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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

TD 9306

RIN 1545-BF69

User Fees for Processing Installment Agreements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the regulations relating to user fees for installment agreements. The amendments update the fees to reflect the actual costs of the services provided and create an exception to the increased fee for entering into installment agreements for low-income taxpayers. The amendments affect taxpayers who wish to pay their liabilities through installment agreements.

DATES: Effective Date: These regulations are effective on December 28, 2006.

Applicability Date: These regulations apply to installment agreements entered into, restructured, or reinstated on or after January 1, 2007.

FOR FURTHER INFORMATION CONTACT: Concerning cost methodology, Eva Williams, 202-435-5514; concerning the regulations, William Beard, 202-622-3620 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 300. On August 30, 2006, a notice of proposed rulemaking (REG-148576-05) relating to the user fees charged for processing installment agreements was published in the **Federal Register** (71 FR 51538). The charging of user fees implements the Independent Offices Appropriations Act (IOAA), which is codified at 31 U.S.C. 9701. The notice of proposed rulemaking proposed an increase in the amount of the user fees to reflect the full cost of the service provided, as directed by OMB Circular A-25, 58 FR 38142 (July 15, 1993) (the OMB Circular).

The notice of proposed rulemaking proposed to increase the fee under §300.1 for entering into an installment agreement from \$43 to \$105 and to increase the fee under §300.2 for restructuring an installment agreement from \$24 to \$45. The notice of proposed rulemaking also proposed an exception to the full-cost requirement in cases where the taxpayer chooses to pay by way of a direct debit from the taxpayer's bank account. The OMB Circular allows the Office of Management and Budget to grant a waiver of the full cost requirement and, pursuant to such a waiver, the proposed fee for entering into a direct-debit agreement was \$52 to encourage this type of payment.

No public hearing on the notice of proposed rulemaking was held because no one requested to speak. Eight comments were received. After consideration of all the comments, this Treasury decision adopts the proposed regulations with the following change: the fee for entering into an installment agreement will remain \$43 for low-income taxpayers, that is, taxpayers whose incomes fall at or below 250% of the dollar criteria established by the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services or such other measure as the Secretary may

adopt. The IRS sought and received an additional waiver from OMB to charge less than full cost to low-income taxpayers.

Summary of Comments and Explanation of Revisions

Of the eight comments on the proposed regulations, five stated that the increased fees would have an adverse impact on low-income taxpayers. Other commentators stated that many low-income taxpayers do not have bank accounts and cannot take advantage of the reduced fee for direct-debit installment agreements. To accommodate these concerns, the final regulations except low-income taxpayers from the increase of the fee for entering into an installment agreement. Therefore the fee for entering into an installment agreement remains \$43 for low-income taxpayers, that is, taxpayers whose income fall at or below 250% of the dollar poverty criteria established by the U.S. Department of Health and Human Services. The exception does not apply to the fee for restructuring or reinstating an installment agreement.

Other commentators recommended that the installment agreement user fee be reduced for any taxpayer who requests an agreement on-line (over the internet). Under the IOAA, user fees should be fair and based on the costs to the government, the value of the service to the recipient, and the public policy or interest served. No exception was created for installment agreements requested on-line because the benefit of the installment agreement program to the taxpayer does not change depending on the how the installment agreement is requested, the convenience of on-line requests provides ample incentive for this type of application for taxpayers who have internet access, and taxpayers who do not have internet access could not take advantage of the lower fee. The IRS intends to

consider a cost methodology for installment agreement user fees that reflects cost differences attributable to various types of installment agreements, as well as whether additional exceptions to full cost are warranted.

Special Analyses

It has been determined that this notice of rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the information that follows. The economic impact of these regulations on any small entity would result from the entity being required to pay a fee prescribed by these regulations in order to obtain a particular service. The dollar amount of the fee is not, however, substantial enough to have a significant economic impact on any entity subject to the fee. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Although the Administrative Procedures Act prescribes a thirty-day waiting period between the date of publication in the **Federal Register** and the applicability date, this regulation is being made applicable after a shorter period under the authority provided by section 7805(b)(1)(B).

Drafting Information

The principal author of these regulations is William Beard, Office of Associate Chief

Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses
Division.

Lists of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is amended as follows:

PART 300--USER FEES

Paragraph 1. The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.0 is amended by revising paragraph (c) to read as follows:

' 300.0 User fees; in general.

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(c) Effective date. This part 300 is applicable March 16, 1995, except that the user fee for processing offers in compromise is applicable November 1, 2003; the user fee for the special enrollment examination, enrollment, and renewal of enrollment for enrolled agents is applicable November 6, 2006; the user fee for entering into installment agreements on or after January 1, 2007, is applicable January 1, 2007; and the user fee for restructuring or reinstatement of an installment agreement on or after January 1, 2007, is applicable January 1, 2007.

Par. 3. Section 300.1 is amended by revising paragraph (b) to read as follows:

' 300.1 Installment agreement fee.

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(b) Fee. The fee for entering into an installment agreement before January 1, 2007, is \$43. The fee for entering into an installment agreement on or after January 1, 2007, is \$105, except that:

(1) The fee is \$52 when the taxpayer pays by way of a direct debit from the taxpayer's bank account; and

(2) Notwithstanding the method of payment, the fee is \$43 if the taxpayer is a low-income taxpayer, that is, an individual who falls at or below 250% of the dollar criteria established by the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357, 511), or such other measure that is adopted by the Secretary.

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Par. 4. Section 300.2 is amended by revising paragraph (b) to read as follows:

' 300.2 Restructuring or reinstatement of installment agreement fee.

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(b) Fee. The fee for restructuring or reinstating an installment agreement before January 1, 2007, is \$24. The fee for restructuring or reinstating an installment agreement on or after January 1, 2007, is \$45.

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Kevin M. Brown

Acting Deputy Commissioner for Services and Enforcement.

Approved: 12/21/06

Assistant Secretary of the Treasury.

Eric Solomon