

Current Federal Tax Developments

Week of November 9, 2020

Edward K. Zollars, CPA
(Licensed in Arizona)

ACCOUNTING
CONTINUING EDUCATION

CURRENT FEDERAL TAX DEVELOPMENTS
WEEK OF NOVEMBER 9, 2020
© 2020 Kaplan, Inc.
Published in 2020 by Kaplan Financial Education.

Printed in the United States of America.

All rights reserved. The text of this publication, or any part thereof, may not be translated, reprinted or reproduced in any manner whatsoever, including photocopying and recording, or in any information storage and retrieval system without written permission from the publisher.



Current Federal Tax Developments

Kaplan Financial Education

Contents

Section: 401 Final Regulations Modify Tables for Computing RMDs, Effective Beginning in 2022.....	1
Section: 6081 Attorney Who Believed His CPA Had Filed for An Extension Did Not Have Reasonable Cause for Late Filing	8
Section: 6651 IRS News Release Describes Collection Options for Taxpayers Impacted by COVID-19.....	14

SECTION: 401

FINAL REGULATIONS MODIFY TABLES FOR COMPUTING RMDS, EFFECTIVE BEGINNING IN 2022

Citation: TD 9930, 11/5/20

The various tables used to compute required minimum distributions from retirement plans have been updated, taking effect beginning in 2022, as the IRS has issued revised regulations under IRC §401(a)(9).¹

In August 2018, Executive Order 13847, 83 FR 45321, directed the IRS to review the life expectancy and distribution tables to determine if they should be updated to reflect current mortality data, and how often such tables should be updated. In November 2019 the IRS released proposed regulations containing proposed updated tables.

Longer Life Expectancy Tables

In the preamble to the final regulations, the IRS provides the following description of the changes that were made:

The life expectancy tables and applicable distribution period tables in these regulations generally reflect longer life expectancies than the tables in formerly applicable §1.401(a)(9)-9. For example, a 72-year-old IRA owner who applied the Uniform Lifetime Table under formerly applicable §1.401(a)(9)-9 to calculate required minimum distributions used a life expectancy of 25.6 years. Applying the Uniform Lifetime Table set forth in these regulations, a 72-year-old IRA owner will use a life expectancy of 27.4 years to calculate required minimum distributions. As another example, a 75-year-old surviving spouse who is the employee's sole beneficiary and applied the Single Life Table under formerly applicable §1.401(a)(9)-9 to compute required minimum distributions used a life expectancy of 13.4 years. Under these regulations, a 75-year-old surviving spouse will use a life expectancy of 14.8 years. The effect of these changes is to reduce required minimum distributions generally, which will allow participants to retain larger amounts in their retirement plans to account for the possibility they may live longer.²

¹ TD 9930, November 5, 2020, <https://public-inspection.federalregister.gov/2020-24723.pdf> (retrieved November 6, 2020)

² TD 9930, Summary of Comments and Explanation of Provisions, I. Overview

2 Current Federal Tax Developments

The updated Uniform Lifetime Table,³ used to calculate the required minimum distributions, is provided below:

Age of employee	Distribution period
72	27.4
73	26.5
74	25.5
75	24.6
76	23.7
77	22.9
78	22.0
79	21.1
80	20.2
81	19.4
82	18.5
83	17.7
84	16.8
85	16.0

³ Reg. §1.401(a)(9)-9(c)

Age of employee	Distribution period
86	15.2
87	14.4
88	13.7
89	12.9
90	12.2
91	11.5
92	10.8
93	10.1
94	9.5
95	8.9
96	8.4
97	7.8
98	7.3
99	6.8
100	6.4
101	6.0

4 Current Federal Tax Developments

Age of employee	Distribution period
102	5.6
103	5.2
104	4.9
105	4.6
106	4.3
107	4.1
108	3.9
109	3.7
110	3.5
111	3.4
112	3.3
113	3.1
114	3.0
115	2.9
116	2.8
117	2.7

