

# First, Don't Panic - Payment Alternatives When Your Client Cannot Pay In Full

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2010  
IRS Nationwide  
TAX FORUM



# There are lots of reasons a taxpayer can find themselves owing the IRS...

- Those who have lost their jobs
- Self-employed people who fail to make estimated tax payments
- Premature retirement plan distributions
- Invalid EITC claims.
- Under-withholding.
- Changes to filing status or exemption qualifications



# When your client owes money to the IRS – the process

- If a taxpayer does not pay, the IRS sends the taxpayer a bill. This begins the collection process.
- Do Not Ignore the notices!
- First, confirm the correctness of the notice.
- If it is correct, work with the client to determine their ability to pay.
- Assist the client in finding a resolution.
  - Who can represent collection-challenged clients?

## IRS expects taxpayers to pay their taxes promptly, and believes...

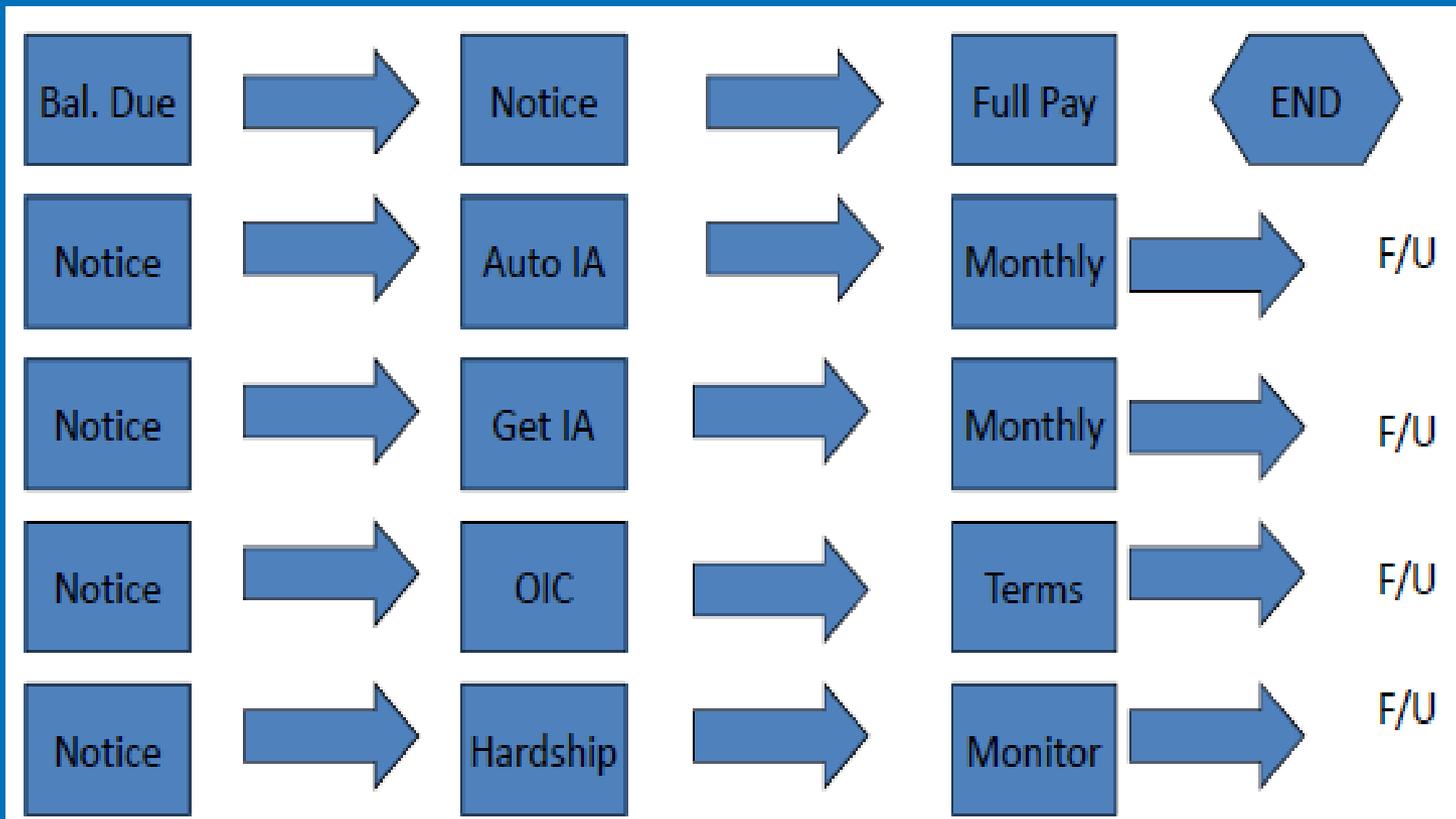
- Taxpayers should consider liquidating assets (such as bank accounts, financial investment accounts, cars, boats, real estate, life insurance, 401(k) plan, etc.) in order to satisfy their accounts.
- Taxpayers should attempt to get a loan, if possible, to pay what they owe. Loan costs may be lower than IRC imposed costs.
- When these are not choices, IRS expects the taxpayer to work with them to settle the account.

