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# From Non-Filers to CNC to Installment Agreement


## Meet the Team

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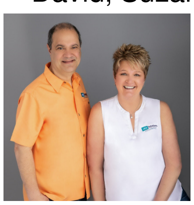

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## Upcoming Webinars

**What's New!**
**What's Cool!**

Tuesday, November 5, 2024
10 AM PST or 1 PM EST

**It's been over ten years:**
**Why is the IRS still collecting?**

Thursday, November 21, 2024
10 AM PST or 1 PM EST

A Tax Pro's Best Friend


# From Non-Filers to CNC to Installment Agreement

## Today our webinar will:

- What the IRS is looking for when there is a balance due
- Different rules for setting up an Installment Agreement
- The possibility of getting a CNC status



## Polling Question #1

## Benefits of Full Payment

- Avoid penalties and interest & Avoid Installment Agreement Fees
- No Notice of Federal Tax Lien
- No risk of default
- Future Installment Agreements - if you have a history of filing late returns or if you have used an installment plan in the last five years, your request will not automatically be approved.
- Do not have to pay YOU to fix this issue
- Passport revocation if balance is greater than $62,000
- Peace of Mind/Financial issues cause stress

Note: By law, the IRS may assess penalties to taxpayers for both failing to file a tax return and for failing to pay taxes they owe by the deadline.

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## What if I cannot Full Pay

# What if I cannot Full Pay

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## What is an Installment Agreement

- A payment plan is an agreement with the IRS to pay the taxes you owe within an extended timeframe.
- While on an Installment Agreement, the taxpayer is promising NO new liabilities
- IRS can review whenever to determine if a change in financial condition will allow you to step up your payments.

**Payments taxpayer can afford**

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## Penalties & Interest continue to accrue

- Failure to Pay Penalty - The one-half of one percent rate increases to one percent if the tax remains unpaid 10 days after the IRS issues a notice of intent to levy property
- If you set up an **IRS installment agreement to pay the taxes**, the penalty (FTP) **goes down to 0.25% per month for as long as the installment agreement is in effect (maximum 25%).**
- **Note**: If you owe failure to file and failure to pay penalties, the combined penalty rate is 5% per month, up to a maximum of 47.5% of the tax you owe.

https://www.irs.gov/faqs/irs-procedures/collection-procedural-questions/collection-procedural-questions-3

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## Short Term Payment Plan

The IRS will grant up to 180 days to pay the liability in full. To request the extension, either use the Online Payment Agreement Tool or call the IRS.

- No set up fee

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## Guaranteed Installment Agreements

1. The **total amount of the ASSESSED liability** (without interest, penalties, and additional amounts) **does not exceed $10,000**
2. The taxpayer must be in full filing compliance and current paying
3. The agreement requires full payment of such liability within 3 years.

**Note:** As a matter of policy, the Service grants guaranteed agreements even if taxpayers are able to fully pay their accounts. Unlike the criteria for streamlined agreements, the dollar limit for guaranteed agreements of $10,000 only applies to tax.

Balance due/36 = monthly payment

IRM 5.14.5.3(2)

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## Streamlined Installment Agreement

- Taxpayers who owe less than $50,000
- Must agree to pay by automated direct debit or payroll deductions to avoid a tax lien.
- 72 months or CSED automatic maximum
- Can be completed online
- These agreements do not require the IRS to file a public notice of federal tax lien.

Balance due/72 = monthly payment



## Installment Agreement & TP Rights

If the taxpayers qualify for a Guaranteed, Streamlined, or In-Business Trust Fund Express agreement, and request such an agreement, even if the taxpayers can pay the liability in full, the request will be granted.