Age of employee	Distribution period
118	2.5
119	2.3
120	2.0

This table is described by the IRS as follows in the preamble to the regulations:

The Uniform Lifetime Table in these regulations sets forth joint and last survivor life expectancies for each age beginning with age 72, based on a hypothetical beneficiary. Pursuant to §1.401(a)(9)-5, Q&A-4(a), the Uniform Lifetime Table is used for determining the distribution period for lifetime distributions to an employee in situations in which the employee's surviving spouse either is not the sole designated beneficiary or is the sole designated beneficiary but is not more than 10 years younger than the employee. The joint and last survivor life expectancy of an employee is taken from the Joint and Last Survivor Table using a hypothetical beneficiary who is assumed to be 10 years younger than the employee.⁴

In a footnote, the IRS reminds readers why the revised table starts at age 72 rather than 70:

The proposed regulations included Uniform Lifetime Table entries beginning with age 70. These regulations do not include Uniform Lifetime Table entries for ages 70 and 71 because section 114 of the SECURE Act changed the minimum age for receiving required minimum distributions from age 70½ to age 72.⁵

The regulation also provides updates to the following tables:

- Single life table;⁶
- Joint and last survivor life table;⁷ and

⁴ TD 9930, Summary of Comments and Explanation of Provisions, III. Updated Life Expectancy and Distribution Period Tables

⁵ TD 9930, Summary of Comments and Explanation of Provisions, III. Updated Life Expectancy and Distribution Period Tables, Footnote 14

⁶ Reg. §1.409(a)(9)-9(b)

⁷ Reg. §1.409(a)(9)-9(d)

6 Current Federal Tax Developments

- Mortality rates table.⁸

Upcoming Ruling on Substantially Equal Periodic Payments

The preamble notes that the agency will be issuing a ruling on applying these new provisions to substantially equal periodic payments:

The Treasury Department and the IRS anticipate issuing guidance that would update Rev. Rul. 2002-62. This update would apply the life expectancy, distribution period, and mortality tables set forth in these regulations for purposes of determining substantially equal periodic payments once these regulations become effective.⁹

Applicability Dates

The regulations provide details on how and when the new regulations will apply to distributions:

The life expectancy tables and Uniform Lifetime Table set forth in this section apply for distribution calendar years beginning on or after January 1, 2022. For life expectancy tables and the Uniform Lifetime Table applicable for earlier distribution calendar years, see §1.401(a)(9)-9, as set forth in 26 CFR part 1 revised as of April 1, 2020 (formerly applicable §1.401(a)(9)-9).¹⁰

The regulations contain additional guidance on the use of these tables for life expectancies that may be recalculated:

If an employee died before January 1, 2022, and, under the rules of §1.401(a)(9)-5, the distribution period that applies for a calendar year following the calendar year of the employee's death is equal to a single life expectancy calculated as of the calendar year of the employee's death (or, if applicable, the following calendar year), reduced by 1 for each subsequent year, then that life expectancy is reset as provided in paragraph (f)(2)(ii) of this section.¹¹

The redetermination under this provision is to be handled via these rules

With respect to a life expectancy described in paragraph (f)(2)(i) of this section, the distribution period that applies for a distribution calendar year beginning on or after January 1, 2022, is determined by using the

⁸ Reg. §1.409(a)(9)-9(e)

⁹ TD 9930, Summary of Comments and Explanation of Provisions, V. Use of Revised Tables to Determine Substantially Equal Periodic Payments

¹⁰ Reg. §1.409(a)(9)-9(f)(1)

¹¹ Reg. §1.409(a)(9)-9(f)(2)(i)

Single Life Table in paragraph (b) of this section to determine the initial life expectancy for the age of the relevant individual in the relevant calendar year and then reducing the resulting distribution period by 1 for each subsequent year. However, see section 401(a)(9)(H)(ii) and (iii) for rules limiting the availability of a life expectancy distribution period.¹²

