



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.14.3

OCTOBER 20, 2020

EFFECTIVE DATE

(10-20-2020)

PURPOSE

- (1) This transmits a revision to IRM 5.14.3, Installment Agreements, Deadlines, Payments, and Requests for Installment Agreements Made to Delay Collection.

MATERIAL CHANGES

- (1) Refer to the table below for details on the list of material changes in this IRM.

IRM Section	Description of Change
5.14.3.1	Added and updated Program Scope and Objectives section, for clarity.
5.14.3.1.2	Updated and added citations and references throughout.
5.14.3.1.3	Updated IRM section by creating new paragraphs (2) and (4) and amended paragraph (1).
5.14.3.1.4	Built on paragraphs (1) and (2)(a)(b) to capture the level in the collection hierarchy.
5.14.3.1.5	Made extensive changes concerning the paragraphs of IAR, ICS and IDRS, and added a paragraph on collection managers' responsibilities.
5.14.3.1.6	Changed paragraph (1) from alpha list to bullet list.
5.14.3.1.7	Added to the list of commonly used acronyms and their definitions.
5.14.3.1.8	Updated citations and links to reference materials and created paragraph (3) to address the Taxpayer Bill of Rights (TBOR).
5.14.3.2	Revised this section by shifting paragraphs and adding clarifying language, as well as updating citations and seealso links. Added a table in paragraph (15)(a) to illustrate the items on Form 9297, Summary of Taxpayer Contact.
5.14.3.3	If-Then Table created to better illustrate the content in paragraph (1). Updated paragraphs (4)(7)(9) to clarify information when a request is submitted to either prevent levy action or delay case resolution.
Through-out	Editorial changes were made throughout to update links and references and clarified information to assist and support the end-user.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.14.3 dated June 11, 2018.

AUDIENCE

SB/SE Collection Employees

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5.14.3

Deadlines, Payments, and Requests for Installment Agreements Made to Delay Collection

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5.14.3.1
(10-20-2020)
Program Scope and Objectives

- (1) Purpose. This section discusses the installment agreement (IA) process relative to setting deadlines and receiving payments, describes situations and actions that would meet the criteria for delaying collection actions. The final subsection of this IRM describes appropriate case actions in situations where it may make sense to treat an otherwise valid request for an IA as being a request made to delay collection action.
- (2) Audience. These procedures and guidance apply to IRS Field Collection employees and group managers.
- (3) Policy Owner. Director, Collection Policy, SBSE
- (4) Program Owner. Collection Policy, SBSE, Case Resolution Alternatives (CRA) is the program owner of this IRM.
- (5) Primary Stakeholders:
 - Field Collection
 - Independent Administrative Review (IAR)
 - Insolvency
 - Appeals
 - Taxpayer Advocate Service (TAS)
- (6) Program Goals. While IAs can be a viable case resolution for many delinquent accounts, it is important to ensure taxpayers do not improperly delay the collection process through the use of frivolous or less than good faith IA proposals. By following the direction in this IRM section, employees can identify proper procedures for keeping cases moving toward the appropriate resolution.

5.14.3.1.1
(06-11-2018)
Background

- (1) This Internal Revenue Manual (IRM) section provides the process and procedures for requesting payments prior to establishing a formal IA, setting deadlines for actions necessary to resolve the taxpayer's account, identifying situations that would indicate that the taxpayer is attempting to delay collection through IAs that do not reflect true ability to pay and directing what actions to take in those situations.

5.14.3.1.2
(10-20-2020)
Authority

- (1) IRC 6159, Agreements for Payment of Tax Liability in Installments
- (2) IRC 6201(a), Assessment Authority
- (3) IRC 6343, Authority to release levy and return property
- (4) 26 CFR 301.6343-1, Requirement to release levy and notice of release
- (5) 26 CFR 301.6343-2, Return of wrongfully levied upon property
- (6) 26 CFR 301.6343-3, Return of property in certain cases
- (7) 26 CFR 301.6331-4, Restrictions on levy while installment agreements are pending or in effect

5.14.3.1.3
(10-20-2020)
Responsibilities

- (1) The Director, Collection Policy is the executive responsible for the policies and procedures related to the IA program. They are responsible for overseeing program coordination for field collection personnel related to the IA program.
- (2) The program manager, Case Resolution Alternatives (CRA) is responsible for development and delivery of policies, procedures and practices within the IA program.
- (3) Field collection group managers and territory managers are responsible for ensuring the guidance and procedures described in this IRM are complied with.
- (4) Collection employees are responsible for following the guidance provided in the IRM when processing cases.

