

## #27 DIRECT THE IRS TO STUDY THE FEASIBILITY OF USING AN AUTOMATED FORMULA TO IDENTIFY TAXPAYERS AT RISK OF ECONOMIC HARDSHIP

### Present Law

The IRC contains several provisions that protect taxpayers experiencing economic hardship from IRS collection actions.

IRC § 6343 requires the IRS to release a levy if the IRS determines that the levy “is creating an economic hardship due to the financial condition of the taxpayer.”

IRC § 6330 authorizes a taxpayer, in a collection due process hearing, to raise the inability to pay the tax due to hardship as a challenge to the appropriateness of an IRS collection action.

IRC § 7122 requires the IRS to develop and publish schedules of national and local allowances (known as “allowable living expenses” or (ALEs)) to ensure that taxpayers entering into offers in compromise are left with an adequate means to provide for basic living expenses.

### Reasons for Change

The IRS is generally required to halt collection actions if a taxpayer demonstrates that he or she is in economic hardship, yet the IRS routinely enters into installment agreements (IAs) with taxpayers without undertaking the financial analysis required to make a hardship determination. For example, taxpayers need not submit any financial information to qualify for streamlined IAs and may enter into them online without interacting with an IRS employee. Many anxious or intimidated taxpayers seeking to resolve their liabilities as quickly as possible may be unaware that the IRS is required to halt collection action if they are in economic hardship, and thus they agree to make tax payments they cannot afford.

Over the last six years, taxpayers whose cases were assigned to the IRS’s Automated Collection System (ACS) entered into nearly 4.3 million IAs. About 84 percent of those IAs were streamlined. TAS estimates that about 40 percent of taxpayers who entered into streamlined IAs with ACS in fiscal year (FY) 2018 had incomes at or below their ALEs. To emphasize the point: four out of every ten taxpayers who agreed to streamlined IAs in ACS could have been eligible for collection alternatives, such as offers in compromise or “currently not collectible - hardship” (CNC-Hardship) status, if they had known to call the IRS to explain their financial circumstances.

That is not a fair result. Whether a taxpayer is left with sufficient funds to pay for his or her basic living expenses, or his or her family’s basic living expenses, should not depend on the taxpayer’s knowledge of the IRS’s procedural rules.

The TAS Research function has developed an automated algorithm that we believe can, with a high degree of accuracy, identify taxpayers whose incomes are below their ALEs. If the IRS validates this formula or develops an alternative formula that is reasonably accurate, it could apply the formula by automation to the accounts of all taxpayers who owe back taxes and then place a marker on the account of all taxpayers whom the screen identifies as having incomes below their ALEs. While this marker would not automatically close a case as CNC-Hardship, it could be used to alert collection employees speaking with taxpayers over the phone of the need to request additional financial information.

Furthermore, the marker could be used to trigger a notification to taxpayers entering into IAs online that informs them of their right to contact the IRS collection function for assistance if they cannot pay their tax debt without incurring economic hardship. The IRS could also use this algorithm to screen out these taxpayers from automated collection treatments such as the Federal Payment Levy Program, from selection for referral to private collection agencies, or for passport certification, unless and until the IRS has made direct personal contact with the taxpayer to verify their financial information.

An automated economic hardship screen would benefit taxpayers and the IRS alike—it would help protect low income taxpayers from agreeing to make payments that would leave them without adequate means to provide for their basic living expenses, and it would avert rework for the IRS that occurs when taxpayers default on IAs they cannot afford.

### **Recommendation**

Direct the IRS to study the feasibility of developing an automated formula to identify taxpayers who are at high risk of economic hardship and, if a reliable formula can be developed, to apply the formula for purposes of scoring cases for collection assignment, responding appropriately to taxpayers who contact the IRS regarding a balance due, alerting taxpayers at risk of economic hardship who seek to enter into streamlined IAs online of the resources available to them, and determining whether to exclude taxpayers' debts from assignment to private collection agencies.