

Step-by-step Instructions on how to enter into an

# **Installment Agreement**

There are several avenues one may take to resolve their tax matters. Most of them are extremely complex and it is near-impossible to reach one's desired outcome without having years of experience in practicing tax resolution.

The best chance for a person to reach a reasonable result is to request an installment agreement. Keep in mind that requesting and being granted an installment agreement in and of itself is not that difficult. Many CPA's and EA's enter their clients into installment agreements and because they are not experts in the area of tax collection they do not receive the optimal outcome. Someone skilled in this arena will enter their client into an agreement that they can afford to pay over the life of the collection statute which for the IRS is 10 years from the date of filing.

With the IRS and most other taxing agencies, a taxpayer is expected to pay based upon not how much they owe but rather their ability to pay now and over time. If a taxpayer can full-pay over a given period of time, they will probably be able to resolve their tax matters without much resistance. However, if they cannot afford to pay the entire liability within a given period of time or even an extended period of time, they must claim hardship.

To claim hardship one must show that their monthly disposable income is less than the amount that would be required to full-pay their liability over the given number of months.

Below is the formula used by the IRS to determine personal monthly disposable income for collection purposes:

The key is to show that their Monthly Disposable Income ("MDI") is as low as possible. Better to be **required** to pay a low monthly amount and pay more if desired, than to be required to pay a higher monthly sum that one cannot continue to pay consistently over time. The issue lies in making sure that the numbers a taxpayer include in the forms (typically 433-A, 433-B or 433-F – see the forms in this packet as well as at **www.irs.gov**) are both accurate and allowable.



You can diminish the result a taxpayer receives (and their credibility with the IRS) by providing inaccurate information. For example, if a taxpayer receives a paycheck and gets paid every two weeks you must calculate their income by taking the amount the taxpayer takes home for each check, multiply it by 26 (# of pay periods per year) and then divide it by 12 to obtain their average net monthly income. Most people will just double the amount they take home and call it the monthly amount. By doing so they

Income (Monthly Net) Expenses (Necessary and Reasonable)

MDI
Monthly Disposable Income

**Examples** 

Wages Net Business Income Rental Income Rent/Mortgage
Utilities
Auto Payments
Auto Maintenance
Food/Clothing/Misc.
Health Insurance premiums
Out of Pocket Medical Costs
Term Life Insurance premiums

underestimate their monthly net income and will therefore show a higher MDI than you indicate in the forms you submit. The IRS will "catch" this and increase the taxpayer's monthly installment payment accordingly

Keep in mind that just because a taxpayer has an expense, does not mean it will be allowed by IRS. For instance, the IRS provides National and Local Standards for items such as housing, food, clothing and car payments. If a taxpayer exceeds the standard amount, the difference may be disallowed. addition, the IRS claims they allow credit card payments but their "allowance" does not carry much leverage for the taxpayer. They allow credit card payments under the "Food/Clothing/Misc." category. The amount they allow will barely cover food let alone clothing and other items. Therefore, it is important that the taxpayer not assume that large credit card payments will offset their income. They will not! In fact, aside from basic living expenses the IRS will disallow almost everything else (see above).

### **Streamlined Installment Agreements**

If a taxpayer is in compliance and able to pay his or her liability in full over a given period of time (up to 72 months for the IRS), they may qualify for a **Streamlined Installment Agreement**. In order to qualify the taxpayer must owe less than \$50,000. If the taxpayer owes less than \$25,000 then the qualifications become even easier as less forms are required and the taxpayer may be able to keep a Federal tax lien from being filed or have a lien removed if one exists.

#### **Installment Agreement Forms**

The IRS states that the taxpayer should use Form 9465 to request a monthly installment plan if they cannot pay the full amount they owe. Generally, one has up to 72 months to pay. In certain circumstances, they may take longer to pay or their agreement may be approved for an amount that is less than the amount of tax a taxpayer owe. However, before requesting an installment agreement, the IRS states that the taxpayer should consider other less costly alternatives, such as getting a bank loan or using available credit on a credit card. In most cases, neither of these alternatives is practical.

If a taxpayer claims hardship, the IRS will in almost every instance require them to complete a collection information statement. A taxpayer will be assigned to one of two IRS departments depending on varying circumstances, primarily the amount a taxpayer owes. The first is IRS Automated Collection Service ("ACS") and the second is being assigned to a Revenue Officer. If a taxpayer has been <u>assigned to ACS</u> the IRS will most likely request that they complete Form 433-F found in Case Study 1 in this article.