5.14.3.1.4
(10-20-2020)
Program Management and Review

- (1) Program Reports:
 - a. Monthly IA Trend Report. Sourced from the Collection Activity Report (CAR), CRA generates and reviews a monthly IA trend report that captures data on the various types of IAs and compares year-over-year data on IA inventory levels, the number of IAs initiated, default rates, full pay rates, and dollars collected. Any anomalies are identified and re-searched for potential causes. Negative trends are identified and causes addressed.
- (2) Program Reviews:
 - a. Case Resolution Alternatives (CRA) will conduct ad hoc IA program reviews as necessary to verify compliance with IRM requirements, address TIGTA/GAO findings, and evaluate any trends that appear.
 - b. Managers, leads, and On the Job Instructors (OJIs) use the Embedded Quality Review System (EQRS)/National Quality Review System (NQRS) Data Collection Instrument (DCI) to input case reviews. EQRS is used to evaluate employee performance and provide feedback and NQRS is used to ensure compliance with this IRM. NQRS data is used to report the official organizational business quality results.
 - c. Group managers are required to approve the determination that an IA request is being made to delay collection action.
 - d. Operational reviews are conducted by the territory manager and area director annually to evaluate program delivery and conformance to administrative and compliance requirements.

5.14.3.1.5
(10-20-2020)
Program Controls

- (1) Independent Administrative Review (IAR) is required where there is proposed rejection. The taxpayer may administratively appeal a termination, modification, or rejection of proposed IA to the IRS Independent Office of Appeals.
- (2) The Integrated Collection System (ICS) is a case management system that supports SBSE revenue officers (ROs) in working delinquent tax cases. In every case, the file must show that the disposition method selected is consistent with the facts outlined in the case, the IRM, and other official guidance. Certain actions taken by ICS users generate systemic approval requests to the manager. All Non-Streamlined Installment Agreement (NSIA) case dispositions require managerial approval.

Deadlines, Payments, and Requests for Installment Agreements Made to Delay Collection 5.14.3

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- (3) The Integrated Data Retrieval System (IDRS) is used to monitor most IAs for timely payments on accounts, as well as to determine whether taxpayers remain in compliance with filing and paying requirements. IDRS programming also requires that all open balance due modules on IDRS in a notice or collection status are included when an IA is input.
- (4) Collection group managers are responsible for the quality of work performed by the employees they supervise in accordance with IRM 5.13.1, Collection Quality Measurement, Embedded Quality Collection Field Organizations Administrative Guidelines. Managers are required to follow program management procedures and controls addressed in IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Territory Manager and Area Director Operational Aid.

5.14.3.1.6 (06-11-2018) **Terms**

- (1) Frequently used terms used in this IRM along with their definition include:
 - Delinquent Taxes: balance due, Automated Collection System (ACS) balance due accounts and/or notice status accounts
 - Accrued Taxes: unassessed amounts due on returns, missed estimated tax payments or undeposited FTDs as of the date of contact
 - Current Taxes: Federal Tax Deposits (FTDs) and estimated (ES) tax payments that become due after the date of contact

5.14.3.1.7 (10-20-2020) **Acronyms**

- (1) This table lists commonly used acronyms and their definitions:

Acronym	Definition
ACS	Automated Collection System
AC	Action Code
BMF	Business Master File
CAR	Collection Activity Report
CCP	Centralized Collection Processing
CFf	Collection Field function
CRA	Case Resolution Alternatives
CDP	Collection Due Process
DCI	Data Collection Instrument
EQRS	Embedded Quality Review System
ES	Estimated Tax
FTD	Federal Tax Deposit
GAO	U.S. Government Accountability Office
GM	General Manager

