



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.14.7

MARCH 15, 2022

EFFECTIVE DATE

(03-15-2022)

PURPOSE

- (1) This transmits a revision for IRM 5.14.7 Installment Agreements, BMF Installment Agreements.

MATERIAL CHANGES

- (1) IRM 5.14.7.1 retitled Program Scope and Objectives.
- (2) IRM 5.14.7.4(3) removed reference to special deposits and monthly filing and added reference to Letter 903.
- (3) IRM 5.14.7.4(5) revised qualifying criteria for IBTF Express Installment Agreements.
- (4) Editorial changes made throughout the IRM for clarity. Reviewed and update grammar, titles, website addresses, legal references and IRM references.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.14.7, dated March 11, 2011.

AUDIENCE

SB/SE Compliance Employees

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Small Business/Self Employed

5.14.7

BMF Installment Agreements

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5.14.7.1
(03-15-2022)
Program Scope and Objectives

- (1) **Purpose:** This chapter provides procedures for processing installment agreements for Business Master File (BMF) accounts including in-business trust fund (IBTF) balance due. The Business Master File (BMF) is primarily dedicated to those accounts with Employer Identification Numbers (EINs). Many of these accounts involve in-business payroll tax accounts, and/or large dollar accounts. The procedures in this section apply to balance due, un-assessed liabilities on secured returns, and to liabilities in notice status. These procedures are applicable only if taxpayers can pay operating expenses as well as current and delinquent taxes. Specifically, IRM 5.14.7:
 - a. Identifies the criteria for establishing In-Business Trust Fund (IBTF) installment agreements.
 - b. Describes who is liable in the case of Limited Liability Companies (LLC) and Single Member Owners (SMO).
 - c. Discusses the financial analysis required to determine ability to pay for IBTF installment agreements.
 - d. Describes the role of the Trust Fund Recovery Penalty with respect to IBTF installment agreements.
 - e. Describes the approval and monitoring process for IBTF installment agreements.
- (2) **Audience:** These procedures and guidance apply to IRS Field Collection revenue officers and group managers.
- (3) **Policy Owner:** The Director, Collection Policy, SBSE, is the policy owner.
- (4) **Program Owner:** Collection Policy, SBSE, Case Resolution Alternatives (CRA) is the program owner.
- (5) **Primary Stakeholders:** The primary stakeholders affected by these procedures or have input to these procedures are:
 - Field Collection
 - Independent Administrative Review
 - Civil Enforcement Advice and Support Operations
 - Insolvency
 - IRS Independent Office of Appeals
 - Taxpayer Advocate Service
- (6) **Program Goals:** Installment agreements can be a viable case resolution for many delinquent accounts. By following the direction in this IRM section, employees can ensure rights are protected by properly identifying and processing pending installment agreement proposals, and make the correct determination as to whether to accept or reject the taxpayer’s installment agreement proposal based on the facts and circumstances of each case.

5.14.7.1.1
(03-15-2022)
Background

- (1) Installment agreements are arrangements by which the Internal Revenue Service allows taxpayers to pay liabilities over time. Taxpayers should be encouraged to pay the liability in full to avoid the costs of an installment agreement, which include a user fee, accrual of penalties and interest, and the possible filing of a Notice of Federal Tax Lien (NFTL). If full payment cannot be achieved by the Collection Statute Expiration Date, and taxpayers have some ability to pay, Partial Payment Installment Agreements may be granted. Generally, no levy may be made on the taxpayer’s property or rights to property while the IA is pending, for 30 days after the rejection of the IA, while the Office of Appeals is considering a timely rejection or termination, while an

IA is in effect, and for 30 days after the termination of an IA. The IRS may levy on a non-taxpayer's property encumbered with a federal tax lien, e.g. taxpayer gives a car encumbered to his cousin. IRS can levy on that car.

5.14.7.1.2
(03-15-2022)
Authority

- (1) IRC 6159, Agreements for Payment of Tax Liability in Installments
- (2) IRC 6331(k), Levy and Distraint, No levy while certain offers pending or installment agreement pending or in effect
- (3) IRC 6672 , Failure to collect and pay over tax, or attempt to evade or defeat tax

5.14.7.1.3
(03-15-2022)
Responsibilities

- (1) The Director, Collection Policy is the executive responsible for the policies and procedures to be employed by collection personnel.
- (2) Field Collection group managers and territory managers are responsible for ensuring the guidance and procedures described in this IRM are complied with.

5.14.7.1.4
(03-15-2022)
Program Management and Review

- (1) Program Reports:
 - a. Monthly Installment Agreement Trend Report. Sourced from the Collection Activity Report (CAR), Case Resolution Alternative (CRA) generates and reviews a monthly Installment Agreement trend report that captures data on the various types of installment agreements and compares year over year data on installment agreement inventory levels, the number of installment agreements initiated, default rates, full pay rates, and dollars collected. Any anomalies are identified and researched for potential causes. Negative trends are identified and causes addressed.
- (2) Program Reviews:
 - a. CRA will conduct ad hoc installment agreement program reviews as necessary to verify compliance with IRM requirements, address TIGTA/ GAO findings, and get behind any trends that appear.
 - b. Case reviews are conducted by group managers to ensure compliance with this IRM.
 - c. Operational reviews are conducted by the territory manager and Area Director annually to evaluate program delivery and conformance to administrative and compliance requirements.