The regulation provides the following example of applying this rule:

EXAMPLE, REG. §1.409(A)(9)-9(F)(2)(II)(B), REDETERMINATION

Assume that an employee died at age 80 in 2019 and the employee's designated beneficiary (who was not the employee's spouse) was age 75 in the year of the employee's death. For 2020, the distribution period that would have applied for the beneficiary was 12.7 years (the period applicable for a 76-year-old under the Single Life Table in formerly applicable §1.401(a)(9)-9), and for 2021, it would have been 11.7 years (the original distribution period, reduced by 1 year). For 2022, if the designated beneficiary is still alive, then the applicable distribution period would be 12.1 years (the 14.1-year life expectancy for a 76-year-old under the Single Life Table in paragraph (b) of this section, reduced by 2 years). However, see section 401(a)(9)(H)(iii) for rules regarding how to apply the required distribution rules to defined contribution plans if the eligible designated beneficiary dies prior to distribution of the employee's entire interest.

The regulation provides for the following if the employee's sole beneficiary was the employee's surviving spouse:

Similarly, if an employee's sole beneficiary is the employee's surviving spouse, and the spouse dies before January 1, 2022, then the spouse's life expectancy for the calendar year of the spouse's death (which is used to determine the applicable distribution period for later years) is reset as provided in paragraph (f)(2)(ii) of this section.¹³

The proposed regulations originally would have had these regulations apply for 2021—so why do the final regulations push this liberalization back to 2022? The IRS explains this change in the effective date in the preamble:

A number of commenters also requested that the effective date of the final regulations be delayed to 2022 (instead of 2021). They noted that plan sponsors and IRA providers are currently working to update their systems for the SECURE Act changes to section 401(a)(9) and recommended that the effective date of these regulations be delayed in order to allow administrators sufficient additional time to update systems for these regulations. As described in the Effective/Applicability Date section of this preamble, these regulations

¹² Reg. §1.409(a)(9)-9(f)(2)(ii)(A)

¹³ Reg. §1.409(a)(9)-9(f)(2)(i)

will apply to distribution calendar years beginning on or after January 1, 2022.¹⁴

SECTION: 6081

ATTORNEY WHO BELIEVED HIS CPA HAD FILED FOR AN EXTENSION DID NOT HAVE REASONABLE CAUSE FOR LATE FILING

Citation: *Baer v. United States*, US Court of Federal Claims, Case No. 19-1439, 11/5/20

In the case of *Baer v. United States*,¹⁵ US Court of Federal Claims, Case No. 19-1439, an attorney argued that because he believed that his CPA had filed for an extension of time to file his personal income tax return, he should be granted reasonable cause relief from a failure to file penalty. The Court denied the request, finding that, per the Supreme Court's precedent in the *Boyle* case¹⁶ the timely filing of the extension was a nondelegable duty of the taxpayer.

The case involved a taxpayer who had engaged a CPA to prepare his tax return. Each year the taxpayer had not been ready to file by April 15, and therefore an extension of time to file the return was required to be requested.

The opinion provides the following history of this process of requesting an extension for each year:

The plaintiff hired his CPA to prepare his return for the 2009 tax year on behalf of him and his then-spouse, Cheryl Baer. (Id. ¶ 15.) The CPA mailed or e-filed a timely Extension Form 4868, which extended the time to file the plaintiff's 2009 tax return from April 15, 2010, to October 15, 2010. (Id.) The 2009 extension form estimated the Baers' tax liability at \$173,873, reflected total payments of \$141,873, and estimated a balance due of \$32,000. (ECF 1-2, Compl. Ex. A.) The plaintiff filed his personal income-tax return on June 21, 2010, with the additional balance owing of \$32,000, that the plaintiff did not pay in full at that time. (Compl. ¶ 16.) While originally assessed with a penalty for failure to file a timely return for tax year 2009, the IRS later abated the plaintiff's penalty after determining that Extension