If a taxpayer owes a higher amount, they have probably been assigned to a <u>Revenue Officer</u>. Their Revenue Officer will most likely request that they complete a Form 433-A. You should read Case Study 1 to understand why a taxpayer is required to fill out a Collection Information Statement.

In the following pages you will review a case study showing how to compete a Form 433-F. If a taxpayer is required to complete a 433-A the information is quite similar but must be provided in greater detail.

#### **Summary**

Without question, a negotiated payment plan in the form of an **Installment Agreement** is more favorable than a Wage Garnishment, Bank Levy, Third Party Levy or Asset Seizure. If one cannot afford to pay their back taxes in full and at the present time, and they do not qualify for an **Offer in Compromise** (see the separate instruction regarding Offers) or placement into **Currently Not Collectible** ("**CNC**" – in essence a \$0 installment agreement) status an **Installment Agreement** may be the best option in resolving one's tax debt.

#### Case Study - CS1

Little information is needed to enter into a streamlined installment agreement. In order to illustrate how a non-streamlined installment agreement works we have will look at the "Doe" family. The Doe family is made up of John (Taxpayer), Jane (Spouse) and their two children Jimmy and Jeannie. John and Jane own a home with a mortgage. John and Jane both work. They own Jane's automobile and lease John's. John and Jane owe \$247,000 stemming from payroll tax liability that arose from a failed business.

To summarize the Doe's situation, they are a:

- Family of 4;
- · Living in Los Angeles;
- Both husband and wife work;
- They own 1 vehicle and lease another;
- They own a single family home; and
- Owe \$264,000 in unpaid taxes referred to as "Civil Penalty"

First we will take a look at the Doe's income, expenses, assets and liabilities via a collection information statement. In this case we will assume that John and Jane are in automated collections and therefore will need to complete a 433-F. If a Revenue Officer had been assigned to their case, John and Jane would most likely need to submit a 433-A (referenced in this manual).

The information found on form 433-F is used to calculate on a monthly basis the amount a taxpayer must pay toward their delinquent taxes. It is important to be thorough and accurate when completing this form.

At first appearance this seems like a simple form. The information a taxpayer sees here is similar to what they would find on a loan application. If a taxpayer

does not fill out a loan form correctly, they may be rejected which is disappointing; however, typically a taxpayer can apply for another loan and being rejected is not going to change their day-to-day living circumstances for up to 10 years. On the other hand, if you fill out this



form incorrectly a you could condemn your client to a ten-year sentence of paying a much higher monthly installment payment than they can otherwise afford.

The top of the form is where you will enter a taxpayer's static information. Make sure that the information you include is accurate when entering the taxpayer's name/s and tax identification number/s. For instance, spell everything correctly and include their middle initials if they appear on their tax returns. The IRS will often cross reference this information with the information they have on file.

Below the top section, you will see a section asking for basic business information. This section pertains to taxpayers that are self-employed. Once again be sure to enter the requested business information accurately. If a taxpayer is a wage earner, they should put "N/A" in the first box in this section and move onto the next section.

Be sure to enter the number of people in the household that are under and over the age of 65. The IRS will use this information to determine which National and Local standards apply to a taxpayer. Typically to include someone in their allowable expenses a person must appear in the taxpayer's return as a taxpayer, spouse, or dependent.

The subsequent section, **Section 'A'** of the form asks for bank, investment and retirement account information. Be sure to include <u>ALL</u> applicable accounts. The IRS will most likely have at least a snapshot of this information and if something is excluded, it will bode poorly on the outcome of the installment agreement request. If there are too many accounts to fit on the form, include an addendum listing additional accounts placing the total of all accounts on the main form.

**Section 'B'** of the form covers Real property that the taxpayer owns. As mentioned earlier, be complete and thorough. If the current value of the property is less than the balance owed, enter \$0 in the equity box. Do not enter a negative amount. If a taxpayer has two house payments (i.e. a 1<sup>st</sup> mortgage and a 2<sup>nd</sup> mortgage), be sure to include the applicable refinance information.

**Section 'C'** of the form lists personal property a taxpayer own or lease. The majority of information listed in this section pertains to vehicles. Note that if a taxpayer is single, the IRS will almost always allow the ownership cost of only one vehicle. If a taxpayer is marred, the IRS will typically allow for two vehicles. If a person or couple has more than one vehicle per person, the IRS will not allow the cost to own or lease the additional vehicles. In some cases, the IRS has disallowed the second vehicle because only one spouse was working.