5.14.7.1.5
(03-15-2022)
Program Controls

- (1) Independent administrative review is required of all rejected installment agreement proposals, and all rejection, modification and termination decisions are subject to appeal procedures.
- (2) The Integrated Collection System (ICS) ensures that taxpayer conditions meet requirements for Streamlined or In-Business Express installment agreement processing criteria, that there are no unfiled returns, and that group manager approval is obtained for all non-streamlined installment agreements.
- (3) The Integrated Data Retrieval System (IDRS) programming requires that all open modules be included in an installment agreement for input to be successful.

5.14.7.1.6
(03-15-2022)
Terms

- (1) Frequently used terms in this IRM along with their definitions include:
 - a. Delinquent Taxes: Balance due, ACS balance due accounts and/or notice status accounts.

5.14.7.1.7
(03-15-2022)
Acronyms

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

Acronym	Definition
AC	Action Code
ACA	Affordable Care Act
ACS	Automated Collection System
AO	Area Office
ALN	Agreement Locator Number
CAP	Collection Appeals Program
CCP	Centralized Case Processing (Collection)
CDP	Collection Due Process
CIS	Collection Information Statement
CNC	Currently Not Collectible
CSED	Collection Statute Expiration Date
CSCO	Compliance Service Collection Operation
DDIA	Direct Debit Installment Agreement
EIN	Employer Identification Number
FTD	Federal Tax Deposit
GAO	Government Accountability Office
IA	Installment Agreement
IBTF	In-Business Trust Fund
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
LLC	Limited Liability Company
NFTL	Notice of Federal Tax Lien
OIC	Offer-In-Compromise
PPIA	Partial Payment Installment Agreement
RO	Revenue Officer
SMO	Single Member Owner

SSN	Social Security Number
TAS	Taxpayer Advocate Service
TIGTA	Treasury Inspector General for Tax Administration
TFRP	Trust Fund Recovery Penalty

5.14.7.1.8
(03-15-2022)

Related Resources

- (1) IRM Resources:
 - IRM 4.20.1.4, Installment Agreements (Exam)
 - IRM 5.19.1.2.6.3, Installment Agreements
 - IRM 8.20.7.41, Installment Agreements (Appeals)
 - IRM 5.14.1.6, Multi-functional Installment Agreements Authority
- (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>
 - MySBSE website - <http://mysbse.web.irs.gov/default.aspx>
- (3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>

5.14.7.2
(08-05-2010)

**Summary of Agreement
Criteria for Business
Accounts**

- (1) When an inability to pay delinquent and accrued taxes is indicated, the following considerations are necessary:
 - a. if the taxpayer cannot pay operating expenses and current taxes, then deferring action on delinquent and accrued taxes may serve no useful purpose. Appropriate collection action such as levy, seizure, or a trust fund recovery penalty, should be considered to protect the government's interest. The taxpayer's interests must also be considered and the financial statement should be reviewed thoroughly with the taxpayer to determine if there is a way to reduce expenses in order to make payment on the taxes and avoid enforced collection action. (IRM 5.14.7.4 and IRM 5.15 provide procedures for financial statement analysis).
 - b. if it is determined the taxpayer can pay current taxes as well as operating expenses, and pay delinquent taxes, then follow the installment agreement procedures in IRM 5.14.7.4.
 - c. Taxpayers identified as repeaters may not immediately be granted installment agreements. Installment agreement requests received from these taxpayers should be identified as pending if the taxpayer is maintaining current compliance with federal tax deposit (FTD) requirements.

Note: For assessments in the name and Employer Identification Number (EIN) of a Limited Liability Company (LLC), determine whether the

identity of the liable taxpayer has changed to determine whether the LLC would be considered a repeater.

- d. If, however, after contact, taxpayers classified as repeaters do not continue to accrue liabilities and begin making FTDs and file all appropriate returns (so that they are in compliance with all filing requirements); then, they may qualify for installment agreements.

Note: Use Form 9297 as required in IRM 5.14.3.1 to request payment, federal tax deposits, and tax returns.

- (2) If, based on the above, taxpayers are in current compliance, then see IRM 5.14.7.2 and IRM 5.14.7.4 (and their sub-sections) to determine if installment agreements may otherwise be approved.

Reminder: If additional information is needed (prior to approving an installment agreement), provide the taxpayer with deadlines for submitting the information, along with requests for payment (as provided in IRM 5.14.3.1.)

- (3) Installment agreement payments should be applied in accordance with IRM 5.14.7.5.
- (4) Enforcement action will not be taken while the installment agreement is in effect, unless collection is in jeopardy.
- (5) In certain cases contact personnel and revenue officers performing contact duties can grant installment agreements on BMF notice or balance due accounts without securing a CIS or preparing a Form 433-D (See IRM 5.14.4.21, IRM 5.14.5.2, IRM 5.4 and IRM 5.19.1.5.3).
- (6) The Trust Fund Recovery Penalty assessment statutory period must be considered on corporate taxpayers, LLC taxpayers when the LLC is identified as the liable taxpayer and other entity types, if applicable (IRM 5.14.7.4.1 describes necessary actions regarding TFRPs). Assessment determinations must be made (See IRM 5.7.4.8).
- (7) IRM 5.14.7.4 describes the financial analysis necessary for in-business trust fund installment agreements.
- (8) IRM 5.14.7.4.2 describes the approval process for in-business installment agreements.

