

**Procedures for Installment Agreements With  
In-Business Taxpayers Need to Be  
Strengthened**

**August 2000**

**Reference Number: 2000-30-123**

**This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

August 29, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Procedures for Installment Agreements with  
In-Business Taxpayers Need to Be Strengthened

This report presents the results of our review of the use of installment agreements to resolve in-business taxpayer delinquent accounts. In summary, the IRS needs to improve procedures for analyzing taxpayer financial information and for monitoring active installment agreements with in-business taxpayers. In addition, the IRS does not have basic management information regarding these agreements.

The Collection Division agreed to the recommendations made in this report and has already initiated corrective action addressing these issues and considered our input when revising its procedures. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the Internal Revenue Service managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions, or your staff may call Gordon Milbourn III, Associate Inspector General for Audit (Small Business and Corporate Programs), at (202) 622-3837.

**Procedures for Installment Agreements  
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## **Executive Summary**

According to Internal Revenue Service (IRS) records, businesses incurred more than \$11 billion in tax delinquencies (unpaid accounts) during Fiscal Year 1999. Of these new delinquencies, almost \$7 billion were for unpaid Employer's Quarterly Federal Tax Return (Form 941) liabilities. This return reports Social Security, Medicare, and withheld income taxes on wages of employees.

Revenue officers (RO) in the Collection Field function (CFf) first try to collect full payment from delinquent in-business taxpayers. If the taxpayers do not have the cash or other assets to full pay these liabilities, the ROs consider allowing the taxpayers to make periodic payments on their accounts under an "installment agreement." If the IRS accepts an installment agreement, penalties and interest continue to accrue. Because in-business taxpayers may also accrue additional Form 941 liabilities every 3 months while in an installment agreement, IRS procedures require close manual monitoring of this type of case.

The objective of our review was to determine whether the IRS is effectively using installment agreements to resolve in-business taxpayer delinquent accounts.

## **Results**

Installment agreements can be a useful collection tool for the IRS, especially in those cases in which the taxpayer has no other means to resolve his/her liability. For example, in our judgmental sample of 85 in-business installment agreements, 50 (59 percent) did not have sufficient liquid assets to quickly satisfy even 10 percent of their liabilities. However, we identified three areas in which procedures could be improved to help minimize the risk involved in these agreements and to enhance management information to monitor the effectiveness of the program. During our review, the Collection Division began actively drafting revised in-business taxpayer installment agreement guidelines and considered our input during this process.

### **The Internal Revenue Service Does Not Always Verify Basic Financial Information When Allowing Installment Agreements**

The IRS did not have adequate guidance to help ensure ROs perform sufficient research to accurately determine the taxpayer's suitability for installment agreements. Basic financial information regarding these taxpayers is not always verified prior to granting installment agreements. For example, ROs did not review taxpayers' bank statements to substantiate their claimed cash receipts and disbursements in 59 (69 percent) of the 85 cases we reviewed. Confirmation of taxpayer-provided information helps ensure

## **Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened**

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critical IRS decisions about installment agreement terms are based on accurate and reliable information, especially in cases where the taxpayer is unable to quickly repay his/her liability. In addition, identifying assets early in the process assists ROs to quickly take further collection action if the taxpayers do not make installment payments.

### **The Internal Revenue Service Does Not Consistently Monitor Installment Agreements With In-Business Taxpayers**

The IRS' controls over installment agreements with in-business taxpayers did not ensure the agreements were timely and consistently monitored. Thirty-two (38 percent) of the 85 agreements we reviewed were not manually monitored consistently for compliance with the terms of the installment agreements. The cases had unmonitored periods ranging from 3 to 12 months and total agreement amounts ranging from under \$2,000 to over \$150,000. Periodic and timely monitoring of in-business taxpayer installment agreements is critical to help prevent the accruing of additional new tax liabilities.

### **The Internal Revenue Service Does Not Gather Sufficient Data to Monitor the Installment Agreement Program**

The IRS does not have sufficient management information for manually monitored installment agreements with in-business taxpayers. The management information systems do not track the number of agreements, the amount of outstanding liabilities currently covered by agreements, or the overall default rate of agreements with in-business taxpayers. Therefore, management cannot determine how frequently agreements are granted and how many dollars are affected. Without timely, comprehensive, and accurate information, management cannot adequately monitor program effectiveness and make informed program decisions.

## **Summary of Recommendations**

We recommend IRS management develop additional guidance to ensure sufficient research is performed to accurately determine in-business taxpayers' suitability for installment agreements, and revise current agreement monitoring procedures to improve their effectiveness and efficiency. In addition, management should implement a uniform methodology for coding manually monitored installment agreements with in-business taxpayers, so essential management information, such as the default rate or the number of open cases, can be easily obtained and evaluated.

Management's Response: IRS management agreed with our recommendations and has issued revised procedures addressing the issues we identified. A complete copy of their response is attached to this report in Appendix IV.

## Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened

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### Objective and Scope

*The objective of our review was to determine whether the IRS is effectively using installment agreements to resolve in-business taxpayer delinquent accounts.*

The objective of our review was to determine whether the Internal Revenue Service (IRS) is effectively using installment agreements to resolve in-business taxpayer delinquent accounts. To accomplish this objective, we evaluated the procedures for ensuring installment agreements given to in-business taxpayers are appropriate and reviewed the methodology used to monitor active agreements. We also reviewed the information available to management to evaluate and monitor the overall effectiveness of this collection tool. Additionally, we reviewed a sample of current collection cases. This audit was initiated in September 1999 and completed in May 2000.