We will now look at Page 1 of Form 433-F using the John and Jane Doe's information as described above...

Enter the # of persons in household here.
The # should be the same as declared on

# **Collection Information Statement**

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Name(s) and Address John and Jane Doe			Your Social Security Number or Individual Taxpayer Identif same as declared 123-45-6789 client's tax retu									
1234 Memory Lane				Your Spouse's Social Security Number or Individual Taxpa								
Anytown, USA 12345	987-65-4321											
If address provided above is please check here	Your Telephone Numbers Home: (818) 555-1212					Spouse's Telephone Numbers Home:						
County of Residence Los Angeles				k:				Wo	1211			
				Cell:				Cell:				
Enter the number of people in the h	nousehold who can be	claimed on	this year's	s tax retur	n includi	ng you	and your s	pouse.	Under 65 4	65 and Over		
If you or your spouse are self emp	oloyed or have self em	ployment i	ncome, pr	ovide the	followin	g inforn	nation:					
Name of Business N/A	Busin	ess EIN		Туре	of Busin	ess	1	Number	of Employees	(not counting owner)		
A. ACCOUNTS / LINES OF Trusts, Individual Retiremen Mutual Funds, Stocks, Bonds	t Accounts (IRAs), k	Keogh Pla	ans, Simp	olified En	nployee	Pensi	ions, 401	(k) Pla	ns, Profit Sha	ring Plans,		
Name and A	ddress of Institution			Account Number			Type of Account	Current Balance/Value		Check if Business Account		
Main Bank				1111	111111111 (		Checking		1,400			
No.												
B. REAL ESTATE Include h	ome, vacation prop	erty, time	shares, v	acant la	nd and	other	real estat	e. (Use	additional sheets	if necessary.)		
Description/Location/County	Monthly Payment(s)		Fir	ancing			Current '	Value	Balance Owe	d Equity		
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Primary Residence Other				Service address of the parties and the service of t		"	0"					
C. OTHER ASSETS Include and name of Life Insurance of (Use additional sheets if necession	company in Descript ary.)	tion. If ap	plicable,	include b	usines	s asse	ts such a	s tools	, equipment,	inventory, etc.		
Description	Monthly Paym	-		-	ayment (		Current '		Balance Owe			
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NOTES (For IRS Use Only)												
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Now we will cover Page 2 of Form 433-F:

**Section 'D'** is where a taxpayer enters their credit card information. It is important to know that credit card payments are; for practical purposes, not considered an allowable expense. While the IRS contends that minimum credit card payments are allowable, they consider these payments as part of the Food, Clothing and Miscellaneous Items section below. In a minute when we cover that portion, you will see why credit card payments carry no practical bearing.

**Section 'E'** is where if a taxpayer is selfemployed, they enter their business-related assets and liabilities. You will notice that this section is very similar to the bank account section and credit card sections we previously covered. As always be complete and accurate when entering information here. If the taxpayer's information does not fit on the form, include additional information in an addendum as necessary.

Section 'F' is a critical section. Here you will enter the taxpayer's employer, wage and income information. Even if a taxpayer is not an employee earning a wage, you should still enter the static information for the company in which a taxpayer works. You will see check boxes in this section asking for the frequency in which a taxpayer receives pay. PAY CLOSE ATTENTION TO THIS SECTION. When you calculate a taxpayer's take-home income, be sure to do the math properly. When estimating what a taxpayer will pay as a monthly installment payment, you should take the taxpayer's income and subtract necessary and reasonable living expenses. calculate their income incorrectly, you will most likely lose substantial leverage in negotiation. If a taxpayer gets paid monthly, the math is easy. If a taxpayer gets paid semimonthly, once again it is not hard to calculate. On the other hand, if a taxpayer gets paid weekly be sure to multiply the average net income of the checks a taxpayer are including by 52 and divide by 12. If a taxpayer gets paid bi-weekly (every other week) you must multiply the average net income by 26 and divide by 12. When determining what numbers to include as gross pay and corresponding taxes withheld, you typically take the average of three-months pay over the given period. If you can show that a taxpayer earned less over an expanded period of time, you may go back either six-months, one year, or two years.

**Section 'G'** addresses "Other Income". Here a taxpayer will include income other than wages such as social security income or net business income if a taxpayer is self-employed. If a taxpayer is self-employed and earns net business income, the IRS may ask for additional substantiation which may include a Profit and Loss Statement to tie in with the amount indicated on the form.