5.14.7.3
(08-05-2010)
**Installment Agreements
Involving Limited
Liability Companies**

- (1) The identity of the taxpayer determines the party subject to an installment agreement. See IRM 5.1.21.4 and 5.1.21.8.
- (2) The LLC is the liable taxpayer for income and excise tax liabilities assessed in the name and Employer Identification Number (EIN) of the LLC.
- (3) For a multi-member LLC, the LLC is the liable taxpayer for employment tax liabilities.
- (4) For a single member LLC, employment tax liabilities on wages paid prior to January 1, 2009, assessed in the name and EIN of the LLC, may be the liability of the LLC or the liability of the *owner* of the LLC. See IRM 5.1.21, *Collecting from Limited Liability Companies*, to identify the liable taxpayer.

- (5) For excise taxes that accrue on or after January 1, 2008 and for employment taxes on wages paid on or after January 1, 2009, the LLC is the liable taxpayer, regardless of the number of members.
- (6) When the LLC is the liable taxpayer, follow the same procedures as an installment agreement for a corporate taxpayer. The installment agreement is based on the LLC's ability to pay.
- (7) When the owner is the liable taxpayer, the installment agreement is based on the owner's ability to pay.
- (8) In some cases, assessments in the name and EIN of an LLC may reflect some periods for which the LLC is the liable taxpayer and some periods for which the owner of the LLC is the liable taxpayer. Separate collection determinations must be made for each liable taxpayer.
- (9) Ensure that Transaction Code 971, Action Code 364, LLC is liable taxpayer, Action Code 365, Owner is liable taxpayer, or Action Code 366, Identity of liable taxpayer changed during tax period, is input for appropriate tax periods. See IRM 5.1.21.8.3 .
- (10) Ensure that an "LLC-Owner is Liable Address" or "LLC-LLC is Liable Address" record, identifying only the liable taxpayer, is created on ICS when securing installment agreements where **only** the single member owner (SMO) or the LLC is the liable taxpayer for all open tax periods. See IRM 5.1.21.8.2.

5.14.7.3.1
(08-05-2010)

**Installment Agreements
When Owner is Liable
for Assessments in LLC
Name**

- (1) When employment tax liabilities of the *owner* of an LLC are assessed in the name and Employer Identification Number (EIN) of the LLC, special provisions apply. See IRM 5.1.21.10.1.
- (2) Ensure that the owner's name has been added to the assessment using the procedures outlined in IRM 5.1.21.6, and a new "LLC-Owner is Liable Address" record has been created in the Integrated Collection System (ICS) as described in IRM 5.1.21.8.2. Select the Name/Address record of the liable taxpayer when establishing the installment agreement on ICS.
- (3) To facilitate posting of installment agreement payments and avoid default notification to the wrong entity, a disclaimer may be added to the **Additional Conditions/Terms** section or as an attachment to the Form 433-D: "This agreement is between the Service and (single member/owner name). Payments will be accepted from (single member/owner name) or (name of disregarded entity), and will be applied to the liability assessed against (name of disregarded entity and its EIN). In the event of default, enforcement action will be taken against (single member/owner name)."
- (4) Voluntary payments may be accepted from the LLC, even when the owner is the liable taxpayer. Payments are applied to the EIN identified in the assessment.
- (5) When the owner of the LLC has no current depositing, filing or paying requirements because the liable taxpayer has changed, an installment agreement for tax periods where the owner is the liable taxpayer is not considered an in-business trust fund agreement.
- (6) Additional liabilities assessed in the name and EIN of the LLC for tax periods where the LLC is the liable taxpayer should not default an installment

agreement for tax periods where the owner of the LLC is the liable taxpayer. Compliance for the current entity should be addressed separately.

Caution: For employment tax periods beginning on or after January 1, 2009, the LLC is the liable taxpayer. Original installment agreements for tax periods where the owner is liable may only be defaulted or terminated for the reasons listed in IRM 5.14.11.3. Since the LLC may be liable for new tax periods assessed in the name and EIN of the LLC, the case may be re-assigned to the field to re-evaluate collection issues. If the LLC also qualifies for an Installment Agreement, you may need to combine both agreements using the provisions of IRM 5.14.7.3.2 below.

5.14.7.3.2
(03-11-2011)
**Installment Agreements
When Owner (SMO) and
LLC are Liable for
Assessments in LLC
Name**

- (1) Because of changes to Treasury Regulation 301.7701-2(c)(2)(iv), the LLC is the liable taxpayer for employment tax periods beginning on or after January 1, 2009 even when the LLC is otherwise disregarded for income tax purposes. For these taxpayers, it will be common to have assessments in the name and EIN of the LLC, where:
 - Single Member Owner (SMO) of the LLC is the liable taxpayer for employment tax periods ending before January 1, 2009, and
 - LLC is the liable taxpayer for tax periods beginning on or after January 1, 2009.
- (2) If the identity of the taxpayer changed from one period to the next resulting in a change of the taxpayer record, determine whether an installment agreement is the appropriate resolution for each liable taxpayer.
- (3) If an installment agreement is the appropriate case resolution for only one liable taxpayer, complete the action for the other liable taxpayer before submitting the installment agreement for processing. For example, if the SMO periods are to be placed in CNC status, take this action first before submitting the IA request.
- (4) Use Option B to submit the IA request to CCP for input. Make an ICS history notation in the Closing Narrative. This history notation will alert Centralized Case Processing (CCP) to exclude these modules from the IA. Use the systemically generated Form 3210 with the appropriate Mail Stop to route the case to CCP.
- (5) If an installment agreement is the appropriate case resolution for **both** the SMO and the LLC, a combined installment agreement may be secured.
- (6) Secure a separate Collection Information Statement (CIS) from each liable party.
 - SMO (pre-January 1, 2009 liabilities): Form 433-A if an individual or a Form 433-B if another entity
 - LLC (post January 1, 2009 liabilities): Form 433-B
- (7) The installment agreement payment is based on the **combined payment ability** demonstrated by the separate collection information statements from the SMO and LLC.
- (8) Address any applicable CSED and TFRP issues.