¹⁴ TD 9930, SUPPLEMENTARY INFORMATION, Background, II. Regulations under Section 401(a)(9)

¹⁵ *Baer v. United States*, US Court of Federal Claims, Case No. 19-1439, November 5, 2020, https://ecf.cofc.uscourts.gov/cgi-bin/show_public_doc?2019cv1439-21-0 (retrieved November 7, 2020)§

¹⁶ *United States v. Boyle*, 469 U.S. 241 (1985)

Form 4868 had in fact been filed by the plaintiff's CPA. (Id. ¶¶ 26-27.)

For the 2010 tax year, the plaintiff again relied on his CPA to file a timely Extension Form 4868. The filing of Extension Form 4868 on time would have permitted the plaintiff to file his return on or before October 15, 2011. On or about April 5, 2011, the plaintiff's CPA prepared Extension Form 4868 and provided a copy to Mr. Baer (Mrs. Baer was not included due to the Baers' 2010 divorce). (Id. ¶¶ 7, 24; Compl. Ex. B.) The draft Extension Form 4868 reflected an estimated federal tax liability of \$10,000, no prior payments, and an estimated balance due of \$10,000. (Compl. Ex. B.) For reasons not explained in the complaint, the plaintiff's CPA neither mailed Extension Form 4868 for tax year 2010 to the IRS nor e-filed it, even though the plaintiff was under the impression that his CPA had done so. (Compl. ¶¶ 17-18.) The plaintiff filed his individual income-tax return for tax year 2010 on December 11, 2011, with a balance due of approximately \$123,708; the plaintiff was unable to pay the balance due in full at the time he filed his return. (Id. ¶ 19.) The IRS assessed a late-filing penalty on the plaintiff for filing his return after April 15, 2011. (Id. ¶ 26.) The IRS subsequently abated the late-filing penalty for the 2010 tax year, after determining that the plaintiff qualified for the IRS's first-time abatement policy, given his "good history of timely filing and timely paying" his individual income taxes. (Id. ¶ 28.)

For the 2011 tax year, the plaintiff again relied on his CPA to mail or e-file Extension Form 4868 on or before April 15, 2012, in order to allow him to file his timely return on or before October 15, 2012. On or about March 12, 2012, Mr. Baer's CPA prepared Extension Form 4868 on his behalf. (Compl. Ex. C.) The Extension Form 4868 for the 2011 tax year reflected an estimated federal-tax liability of \$130,000, no payments made, and an estimated balance due of \$130,000. (Id.) The plaintiff received a fully completed extension form from his CPA and believed that his CPA had submitted the form to the IRS. (Compl. ¶¶ 24-25.) Unbeknownst to the plaintiff, however, and as in 2010, his CPA had not submitted to the IRS the completed Extension Form 4868 for the 2011 tax year. (Id. ¶ 20.)¹⁷

For the final year the IRS assessed the late filing penalty, and this time it was not waived when the taxpayer asked for relief.

¹⁷ *Baer v. United States*, pp. 3-4

I Thought My CPA Filed It

The taxpayer argues that he had a reasonable basis for his late filing since he believed the CPA had filed the extension. However, the IRS disagreed, arguing a taxpayer could not delegate this duty to a third party since, as the Supreme Court had ruled in *Boyle*, it takes no special expertise in taxation to mail a document on or before April 15, or to be aware that action must be taken by that well-known date:

The defendant argues that under *Boyle* and this and other courts' precedents, Mr. Baer had a non-delegable duty to file his tax return on time, even if he had had a reasonable belief that his CPA had filed a timely Extension Form 4868 on his behalf. In particular, the defendant notes the applicability of *McMahan v. C.I.R.*, 114 F.3d 366 (2d. Cir. 1997). In *McMahan*, the plaintiff relied on his attorney's assertion that an extension request had been filed on his behalf. *Id.* at 368-69. Nevertheless, the attorney erroneously failed to file the extension request, resulting in the imposition of a late-filing penalty on the taxpayer. *Id.* The Second Circuit rejected the taxpayer's argument that he had reasonable cause for his failure to file a timely return based on his agent's assurance that the agent would file the application for an extension. The Second Circuit specifically noted that "reliance on an agent for the ministerial task of filing a tax return by the statutory deadline does not constitute reasonable cause." *Id.* at 369. Mr. Baer, the defendant argues, was fully aware of the unambiguous April 15 and October 15 deadlines based on his prior extension-form submissions. His use of an agent does not negate his personal responsibility for meeting the filing deadline.¹⁸

The taxpayer's response was to say, yes that's generally true but my case is different!

The plaintiff, in large part, concedes this point: he acknowledges that he is "not contending that his duty to file timely is delegable." (ECF 19 at 2.) Nonetheless, the plaintiff argues that based on industry practice and the prior course of dealings between the plaintiff and his CPA, it was the "plaintiff's return preparer who would be the appropriate and expected individual to file the 2011 request for extension." (*Id.* at 9.) Further, the plaintiff notes that Extension Form 4868 does not require the signature of the taxpayer. By not requiring the taxpayer's signature, unlike most other tax-related filings with the IRS, an agent may more easily file Extension Form 4868 on the taxpayer's behalf and without the taxpayer's involvement. The plaintiff suggests that this aspect of the form's design and industry custom create a reasonable expectation in taxpayers that their agents will file the form on their behalf and they may reasonably rely on that

¹⁸ *Baer v. United States*, p. 7

expectation to avoid late-filing penalties, even when the agent has failed to file the form.¹⁹

Unfortunately for the taxpayer, the Court failed to see any difference that matters in this case, even when dealing with a Form 4868:

Under *Boyle*, the Court is constrained to find that, despite hiring a CPA to complete and submit Extension Form 4868 on his behalf, Mr. Baer maintained a personal responsibility to request a deadline extension or to file a tax return on or before April 15, 2012. Even though he expected that his CPA would submit the form seeking an extension, his reliance on his CPA to do so cannot excuse him from complying with a non-delegable duty. The plaintiff therefore cannot escape the late-filing penalty, unless some other legal justification can save him.²⁰

Failing to File the Form 4868 as Tax Advice?

While a taxpayer cannot get out from penalties by delegating the duty to file by April 15 to a tax professional, that's generally because it takes no special expertise to mail a form. But if the action is not taken due to erroneous tax advice provided by the adviser, then it can be a reasonable cause excuse for the failure.

However, in this case the taxpayer had to stretch a bit to find something to argue represented erroneous tax advice given to him by the CPA regarding the filing deadline. Essentially, he argued that the CPA mistakenly believed that the balance due had to be paid with the Form 4868 and, for that reason had not filed the form. He attempted to argue that this failure to file the form based on this mistaken belief of the CPA represented erroneous professional advice on which he had relied.

The taxpayer's argument is summarized in the opinion as follows:

First, the plaintiff argues that his CPA's *conduct* — i.e., not submitting Extension Form 4868 under the belief that the estimated balance due for tax year 2011 had to be paid in conjunction with the submission in order to be granted an extension — constitutes *advice*. The CPA's action of sending the completed form to Mr. Baer without filing it first was, according to the plaintiff, advice itself. The complaint, however, does not allege that the plaintiff's CPA provided legal advice on this issue. In fact, the plaintiff acknowledges in his brief that when the exchange between his CPA and him occurred, the plaintiff "did not

¹⁹ *Baer v. United States*, p. 7

²⁰ *Baer v. United States*, p. 7

have any conversation on the subject with his return preparer.” (ECF 19 at n.9.)

