

Notice of Proposed Rulemaking

Agreements for Payment of Tax Liability in Installments

REG-100841-97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to terminations of agreements for the payment of tax liabilities in installments (installment agreements). The proposed regulations reflect changes made to section 6159 of the Internal Revenue Code of 1986 (Code) by the Taxpayer Bill of Rights 2. The proposed regulations provide a procedure for requesting an independent administrative review of an alteration, modification, or termination of an installment agreement.

DATES: Written comments and requests for a public hearing must be received by March 31, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-100841-97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m.: CC:DOM:CORP:R (REG-100841-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Kevin B. Connelly, (202) 622-3640 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Admin-

istration Regulations (26 CFR part 301) relating to installment agreements under section 6159 of the Code. Section 201 of the Taxpayer Bill of Rights 2 (TBOR2), Pub. L. No. 104-168, 110 Stat. 1452 (1996), amended section 6159 to provide that the Secretary may not alter, modify, or terminate an installment agreement unless notice of such action is given not later than 30 days before the date of the action. The notice must explain why the Secretary intends to take the proposed action. Section 202 of TBOR2 provides that the Secretary shall provide an independent administrative review of the termination of an installment agreement upon request of the taxpayer. These proposed regulations reflect the change made by Section 202 of TBOR2. In addition, although the IRS rarely alters or modifies an installment agreement, the proposed regulations give taxpayers the right to an independent administrative review of alterations or modifications.

Explanation of Provisions

Sections 201 and 202 of TBOR2 amended section 6159 of the Code with respect to installment agreements. Section 201 provides that the Secretary may not alter, modify, or terminate an installment agreement unless notice of such action is given to the taxpayer at least 30 days before the action. The notice must explain why the Secretary intends to take the proposed action. Notice is not necessary if collection of the tax to which the installment agreement relates is in jeopardy.

Prior to the enactment of TBOR2, Section 6159 of the Code required notice only if the Internal Revenue Service intended to alter, modify, or terminate an installment agreement because of a change in the taxpayer's financial condition. Section 301.6159-1(c)(4) of the regulations that are being amended by this notice of proposed rulemaking, however, already requires 30 days notice whenever the IRS intends to alter, modify, or terminate any agreement, regardless of the reason for the action. The only exception to this rule is that no notice is required if collection of the tax to which the installment agreement relates is in jeopardy. In addition, existing paragraph (c)(4) requires the no-

tice to explain the reason for the intended action. In light of existing paragraph (c)(4), the regulations do not have to be amended to reflect section 201 of TBOR2.

Section 202 of TBOR2 provides that, upon request by a taxpayer, the Secretary shall provide an independent administrative review of the termination of an installment agreement. In addition, although the IRS rarely alters or modifies an installment agreement, the proposed regulations grant taxpayers the right to request an independent administrative review of alterations or modifications. Procedures for requesting an independent administrative review are contained in the proposed regulations.

When the Internal Revenue Service intends to terminate an installment agreement, it currently sends the taxpayer a written notice of its intent. The notice (1) informs the taxpayer why the Internal Revenue Service intends to terminate the agreement, (2) notifies the taxpayer that the Internal Revenue Service intends to levy the taxpayer's property, (3) explains that the taxpayer has a right to request an independent review of the Internal Revenue Service's decision, and (4) tells the taxpayer to call the telephone number listed on the notice within 30 days of the date of the notice if the taxpayer wishes to stay collection and request the Internal Revenue Service to review its decision. If the taxpayer timely calls the telephone number listed on the notice, the employee attempts to resolve the case with the taxpayer. If the taxpayer and the employee are not able to resolve the case to the taxpayer's satisfaction, a conference is set up with a manager. If the manager and the taxpayer are unable to resolve the case, the manager forwards the case to Appeals for an independent administrative review. Absent jeopardy, collection action is stayed until the appeals officer has informed the taxpayer of a decision.

The proposed regulations provide that, if a taxpayer disagrees with a determination to alter, modify, or terminate an installment agreement, the taxpayer may initiate an independent administrative review of the determination by calling the telephone number listed on the notice within

30 days of the date of the notice. This will set the review process in motion.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Kevin B. Connelly, Office of Assistant Chief Counsel (General Litigation) CC:EL:GL, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6159-1 is amended by revising paragraphs (c)(4) and (g) to read as follows:

§301.6159-1 Agreements for payment of tax liability in installments.

* * * * *

(c) * * *

(4) *Notice.* Unless the director determines that collection of the tax is in jeopardy, the director will notify the taxpayer in writing at least 30 days before altering, modifying, or terminating an installment agreement pursuant to paragraph (c)(1) or (2) of this section. A notice provided pursuant to this paragraph must briefly describe the reason for the intended alteration, modification, or termination. If the taxpayer disagrees with the director's decision to terminate, alter, or modify the installment agreement, the taxpayer has the right to an independent administrative review. The taxpayer may initiate an independent administrative review by calling the telephone number listed on the notice within 30 days of the date of the notice. If, upon calling the telephone number listed on the notice, the dispute is not resolved to the taxpayer's satisfaction, the taxpayer must speak with a manager. If, after speaking with a manager, the dispute still is not resolved to the taxpayer's satisfaction, the taxpayer may request the Office of Appeals to independently review the decision. The Office of Appeals shall conduct a review to determine whether the facts and circumstances warrant the alteration, modification, or termination of the taxpayer's installment agreement.

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(g) *Effective date.* This section is applicable December 23, 1994, except that paragraph (c)(4) of this section is applicable on the date final regulations are published in the Federal Register.

Michael P. Dolan,
Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on December 30, 1997, 8:45 a.m., and published in the issue of the Federal Register for December 31, 1997, 62 F.R. 68241)