Installment Agreements: The Eight Top Tips You Need To Know

By Yvonne R. Cort, Esq., Partner at Capell Barnett Matalon & Schoenfeld LLP

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After the October filing deadline has come and gone, you may have one or more clients who have not paid all the tax shown on the filed return. If an Installment Agreement or other resolution is not established, the IRS could levy bank accounts and take other collection action. An IRS Installment Agreement can prevent your client's passport from being revoked. For NYS liabilities $10,000 and over, a NYS Installment Payment Agreement can stop your client's driver's license from being suspended.

An Installment Agreement is a formal arrangement which allows the taxpayer to pay monthly, usually until the balance is fully paid, with interest and penalties continuing to accrue. The IRS typically requires submission of detailed financial information, on a Form 433-A (for individuals; Form 433-B for businesses) so the IRS can evaluate the taxpayer's income, expenses and equity in assets, to determine acceptable terms. The IRS often files a lien to protect the IRS's rights, either prior to or when the Installment Agreement is set up.

Here are some important points to keep in mind when considering an Installment Agreement for your client:

1. **Is an Installment Agreement really necessary?** If the taxpayer needs only a month or two to pay in full, the IRS may agree to a hold on collection while the taxpayer is putting the funds together. Interest and penalties will accrue.

   > **NYS TIP:** NYS may also agree to a temporary hold on collection upon request, pending payment in full.

2. **Watch out for liens!** The IRS may make a determination to file a Notice of Federal Tax Lien ten days after actual or attempted contact with the taxpayer, regarding the balance due. If seeking to negotiate an Installment Agreement without a filed tax lien, it is important to reach out to the IRS as soon as possible, and before a lien is filed.

   > **NYS TIP:** The State typically files a warrant in connection with an Installment Payment Agreement. A warrant generally remains in place for twenty years unless the liabilities are satisfied sooner.

3. **Is the assessed IRS balance $50,000 or less?** If so, an individual taxpayer may be eligible for a streamlined Installment Agreement without submission of detailed financial information. The liabilities must be fully paid within 72 months, or prior to the expiration of the statute of limitations on collection if sooner. If payments are by direct debit, no lien determination is necessary — a good reason to contact the IRS before a lien is filed.

4. **How about $100,000 or less?** The IRS has a test program of an expanded streamlined Installment Agreement, which allows 84 months to pay assessed balances up to $100,000, for qualified individual taxpayers. Detailed financial information is not required when payment is by direct debit. A lien will be filed.

5. **Be aware of existing Installment Agreements.** A new assessment will likely cause an existing Installment Agreement to default. It is more difficult to reinstate an Installment Agreement or to renegotiate if the taxpayer has multiple years of inadequate withholding or estimated payments.

   > **NYS TIP:** The State may request that the existing Installment Payment Agreement be paid in full, before agreeing to an Installment Payment Agreement for a new assessment.

6. **Find out if your client will be current for next filing season.** The taxpayer must pay all taxes including estimated taxes while the Installment Agreement is in effect. A taxpayer who will have a balance due next tax year is likely to default the Installment Agreement. Withholding may need to be increased, or more estimated tax paid.

7. **Consider applying online.** For qualified taxpayers, an IRS Installment Agreement can be set up online. Note that all tax returns with outstanding balances must be filed and fully processed.

   > **NYS TIP:** The State recently enhanced its online services, with a facility for setting up an Installment Payment Agreement online for amounts of $20,000 or less, with payment in full in three years.

8. **Still can't pay in full?** There may be other alternatives. An IRS Partial Payment Installment Agreement allows eligible taxpayers to pay over time, even if the payments won't satisfy the liabilities in full within the statute of limitations on collection. For taxpayers with financial or other hardship, the best answer may be "currently not collectible" status. Another option could be a settlement through an Offer in Compromise.

The technicalities and variations of Installment Agreements can be used to your client's advantage. Tax professionals need to be aware of available options, to assist taxpayers in finding the best way for them to stay compliant with the tax laws.

Yvonne R. Cort, Esq., focuses her practice on the resolution of IRS and NYS tax controversies. She is a partner with the law firm of Capell Barnett Matalon & Schoenfeld LLP, with offices in Jericho, NY and New York City. Yvonne can be reached at ycort@cbmslaw.com.