Second, the plaintiff argues that he relied on his CPA’s erroneous legal “advice.” The plaintiff cites a line of cases holding that when a taxpayer hires a competent tax expert and that tax expert provides mistaken advice, the taxpayer may have reasonable cause for a late filing due to reliance on the incorrect professional opinion. Here, Mr. Baer argues that the advice his CPA gave him in not filing Extension Form 4868 was erroneous; because, however, the plaintiff could reasonably rely on the advice as the professional opinion of a tax expert, he had reasonable cause for his late filing.²¹

However, the Court found neither argument persuasive. First, it found that there never had been advice rendered to the taxpayer regarding the submission of the extension form:

The Court rejects the plaintiff’s first argument and agrees with the defendant’s position that the CPA’s failure to file the extension request due to a mistaken belief that payment must accompany the request did not constitute “advice.” The plaintiff and his CPA did not discuss the submission of the extension form: the plaintiff asked no questions, and the CPA provided no instructions. Had the plaintiff alleged such communication regarding whether payment had to accompany the request for additional time to file, such communication could have constituted legal advice.²²

The Court also rejects the second argument, finding that even if the Court accepts that providing a Form 4868 to the taxpayer constituted advice, which the Court specifically did not find, that “advice” would not have been reasonable:

The Court also rejects the plaintiff’s second argument. Even if the CPA’s act of sending to Mr. Baer a copy of a completed Extension Form 4868 could be construed as the provision of tax advice by the CPA, that advice would not have been based on a “[]reasonable factual or legal assumption[],” *Stobie Creek, supra*, and the plaintiff’s reliance on it would not be reasonable.

In 2009, when the plaintiff’s CPA correctly submitted Extension Form 4868 for him, the form instructed taxpayers to submit a payment along with the request “if you wish.” (Compl. Ex. A.)¹ On its face, the form suggested that payment in conjunction with the extension request was optional. The 2010 and 2011 versions of the form were

²¹ *Baer v. United States*, pp. 8-9

²² *Baer v. United States*, p. 9

slightly revised and explicitly instructed taxpayers that they were “not required to make a payment of the tax you estimate as due.” (Compl. Ex. B, C.)

The plaintiff’s CPA, having completed the form on Mr. Baer’s behalf all three years, would have been aware via the form’s explicit text that no payment was required to submit Extension Form 4868 and receive the automatic extension of the filing deadline. The wording of Extension Form 4868’s instructions, located on the same page on which the CPA filled in Mr. Baer’s personal information, provides clear notice to filers that no payment is necessary at that time. The provision on the face of the form of an explicit instruction regarding the ability to file for an extension of the filing deadline without payment renders any belief to the contrary unreasonable. Therefore, even accepting, as the Court must, the complaint’s allegation that Mr. Baer’s CPA made an erroneous legal assumption about the requirement that payment accompany the filing of Extension Form 4868, such an assumption was not reasonable and cannot excuse the plaintiff’s failure to perform his non-delegable duty.²³

This part of the ruling may seem harsh—after all, how would a taxpayer recognize the advice was unreasonable? Well, first the Court would likely point out that the form itself for the year in question said, rather plainly, that such a payment was not necessary.

But likely more important is the fact that Mr. Baer was an attorney. He presumably would have read the form that was provided to him and would have noted that statement—one that would have put him on notice that the CPA’s advice was in error.

Actually, in this case it’s very possible (perhaps even likely given that he is an attorney) that Mr. Baer did read that form, which would be part of the reason why he would assume the form had been provided to him solely for informational purposes. He had presumed that the CPA would have filed the form on his behalf because such a payment was not necessary with the form. But this was all based on his assumptions, not anything ever actually discussed with the CPA.