We conducted tests in the National Headquarters and the Delaware-Maryland, Pennsylvania, and Southern California Districts. We also performed selected interviews in the North-South Carolina District. This audit was performed in accordance with *Government Auditing Standards*.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

### Background

According to IRS records, businesses incurred more than \$11 billion in tax delinquencies during Fiscal Year 1999. Of this, almost \$7 billion were for unpaid Employer's Quarterly Federal Tax Return (Form 941) liabilities. This return is used to report Social Security, Medicare, and withheld income taxes on wages of employees.

Revenue officers (RO) in the Collection Field function (CFf) assigned to work in-business taxpayer accounts, first try to collect full payment. If the taxpayers do not have the cash or other assets to full pay these liabilities,

## **Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened**

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the ROs should consider allowing the taxpayers to make periodic payments on their accounts (i.e., installment agreements). During the course of the agreement, penalties and interest continue to accrue. Because in-business taxpayers may also incur additional Form 941 liabilities every 3 months while in an installment agreement, Cff procedures require close manual monitoring of this type of case. Procedures also prohibit levies of taxpayers' assets (such as funds in a bank account) during installment agreements, as long as the payments are made timely.

The procedures under which the IRS allows and monitors installment agreements with in-business taxpayers differ from the procedures applicable to individual (non-business) taxpayers in two significant ways. First, while the IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>1</sup> guarantees an installment agreement to an individual taxpayer with certain exceptions, no provision guarantees it for in-business taxpayers. Second, installment agreements with individual taxpayers are generally monitored electronically at the IRS' service centers, while agreements with in-business taxpayers are manually monitored at the district office level, thus allowing for immediate follow-up by a RO if the agreement terms are not met.

### **Results**

*Overall, installment agreements could be a more viable collection tool; however, controls over these agreements need to be improved.*

Overall, installment agreements could be a more viable method for resolving in-business taxpayer delinquent accounts. Furthermore, installment agreements may be the only viable method available to resolve in-business taxpayer delinquencies in cases where the taxpayer has no significant assets and, therefore, there is limited or no short-term collection potential. For example, in our judgmental sample of 85 agreements in 3 districts,

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685.

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50 (59 percent) taxpayers did not have sufficient liquid assets to quickly satisfy even 10 percent of the liability.

However, we identified several areas where procedures for in-business installment agreements can be improved. Specifically, the IRS' procedures for evaluating in-business taxpayers' suitability for installment agreements and for monitoring active agreements are inadequate. In addition, the IRS does not have basic management information regarding manually monitored installment agreements with in-business taxpayers. During our review, the Collection Division began actively drafting revised in-business taxpayer installment agreement guidelines and considered our input during this process.

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### **The Internal Revenue Service Does Not Always Verify Basic Financial Information When Allowing Installment Agreements**

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Current procedures require the RO to analyze income and expenses of the taxpayer. These procedures are primarily oriented toward installment agreements for individual taxpayers and provide very little guidance regarding in-business taxpayers.

ROs do not always verify basic financial information regarding in-business taxpayers prior to awarding installment agreements. For example, ROs did not review taxpayers' bank statements to substantiate their claimed cash receipts and disbursements in 59 (69 percent) of the 85 installment agreements we reviewed. Over one-half of the agreements where this verification was not completed had terms exceeding 36 months.

In addition, information on taxpayer assets is not regularly verified. For example, ROs did not check records for motor vehicles and real property to identify assets for potential seizure analysis in over 70 percent of the cases we reviewed.

*The IRS is not always verifying basic financial information regarding in-business taxpayers prior to awarding installment agreements.*



## **Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened**

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Confirmation of taxpayer-provided information helps ensure critical IRS decisions about installment agreement terms are based on accurate and reliable information, especially in cases where the taxpayer is unable to quickly repay his/her liability. If the taxpayer does default, identifying assets early in the process assists ROs to promptly take further collection action.

### **Recommendation**

1. Collection Division management should develop minimum research and verification guidelines for in-business installment agreements. At a minimum, the guidelines should specify basic research needed if the taxpayer cannot full pay within a short time period.

Management's Response: On June 20, 2000, the Acting Assistant Commissioner (Collection) signed a memorandum entitled "Monitoring In-Business Trust Fund (IBTF) Installment Agreements." This memorandum (a copy of which is attached) provided specific guidance regarding research and verification guidelines for granting IBTF installment agreements.

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### **The Internal Revenue Service Does Not Consistently Monitor Installment Agreements With In-Business Taxpayers**

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The IRS' procedures require the Cff or the Collection Support function to manually monitor all installment agreements with in-business taxpayers for compliance with agreement terms. Based on this monitoring, the IRS may propose termination of the agreement if the taxpayer does not make an installment payment or does not pay another tax liability at the time it is due. The IRS' procedures preclude termination in cases of non-filing or non-payment of FTDs; however, the Cff can contact the taxpayer if these items are not received.

## **Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened**

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*CFf did not effectively monitor 38 percent of the agreements we reviewed for compliance with the terms of the installment agreement.*

Of the 85 agreements we reviewed, 32 (38 percent) were not monitored consistently for compliance with the terms of the installment agreements. The cases had unmonitored periods ranging from 3 to 12 months and total agreement amounts ranging from under \$2,000 to over \$150,000, with an average agreement amount of \$46,000.