Acronym	Definition
IA	Installment Agreement
IAR	Independent Administrative Review
IDRS	Integrated Data Retrieval System
IRM	Internal Revenue Manual
ICS	Integrated Collection System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
NFTL	Notice of Federal Tax Lien
NQRS	National Quality Review System
NSIA	Non-Streamlined Installment Agreement
OJI	On the Job Instructor
RO	Revenue Officer
SBSE	Small Business Self Employed
TAS	Taxpayer Advocate Service
TC	Transaction Code
TIGTA	Treasury Inspector General for Tax Administration

5.14.3.1.8
(10-20-2020)

Related Resources

(1) IRM Resources:

- IRM 4.20.1.4, Examination Collectibility - Installment Agreements
- IRM 5.19.1.2.6.3, Installment Agreements
- IRM 8.22.7.5, Installment Agreements (IA)
- IRM 5.14.1.6, Multi-functional Installment Agreement Authority, contains guidance for other functions.

(2) Web Resources:

- Centralized Case Processing (CCP): <http://mysbse.web.irs.gov/collection/ccpcoll/default.aspx>
- ICS User Guide :<http://mysbse.web.irs.gov/collection/collsystems/ics/guides/userguide/default.aspx>
- MY SBSE web: <http://mysbse.web.irs.gov/default.aspx>

- (3) The Taxpayer Bill of Rights (TBOR) was codified as IRC 7803(a)(3). Under this new code subsection, the Commissioner must ensure employees are responsible for being familiar with and acting in accordance with taxpayer rights. For additional information refer to Policy 1-236 at IRM 1.2.1.2.36, Policy Statement 1-236, Fairness and Integrity in Enforcement Selection, and TBOR at <https://www.irs.gov/taxpayer-bill-of-rights>

5.14.3.2
(10-20-2020)
**Setting Deadlines and
Receiving Payments**

- (1) Acceptance of an IA request cannot be conditioned on receipt of a series of payments requested (or pledged voluntarily) prior to the granting of an agreement. Therefore, failure to make a requested (or proposed) series of payments is not justification for recommending rejection of proposed IAs. *In-installment payments* are required only after IAs are approved. A series of requested payments should not be substituted for an IA if the facts of the case indicate an IA is warranted.
- (2) The requests for payments discussed in this section will be made if the taxpayer has an ability to pay (based on an analysis of the taxpayer's financial information) and:
 - a. there is no planned resolution for the case; or
 - b. there is a planned resolution, but no payments will result from that planned resolution until a later date; or
 - c. the financial information received from third parties or taxpayers is incomplete or insufficient to determine a disposition for the case but sufficient information exists to request a series of payments; or
 - d. the disposition of an asset or assets necessary to reduce the amount of liability subject to agreements will take time; or
 - e. there is a necessity to verify financial information received thus far, and documentation or supplemental information has been requested from the taxpayer; or
 - f. there is a necessity for the taxpayer to file tax return(s) prior to determining eligibility for an IA or other resolution and time will elapse prior to the return filing; or
 - g. the taxpayer plans to make payments during the collection investigation or requests to make payments pending final disposition of the case.
- (3) Request a series of payments when one of the above situations exists if taxpayers are in "balance due" status, including when requests for IAs are pending (except when prohibited by automatic stays in bankruptcy) unless agreements can be granted immediately. When received, these payments are classified as *requested payments*, (i.e., Notice and Demand for Payment) or required by RO with no approved IA.
- (4) If a series of payments are not requested from (or required of) taxpayers in "balance due" status, they should be encouraged to make a voluntary payment (or payments) at any time, including when requests for IAs are pending (except when prohibited by automatic stays in bankruptcy.) When received, these payments are classified as *voluntary payments, not IAs*.
- (5) Unlike IA payments, requested or voluntary payments may be designated by taxpayers. Unless designated, there is no particular Designated Payment Code (DPC) for these payments. For additional information about field collection remittance processing, refer to IRM 5.1.2, Field Collection Procedures, Remittances, Form 809, and Designated Payments.

Note: No designation can be made by taxpayers in the case of collection actions resulting from enforced collection measures.

- (6) If there is **no pending IA**, warn taxpayer of potential enforcement action if receipt of payments (whether required or voluntary) and/or financial information, documentation, or compliance with return filing and payment obligations are not received.