²³ *Baer v. United States*, p. 9

SECTION: 6651

IRS NEWS RELEASE DESCRIBES COLLECTION OPTIONS FOR TAXPAYERS IMPACTED BY COVID-19

Citation: “IRS makes it easier to set up payment agreements; offers other relief to taxpayers struggling with tax debts,” IR-2020-248, IRS website, 11/2/20

In a news release (IR-2020-248)²⁴ the IRS announced relief for taxpayers in various collection activities to help taxpayers struggling due to COVID-19.

The release outlines the reasons for the changes:

The IRS assessed its collection activities to see how it could apply relief for taxpayers who owe but are struggling financially because of the pandemic, expanding taxpayer options for making payments and alternatives to resolve balances owed.

“The IRS understands that many taxpayers face challenges, and we’re working hard to help people facing issues paying their tax bills,” said IRS Commissioner Chuck Rettig. “Following up on our People First Initiative earlier this year, this next phase of our efforts will help with further taxpayer relief efforts.”

“We want people to know our IRS employees are committed to continue helping taxpayers wherever possible, including offering many options for those struggling to pay their tax bills,” said Darren Guillot, the IRS Small Business/Self-Employed Deputy Commissioner for Collection and Operations Support. Guillot discussed the new relief options in a new edition of IRS “A Closer Look.”²⁵

The release summarized the relief as follows:

The revised COVID-related collection procedures will be helpful to taxpayers, especially those who have a record of filing their returns and

²⁴ “IRS makes it easier to set up payment agreements; offers other relief to taxpayers struggling with tax debts,” IR-2020-248, IRS website, November 2, 2020, <https://www.irs.gov/newsroom/irs-makes-it-easier-to-set-up-payment-agreements-offers-other-relief-to-taxpayers-struggling-with-tax-debts> (retrieved November 3, 2020)

²⁵ Darren Guillot, “New Relief for Taxpayers Experiencing COVID-19-related Financial Difficulties,” A Closer Look, IRS website, November 2, 2020, <https://www.irs.gov/about-irs/irs-offers-new-relief-options-to-help-taxpayers-affected-by-covid-19> (retrieved November 3, 2020), IR-2020-248

paying their taxes on time. Among the highlights of the Taxpayer Relief Initiative:

- Taxpayers who qualify for a short-term payment plan option may now have up to 180 days to resolve their tax liabilities instead of 120 days.
- The IRS is offering flexibility for some taxpayers who are temporarily unable to meet the payment terms of an accepted Offer in Compromise.
- The IRS will automatically add certain new tax balances to existing Installment Agreements, for individual and out of business taxpayers. This taxpayer-friendly approach will occur instead of defaulting the agreement, which can complicate matters for those trying to pay their taxes.
- To reduce burden, certain qualified individual taxpayers who owe less than \$250,000 may set up Installment Agreements without providing a financial statement or substantiation if their monthly payment proposal is sufficient.
- Some individual taxpayers who only owe for the 2019 tax year and who owe less than \$250,000 may qualify to set up an Installment Agreement without a notice of federal tax lien filed by the IRS.
- Additionally, qualified taxpayers with existing Direct Debit Installment Agreements may now be able to use the Online Payment Agreement system to propose lower monthly payment amounts and change their payment due dates.²⁶

The news release then goes on to provide some more specific details for various items of relief under the new initiative.

Installment Plans and Payment Agreements

The news release provides the following additional information regarding installment plans and payment agreements:

The IRS offers options for short-term and long-term payment plans, including Installment Agreements via the Online Payment Agreement (OPA) system. In general, this service is available to individuals who owe \$50,000 or less in combined income tax, penalties and interest or

²⁶ IR-2020-248

businesses that owe \$25,000 or less combined that have filed all tax returns. The short-term payment plans are now able to be extended from 120 to 180 days for certain taxpayers.