Unmonitored agreements can quickly accumulate additional delinquencies. For example, during an unmonitored period of only 6 months, an in-business taxpayer could incur 2 periods of additional Form 941 trust fund liabilities, as well as owe for 6 installment payments.

Current procedures provide for similar monitoring for all in-business cases regardless of the amount of the liability or the length of the agreement. This results in an ongoing and potentially long-term expenditure of resources on lower dollar collection cases. However, CFf managers indicated to us they did not monitor agreements because resources were allocated to higher priority work.

Periodic and timely monitoring of in-business taxpayer installment agreements is critical in keeping additional new tax liabilities from accruing. It provides for quick notification to a RO that a tax return or expected tax deposit has not been submitted and allows time for follow-up early in the process. Timely follow-up is also important because the RRA 98 generally requires a 30-day waiting period after an agreement is defaulted before any enforcement action can be initiated.

### **Recommendations**

Collection Division management should:

2. Revise current procedures to allow for tiered monitoring. Monitoring criteria could include the amount of liability, potential amount of new liabilities if the taxpayer does not promptly pay future payroll taxes, and length of the agreement.

## **Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened**

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Management's Response: The June 20, 2000, memorandum referenced in Recommendation 1 provided specific guidance regarding the level of monitoring necessary for IBTF installment agreements.

3. Consider using its Integrated Collection System to provide electronic reminder notices that monitoring is due to responsible collection personnel in support of the recommended tiered monitoring approach.

Management's Response: The June 20, 2000, memorandum referenced in Recommendation 1 provided specific guidance on creating notifications for checking to see if IBTF installment agreement payments were received.

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### **The Internal Revenue Service Does Not Gather Sufficient Data to Monitor the Installment Agreement Program**

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*Management information is not available, regarding either the overall number of, or the default rate of, agreements with in-business taxpayers.*

The IRS does not have basic management information for manually monitored installment agreements with in-business taxpayers. Management information systems do not identify the number of agreements, the amount of outstanding liabilities currently covered by agreements, or the overall default rate of agreements with in-business taxpayers. Appropriate and reliable reported information is an important tool not only for managers of specific organizational elements but for overall program management as well.

Information is unavailable because in-business installment agreements are recorded on computerized systems with a variety of status codes, case codes, and assignment codes depending on local preference. Consequently, the same management information is not available in the same way from district to district, and cannot be summarized at the national level. For example, the IRS presently has no way of reliably determining the number of active installment agreements with in-business taxpayers nationwide. Therefore, management cannot determine how

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frequently agreements are granted and how many dollars are affected. Without timely, comprehensive and accurate information, management at the national level cannot make informed program decisions.

### **Recommendation**

4. Collection Division management should develop a uniform methodology for coding manually monitored installment agreements with in-business taxpayers so essential management information such as the default rate or the number of open cases is readily available.

Management's Response: The June 20, 2000, memorandum referenced in Recommendation 1 provided specific guidance for identifying IBTF Installment Agreements on three databases: IDRS, Integrated Collection System, and Entity.

### **Conclusion**

The installment agreement could be a viable collection tool available to help the IRS collect past due taxes from in-business taxpayers. However, current procedures are not specific enough to ensure that ROs verify basic financial information prior to granting long-term installment agreements. In addition, the Cff did not effectively monitor agreements, which further weakens their effectiveness as a collection tool. Finally, the IRS does not have cohesive management information to make strategic program decisions because the management information systems contain inconsistent data.

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**Appendix I**

**Detailed Objective, Scope, and Methodology**

The overall objective of this review was to determine whether the Internal Revenue Service (IRS) is effectively using installment agreements to resolve in-business taxpayer delinquent accounts.

Scope and Limitations of Case Review:

We used judgemental samples to perform our case reviews. Specific information regarding our sample selection methodology is detailed in sub-objectives II and III below. As a result, although we could identify trends among the specific cases we selected, it inhibited our ability to project the results and trends on a national level.

In order to accomplish our overall objective, we:

- I. Determined whether the IRS is monitoring and periodically evaluating the effectiveness of installment agreements with in-business taxpayers.
  - A. Determined how the utilization of installment agreements in resolving in-business taxpayer delinquent accounts is being monitored nationally, and ascertained what type of management information is gathered and how frequently it is updated.
  - B. Ascertained what measures are used nationally to evaluate the success of installment agreements in resolving in-business taxpayer delinquent accounts, and determined how often the program is reviewed against these standards.
  - C. Determined the role, if any, the IRS has assigned in-business taxpayer installment agreements in the Fiscal Year 2000 Compliance Business Plan.
  - D. Evaluated the methodology employed to determine in-business installment agreement usage and effectiveness in the Delaware-Maryland, Pennsylvania and Southern California Districts.
- II. Determined whether the IRS has effective controls in place to ensure installment agreements given to in-business taxpayers are appropriate and in the best interests of the government.
  - A. Interviewed responsible operations personnel in the Delaware-Maryland, North-South Carolina, Pennsylvania and Southern California Districts regarding in-business installment agreement practices and determined whether the districts are using any local strategies.