Note: If the IA request does not contain sufficient information to meet pending IA criteria, the RO will request the taxpayer to provide the needed information for their pending IA request to be considered. See IRM 5.14.3.2 (9) and IRM 5.1.10.3.2(9) that details what is required of the taxpayer, a specific deadline date(s), and specific consequences for failure to comply.

- (7) Appropriate collection action may be taken if one or more of the following apply:

- a. action date(s) pass without receipt of payments (whether required or voluntary);
- b. financial information is not received;
- c. documentation is not received; or
- d. compliance with filing and payment requirements is not maintained.

and there is **no pending IA** or IA in effect (and all appropriate notices, CDP time frames and other actions have been taken). See also IRM 5.1.9.4, Collection Appeals Program (CAP), IRM 5.11, Notice of Levy, IRM 5.8.1, Offers in Compromise, and IRM 5.10, Seizure and Sale.

- (8) If there is a **pending IA** when request for payments are made (or when taxpayers are notified that they are encouraged to make voluntary payments) then advise the taxpayer and document case history that:

- an IA is pending;
- the IA must be reviewed and approved by the group manager (if applicable);
- IAs are not granted until taxpayers receive confirmation in writing by issuance of a letter or a signed copy of Form 433-D, Installment Agreement, or Form 2159, Payroll Deduction Agreement;
- acceptance of voluntary or required payment(s) is not to be construed as acceptance of a requested IA;
- notification of either acceptance or rejection of an IA request will be provided to the taxpayer. If rejected, the taxpayer will be notified of the decision and their appeal rights prior to any enforcement action; and
- no levy action will be taken so long as a payment agreement request is pending.

Note: If the taxpayer fails to make a payment (whether required or voluntary), this cannot be used as a basis for rejection of the pending IA. The exception to this rule is when the equity in the property is not used or fails to liquidate assets in order to fully or partially pay the liabilities does not occur.

- (9) If payments are requested, this may be in connection with gaining other information, documentation, ongoing compliance or the request for required returns. See IRM 5.14.1.4.2, Compliance and Installment Agreements. Requests must be made using Form 9297, Summary of Taxpayer Contact, which may be mailed, hand delivered, or personally given to taxpayers IRM 5.1.10.3.2(9)a, Effective Initial Contact.

- (10) If action dates pass without receipt of **payments** and there is **pending IA**, approval of the IA should be considered on its merits, regardless of whether the series of payments was received. No collection action may be taken until after:
- the request for an IA is recommended for rejection;
 - an IAR agrees rejection should be conveyed to the taxpayer. See IRM 5.14.9.7, Independent Administrative Review after Recommended Rejection of Installment Agreement Requests;
 - rejection is conveyed to the taxpayer; and
 - appropriate appeal time frames (or appeals) have expired. See IRM 5.14.9.7(13)d, Independent Administrative Review after Recommended Rejection of Installment Agreement Request.
- Note:** IAs are not considered pending if the direction provided in IRM 5.14.3.3 applies.
- (11) If payments are received as requested, but action date(s) pass without receipt of financial information, documentation or ongoing compliance, and there is **pending IA**, inform the taxpayer that the IA will be recommended for rejection based on non-receipt of requested items, then refer the case to the IAR recommending rejection.
- No collection action may be taken (based on the reasons provided above) until after an IAR agrees rejection should be conveyed to the taxpayer. See IRM 5.14.9.7, Independent Administrative Review after Recommended Rejection of Installment Agreement Requests; rejection is conveyed to the taxpayer; and appropriate appeal time frames (or appeals) have expired.
 - After the actions described in IRM 5.14.3.2 (11)a, and if all other appropriate notices, CAP and CDP appeal time frames and other actions have been taken, appropriate collection action may be taken.
- (12) The procedures described in this section may be used:
- during any contact with taxpayers (if warranted);
 - after IAs are requested, i.e. while IAs are pending; or
 - after termination of a prior IA.
- (13) The procedures described in this section *will not be used*:
- while IAs are in effect; or
 - during the default period (prior to termination) of IAs (except for payments necessary to reinstate agreements). See IRM 5.14.11.4, Defaults and Terminations: IDRS Monitored Agreements, and IRM 5.14.11.5, Considerations after Default or Termination, Including Reinstatement, for applicable time periods.
- (14) An IA should be approved if the taxpayer met all deadlines and satisfied all commitments and requirements precedent to the granting of the IA. If, however, the taxpayer misses the periodic payment portion of deadline(s) (see above) while the agreements are pending, the agreement should still be approved.