IRM 5.14.1.2(2); IRM 5.14.5



## Non-Streamlined Installment Agreement

- **The taxpayer must be an individual**. Businesses do not qualify for the NSIA.
- The **taxpayer must have an "assessed balance" between $50,000 and $250,000 owed to the IRS**. The assessed balance is the amount at the time the tax return or additional adjustment is "assessed" – and it does not include accruals of interest and the failure to pay penalty after the original assessment. **The total assessed and accrued balance must be paid before the collection statute expires under the terms of the agreement – but the qualification is only based on the assessed amount.**
- **The taxpayer must not be assigned to the Collection Field function (i.e. a revenue officer).** Revenue officers will have to go through financial disclosure when assigned to a revenue officer.
- **The taxpayer does not have to use available assets to pay down the balance owed**.
- **The taxpayer must pay before the collection statute expires**. The agreed payment amount will account for full payment before the statute of limitations to collect expires.

## Regular Installment Agreement

- **The IRS will help the taxpayer determine the payment amount**. IRS collection personnel will determine the payment amount in order to full pay before the statute expires. IRS representatives have a tool they can use to estimate the amount that needs to pay and that will fully satisfy the liability- including projected accrued interest and penalties. The taxpayer must call or write the IRS to get the agreement. This agreement cannot be made online.
- The taxpayer **must pay by direct debit to avoid financial disclosure reporting to the IRS**. IRS officials have indicated, similar to the EIA, that direct debit payments are a requirement. Taxpayers can use Form 433D to set up these direct debit payments. When setting up the payment on the phone, the taxpayer can fax the signed, completed Form 433D to the IRS representative to set up the agreement.
- An **IRS manager must approve the agreement**.
- **Prior payment plan defaults may require more financial disclosure**. Taxpayers who have had prior installment agreements and have defaulted on these agreements will likely need to provide some limited financial information before the NSIA is allowed. This limited financial disclosure occurred on the old EIA terms if there was a prior default.
- The taxpayer **will have a Notice of Federal Tax Lien filed**. This is a condition of an NSIA. If a taxpayer wants to avoid the tax lien, they should consider paying down the assessed balance to under $50,000 and getting into a SLIA.



## Regular Installment Agreement

If you have an assessed balance of more than $250,000 and are not in a current agreement with the IRS (payment plan, currently not collectible, extension to pay, offer in compromise), IRS procedures require the taxpayer to be assigned to a local field collection officer (revenue officer) for enforcement.



## Regular Installment Agreement

If your client does not qualify for any of the preceding installment agreements than it is time to go old school.

- Complete Form 9465, *Installment Agreement Request Form*. Figuring your monthly payment is a rather complex process, so experts recommend you seek the assistance of a tax professional to ensure you calculate your monthly payment accurately.
- Complete Form 433-A (433-B, 433-F), *Collection Information Statement*. This will show the IRS that you are unable to pay your taxes.
- Collect three months of supporting financial documentation for the income and expenses claimed on Form 433-A (Form 433-B, Form 433-F).

## Polling Question #2



## Partial Pay Installment Agreement

- American Jobs Creation Act **2004** amended IRC §6159 to provide authority for the Partial Pay Installment Agreement
- Prior to this…

IRM 5.14.2.1



## Partial Pay Installment Agreement

Partial pay installment agreements are the IRS's answer to taxpayers who can afford to make monthly payments, but could never repay their entire tax debt in time. The IRS only has 10 years to collect taxes from the date they were assessed. Once the time is up, the debt is forgiven.

- The Partial Payment Installment Agreement (PPIA) is similar to a regular installment agreement. You make monthly payments to the IRS for taxes owed, however, you are only paying back part of the taxes you owe over time.

(monthly payment * number of months remaining on statute < balance due)

- To apply, you must submit a full financial disclosure. That includes details about your income, assets, debts, and expenses.

## In-Business Installment Agreement

If the business is still operating, the IRS will only allow an in-business installment agreement if the business is able to keep up with its current expenses, current taxes, and can make payments towards its past due taxes. If the business cannot afford to pay anything towards its back taxes because it requires all available resources to pay towards its current expenses and current taxes, the IRS may take enforced collection and essentially force the business to close down.

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## Allowable Living Expenses

Internal Revenue Code (IRC) § 7122(d)(2)(A) mandates that the IRS "develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses." **Most importantly, Congress instructed the IRS to analyze the facts of each case involving these allowances and stipulated that if application of the allowances results in a taxpayer not being able to provide for basic living expenses, then the allowances should not be used.** The resulting Allowable Living Expense (ALE) standards have come to play a major role in analyzing several types of IRS collection cases. Moreover, the IRS ALEs have been incorporated into several non-tax government programs.