(9) The following Option A, IA types allow for the submission of an SMO/LLC IBTF-IA:

- IBTF Express
- CCP(PSC)-MMIA For Centralized Case Processing
- CCP(PSC)-IBTF-IA NF Item In CCP

Note: When one of these IA types is selected, ICS presents a dialogue box that asks, "Is this an SMO/LLC IA?"

(10) ICS will block the creation of the IA until the following separate Name/Address records are created:

- LLC – Owner is Liable Address; and,
- LLC – LLC is Liable Address.

Note: These Name/Address Records are needed for the systemic creation of the *Attachment to the SMO/LLC Agreement* document. A systemic history is generated when the Name/Address records are created.

(11) Input the appropriate TC 971 Action Code 364,365, 366 to identify the liable taxpayer for each module.

(12) When requesting a combined IA on ICS, select the Name/Address record that includes **BOTH** the name of the LLC and the name of the SMO. This is normally the IDRS Mailing Address on ICS. If the Mailing Address does not contain **BOTH** the LLC and the SMO name, add a new address record using type Contact or Other.

Note: The names of both the LLC and the SMO will appear on the combined installment agreement. This is an exception to the general rule that collection actions should not include both the name of the LLC and the name of the SMO.

(13) Close the case on ICS by selecting Option A from the Installment Agreement Menu:

- a. Selecting the appropriate Case Conditions; and then
- b. Selecting one of the IA types listed in (9) noting if the TFRP has been addressed; and then,
- c. You will receive a pop up message "Is this an SMO/LLC IA?"
- d. Take the appropriate actions based on the "If..., And... Then..." Table.

If...	And...	Then...
<p>Yes, If only one Name/Address record is present</p>		<ol style="list-style-type: none"> a. You will receive a message: "Separate Name/Address records required for LLC is liable, "Owner is Liable" and as well as Name/Address record with both names. Create necessary Name/Address records". b. Click "OK" c. Navigate to the Name/Address application and create the necessary Name/Address record(s). d. Return to the IA process and select the appropriate Name/Address for the IA. e. If appropriate, select the PPIA indicator for the SMO, LLC or both. This option is not applicable for a SMO/LLC IBTF-Express IA. Note: The IA process only allows for one PPIA indicator. If different types are selected only the PPIA Asset indicator will be reflected in the IA but both selections will write to the ICS history. f. Select the appropriate Employer Information, Financial Institution Information and status of the Notice of Federal Tax Lien. g. Input the SMO/LLC Payment Information. This information reflects the first and future payment due from both the LLC and SMO. Total payment will be the sum due from the LLC and SMO. h. If appropriate, update IBTF Monitoring field with FTD and Filing Requirement information. i. Click "Save" to submit for approval.

<p>Yes, and more than one Name/ Address record is present, You will receive a message: “Do you have separate “LLC is liable” and “Owner is liable” Name/Address records, as well as a Name/ Address record with both names?” Yes/No.</p>	<p>Answer is “Yes”</p>	<ol style="list-style-type: none"> a. If appropriate, select the PPIA indicator for the SMO, LLC or both. This option is not applicable for a SMO/LLC IBTF-Express IA. Note: The IA process only allows for one PPIA indicator. If different types are selected only the PPIA Asset indicator will be reflected in the IA but both selections will write to the ICS history. b. Select the appropriate Employer Information, Financial Institution Information and status of the Notice of Federal Tax Lien. c. Input the SMO/LLC Payment Information. This information reflects the first and future payment due from both the LLC and SMO. Total payment will be the sum due from the LLC and SMO. d. If appropriate, update IBTF Monitoring field with FTD and Filing Requirement information. e. Click “Save” to submit for approval.
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<p>Yes, and more than one Name/Address record is present, You will receive a message: “Do you have separate “LLC is liable” and “Owner is liable” Name/Address records, as well as a Name/Address record with both names?” Yes/No.</p>	<p>Answer is “No”</p>	<ol style="list-style-type: none"> a. You will receive a message: “Separate Name/Address records required for LLC is liable, “Owner is Liable” and as well as Name/Address record with both names. Create necessary Name/Address records”. b. Click “OK” c. Navigate to the Name/Address application and create the necessary Name/Address record(s). d. Return to the IA process and select the appropriate Name/Address for the IA. e. If appropriate, select the PPIA indicator for the SMO, LLC or both. This option is not applicable for a SMO/LLC IBTF-Express IA. Note: The IA process only allows for one PPIA indicator. If different types are selected only the PPIA Asset indicator will be reflected in the IA but both selections will write to the ICS history. f. Select the appropriate Employer Information, Financial Institution Information and status of the Notice of Federal Tax Lien. g. Input the SMO/LLC Payment Information. This information reflects the first and future payment due from both the LLC and SMO. Total payment will be the sum due from the LLC and SMO. h. If appropriate, update IBTF Monitoring field with FTD and Filing Requirement information. i. Click “Save” to submit for approval.
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(14) The approval request generated to the group manager will reflect a closure type identifying the IA as an SMO/LLC.