Note: If taxpayers fail to make equity-based payments (like the one described in Example B below) rejection may be recommended.

(15) The following examples illustrate some situations where the procedures provided above should be followed:

- a. **Example A:** On March 21, 2019, Mr. Bass meets with the RO regarding tax liabilities totaling \$200,000 for two years, and unfiled 1040 tax returns for 2016 and 2017. The RO demands full payment of the tax liabilities and delinquent returns, but Mr. Bass states that he is unable to pay. Form 433-A, Collection Information Statement for Wage Earners and Self Employed Individuals, is completed at the meeting. It indicates an ability to pay \$5,000 per month and that Mr. Bass has equity in property. Therefore, an IA may not be appropriate due to the equity in the property unless the property is needed to meet reasonable necessary living expenses or other extenuating circumstances exist which require further investigation. The RO discusses a realistic plan for case resolution that includes borrowing against or selling property in which the taxpayer has equity. The RO advises the taxpayer that the NFTL will be filed and provides the taxpayer with information regarding lien subordinations and discharges. The RO establishes deadlines for action by giving Mr. Bass the Form 9297, Summary of Taxpayer Contact, providing dates by which Mr. Bass must take the following actions:

Dates Required	Information/Documents required and Consequences
April 15:	file tax return or extension with proof of payment for 2018.
April 22:	make payment of \$5,000 and file original, signed Form 1040, U.S. Individual Income Tax Return, for tax years ending 2016 and 2017.
May 21:	payment of funds realized from borrowing on or selling the property that the taxpayer has equity in; or provide proof of two attempts to secure an equity loan on property, provide copies of his last two months' bank statements, and make payment of \$5000. The RO warns Mr. Bass of the consequence of missing any of the above deadlines, and informs him that the above deadlines for payment do not constitute an IA. Mr. Bass states he will comply with the RO's requests and leaves the office. The plan of action should be recorded in the case history that the RO will file the NFTL; the RO will process the delinquent returns filed or will proceed with SFR if the taxpayer fails to file the returns as requested; the RO will analyze the financial information to determine collectibility and appropriate case resolution; the RO will proceed with appropriate enforced collection action if the taxpayer fails to make payments as agreed or fails to provide verification of attempts to secure an equity loan on property or fails to provide the bank statements.

Note: The taxpayer does not have “pending” IA and has been given deadlines. If the deadlines are not met, appropriate enforcement action may begin, if all notices have been given

Note: Refer to the following IRMs when considering extenuating circumstances requests: IRM 5.14.1.4(5), Installment Agreement Acceptance and Rejection Determinations, for determining factors involved in the decision to pursue the asset and IRM 5.15.1.2(12), Overview and Expectations, if the taxpayer substantiates the need to deviate from the standards.

- b. **Example B:** This example is identical to Example A above except that before leaving the office, Mr. Carp requests an IA in the amount of \$5,000 per month. The RO informs Mr. Carp that he can make a new request for an IA upon having filed all tax returns, and that he currently does not have a pending IA request. Prior to acceptance, the taxpayer will likely be required to borrow on the equity in the property, and provide other information (see (a) above). RO also informs Mr. Carp that the requested payments of \$5,000 per month should be made while the agreement request is being considered. She warns Mr. Carp of the consequences of non-receipt of requested information and delinquent returns. All of the above is documented in the case history.
- c. **Example C:** This example is identical to Example A above except that the taxpayer has no delinquent returns and the taxpayer makes an IA request of \$5000 per month. The IA request of \$5000 per month would meet the pending criteria and a 971/043 would be requested immediately. If the May 21st deadline to liquidate the equity in the property is not met, the RO can recommend the IA for rejection to the IAR. If the IAR concurs with the RO recommendation, the RO can communicate the rejection of the IA proposal and the associated appeal rights to the taxpayer.