Lastly is **Section 'H'**. This too is a critical section. The number included here, along with the income amounts and car and mortgage payments determine how much a taxpayer will pay in monthly installments. In #1, Food, Miscellaneous Clothing & Items, Transportation, and #4 Out of Pocket Health Care, a taxpayer typically enter the IRS National and Local Standards (see www.irs.gov and enter "national and local standards for living expenses") based upon the number of people in their household. In these three sections the IRS allows a taxpayer to enter the standard requiring no substantiation. As mentioned earlier, minimum credit card payments are allowed under the Food. Clothing Miscellaneous items section. Because the entire Standard allowed with is no substantiation, if credit card payments are included in this section they will have no practical bearing and in essence makes a

taxpayer no better off in terms of ability to pay. The other items a taxpayer may include on the form such as Housing and Utilities, Health Insurance and the items listed under section #5 "Other" should be the actual amounts a taxpayer pay. Keep in mind that all income and expenses other than those that are allowed with no substantiation as listed above need to be substantiated. To prove the amount a taxpayer takes home in income you need to provide three-months pay stubs. substantiate non-standard expenses a taxpayer needs to provide three-months proof of expense and payment. Simply owing something does not make it an allowable expense. In addition a taxpayer must provide three-months bank statements for all personal accounts listed on page one, and business accounts listed on page two.

Be sure to include the amount a taxpayer paid for current tax payments as well as the amount a taxpayer pay for delinquent payments of governmental agencies other than the IRS on this form. A taxpayer does not want to include a current IRS installment payment because the IRS will assume a taxpayer are able to include this expense toward the proposed payment amount they are trying to negotiate.

Once the form is complete a taxpayer can calculate their net take-home pay and subtract out the necessary and reasonable living expenses to determine a proposed payment amount for the monthly installment agreement.

We will now look at page 2 of the form using John and Jane Doe's information...

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91.0									
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ecessary.) Complete E2 if you									
. Accounts Receivable									
Crean		ments are	Addres	s		Amount Ov	/ed		
N/A considered "allowabl			7 144100			7 11104111 5 1	- Jweu		
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Now that we have looked at Form 433-F in detail, let's review the information we included in the form to see how much the Doe's will pay on a monthly basis...

<u>Analysis</u>		<u>Analysis</u>		
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## **Installment Agreement - Family of Four**

<u>Item</u> Income	Monthly <u>Amount</u>	<u>Notes</u>
Gross Wages	area areasemen	
Taxpayer	7,661	Actual
Spouse	3,767	Actual
Taxes		
Federal	(2,186)	Actual
State	(1,026)	Actual
Take-home pay:		3,216
Expenses  Housing and Utilities		
Mortgage	3,200	Actual
Utilities	433	Actual
Food/Clothing/Etc.	1,482	Standard
Transportation		
Payments	990	Actual
Maintenance/Gas/Insruance	590	Standard
Medical		
Health insruance	195	Actual
Out-of-pocket health care	240	Standard
Other		
Childcare	350	Actual
Life insurance	270	Actual
Living Expenses:		7,750

Proposed installment amount: 466

As you can see, the Doe's should offer \$466 per month. On the next page you will find Form 9465. This is the form used to formally request an installment agreement. This form is used for submitting a streamlined installment agreement request and sometimes is requested by the IRS to be included with a Form 433F or 433A. We have included the form for reference. As a you will see it is simple to complete.

Form 9465
(Rev. December 2013)
Department of the Treasury
Internal Revenue Service

#### **Installment Agreement Request**

Information about Form 9465 and its separate instructions is at www.irs.gov/form9465.
 If you are filing this form with your tax return, attach it to the front of the return.
 ▶ See separate instructions.

OMB No. 1545-0074

Tip: If you owe \$50,000 or less, you may be able to establish an installment agreement online, even if you have not yet received a bill for your taxes. Go to IRS.gov to apply to pay online. Caution: Do not file this form if you are currently making payments on an installment agreement or can pay your balance in full within 120 days. Instead, call 1-800-829-1040. Do not file if your business is still operating and owes employment or unemployment taxes. Instead, days. Instead and owes employment or unemployment taxes are laterally the telephone number on your most recent notice. If you are in bankruptcy or we have accepted your offer-in-compromise, see Bankruptcy or offer-in-compromise, in the instructions.