(15) No SMO/LLC questions are presented when Option B is selected as the method of closure.

5.14.7.3.3
(03-11-2011)

Approval and Monitoring of SMO/LLC IBTF-I/As

- (1) Once the Group Manager approves the IA, a systemic ICS history is created stating the IA was systemically uploaded to IDRS (Status 60).
- (2) A systemic history is generated that contains the SMO/LLC payment information and the statement, “Single Member Owner/LLC Installment Agreement – See Attachment”, which is populated in the Additional Conditions section of the Form 433D and in the Letter 2850.
- (3) After the Group Manager approves the IA, an ICS Print Manager Dialogue box provides the option of e-mail (to the initiating RO or Group Secretary) or immediate printing of the “Attachment to the SMO/LLC IA” along with the Form 433-D, Letter 2850, and the Form 3210.
- (4) Distribute the printed material as follows:

- Mail Letter 2850 with the *Attachment to SMO/LLC Installment Agreement* to the taxpayer and representative, if applicable.
 - Include the Form 433-D with a copy of the *Attachment to SMO/LLC Installment Agreement* in the case file. Write “**SMO/LLC IBTF-IA**” in **red** across the top of the Form 433-D.
 - Attach the ICS generated Form 3210 to the case file. Write “**SMO/LLC IBTF-IA**” in **red** in the body of the Form 3210. Forward to CCP for monitoring.
- (5) ICS will generate the following Subcodes and Location Codes for these types of agreements:
- 906 – SMO/LLC IBTF IA; Location Code – IBTF
 - 907 – SMO/LLC MMIA; Location Code – IBTF
 - 908 – SMO/LLC IBTF Express; Location Code - IBTX
- (6) CCP will take the actions listed in IRM 5.4.11 for input and monitoring on these types of I/As which includes issuing separate default notices to the SMO and LLC.

5.14.7.4
(03-15-2022)

**In-Business Trust Fund
Installment Agreements
Requiring Financial
Analysis and
Determining Ability to
Pay**

- (1) If Notices of Federal Tax Lien were not previously filed, make a lien determination. (See IRM 5.14.1.4.2 and IRM 5.12.2.4.)
- (2) Verify current compliance with filing and deposit requirements.
- (3) Review the procedures in IRM 5.7.2 to determine if Letter 903 , Letter to Employer - You Haven't Deposited Federal Employment Taxes, should be issued.
- (4) Determine the taxpayer's ability to pay. (In addition to the information provided in this sub-section, also see IRM 5.14.1.5).
- (5) Secure Form 433B, Collection Information Statement (CIS) for Businesses and, if appropriate, Form 433A, CIS for Individuals. If these in-business taxpayers can fully pay liabilities from current assets and/or income they do not qualify for installment agreements. Full payment should be requested.

Exception: It is not required that Form 433B be secured if taxpayers qualify for *In-Business Express* installment agreements. Since the qualifying liability amount is determined at the time the case is received in inventory, the taxpayer may not make payments to reduce the unpaid balance of assessments to the amount \$25,000 in order to qualify for “In-Business Trust Fund Express” agreements (See IRM 5.14.5.4(1)(b)). The unpaid balance of assessments includes tax, assessed penalty and interest, and all other assessment on the tax modules.

Note: See IRM 5.15, Financial Analysis, for more information on how to complete these forms and how to determine ability or inability to pay.

- (6) For agreements on accounts up to \$25,000 that will satisfy liabilities within 5 years:
- a. No verification of the CIS is required;
 - b. Input bank and receivables information on ICS.

- c. If appropriate, request that taxpayers sell assets or borrow on equity in assets in order to make payment on the delinquent taxes; and,
 - d. As noted in IRM 5.14.7.2(1)(b), ensure that the taxpayer has the ability to pay current operating expenses as well as current taxes.
- (7) For all other agreements (those that do not meet *In-Business Trust Fund Express* criteria, or are above \$25,000 , [see IRM 5.14.7.3.1(6):
- a. Verify income and expenses. Use bank statements to verify both income and expenses;
 - b. Request documentation if assets, liabilities, expenses or income appear questionable;
 - c. Complete record checks to determine ownership and equity in real and personal property, including motor vehicles;
 - d. If appropriate, request that taxpayers sell assets or borrow on equity in assets in order to make payment on the delinquent taxes.
 - e. As noted in IRM 5.14.7.2(1)(b), ensure that the taxpayer has the ability to pay current taxes as well as operating expenses and delinquent taxes.
- (8) Check corporate officer, partner and LLC member individual compliance. Although installment agreements are based on the taxpayers’ ability to pay, it is the Service’s policy to check that the principals of taxpayer businesses are in compliance with their filing requirements when considering an installment agreement for the business. For further information on compliance checks see:
- IRM 5.1.11.2.3 regarding compliance checks in general;
 - IRM 5.14.1.4.1(2)(b) regarding sole proprietors and LLCs; and
 - IRM 5.14.4.3 regarding “Installment Agreements and Multiple Entities.”
- (9) Consider a Trust Fund Recovery Penalty (TFRP) assessment. (See IRM 5.14.7.4.1 and review the procedures provided in IRM 5.7.4.8 and IRM 5.7.8.)

