

## Internal Revenue Manual 5.14.1.4.2.3 (09-19-2014)

### Compliance and Installment Agreements

1. Filing and paying compliance must be considered prior to determining that the best manner of paying delinquent taxes is through an installment agreement.

**Note:**

Filing compliance = all required returns are filed or on an approved extension. Payment compliance = all required federal tax deposits and/or estimated tax payments are current.

2. Ensure all balance due modules, including cross-referenced taxpayer identification numbers, displayed on IDRS (SUMRY, which includes Status 22, 23, 24, 26, 53 and 58), are included in agreements. Verify by checking the applicable CFOL commands. The Initial Analysis Tool (IAT) is a useful tool for verifying compliance. (See IRM 5.14.1.4.1(16) for necessary information and IRM 5.14.2.1 for exceptions.)
  - A. Individuals that are in business as sole proprietors must be in compliance with both individual and business filing and payment requirements to qualify for installment agreements.
  - B. An individual that is identified as the liable taxpayer for a single member limited liability company (LLC) must be in compliance with both individual and business filing and payment requirements to qualify for installment agreements.
  - C. A corporation, partnership, trust, estate or other entity that is identified as the liable taxpayer for a single member LLC must be in compliance with all filing and payment requirements for both entities to qualify for installment agreements.
  - D. If taxpayers have delinquent accounts on two or more taxpayer identification numbers (SSN and EIN, or two EINs), all balance due accounts must be included in one agreement. (See IRM 5.14.2.1 for exceptions and IRM 5.14.9.3 and IRM 5.14.9.5 for monitoring.)

**Note:**

For certain single member LLCs, different entities may be liable for separate tax periods assessed in the same name and EIN. (See IRM 5.1.21, *Collecting from Limited Liability Companies and IRM 5.14.7, BMF Installment Agreements*.)

- E. Modules in Status 22, 23, 24, 53 or 58 on IDRS must either be TSiGNEd or create ICS Bal Due modules prior to submitting the IA for approval and input.

**Note:**

If a status 53 module(s) is to be excluded from the installment agreement listed in IRM 5.14.7.3.2, *Installment Agreements When Owner (SMO) and LLC are liable for Assessments in the LLC Name*, make an ICS history notation in the Closing Narrative. This history notation will alert Centralized Case Processing (CCP) to exclude these modules from the IA.



3. Taxpayers must be in compliance with all filing and payment requirements prior to approval of installment agreements.

**Note:**

Ensure all Del Ret's are shown as closed on IDRS and in status "D" on ICS **PRIOR** to selecting one of the Option A systemic upload IA types (Routine, Streamlined, IBTF Express, IBTF). If the Del Ret is not in a closed status on IDRS and ICS, the IA request will reject.

4. Do not grant installment agreements if taxpayers have not filed required returns. Do not identify requests for agreements as "pending" agreements if taxpayers have not filed required returns. (See IRM 5.14.1.3(4)(d).)
5. A Del Ret is present when a delinquency investigation is established by input of Transaction Code (TC) 140. In some publications and procedures the term "Taxpayer Delinquency Investigation" (TDI) is used to describe Del Rets.
6. If Del Ret status is not indicated for a tax period then, for the purpose of granting an installment agreement, no additional compliance check is required (except on tax returns due within the past sixteen months). (See IRM 5.14.1.4.1(7).)
7. Prior to granting IAs, ensure that tax returns due within the past sixteen months were filed. If not filed, address compliance even if a Del Ret is not indicated using the procedures provided in IRM 5.14.1.4.1(10). This ensures compliance is addressed when Del Ret case creation has not yet occurred. Del Rets are created within sixteen months of due dates of returns.
8. If Del Rets were resolved by one of the following methods, the closure is not considered evidence of compliance for the purposes of entering into an installment agreement:
  - A. surveyed;
  - B. shelved;
  - C. unable to locate;
  - D. referred to Exam or SFR (unless the assessment is pending or the case is assigned);
9. If Del Rets were resolved by a closure listed in IRM 5.14.1.4.1(8)a – d, but it is determined that they could have been closed as provided in IRM 5.14.1.4.1(11), then input (or request input of) appropriate transaction and closing codes. In these situations installment agreements may be granted when closing Del Rets.
10. If an installment agreement is the appropriate case resolution, and there is an open Del Ret on another tax module(s); then the installment agreement may be granted when:
  - A. Tax return(s) indicated as due are filed.
  - B. Del Rets are resolved using the dispositions listed in IRM 5.14.1.4.1(11).
  - C. Del Rets are resolved using the dispositions listed in IRM 5.14.1.4.1(12).
11. Installment agreements may also be granted when the following closures are present:
  - A. No return secured – little or no tax due (Policy Statement P-5-133);
  - B. No return secured – taxpayer due refund.