Installment Agreement options are available for taxpayers who cannot full pay their balance but can pay their balance over time. The IRS expanded Installment Agreement options to remove the requirement for financial statements and substantiation in more circumstances for balances owed up to \$250,000 if the monthly payment proposal is sufficient. The IRS also modified Installment Agreement procedures to further limit requirements for Federal Tax Lien determinations for some taxpayers who only owe for tax year 2019.²⁷

Temporarily Delaying Collection

The notice reminds taxpayers about options for the IRS to temporarily delay collections:

Taxpayers can contact the IRS to request a temporary delay of the collection process. If the IRS determines a taxpayer is unable to pay, it may delay collection until the taxpayer's financial condition improves.²⁸

This portion of the release links to an IRS webpage²⁹ on such temporary delays and the currently not collectible status. In part that page provides:

If we determine that you cannot pay any of your tax debt, we may report your account currently not collectible and temporarily delay collection until your financial condition improves. Being currently not collectible does not mean the debt goes away, it means the IRS has determined you cannot afford to pay the debt at this time. Prior to approving your request to delay collection, we may ask you to complete a Collection Information Statement (Form 433-F, Form 433-A or Form 433-B) and provide proof of your financial status (this may include information about your assets and your monthly income and expenses). You should know that if we do delay collecting from you, your debt will increase because penalties and interest are charged until you pay the full amount. During a temporary delay, we will again

²⁷ IR-2020-248

²⁸ IR-2020-248

²⁹ "Temporarily Delay the Collection Process," IRS webpage, October 25, 2020
<https://www.irs.gov/businesses/small-businesses-self-employed/temporarily-delay-the-collection-process>
(retrieved November 3, 2020)

review your ability to pay. We may also file a Notice of Federal Tax Lien to protect the government's interest in your assets.³⁰

The page directs taxpayers looking to ask for a temporary delay in collection activities to call 1-800-829-1040 or the phone number on their bill or notice.³¹

Offer in Compromise

The release goes on to discuss offer in compromise as an option, as well as certain changes to the program due to COVID-19:

Certain taxpayers qualify to settle their tax bill for less than the amount they owe by submitting an Offer in Compromise. To help determine eligibility, use the Offer in Compromise Pre-Qualifier tool.³² Now, the IRS is offering additional flexibility for some taxpayers who are temporarily unable to meet the payment terms of an accepted offer in compromise.³³

Taxpayers are directed to the IRS's main offer in compromise page³⁴ for additional information.

Relief from Penalties

Finally, the news release highlights options for taxpayers to seek relief from penalties. The page provides:

The IRS is highlighting reasonable cause assistance available for taxpayers with failure to file, pay and deposit penalties. First-time penalty abatement relief is also available for the first time a taxpayer is subject to one or more of these tax penalties.³⁵

Taxpayers are directed to the following IRS pages via links to deal with penalties:

- “Penalty Relief Due to First Time Penalty Abatement or Other Administrative Waiver”³⁶ to obtain general information on administrative relief from penalties.

³⁰ “Temporarily Delay the Collection Process,” IRS webpage, October 25, 2020

³¹ “Temporarily Delay the Collection Process,” IRS webpage, October 25, 2020

³² https://irs.treasury.gov/oic_pre_qualifier/ (retrieved November 3, 2020)

³³ IR-2020-248

³⁴ “Offer in Compromise,” IRS webpage, September 28, 2020 <https://www.irs.gov/payments/offer-in-compromise> (retrieved November 3, 2020)

³⁵ IR-2020-248

³⁶ <https://www.irs.gov/businesses/small-businesses-self-employed/penalty-relief-due-to-first-time-penalty-abatement-or-other-administrative-waiver>, June 12, 2020 (retrieved November 3, 2020)

18 Current Federal Tax Developments

- “Penalty Relief Due to Reasonable Cause,”³⁷ for more specific information on cases where reasonable cause relief from a penalty may be granted.

³⁷ <https://www.irs.gov/businesses/small-businesses-self-employed/penalty-relief-due-to-reasonable-cause>, March 20, 2020 (retrieved November 3, 2020)