# Core Payment Resolution Options:

- Full payment (borrowing may be cheaper)
  - What it really costs...
- Request additional time (temporary delay)
- Installment Agreement
  - Full-pay programs
  - Partial-payment programs
- Offer-in-compromise
- Hardship deferral - Currently Not Collectible



# Basic Overview of Collection Process



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## An installment agreement...

- ...is an agreement between the taxpayer and the IRS for the collection of the amount due in monthly installment payments.
- To be eligible for an installment agreement, the taxpayer must first file all returns that are required and be current with estimated tax payments.
- IRS must entertain installment agreement requests for balances not exceeding \$10,000.
- If the balance due is \$25,000 or less in combined tax, penalties and interest, a “streamlined” installment agreement can be requested.

## It isn't free! Installment Agreement User Fees

- \$105 for non-direct debit agreements,
- \$52 for direct debit agreements and
- \$45 for reinstatements.
- the fee is only \$43 for taxpayers with income at or below certain U.S. Department of Health and Human Services poverty guidelines.
- And risk to the taxpayer's financial future since IRS *may* file a tax lien.

# Requesting the Installment Agreement

- IRS Form 9465, Installment Agreement Request, can be filed electronically with the tax return, or submitted in response to a bill received from the IRS.
- By telephone with IRS Hotline CSRs or ACS personnel.
- Online Payment Agreement Process
- If the amount you owe is \$25,000 or less, provide the monthly amount you wish to pay with the request.
  - At a minimum, the monthly payment amount allowed to pay without completing a Collection Information Statement, Form 433, is an amount that will full pay the total balance owed within 60 months.

## There's More...

- Taxpayers may still qualify for an installment agreement if they owe more than \$25,000, but a Form 433F, Collection Information Statement (CIS), is required to be completed before an installment agreement can be considered.
- When a CIS is required, IRS will rely on “Collection Financial Standards” to help determine a taxpayer's allowable living expenses and determine their maximum ability to pay.
- Consider the financial situation and propose the highest amount possible, as that is how the IRS will arrive at the payment amount.

# Installment Agreement Considerations

- When required, the accuracy of the financial statement is critical
- Qualification is based on National and Local standard living expenses.
- IRS can accept IAs for less than total due
  - partial-pay IA
- IRS has 10 years from assessment to collect
- A lien may be placed against the taxpayer's assets
- [www.irs.gov](http://www.irs.gov) provides an on-line application

# Offer-in-Compromise Option

## 3 kinds of offers:

- Doubt as to Liability (Examination issue)
- Doubt as to Collectability (most common)
- Promote Effective Tax Administration (special circumstances)
- The IRS will not accept an OIC unless the amount offered by the taxpayer is equal to or greater than the reasonable collection potential (RCP). The RCP is how the IRS measures the taxpayer's ability to pay and includes the value that can be realized from the taxpayer's assets, such as real property, automobiles, bank accounts, and other property. The RCP also includes anticipated future income, less certain amounts allowed for basic living expenses.

# Reasonable Collection Potential?

Formula for a lump sum cash offer:

- Reasonable Collection Potential

$$RCP = QSV + 48 \text{ times NET}$$

- Where

QSV = quick sale value

NET = net monthly income less expenses.

# Just Cannot Pay-Hardship

- Currently Not Collectible (CNC)
- Based on financial facts and circumstances
- Penalty and interest continue
- Receives annual notice
- Subject to refund or other offsets
- 10 year statute
- Can be re-evaluated at any time

## Did You Know?

- Employer cannot threaten to fire an employee due to levy!
- Employer can be fined \$1000 or up to 1 year in jail for firing due to levy action (15 USC 1674)
- Lien can be filed on any amount due
- **Communication is KEY to successful resolution!**



# Who can help the client?

## Return Preparers

- Can include Form 9465 with the e-filed return
- Can work with Hotline customer service representatives to request short-term delays or streamlined agreements
- CANNOT represent the taxpayer before the collection division of IRS

## EAs, CPAs and Attorneys

- Can represent the client from the filing of the return through complete resolution of the account
  - Short-term delays
  - Installment Agreements
  - CNC
  - OIC
  - Collection Appeals
  - CDP Hearings
- A Power of Attorney is required



# Help the client avoid future problems

- **Why** did the client owe a balance due?
- **Cure** the root cause
  - Adjust withholding
  - Set up estimated tax payments
- **Help** the client understand how the system works
- Always **respond** to notices
- **Heed** notice due dates



# Resource References

- [www.IRS.gov](http://www.IRS.gov)  
(forms, calculations, addresses, online application, etc.)
- Publication 594 (The Collection Process)
- Publication 1 (Your Rights as a Taxpayer)
- TeleTax Topics 201 and 202

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