Note: IBTF *Express* agreements do not require TFRP consideration, nor cross compliance checks on officers, partners or LLC members.

5.14.7.4.1
(03-11-2011)
Trust Fund Recovery Penalties and Installment Agreements

- (1)
- Before granting installment agreements the trust fund recovery penalty must be considered, the assessment statute expiration date protected, and an assessment determination made on all in-business trust fund cases, excluding IBTF Express, see IRM 5.14.7.4.*
- (2) Area management must ensure consideration is given to securing waivers to extend the statutory period for assessment from each responsible individual when the delinquent taxes will not be fully paid prior to the original ASED.
- (3) When soliciting waivers from responsible individuals, notify them of their right to refuse to extend the period of limitations, or to limit such extension to particular issues, or to a particular period of time. Taxpayers must be notified of their right of refusal each and every time they are requested to sign a waiver extending the period for assessment.

- (4) It should be fully explained to taxpayers that signature on a waiver, extending the TFRP period for assessment, will allow the Service to collect the delinquent and accrued taxes from the business through an installment agreement which extends beyond the original TFRP Assessment Statute Expiration Date (ASED).
- (5) ASEs should be extended to the end-date of agreements, plus *one year*, to allow for skipped payments and interest rate changes. (Use CC ICOMP)

Note: Extend the ASED on all trust fund tax modules to the end-date of the agreement plus one year, even if some trust fund balances due will be fully paid with the first installment payment.

- (6) In general, do not request assessment of Trust Fund Recovery Penalties (TFRPs) if business taxpayers meet the terms of installment agreements. However, TFRPs must be considered on the potentially responsible persons of the business entity based on the following procedures.
- (7) If the agreement will not fully pay all balances due at least a year before the earliest Assessment Statute Expiration Date (ASED), then:
 - a. Assemble all documentation for completion of the penalty to the point of proposing assessment;
 - b. Complete interviews for all potentially responsible persons, and any other interviews necessary to determine responsibility and willfulness;
 - c. Secure 433A (Collection Information Statement) from all potentially responsible persons. Conduct financial analysis to determine whether the penalty, if assessed would be collectible;
 - d. Request signature of Form 2750, "Waiver Extending Statutory Period for Assessment of Trust Fund Recovery Penalty" from all potentially responsible officers. See IRM 5.14.7.4.1(1) through (4); and
 - e. If a potentially responsible officer refuses to extend the ASED, and the trust fund recovery penalty is determined collectible, complete and recommend assessment of the TFRP for that responsible person.
- (8) If potentially responsible persons have the ability to pay from current assets or income, request payments be made to reduce the trust fund portion of the liability. If they have the ability to make a significant payment or payments on the trust fund portion of liabilities, but do not make such payments (or do not make plans for payment from personal assets), consider recommending assessment of the TFRPs. If TFRPs are assessed on these cases, lien determinations should be made and, if appropriate, liens should be filed, and in most cases no other collection action should be taken during installment agreements.

However, if after assessing the TFRP the responsible person still does not make plans for payment from personal assets, other collection action may be taken. Before taking collection action against the responsible person, document the ICS history on why the action is being taken (since the corporate or LLC entity is in an IA) and group manager concurrence must be secured before such action commences.

Exception: If taxpayers are currently "repeaters", the trust fund recovery penalty normally will be assessed. (See IRM 5.14.7.2(1)(c).)

In these instances in which the decision is to withhold collection of the assessed TFRP while the business is paying through an installment agreement, include the responsible person(s) SSN as a related TIN on the IBTF installment agreement. This will place the MFT 55 modules in Status 63 pending the business's compliance with the IA. (See IRM 5.14.4.3.)

Note: Only MFT 55 modules related to the IBTF agreement can be included in this process. Other MFT liabilities (for instance, MFT 30 liabilities) must be resolved separately.

- (9) Upon completion of the trust fund recovery penalty recommendation process on ATFR (Automated Trust Fund Recovery Application) complete Form 3210 to transmit the case to Control Point Monitoring (CPM).
- (10) If TFRPs are assessed, notify these taxpayers:
 - a. they should respond to notices regarding the TFRP; and,
 - b. payments made to the TFRP accounts will be offset against the corresponding corporation or LLC accounts upon which the TFRP was based.
- (11) Trust Fund Recovery Penalty accounts and case files require *SPECIAL HANDLING* during in-business trust fund installment agreements.
 - a. If the TFRP investigation has been completed, but is not being assessed (see IRM 5.14.7.4.1(7)), the TFRP administrative file must be completed and attached to the approved IBTF-IA case file being sent to Centralized Case Processing (CCP) at Mail Stop 5-E04.117. Add a cross-reference to the BMF account on ICS. Label the file "**Unassessed TFRP-IBTF IA Backup Documents – Earliest ASED is:**". The administrative TFRP file and case file must be retained together as one file in CCP for the length of the IBTF-IA.
 - b. If the TFRP assessment has been made, make lien determinations on these accounts.
 - c. If the TFRP assessment has been made and collection is being withheld while the business is paying through an IBTF agreement and a lien determination has been made, the TFRP assessment (MFT 55) should be included as a related TIN on the IBTF IA. (See IRM 5.14.7.4.1(8)). Label the file "**Assessed TFRP BALDUE file to associate with IBTF IA – EIN xx-xxxxxxx .**".
- (12) If TFRP investigations are incomplete but all other actions and analysis necessary for granting installment agreements have been completed:
 - a. Group managers should approve agreements; and
 - b. OIs must be opened for revenue officers to complete the TFRP investigation.
 - c. Complete lien determinations as provided in IRM 5.14.7.4.1(11)(b). Liens may be filed if appropriate. Follow procedures in IRM 5.14.7.4.1(7).4.1(7)e if enforcement action is warranted on these accounts.
 - d. Once the TFRP has been completed, assessed and a lien determination made (and, if appropriate, notice of federal tax lien filed), forward the file to the Control Point Monitoring (CPM). (See IRM 5.7.6, Trust Fund Penalty Assessment Action).