Note: No enforcement action can be taken based on missed deadlines for payments and other information while IAs are pending or in effect. If the taxpayer uses equity in assets to make a large payment, and provides requested information and returns, the IA will be recommended for approval, even if the payments of \$5,000 per month were not made. If the equity in property is not used to make a payment, or returns and/or information is not received, rejection of the IA may be recommended. (The taxpayer was informed of this.) Collection action can be taken only after IAR and appeals time frames have elapsed.

(16) Information related to “Setting Deadlines and Receiving Payments” are available in:

- IRM 5.1.9, Collection Appeal Rights;
- IRM 5.1.10.3.2, Effective Initial Contact;
- IRM 5.8, Offers in Compromise; and,
- IRM 5.10, Seizure and Sale.
- IRM 5.15, Financial Analysis

5.14.3.3
(10-20-2020)

**Installment Agreement
Requests Made to Delay
Collection Action**

- (1) IA requests that reflect a desire to delay or impede the administration of federal tax laws.

If	Then
The IA proposal is treated as made to delay collection	<ul style="list-style-type: none"> request will not be recognized; request will not be identified as “pending”; input of TC 971 AC 043 will not be requested nor completed; and no rejection will be issued; not entitled to neither IAR nor appeal (CAP) rights, and the IRS can begin or resume enforced collection action.

Note: Taxpayers still have the right to meet with managers, request appeals of levy, or contact the Taxpayer Advocate. If levies are issued after following the procedures provided in this section, even though there is no appeal regarding the IA, taxpayers have the right to discuss levies with managers, appeal levy actions or contact the Taxpayer Advocate. See note in IRM 5.14.3.3 (8).

- (2) To identify whether requests are made to delay collection (or enforcement) action at least one of the following must apply:
- There is no economic reality to the request (see IRM 5.14.3.3 (3)a; or
 - The request does not address changes requested in response to a prior request (see IRM 5.14.3.3 (3)b; or
 - The request ignores direction provided by ROs (see IRM 5.14.3.3 (3)c; or
 - The request is made by a taxpayer that has defaulted prior IAs (see IRM 5.14.3.3 (3)d; or
 - The request is made at a time that causes it to be classified as a request made to delay enforcement action (see IRM 5.14.3.3 (3)e).

Note: An IA request that qualifies as a guaranteed IA should be processed even if submitted solely to delay collection. (There is no exception in IRC 6159(c) for request made solely to delay collection.)

- (3) As provided in IRM 5.14.3.3 (1) and IRM 5.14.3.3 (2), “pending” status will not be identified if:
- There is no economic reality to the request.** This applies if the proposed monthly payment amount is nominal (for example \$1 per month) or so small it does not come close to reflecting the taxpayer’s ability to pay or it is made without reference to ability to pay after such reference is requested.

Note: If balance due accounts meet Guaranteed or Streamlined criteria – see IRM 5.14.5, Streamlined, Guaranteed and In-Business Trust Fund Express Installment Agreements, these agreements will be granted.

- b. **The request does not address changes requested in response to prior requests.** If, after rejection of *prior* IA request(s), taxpayers submit *new* requests that are not materially different from the *prior* request or requests, or do not address modifications (for example, taxpayers were provided acceptable monthly payment amounts), or do not address previously disallowed or undocumented expenses, then the (subsequent) request or requests do not result in identification of a pending IA.
- c. **The request ignores direction provided by revenue officers .** When ROs request that taxpayers fully pay accounts (based on financial statement analysis) or submit documentation to support analysis of a financial statement, yet this direction is not followed. When the taxpayer fails to comply with one of these requests and then subsequently requests an IA, this is considered a delay action.
- d. **The request is made by a taxpayer that has defaulted on prior installment agreements.** If taxpayers request IAs after a default of a prior agreement, the new agreement request will not result in identification of a “pending” agreement if: (1) the ability to pay has not changed since default of the prior agreement or (2) the taxpayer has demonstrated a history of non-compliance with FTD requirements, ES payment requirements, proper payroll withholding, or filing tax returns when due.
- e. **The request is made at a time that causes it to be classified as a request made to delay enforcement action:** See IRM 5.11.1.4.8, Pending and Active Installment Agreements, regarding levies relative to pending and active installment agreements and IRM 5.10, Seizure and Sale, for guidance. See the important note below regarding requests for agreements in the case of sale of property.