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- B. Obtained a listing of Business Masterfile (BMF) installment agreements currently being manually monitored in the Delaware-Maryland, Pennsylvania and Southern California Districts.
  - C. From an Integrated Collection System listing, judgmentally sampled 85 installment agreements awarded to in-business taxpayers and analyzed the case files and case histories to determine whether the agreements were appropriate and supported by a detailed review of the taxpayers' financial information.
- III. Ascertained whether the IRS has effective controls in place to ensure installment agreement monitoring is consistently and properly performed.
- A. Interviewed responsible operations personnel in the Delaware-Maryland, North-South Carolina, Pennsylvania, and Southern California Districts regarding in-business installment agreement monitoring practices and procedures.
  - B. Using the 85 sample cases from Step II C above, analyzed the case files and case histories to determine whether they were consistently monitored during the past 12 months to ensure all installment payments were made, all Federal Tax Deposits were made, and all returns were timely filed.
  - C. From this listing, sampled 85 BMF manually monitored cases; analyzed the case files and case histories; and determined whether they were consistently monitored during the past 12 months. Identified all instances of taxpayer non-compliance with installment agreement terms.

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**Appendix II**

**Major Contributors to This Report**

Gordon C. Milbourn III, Associate Inspector General for Audit (Small Business and Corporate Programs)

Parker F. Pearson, Director

Gary L. Swilley, Audit Manager

Anthony J. Choma, Senior Auditor

James S. Mills Jr., Senior Auditor

Dale E. Schulz, Senior Auditor

Phillip H. Dearth, Auditor

Rashme Sawhney, Auditor

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**Appendix III**

**Report Distribution List**

Deputy Commissioner Operations C:DO  
Chief Operations Officer OP  
Commissioner, Small Business and Self-Employed Division S  
Assistant Commissioner (Collection) OP:CO  
Office of the Chief Counsel CC  
National Taxpayer Advocate C:TA  
Director, Office of Program Evaluation and Risk Analysis M:O  
Office of Management Controls M:CFO:A:M  
Director, Legislative Affairs CL:LA  
Director, Delaware-Maryland District  
Director, North-South Carolina District  
Director, Pennsylvania District  
Director, Southern California District



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Appendix IV

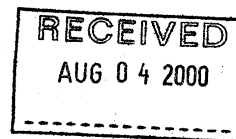
**Management's Response to the Draft Report**



COMMISSIONER

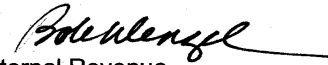
DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

August 4, 2000



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

*for* Charles O. Rossotti   
Commissioner of Internal Revenue

SUBJECT:

Draft Audit Report – Procedures for Installment  
Agreements with In-Business Taxpayers Need to Be  
Strengthened

We appreciate the opportunity to respond to your draft report entitled "Procedures for Installment Agreements with In-Business Taxpayers Need to Be Strengthened." The report is a review of Collection management practices for monitoring in-business trust fund installment agreements in Collection Field function. We agree with your recommendations.

However, we want to clarify one apparent misunderstanding in your memorandum regarding the monitoring of agreements. (See Recommendation 1, page 4 of the Draft Audit Report.) The background summary for "Recommendation 1" states (in part), "IRS' procedures preclude termination (of installment agreements) in cases of non-filing or non-payment of FTDs . . ." These procedures are not arbitrary, they are based on our Counsel's interpretation of Internal Revenue Code section 6159.

Also, I would like to thank two members of your staff, Tony Choma and Phil Dearth. With their assistance, the Assistant Commissioner (Collection) developed new procedures for monitoring in-business trust fund installment agreements.

Our comments on your specific recommendations follow.

**IDENTITY OF RECOMMENDATION #1**

Collection Division management should develop minimum research and verification guidelines for in-business installment agreements. At a minimum, the guidelines should specify basic research needed if the taxpayer cannot full pay within a short time period.

## **Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened**

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### **ASSESSMENT OF CAUSE**

Historically, Internal Revenue Manual procedures have been mainly oriented toward individual taxpayers.

### **CORRECTIVE ACTION**

On June 20, 2000, the Acting Assistant Commissioner (Collection) signed a memorandum entitled "Monitoring In-Business Trust Fund (IBTF) Installment Agreements." This memorandum (copy attached) provides specific guidance regarding research and verification guidelines for granting IBTF installment agreements.

### **IMPLEMENTATION DATE**

Completed

### **RESPONSIBLE OFFICIAL**

Assistant Commissioner (Collection)

### **CORRECTIVE ACTION MONITORING PLAN**

N/A

### **IDENTITY OF RECOMMENDATION #2**

Revise current procedures to allow for tiered monitoring. Monitoring criteria could include the amount of liability, potential amount of new liabilities if the taxpayer does not promptly pay future payroll taxes, and length of the agreement.

### **ASSESSMENT OF CAUSE**

Collection Field function was instructed to monitor the agreements but was not provided with specific guidelines. No tiered approach was previously offered that associated the level of monitoring necessary with the amount of the liability owed by the taxpayer.

### **CORRECTIVE ACTION**

The June 20 memorandum referenced in Recommendation 1 provides specific guidance regarding the level of monitoring necessary for IBTF installment agreements.

### **IMPLEMENTATION DATE**

Completed

### **RESPONSIBLE OFFICIAL**

Assistant Commissioner (Collection)

**Procedures for Installment Agreements  
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**CORRECTIVE ACTION MONITORING PLAN**  
N/A

**IDENTITY OF RECOMMENDATION #3**

Consider using its Integrated Collection System to provide electronic reminder notices that monitoring is due to responsible Collection personnel in support of the recommended tiered monitoring approach.

**ASSESSMENT OF CAUSE**

Employees were not systemically reminded to check Integrated Data Retrieval System (IDRS) to determine if agreed upon installment payments were received.