**Note:**

If the taxpayer is due a refund, which still may be credited within the refund statute, inform the taxpayer to file the refund return before the refund statute expires to reduce the balance due on the installment agreement.

12. If taxpayers are not required to file returns, such modules should be closed using appropriate transaction and closing codes. The return closing codes that indicate filing compliance, or that filing is not required are contained in IRM 5.3. Also see Document 6209 Chapter 11 for definitions.
13. If taxpayers are required to file returns and these returns are not filed, installment agreements cannot be granted or approved. See IRM 5.1.11.7 for closing procedures for delinquent return accounts. Also see Document 6209 Chapter 11 for definitions.
14. If Del Rets were closed with a transaction code that does not indicate filing compliance, request that returns be filed within a reasonable time frame.
15. See IRM 5.1.11.4 for exceptions and guidance regarding the filing of returns.
16. Compliance checks based on case information:
  - A. Except in those situations described in IRM 5.14.1.4.1(6) and IRM 5.14.1.4.1(7) above, further compliance investigation is neither required nor prohibited, if Del Ret status is not indicated on IDRS. In addition, unless there is a Del Ret, no CFOL review (and no IRPTR review) is required.
  - B. If further research is conducted and there is an indication a return is due, then address filing compliance prior to granting installment agreements. Installment agreements may not be granted if it is determined taxpayers are liable for unfiled Balance Due returns. (P-5-133, refund return determinations and the dispositions provided in IRM 5.14.1.4.1(11) are permitted in these situations, if determined appropriate after further investigation.)
17. The compliance checks described in this section are conducted to determine eligibility for installment agreements after they are requested by taxpayers. If taxpayers do not file the requested returns by the provided deadlines (and the circumstances described in IRM 5.1.11.4 do not apply) requests for agreements will not be identified as pending (rejection and independent review are inapplicable) and agreements will not be granted.
18. Analyze the current year's anticipated tax liability. If it appears a taxpayer will have a balance due at the end of the current year, the accrued liability may be included in an agreement (see IRM 5.14.1.4.5). Compliance with filing, paying estimated taxes, and federal tax deposits must be current from the date the installment agreement begins. Use Agreement Locator Number (ALN) XX32. (See Exhibit 5.14.1–2)

- A. If the taxpayer's withholding is insufficient, emphasize the importance of adjusting Form W-4 to avoid future balance due situations. If personal (face-to-face) contact with the taxpayer is made, calculate the current amount of withholding with the taxpayer. With the taxpayer's concurrence, prepare a new Form W-4 for signature. Mail the signed Form W-4 to the taxpayer's employer.
- B. Advise taxpayers to make estimated tax payments and/or federal tax deposits (FTDs) if required;
- C. Advise taxpayers that failure to make timely estimated tax payments and/or FTDs may result in penalties;
- D. Advise taxpayers that future compliance with tax laws is required. Any returns and/or taxes due within the period of the agreement must be filed and paid timely;
- E. Advise taxpayers that federal tax refunds are subject to offset to pay balance due accounts during installment agreements, including refunds from income taxes of individuals whose sole proprietorship or partnerships owe taxes and have installment agreements. (In these cases, ensure TC 130 is input for the appropriate social security number(s).)
- F. Advise taxpayers that if the owner of a single member LLC is identified as the liable taxpayer, any federal tax refunds payable to the owner are subject to offset to pay balance due accounts during installment agreements, including refunds from income taxes of an individual, corporation, or other entity where the owner owes taxes and has an installment agreement. (In these cases, ensure TC 130 is input for the appropriate social security number(s) or employer identification number(s).)