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## Spending more than Allowable

**One-Year Rule**: Taxpayers who cannot full pay their accounts within six years may be given up to one year to modify or eliminate excessive necessary expenses. In some cases, by modifying or eliminating some conditional expenses, a taxpayer may be able to full pay the liability plus accruals within the six year limit. This would enable a taxpayer to retain some conditional expenses under the Six-Year rule. The taxpayer does not have to qualify for the Six-Year rule in order to apply the One-Year rule.

**IRM 5.14.1.4.1 (03-31-23)**

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## Spending more than Allowable

**Six-Year Rule**: When a taxpayer is unable to full pay immediately and does not qualify for a streamlined installment agreement, the taxpayer may still qualify for the six-year rule. Taxpayers are required to provide financial information in these cases, but are not required to provide substantiation of reasonable expenses.

All expenses may be allowed if: the taxpayer establishes that he or she can stay current with all paying and filing requirements, the tax liability, including projected accruals, can be fully paid within six years and within the CSED, and the expense amounts are reasonable. Do not automatically allow agreements based on the six year maximum if expenses are unreasonable.

IRM 5.14.1.4.1 (03-31-23)



## Spending more than Allowable

***Six Year Rule for Repayment of Tax Liability***

- The Collection Financial Standards are used in cases requiring financial analysis to determine a taxpayer's ability to pay. The vast majority of installment agreements secured by Collection employees are streamlined agreements, which require little or no financial analysis and no substantiation of expenses.
- In cases where taxpayers cannot full pay and do not meet the criteria for a streamlined agreement, they may still qualify for the six-year rule. The timeframe for this rule was increased in 2012 from five years to six years.
- The six-year rule allows for payment of living expenses that exceed the Collection Financial Standards, and allows for other expenses, such as minimum payments on student loans or credit cards, as long as the tax liability, including penalty and interest, can be full paid in six years.
- Taxpayers are required to provide financial information in these cases, but do not have to provide substantiation of reasonable expenses.



## IRS Fees to enter an IA

The IRS charges a fee to set up the installment agreement.

- Currently somewhere between $43 - $225.
- If you're a low-income taxpayer, Form 13844.

IRM 5.19.1.6.4.6

## Penalty Abatement when Complete

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- Don't forget to request abatement of the failure to pay penalty when they are near on paying off the oldest period or whenever possible.
- Taxpayers should consider using first-time abatement or reasonable cause abatement if they qualify.

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## Defaulting on the Installment Agreement

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- **Missed Payments -** Should the Taxpayer not make their payments on time and in full, the IRS may revoke the installment agreement. Generally, the Internal Revenue Service will wait anywhere from 30 to 60 days before revoking the payment plan and usually give you a warning or chance to reinstate the agreement by paying the outstanding balance for that monthly payment.
- **You Fail to File or Pay Taxes after the Installment Agreement -** A failure to file or failure to pay future income tax bills can result in revocation of the payment plan.
- **You Omitted or Misreported Information -** If the IRS discovers you've knowingly provided incomplete or inaccurate information as part of the negotiation, they will revoke your installment agreement.
- Could ADD 30 days to CSED

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## Polling Question #3

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## What is Currently Not Collectible (CNC)

- Being currently not collectible means the IRS has determined you cannot afford to pay the debt at this time.
- Being currently not collectible ***does not*** mean the debt goes away.
- Penalties and interest will continue to accrue until you have paid off the debt in full.
- Do not forget that there is a Collection Statute Expiration Date (CSED) that continues to run.