Dont	<b>TI</b>				7000						
Part				1 6.							
1his requ	uest is for Form(s) (for example, Form 1040 or Form 941) ► Your first name and initial	Laster		and to	r tax year(s) (for example, 2012 and 2013) ▶	v		al as as	ırity number		
ıa	98					1				E:	
	John Doe If a joint return, spouse's first name and initial Last name						123-45-6789				
	If a joint return, spouse's first name and initial	ame			8	Spouse's social security number					
	Jane Doe			4 - 6 -			987-65-4321				
	Current address (number and street). If you have a P	O. DOX	and no nome	aeliv	ery, enter your box number.		Apt. number				
	1234 Memory Lane										
	City, town or post office, state, and ZIP code. If a foreig	gn addres	ss, also comp	lete tr	ne spaces below (see instructions)						
	Anytown, USA 12345							-	o second contr		
	Foreign country name				Foreign province/state/county			Foreig	n postal code	ě.	
- 416	1611: 11									_	
1b	If this address is new since you filed your	r last ta	ax return,	cnec	ck here		197 - 17				
2	Name of your business (must be no longer operating	ng)				Employer identification number (EIN)					
3	(818) 555-1212 Evening			4	(818) 555-1000		Mor	nings			
	Your home phone number Best time	for us to	call		Your work phone number	Ext. Best time for us to call					
5	Name of your bank or other financial institution:			6	Your employer's name:						
	Main Bank				ACME Inc.						
	Address				Address						
	1111 Main Street City, state, and ZIP code				1234 Industrial Way						
					City, state, and ZIP code						
	Anytown, USA 12345				Anytown, USA 12345						
7					eturn(s) (or notice(s))						
8	Enter the amount of any payment you are	makin	g with you	ır tax	return(s) (or notice(s)). See instru-	ctions	8				
9	Subtract line 8 from line 7 and enter the r	result .					9		264,000	00	
10	Enter the amount you can pay each mont	th. Mak	ce your pa	yme	nts as large as possible to limit i	nterest			,		
	and penalty charges. The charges will co	ontinue	until you	pay	in full. If no payment amount is	listed					
	on line 10, a payment will be determined	for yo	u by divid	ing t	he balance due by 72 months		10		466	00	
11	Divide the amount on line 9 by 72 and en	nter the	result .				11		3,666	67	
	• If the amount on line 10 is less than the	amou	nt on line	11 a	nd you are unable to increase yo	ur payr	nent to	the a	amount or	ı line	
	11, complete and attach Form 433-F, Co	llection	n Informat	ion S	Statement.						
	• If the amount on line 10 is equal to or greater than the amount on line 11 but the amount you owe is greater than \$25,000 b								) but		
	not more than \$50,000, you must comple	ete eith	er line 13	or 1	4, if you do not wish to complete	Form 4	433-F.				
	• If the amount on line 9 is greater than \$	550,000	), complet	e ar	d attach Form 433-F, Collection	Informa	ation St	tatem	ent.		
12	Enter the date you want to make your page	-						281			
13	If you want to make your payments by				0			fill in	lines 13a	and	
	13b. This is the most convenient way to r	make y	our paym	ents	and it will ensure that they are m	ade or	ı time.				
	a Routing number 0 0 0 0 0 0	0 0	0 0								
<b>&gt;</b>	b Account number 1 1 1 1 1	1 1	1 1 1	П							
	,										
	I authorize the U.S. Treasury and its designate										
	institution account indicated for payments or authorization is to remain in full force and e	of my Fe	ederal taxe ntil I notify	s ov	ved, and the financial institution to ILS Treasury Financial Agent to te	debit th	e entry	to the	s account. Ition To re	. This	
	payment, I must contact the U.S. Treasury Fin	nancial /	Agent at 1-	800-	829-1040 no later than 14 business of	lays pric	or to the	paym	nent (settler	ment)	
	date. I also authorize the financial institutions necessary to answer inquiries and resolve issu					es to re	ceive c	onfide	ntial inform	nation	
	necessary to answer inquiries and resolve issu	ues rela	rea to the h	ayıll	onto.						
14	If you want to make your payments by pa	avroll d	leduction	che	ck this box and attach a complet	ed For	m 2159	). Pav	roll Deduc	ction	
6585	Agreement	and the second	ACCO CONTRACTOR CONTRACTOR AC					., . uy			
Your sig	·		Date		Spouse's signature. If a joint return, both			- 1	Date		
rout sty	paran v		Date		opodoe o oignature. Il a joint returil, <b>both</b>	must SIY	r. ic		Date		