**CORRECTIVE ACTION**

The June 20 memorandum referenced in Recommendation 1 provides specific guidance on creating notifications for checking to see if IBTF installment agreement payments were received.

**IMPLEMENTATION DATE**

Completed

**RESPONSIBLE OFFICIAL**

Assistant Commissioner (Collection)

**CORRECTIVE ACTION MONITORING PLAN**  
N/A

**IDENTITY OF RECOMMENDATION #4**

Collection Division management should develop a uniform methodology for coding manually monitored installment agreements with in-business taxpayers so essential management information such as the default rate or the number of open cases is readily available.

**ASSESSMENT OF CAUSE**

In the past, district offices have used various methods for identifying IBTF installment agreements. Since we did not have a uniform method for identifying these cases, we could not "roll up" the data for monitoring, sorting, tracking, and planning.

**CORRECTIVE ACTION**

The memorandum referenced in Recommendation 1 provides specific guidance for identifying IBTF installment agreements on three databases: IDRS, Integrated Collection System, and Entity.

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IMPLEMENTATION DATE  
Completed

RESPONSIBLE OFFICIAL  
Assistant Commissioner (Collection)

CORRECTIVE ACTION MONITORING PLAN  
N/A

If you have any questions, please call Harry T. Manaka, Acting Assistant Commissioner (Collection), at (202) 622-5100.

Attachment

**Procedures for Installment Agreements  
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June 20, 2000

MEMORANDUM FOR REGIONAL CHIEF COMPLIANCE OFFICERS  
ASSISTANT COMMISSIONER (INTERNATIONAL)

FROM: Harry T. Manaka /s/ **Harry T. Manaka**  
Acting Assistant Commissioner (Collection) OP:CO

SUBJECT: Monitoring In-Business Trust Fund Installment  
Agreements

The attachment provides procedures for monitoring In Business Trust Fund (IBTF) installment agreements (IAs) on the Integrated Collection System (ICS) and Integrated Data Retrieval System (IDRS).

If you have any questions, please call me, or a member of your staff may contact Jon Munroe at 202-622-6947. District personnel should direct any questions, through their management staff, to the appropriate regional contact.

Attachment

Copies to:  
Assistant Commissioner (Customer Service)  
Regional Chiefs (Customer Service)  
District Directors  
National Taxpayer Advocate  
National Director of Appeals

## Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened

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### Attachment

#### I. Introduction

These procedures apply to in-business trust fund (IBTF) installment agreements (IAs) for sole proprietors, partnerships and corporations. They replace:

- Internal Revenue Manual (IRM) 5.14 – Installment Agreement Handbook, Chapter 4, Section 4.5 “Special Provisions Relating to In-Business Trust Fund Installment Agreements,” and
- IRM 5.14.5.3(1)(f) which states in-business trust fund accounts may not be input for IDRS monitoring.

All other parts of IRM 5.14 remain effective unless specifically superceded by the following procedures.

#### II. Granting and Approving IBTF Agreements

##### A. Case Actions for Accounts \$10,000 and Less

- (1) For IBTF accounts with unpaid balances of \$10,000 or less that will fully pay tax, penalty, interest and accruals, within two years:
  - a. No financial statement is required; however, bank and accounts receivables information should be secured and input to ICS.
  - b. No lien determination is required; however, a lien may be filed if, in the judgment of the revenue officer it is needed to protect the government's interest (such as when property is for sale.)
  - c. No Trust Fund Recovery Penalty (TFRP) determination is necessary.
  - d. The following compliance check should be completed. Check IDRS BMFOLI to verify compliance with:
    1. filing requirements. (IAs may not be granted if there are unfiled returns.)
    2. deposit requirements.
  - e. Managers should approve agreements that meet these criteria without further review.
  - f. Input status 60 with agreement locator number 0215 (See C1c below.)
  - g. No initial monitoring period is required.

**Note:** If agreements for accounts of \$10,000 or less are in default or are terminated, they may be reinstated, or new agreements may be granted.

## Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened

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### B. Actions for Accounts Above \$10,000

- (1) Ability to Pay: For all accounts with balances above \$10,000 or that will extend longer than two years, the payment amount depends on the taxpayer's ability to pay. (See IRM 5.14(10).)
- (2) Lien Determination: If liens were not previously filed, make a lien determination. (See IRM 5.14.1.4(5) and IRM 5.12.1.13.)
- (3) Consider the procedures provided in IRM 5.7.2 for:
  - (a) special deposits (IRC 7512 and LEM 5, Chapter 4, Trust Fund Compliance Program); and
  - (b) monthly filing (Treasury regulation 31.6011(a)-5)
- (4) Secure Form 433-B, Collection Information Statement (CIS) for Businesses and, if appropriate, 433-A, CIS for Individuals.
  - (a) For agreements on accounts up to \$25,000 that will satisfy liabilities within 5 years:
    1. No verification of the CIS is required. However, review the CIS to verify the taxpayer has the ability to pay their taxes through an installment agreement.
  - (b) For all other agreements (over \$25,000):
    1. Verify income and expenses. At a minimum, use bank statements to verify both income and expenses. Request documentation if assets, liabilities, expenses or income appear questionable.
    2. Complete record checks to determine ownership and equity in real and personal property, including motor vehicles; and
    3. If appropriate, request that taxpayers sell assets or borrow on equity in assets in order to make payment on the delinquent taxes. (See IRM 5.15.1.2.2(1) regarding "Determining Maximum Collectibility".)
- (5) The following compliance check should be completed. Check IDRS BMFOLI to verify compliance with:
  - (a) filing requirements. (IAs may not be granted if there are unfiled returns.)
  - (b) deposit requirements.
- (6) Also check corporate officers', partners' and sole proprietors' individual compliance. Although installment agreements are based on the taxpayer's ability to pay, it is our policy to check that the principals of taxpayer businesses are in compliance with their filing requirements when

## Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened

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considering an installment agreement for the business. See IRM 5.1.11 regarding compliance checks. (See IRM 5.1, Chapter 17.)