## Currently Not Collectible (CNC)

- The IRS will consider the account to be currently not collectible if we provide them a collection information statement verifying that there would be a financial hardship if the IRS forced you to pay them.
- This status protects you from the IRS, stopping levies, threatening letters and collection enforcement. It forces the IRS to simply leave your client alone without requiring any payment on your end.
- I have seen clients become uncollectible and remain there until the time frame the IRS has to collect (10 years) expires, after which the IRS debt is permanently removed and forgiven.
- GET YOUR PASSPORT BACK



## Currently Not Collectible (CNC)

- Every year the IRS will review your filed return to verify if there is a change in income.
- If your income reaches a certain threshold (determined when case is considered CNC) than the case will be reconsidered for ability to pay
- Status 53; closing code 70 series

IRM 5.16.1; IRM 5.19.17

## How to become Currently Not Collectible

You will provide proof of your financial status

(this may include information about your assets and your monthly income and expenses).

Form 433-A / Form 433-F

3 months of:

- Bank statements
- Paystubs, Bills



Form 433-A (Rev. 7-2022) Page **4**

**If you are self-employed, sections 6 and 7 must be completed before continuing.**

**Section 5: Monthly Income and Expenses (Foreign and Domestic)**

Monthly Income/Expense Statement *(For additional information, refer to Publication 1854.)*

| **Total Income** *(Amounts reported in U.S. dollars)* | | **Total Living Expenses** *(Amounts reported in U.S. dollars)* | | **IRS USE ONLY** |
|---|---|---|---|---|
| Source | Gross Monthly | Expense Items [6] | Actual Monthly | Allowable Expenses |
| **20** Wages (Taxpayer) [1] | $ 4,340 | **35** Food, Clothing and Misc. [7] | $ 1,700 | |
| **21** Wages (Spouse) [1] | $ 0 | **36** Housing and Utilities [8] | $ 2,171 | |
| **22** Interest - Dividends | $ 400 | **37** Vehicle Ownership Costs [9] | $ 1,050 | |
| **23** Net Business Income [2] | $ 2,760 | **38** Vehicle Operating Costs [10] | $ 484 | |
| **24** Net Rental Income [3] | $ 0 | **39** Public Transportation [11] | $ 0 | |
| **25** Distributions (K-1, IRA, etc.) [4] | $ 0 | **40** Health Insurance | $ 475 | |
| **26** Pension (Taxpayer) | $ 0 | **41** Out of Pocket Health Care Costs [12] | $ 237 | |
| **27** Pension (Spouse) | $ 0 | **42** Court Ordered Payments | $ 0 | |
| **28** Social Security (Taxpayer) | $ 0 | **43** Child/Dependent Care | $ 0 | |
| **29** Social Security (Spouse) | $ 0 | **44** Life Insurance | $ 100 | |
| **30** Child Support | $ 0 | **45** Current year taxes (Income/FICA) [13] | $ 1,766 | |
| **31** Alimony | $ 2,200 | **46** Secured Debts (Attach list) | $ 0 | |
| Other Income (Specify below) [5] | | **47** Delinquent State or Local Taxes | $ 300 | |
| **32** | $ | **48** Other Expenses (Attach list) | $ 1,455 | |
| **33** | $ | **49** Total Living Expenses (add lines 35-48) | $ 9,738 | |
| **34** Total Income (add lines 20-33) | $ 9,700 | **50** Net difference (Line 34 minus 49) | $ -38 | |

**Your client's total Federal Tax Due is $113,409**

The information that you have input on the previous forms has been analyzed.
Remember, the IRS may conduct their own investigation and will make decisions based on what is reasonable, necessary and allowable using the Collection Financial Standards (unless you can explain why your amounts should be different).

Based on that information, the following is available to your client:

### Installment Agreement

Remaining Monthly Income (based on information entered): **$0**

Non-Streamlined Monthly Payment: **$1,357**

Click for more...

### Offer In Compromise

- Lump Sum: $14,350
- Periodic Payment: $14,350

Total Offer Amount: $ 14350

Click for more...

### Currently Not Collectible

With a Remaining Monthly Income of $0, it is possible the IRS will grant CNC status.

Click for more...

## Should I Consider OIC?

In this case you can see that the taxpayer would qualify for CNC.

- Is this a good time to submit on offer?
- Can the taxpayer borrow funds?
- How does the CSED look?
- How does my future look in earnings?



## Polling Question #4



## Thank You