Note: See IRM 5.7.4.8.1(2) if agreements will fully pay balances due more than one year prior to ASEDs.

- (13) TFRPs must be considered and, if appropriate, assessed in connection with consideration of installment agreements for any out-of-business corporation or out-of-business LLC that is identified as the liable taxpayer.

5.14.7.4.2
(03-11-2011)

Approval and Monitoring

- (1) Inform taxpayers installment agreements require approval.
(2) Unapproved agreements may not be held to monitor compliance.

Note: See IRM 5.14.3.1 on requesting and accepting payments when installment agreements are NOT in effect and during pending installment agreements.

- (3) These cases will be monitored in Centralized Case Processing. Choose the appropriate closing action on ICS - "CCP (PSC) - IBTF - IA (NF Item in CCP)." Upon approval of the IBTF IA, ICS will close the balance due modules and systemically create an NF Item and reassign to CCP. These NF items will be monitored in CCP.
- (4) If you have a case that is an IBTFIA that is paid using the direct debit payment option, see IRM 5.14.10.5 for procedures.
- (5) Form 433D completion on ICS sends an approval notification to the manager under Option A only. No approval notification is sent to the manager under Installment Agreement Option B on ICS. You must forward the case file, along with the paper Form 433D, to the group manager for their approval and signature.
- (6) Once the Group Manager approves the IBTF-IA under Option A, an ICS history is created stating the IA was systemically uploaded to IDRS (Status 60). Generation of the acceptance letters and Forms 3210 have not changed. You are still responsible for mailing of the L2849 or L2850 to the taxpayer and power of attorney, if applicable, whether Option A or B is used.
- (7) Option A on ICS: Approval by the group manager using the ICS Installment Agreement Option A generates:
- Transaction code (TC) 971 Action Code (AC) 063,
 - Approval notification to the revenue officer.
 - An original and copy of the Form 433D .
 - Letter 2849 or 2850: These letters provide taxpayers with notice of the approval of their agreement as well as the terms and conditions of the agreements.
 - A NF item (Other Investigation) for Centralized Case Processing to monitor the case.
 - An Agreement Locator Number (ALN) "0215" if the only condition of the agreement is that it is an IBTF. (See Exhibit 5.14.1-2).; Subcode of "900"; and a Location Code of "IBTF".
 - Form 3210 for transmitting the case file to CCP at Mail Stop 5-E04.117.
- (8) Use Option B only if hard copy (non-ICS) installment agreements are used and approved.

- (9) Option B generates only those items listed in IRM 5.14.7.4.2(7)(b), (e) and the subcode of “900” listed in (f).
- (10) After approval, revenue officers must ensure that taxpayers:
 - a. are informed payments must be made whether or not notices are received from a Campus, and
 - b. receive Letter 2849/2850 or approved Form 433D.

Note: The Letters 2849/2850 will provide a Campus payment address based on the taxpayer’s location.

- (11) In-business trust fund installment agreements (IBTF-IA) input to IDRS Status 60 must be monitored in **Centralized Case Processing**. Forward approved agreements to Centralized Case Processing along with the unassessed Trust Fund Recovery Penalty administrative file, if one was prepared after taking the actions described above (See IRM 5.14.7.4.1 and IRM 5.14.9.4(5)).

Note: ICS templates provide the “MMIA or IBTF-IA Closing Document” to assist in preparing these agreements for submission to CCP.

- (12) In-business Trust Fund IA (IBTF-IA) case files will be submitted to CCP with the form 433-D on top, for monitoring. Write “IBTFIA for input and monitoring” in *RED* ink across the top of the form 433-D. The form 3210 is systemically generated on ICS with the following address:

Internal Revenue Service
 2970 Market Street
 Mail Stop 5-E04.117
 Philadelphia, PA., 19104

- (13) Centralized Case Processing:
 - a. will not accept installment agreements for monitoring unless CSEDs and ASEDs have been properly addressed, and the case file has been properly identified per IRM 5.14.7.4.1(11). CCP is not responsible for reviewing the validity of the CSEDs and ASEDs of installment agreements it receives (for monitoring) either on initial receipt, nor on an ongoing basis.
 - b. *is*, however, responsible for ASEDs and CSEDs associated with liabilities accrued while cases are assigned to it for monitoring.
 - c. will ensure proper case actions are taken if taxpayers do not remain in compliance with the filing and paying requirements during installment agreements. Newly accrued liabilities are the responsibility of Centralized Case Processing up to the point the case is transferred to a field group or other disposition or resolution for the case is determined.
- (14) ICS will systemically close the balance due modules and assign an NF item to Centralized Case Processing. The assignment numbers for Centralized Case Processing are as follows:
 - AO = 35
 - TO = the Territory – 70 range
 - XX = the unit in Centralized Case Processing that will be responsible.