Note: IA requests do not prohibit the sale of property that was seized before an agreement became pending. If a sale is scheduled, and a taxpayer subsequently requests an IA then, even if the agreement is identified as “pending IA”, the sale may continue. .

Reminder: The taxpayer should be notified that the IRS will not process the IA request.

(4) Examples of situations that do not result in identification of “pending” status:

- a. **Example A:** The taxpayer previously requested an IA for \$700 per month and the request was rejected by the independent reviewer. The taxpayer was told when the rejection was communicated that an acceptable agreement would be \$1000 per month. This amount was fully explained and also discussed with the group manager. The taxpayer now offers \$725 per month, with no change in circumstances since the rejection. The subsequent request constitutes a delay action.

Note: If the new IA request is valid on its face and not deemed made to delay collection, the request should be placed in pending IA status.

- b. **Example B:** The taxpayer previously had a request for an IA rejected. The case has proceeded to seizure and sale of the taxpayer’s assets. At the sale, five months after the rejection of proposed IA, the taxpayer requests another IA. The sale may continue. See IRM 5.14.3.3 (3)e and IRM 5.10, Seizure and Sale, for procedures.

Note: In this example, even if the request for an agreement does qualify for identification as a pending IA, the sale may continue. Guidance for releasing and returning property can be found in IRM 5.10.4, Actions Prior to Sale.

- c. **Example C:** The taxpayer has the ability to fully pay the liability and there are no reasons why assets cannot be used to fully pay taxes. See IRM 5.14.1.4(5), Installment Agreement Acceptance and Rejection Determinations. The independent reviewer rejected a prior request based on the taxpayer's ability to fully pay the liability. The taxpayer proposes another IA amount. There is no change in taxpayer circumstances since the rejection. This subsequent request is considered to be one made to delay collection action. "Pending" status is not identified.

- (5) Document the case history regarding the facts that lead to the conclusion a request for an agreement does not warrant identification of a pending IA.

- a. Group managers must agree that such requests were made to delay collection action.
- b. Group managers must document case histories that they agree that the request was made to delay collection action.

Note: Regarding IRM 5.14.3.3 (3)e and IRM 5.14.3.3 (5) a and b, in situations where a sale of property is scheduled, even if an IA is considered pending, the sale may continue. *No managerial approval is required in this situation (beyond what is necessary to hold the sale).*

- (6) Inform taxpayers as soon as possible after the solely to delay proposal that their requests for an IA will not result in their case being identified as a pending IA. This may be relayed:

- in person;
- telephonically;
- in writing; or
- by any other means of communication that is customary or usual between the taxpayer and IRS employee;
- this contact must be noted in the case history.

- (7) Enforcement action, including seizure and sale, may be taken without regard for the requests for IAs made to delay collection. Increased levels of approval are required to authorize enforcement actions in cases where the IA requests have been made to delay collection. See IRM 5.11.1, Background, Pre-Levy Actions, Restrictions on Levy & Post-Levy Actions, IRM 5.10, Seizure and Sale, and IRM 1.2.2.6, Delegations of Authority for the Collecting Process.

- (8) It is important that taxpayers receive the above notification before any levy is issued. If there is doubt about the legality of levy issuance or other enforcement action, consult Counsel. In situations where a request is considered made to delay collection, the taxpayer can request to speak with the GM, request appeals of levy, or contact the taxpayer advocate.

Note: Levy determinations are made on a case-by-case basis and ROs must exercise good judgment when determining if a levy is appropriate. See IRM 5.11.1.3.1(2) , Pre-Levy Considerations, for information on pre-levy guidance.

- (9) If the request for an IA occurs during the Appeals process, the collection employee needs to be aware of the ex-parte communication guidelines when

notifying Appeals of the IA request and ensure Appeals' independence is not compromised. For additional information about communications with Appeals, refer to IRM 5.1.9.5, Communications with Appeals.

- (10) If levies are issued on these cases, ensure that they are approved in accordance with IRM 1.2.2.6, Delegations of Authority for the Collecting Process.
- (11) In the process of informing taxpayers that agreements have not been identified as pending, ROs and other contact employees may negotiate with taxpayers to arrive at an acceptable IA amount or determine that agreements have been identified as pending, based on dialogue with taxpayers, additional information or documentation.