- (7) Trust Fund Recovery Penalty (TFRP) assessment:
- (a) Review the procedures provided in IRM 5.7.4.9 and 5.7.1.12.5 regarding repeater taxpayers.
  - (b) If the agreement will not fully pay all balances due at least a year prior to the earliest Assessment Statute Expiration Date (ASED), then:
    - 1. Assemble **all** documentation for completion of the penalty;
    - 2. Complete interviews for **all** potentially responsible persons, and any other interviews necessary to determine responsibility and willfulness.
    - 3. Secure 433A (Collection Information Statement) from **all** potentially responsible persons.
      - a. Conduct a financial analysis to determine whether the penalty, if assessed, would be collectible.
      - b. If potentially responsible persons have the ability to pay from current assets or income, suggest payments be made to reduce the trust fund portion of the liability.
    - 4. Request signature on Form 2750, "Waiver Extending Statutory Period for Assessment of Trust Fund Recovery Penalty" from all potentially responsible officers.
      - a. Extend the ASED to one year after the projected end of the agreement.
      - b. As required by Internal Revenue Code section 6501(c)(4)(B), inform those from whom waivers are requested they have the right to:
        - refuse to extend the assessment period, or
        - limit the extension to particular issues or periods of time.

Note: Document the case history that the taxpayer was informed of these rights, and print a copy of the case history for association with the TFRP file.



## Procedures for Installment Agreements With In-Business Taxpayers Need to Be Strengthened

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- c. If a potentially responsible officer refuses to extend the ASED, and the TFRP is determined to be collectible, complete and recommend assessment of the TFRP for that responsible person.
- (c) If TFRPs are assessed:
  1. Notify these taxpayers:
    - a. they should respond to notices regarding the TFRP.
    - b. payments made to the TFRP accounts will be subtracted from the accounts upon which the TFRP was based;
    - c. federal and state income tax refunds will be offset to pay the TFRP; and,
    - d. 15% of Federal Retirement and Federal contract payments to the taxpayer will be offset to pay the TFRP (Federal Payment Levy Program)
  - (d) These accounts – assessed because potentially responsible officers did not sign waivers – require *SPECIAL HANDLING*:
    1. These accounts must be assigned to the monitoring function where the IBTF IA is being monitored and a cross-reference to the BMF account should be input on ICS.
    2. Collection action should not be taken on these accounts unless the IBTF IA is terminated.
    3. If these TFRP taxpayers request installment agreements or submit offers in compromise these should be considered based upon their ability to pay.
  - (e) Hard copy TFRP files, containing copies of bank statements, signature cards, and all other documents relative to assertion of TFRPs must be kept for the full duration of IBTF agreements. These files must be retained where IBTF IAs are monitored for reference:
    1. If it is necessary to assess previously unassessed penalties;
    2. For processing abatement claims, bankruptcy proofs of claim, offers, appeals, and similar actions;
  - (f) The files should be labeled either:
    1. **“Assessed TFRP – IBTF IA Backup Documents”**  
**(Associate TDAs and Lien Determination OIs with these files);**

or,

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### 2. "Unassessed TFRP – IBTF IA Backup Documents".

(g) **NOTE:** If the TFRP investigation is incomplete but all other actions and analysis necessary for granting an installment agreement have been completed:

1. group managers should approve agreements; and
2. OIs should be opened for revenue officers to complete the TFRP investigation.

### C. Pre-Approval ICS Inputs

(1) Complete Form 433D on ICS. Prior to submitting for approval:

(a) Select the agreement type:

1. Unless a "Hard Copy 433D is necessary, select: "Installment Agreement – Option A." (It is unnecessary to print a 433D if this option is chosen.)

(b) If it is determined a signature is necessary, select Option B "Hard Copy 433D". If this option is chosen, the taxpayer's signature must be secured prior to establishing ICS monitoring and managers should ensure all information on the installment agreement form has been recorded in the ICS history prior to approval.

(c) If the account will later be monitored in status 60, (See D(2) below) Select Agreement Locator Number (ALN): 0215 ("In Business Trust Fund – Monitor" )

### D. Choosing a Monitoring Location

District/Area Management must choose whether IBTF agreements will be monitored at group locations or at one, central monitoring location in the district/area.

(1) If a central location is chosen for the district/area:

- (a) Revenue officers should select, on ICS: "OTHER MANUALLY MONITORED IA – GROUP 6800 (or 6900)."
- (b) This results in an ICS assignment to DOAO-6899 (or 6999).
- (c) Accounts may be kept in status 26 or, after a 90 day period, put in status 60.

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(d) Employees, *including revenue officers*, may be assigned the collateral duty of monitoring the agreement inventory in the central monitoring location.