Note: The unit monitoring number (XX) will be one of four numbers: 66, 67, 68, or 69.

- 00 = the group manager of Centralized Case Processing.

- (15) Systemic transfer of accounts to Centralized Case Processing servers will occur when IBTF IAs are approved.

Exception: IBTF Express agreements are not monitored in Centralized Case Processing (see IRM 5.14.5.4.)

- a. Advise the taxpayer that the case is being transferred for continuous monitoring, and financial reviews may be conducted.
- b. The NF item created when installment agreements are approved provide a list to check that includes installment payment; quarterly amounts to be deposited; and returns the taxpayer is required to file.

5.14.7.4.3
(08-05-2010)

**Monitoring In-Business
Trust Fund Accounts By
Centralized Case
Processing**

- (1) See IRM 5.14.7.4.2 and IRM 5.14.9.4(5) for ICS and assignment instructions.
- (2) After the revenue officer has closed the case with an In Business Trust Fund Agreement on ICS, a NF item is automatically opened for monitoring in Centralized Case Processing Support. See IRM 5.4.11 for details on the monitoring process.

Note: If the taxpayer has been advised of the approval of the installment agreement (mailed or given approved agreement or a letter stating the agreement was approved) it is considered to be a valid agreement. Even if periods were not included, the agreement may only be defaulted and terminated for the reasons listed in IRM 5.14.11.3.

- (3) The Centralized Case Processing employee will monitor the case monthly to ensure taxpayers:
 - a. File federal tax returns when due; and
 - b. Pay additional liabilities when due.
- (4) If taxpayers remain in compliance with filing, paying and depositing requirements, no further case actions or contact is necessary, until the agreement is completed.
- (5) If the taxpayers do not complete any one of the items in IRM 5.14.7.4.3(4), refer to IRM 5.4.11 for the procedures CCP will follow.

5.14.7.5
(08-05-2010)

**Payments on Trust Fund
Accounts During
Approved In-Business
Trust Fund Installment
Agreements**

- (1) Due to the Trust Fund Recovery Penalty (TFRP) (reference is IRC 6672) more than one entity or individual may be liable, or become liable, for the trust fund portion of liabilities (penalty amounts). Therefore, when businesses enter into installment agreements the entities or individuals liable for the TFRP may prefer (and request that) the business's payments be applied to the trust fund portion of the balance due accounts. If this occurs, the business should be notified that:
 - a. Installment agreement payment application is governed by the terms of the agreement.
 - b. As stated on the agreement form: "We will apply all payments on this agreement in the best interests of the United States."

- c. Taxpayers *are not permitted to designate installment agreement payments.*
 - d. Installment agreement payments will be applied in the best interests of the United States, regardless of the policy to apply payments to tax first and then to penalties and interest when dealing with trust fund modules.
- (2) Individuals who are potentially responsible for TFRPs should be encouraged to make payments from their own resources. These payments are not considered to be installment agreement payments. (See IRM 5.14.1.2(7) and IRM 5.14.1.3(10)(Example (4)). In addition, the following examples further illustrate common interactions between installment agreements and TFRPs:

Example: (1) ABC Inc., has not made a request for an installment agreement. Mr. Smith, officer of ABC Inc., tells the revenue officer that he will pay \$500 per month toward the trust fund portion of a tax liability with personal funds. The trust fund penalty has not been assessed and Mr. Smith has not yet been determined to be responsible for a TFRP. Also, the balance due period(s) from which the liability may be derived have not been specifically identified. Since the liability has not been identified this is not a pending installment agreement. Also, Mr. Smith must be informed that any payments will be considered “voluntary”, and may be applied according to his instructions. Information regarding the contact must be documented in the case history. (See also IRM 5.14.3.1(3) and (5) regarding the distinction between “voluntary”, “installment agreement”, and “requested” payments).

Example: (2) (Same scenario as Example 1 above except...) Mr. Smith has signed Form 2751 regarding the trust fund recovery penalty of ABC Inc. As long as Mr. Smith provides a specific payment amount (and his request includes the information required by IRM 5.14.1.3(4)) this is a pending installment agreement. Note that the installment agreement is pending for Mr. Smith’s TFRP, *not for ABC Inc’s balances due.*

Example: (3) LMNOP Inc. enters into an installment agreement requiring payment of \$500 per month. The corporation does not make payments from corporate funds. Instead, corporate officers Jones and Johnson take turns designating payments of \$500 per month with their personal funds on behalf of LMNOP Inc. Although they write on their checks that the payments should be applied to the trust fund portion of the liabilities, these payments may be applied in the best interest of the government. (See IRM 5.14.7.5(1)).

Example: (4) Same as Example 3, except LMNOP makes its monthly payment of \$500 from corporate funds. In addition to the installment agreement payments made by the corporation, the officers make payments as described above. These payments, made in addition to the payments made by the corporation under the agreement, may be applied according to the officers’ instructions.

Note: See also Example 4 in IRM 5.14.1.3(10).

Example: (5) Same as Example 4, except LMNOP makes its monthly payment of \$500 from corporate funds. In addition to the installment agreement payment the corporation makes an additional \$500 designated payment to the trust fund portion of their liability. Designated payments made in addition to the payments made by the corporation under the agreement,

are considered voluntary payments which can be designated and applied according to the taxpayer's instructions.