receipt of Form 9465, *Installment Agreement Request*, or any IA request on post-petition liabilities while the taxpayer is in bankruptcy, CIO will:

- a. Issue L-2272-C, *Installment Agreement Cannot Be Considered*, to the taxpayer.
 - Check "Paragraph E" and fill in "Form 9465 (or other IA request form)" in [20 18V] and put the date of the IA request in [21 13D]. Finally, fill in "process" in [22 21V]. When completed, the sentence will state, "Thank you for your Form 9465 dated Month DD, YYYY, about the unpaid tax for the tax years shown above. We cannot process your request at this time."
 - Check "Paragraph R" and fill in [38 385V] with "Your request for an installment agreement can't be processed because you are in bankruptcy."
 - Do not include "Paragraph i" and "Paragraph j" in the letter *as there are no administrative appeal rights because the request is non-processable*.
 - Ensure "Paragraph o" is checked so the taxpayer will know they can still make voluntary payments.
 - Check "Paragraph r" and fill in the toll-free number for CIO, 1-800-973-0424, in [C8 23V] in the "How to contact us" section.

- b. If there is documentation about receipt of the Form 9465 on AMS, document the AMS history stating that the IA request is non-processable due to bankruptcy and that L-2272-C was sent to the taxpayer.
- c. Input a TC 520 cc 84 on the post-petition modules on IDRS using the bankruptcy petition date as the TC 520 date.
- d. Add all TC 520 cc 84s added to modules on IDRS to the AIS Freeze Screen. This will allow systemic reversal of the TC 520 during case closure.
- e. If the aggregate Unpaid Balance of Assessment (UBA) on all post-petition periods is \$2500 or more, CIO will determine if the liability was addressed when a New Assessment LTS transcript generated.
 - If the post-petition liability was addressed by FI when a LTS transcript generated, go to Step g.
 - If the post-petition liability was not addressed previously, CIO will reassign the case to FI. CIO and FI will follow guidance in IRM 5.9.16.3.2(2), *New Assessment Reports*.
- f. If the post-petition module is in IDRS ST22, check the ACS system.
 - If a levy was issued on the debtor's wages, release the levy and move the case to R4 (protected inventory).
 - If no levy was issued, move the case to R4.
- g. Notate all actions taken in the AIS case history.

Note: Post-petition IA requests submitted by taxpayers who had a pre-petition IA are also considered non-processable. The taxpayer may not be granted a post-petition IA, nor is the taxpayer eligible to have the pre-petition IA reinstated. In addition to issuing Letter 2272-C, follow the steps in IRM Exhibit 5.9.17-5, *Installment Agreement Cannot Be Reinstated*.

Post-Petition IAs That Have Already Been Granted

Previously, Chapter 13 taxpayers in certain jurisdictions may have been granted an IA for post-petition liabilities. This practice will not be continued, as there is potential for a stay violation. For those cases where a post-petition IA has already been granted and the taxpayer had a pre-petition IA for liabilities not discharged by the bankruptcy, Letter 2975-C, *Notice of Intent to Levy – Intent to Terminate Your Installment Agreement*, must be sent to the taxpayer at case closure. See IRM 5.9.17.23, *Addressing Prior Installments When Closing a Case*, for instructions.

If you have any questions, please contact me or members of your staff may contact Collection Policy analysts Deborah Fowler or Maria Orfanakis, with insolvency questions. Collection Policy Analyst, David Beach, may be contacted with installment agreement questions. Employees in Accounts Management may contact Tax Analyst, Jill Zeffiro, with installment agreement questions.

cc: www.irs.gov