(2) If group monitoring locations are chosen for the district/area:

(a) Revenue officers should select, on ICS: "GROUP MON ITORED"

(b) This results in an ICS assignment to DOAO-XX99 where **XX** is the group number.

(c) Accounts must be kept in status 26, but

(d) may not be kept in revenue officer inventories.

(e) However, group managers *may assign revenue officers* the collateral duty of monitoring agreement inventories at the group level.

(3) 433D completion on ICS sends an approval request to the manager.

**Note: Unapproved agreements may not be held to monitor compliance with filing and depositing requirements.**

### E. Post-Approval ICS and Case Actions

(1) Approval by the group manager generates:

(a) Transaction code (TC) 971, Action Code (AC) 063.

(b) Approval notification to the revenue officer.

(c) Letter 2849 or 2850:

1. Both letters notify taxpayers that:

- the request for an installment agreement has been approved; and,
- provides the dates payments are due.

2. Letter 2849 is generated for direct debit installment agreements.

3. Letter 2850 is generated for routine installment agreements.

(2) After approval, revenue officers must ensure taxpayers receive payment addresses:

(a) If the accounts will be monitored in status 26, provide the address to which payments should be sent.

(b) If the accounts will be monitored in status 60, provide a payment address for the first 90 days of the agreement, and notify taxpayers they will receive a new address after three payments are received (if compliance with filing, paying and depositing requirements is maintained.)

(c) Inform taxpayers payments must be made whether or not they are contacted with the new address.

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**III. Establishing Monitoring on ICS for OIs (St. 60) or  
TDAs**

A. For accounts that will be put in status 60 after the initial 90 day monitoring period:

- (1) Create an "Incoming OI." This OI must be created before closing the taxpayer delinquency accounts (TDAs) on ICS.
- (2) Ensure ICS Assignment is 6890 or 6990.
- (3) Status 60 may not be input until after the agreement is monitored in the district for 90 days, after which the OI will remain open in the central monitoring location.

B. For all agreements (including those that will be put in status 60):

- (1) Update the ICS case location code to "IBTF"
- (2) Update the Entity subcode on ICS to "900". This designates the accounts as IBTF installment agreements.
- (3) Create ICS follow-ups. Once input, the follow-ups prompt monitoring functions to check IDRS regarding current compliance.

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**CREATE ICS NOTIFICATIONS FOR CHECKING IF:**

Quarterly Liability) <i>(See notes 1 - 3 below)</i>	1. FTDS WERE MADE	2. Monthly IA Payments Made?	3. CURRENT RETURNS FILED?	4. OTHER ACCOUNTS EXIST?
\$10,000 – 50,000:	monthly	7 days after due	50 days after the due date of	50 days after the due date of return for which the
Greater than \$50,000	twice monthly	7 days after due	the return	tax was assessed

\*Notes:

- (1) Use line 11 ("total liability") from the last filed 941 to determine the quarterly liability.
- (2) If the trust fund taxes are derived from a different type of tax, for example Form 720, use the total taxes from the last filed return to set follow-ups.
- (3) **These follow-ups are unrelated to deposit requirements.**

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- C. Transfer "Incoming" OIs to the Central Monitoring Location. (See IID above.)
- D. Transfer Status 26 Agreements to either the Central Monitoring Location or the Group Monitoring Location. (See IID above.)
- E. Follow-ups must be re-input if the monitoring function for the OI or TDAs is transferred.

### IV. Monitoring Agreements, and IDRS Inputs

#### A. Monitoring Requirements:

- (1) All IBTF agreements must be monitored on ICS to ensure taxpayers:

- (a) Make installment payments when due

Note: Payments on installment agreements will be designated to non-trust fund unless the taxpayer specifically designates it to the trust fund portion of the liability.

- (b) Pay required federal tax deposits
- (c) File federal tax returns when due, and
- (d) Pay additional liabilities when due.

- (2) When notifications are received on ICS (based on inputs described in III B above), check IDRS TXMOD, and CC BMFOLI to determine if taxpayers are in compliance with filing and paying requirements.

- (a) After checking IDRS, delete ICS notifications.
- (b) After notifications are deleted, input new follow-ups on ICS.

#### B. IDRS Inputs for accounts going to Status 60:

- (1) The procedures in this section apply ONLY to accounts for which "Incoming OIs" were created for monitoring at a central location. (Reminder: Installment agreements monitored at the group location may not be monitored in status 60.)

- (2) After 90 days of monitoring:

- (a) Provide the payment address at the service center and tell the taxpayer district monitoring will continue to ensure future compliance with filing, depositing and paying requirements.

- (b) Ensure the Agreement Locator Number (ALN) is "0215".

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(c) Ensure ICS assignment is 6890 or 6990

(d) Update account status to 60.

### C. Ongoing Monitoring

- (1) After 90 days, continue to monitor all IBTF agreements in accordance with IV A above.
- (2) If taxpayers remain in compliance with filing, paying, and depositing requirements, no other case actions or contacts are necessary.

### V. Default and Termination Procedures for IBTF Installment Agreements

A. These procedures apply to all IBTF IAs when taxpayers do not remain in compliance with current filing and paying requirements, or do not make installment payments when due.

- (1) If non-compliance occurs an **“Outgoing OI”** should be created by the monitoring function and issued to a revenue officer.
- (2) For status 60 accounts defaulted for failure to pay an additional liability when due, or failure to make an installment payment:
  - (a) Prior to sending the OI to a revenue officer, the monitoring function should verify Letter 523 (L523) was sent by the Service Center.
  - (b) If the L523 was not sent, input command code IADFL . This will cause:
    1. the account to update to status 64; and,
    2. issuance of the default notice, L523.

B. Defaulting Agreements for Non-Payment of Agreement Amounts or Failure to Pay Other Liabilities When Due. (See (2), directly above, for status 60 accounts.)

- (1) If a taxpayer:
  - fails to pay an installment payment when due or
  - fails to pay another liability at the time such liability is due, then:
    - (a) Upon receipt of OIs, revenue officers should contact taxpayers and request payment.

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- (2) If payment is received:
  - (a) note the case history and close the OI.
  - (b) If the agreement was in status 60 it should be left in that status. If the agreement had not yet been input to status 60, and is monitored by an OI at a central monitoring function, it should be monitored for 90 more days from the date of non-compliance prior to status 60 input.
- (3) If payment is not received,
  - (a) issue Letter 2975 (on accounts in status 26);
  - (b) Inform the taxpayer the agreement will be terminated unless sufficient payment is received
  - (c) Take appropriate collection action on those accounts not included in the original agreement. (Ensure all Collection Due Process procedures and associated appeal rights are observed.)
  - (d) Schedule follow-up action 13 weeks after:
    - 1. status 64/CP 523 for status 60 cases
    - 2. issuance of letter 2975 for accounts not in status 60.

### C. Defaulting Agreements for Failure to Deposit or Failure to File.

**Taxes must be assessable prior to proposing termination of agreements if taxpayers fail to make deposits or fail to file returns when due. Termination may be proposed when taxpayers fail to make required deposits or file returns by taking the following actions.**

- (1) If a taxpayer:
  - fails to make required federal tax deposits or
  - fails to file another return at the time such return was due:
    - (a) verify deposits were required. This may be verified by
      - 1. taxpayer contact, or
      - 2. a field-call to the business during which it is observed the taxpayer is in business and continues to maintain a payroll, or
      - 3. summons of bank records.
    - (b) contact the taxpayer and request:
      - 1. filing of delinquent returns; and/or,
      - 2. delinquent deposits be made.

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- (2) If the taxpayer files the necessary return(s) and/or makes the required deposit(s), or if the taxpayer shows that no deposit/return was required:
- (a) Note the case history and close the OI.
  - (b) If the agreement was in status 60 it should be left in that status. If the agreement had not yet been input to status 60, and is monitored by an OI at a central monitoring function, it should be monitored for 90 days from the date of non-compliance prior to status 60 input.
- (3) If the taxpayer does not:
- file the required return(s), and it was verified deposits were required, or
  - does not make deposits and it was verified that required deposits were not made; and,
  - *the unfiled return is one that may be prepared under Internal Revenue Code section 6020(b)* then:
    - (a) on the fifteenth day after the due date of the return, follow the 6020(b) procedures provided in IRM 5.1, Chapter 11, section 9, including completion of Letter 1085 or 1616.
    - (b) Mail Letter 1085 or 1616 along with Letter 2975, proposing termination of the installment agreement.
- (4) If after the 30 day period provided the taxpayer in Letter 1085 or 1616 (plus 15 days for mail time) the taxpayer has not responded, process the proposed return in accordance with IRM 5.1, Chapter 11, section 9. (First check IDRS to ensure the taxpayer did not file a return.)
- Note:** Prompt assessment of the return should be considered if enforcement action is being contemplated, so collection action may be taken on the account at the earliest possible date.
- (5) If, after the default period, the taxpayer has not:
- 1. made the required deposits, or
  - 2. made deposits necessary to fully pay the amount due on the return proposed (or assessed) under IRC 6020(b), then the agreement is considered terminated.

D. Taxpayers may:

- 1. Appeal the proposed termination (default) of an agreement. The appeal period is 30 days, plus 15 days for mail time.
- 2. Appeal the termination of an agreement. The appeal period is 30 days, plus 15 days for mail time. (See IRM 5.14.8)



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- E. A timely appeal must be resolved prior to levy action.
- F. If, during the default, termination or appeal periods taxpayers state they are unable to make payments based on changed financial conditions, schedule an appointment to determine taxpayers' ability to pay.
  - (1) IBTF IAs may be revised based on changed financial circumstances in accordance with the criteria provided in II above.
- G. Ensure taxpayers receive appeal rights, including appropriate Collection Due Process appeal rights, prior to taking enforcement action, when installment agreements are terminated.
- H. If agreements are terminated:
  - (1) Accounts should be re-assigned to revenue officers for collection action.
  - (2) Upon reassignment of terminated agreements, revenue officers should
    - (a) consider the procedures provided in IRM 5.7.2 for:
      - special deposits (IRC 7512 and LEM V, Section 600) and
      - monthly filing (Treasury regulation 31.6011(a)-5))
    - (b) make a lien determination
    - (c) consider the TFRP.

### **VI. Procedures for Existing Agreements**

- A. For established IBTF IAs with account balances greater than \$10,000:
  - (1) All inputs described in these procedures must be completed, and the accounts should be transferred to:
    - (a) a central location for monitoring in either status 26 or 60 in accordance with the procedures provided in this attachment; or,
    - (b) a group monitoring location for monitoring in status 26.
- B. For established IBTF IAs with account balances of \$10,000 or less:
  - (1) See section II B above; and,
  - (2) Input status 60.
  - (3) No further monitoring is required.