

(1) The Commissioner, or a delegate thereof, is authorized to enter into an installment payment agreement with a taxpayer if it is determined that the agreement will facilitate collection of a tax administered or collected by the department. An installment payment agreement can only be entered into for a tax administered or collected by the department that has been finally assessed.

(2) Determination of the Ability To Pay.

(a) Taxpayers must be able to provide financial statements indicative of available assets, including but not limited to cash, real property, or personal property to determine whether an installment agreement will facilitate the collection of the tax.

(b) Agreements extended to corporations for the payment of trust fund taxes require a personal guarantee of the responsible corporate officer(s) who have personal liability under §§40-29-72 and 40-29-73, Code of Ala. 1975, as amended.

(3) Taxpayer Required Documentation.

(a) Taxpayers requesting an installment payment agreement from the department may be required to complete a Collection Information Statement and submit proof of financial information using the forms prescribed by the department. These forms must:

1. Disclose all assets and expenses.
2. Be signed under penalties of perjury.
3. Provide accurate and complete information.

(b) Any inaccurate or incomplete information provided by the taxpayer will result in the termination, alteration, or modification of the agreement, upon notice provided in accordance with paragraph (5) of this rule.

(c) The department may request updated Collection Information Statements whenever there is reason to believe that the taxpayer's ability to pay has significantly changed.

(4) Requirements and Terms of Installment Payment Agreements.

(a) Any taxpayer entering into an installment payment agreement with the department is responsible for making payments according to the terms of the installment payment agreement. The installment agreement will specify:

1. The payment amounts.

2. The payment due dates.
3. The address to which the payment are to be directed.
4. The agreement termination date.

(b) Any refund that may be due from the department while an installment payment agreement is in affect may be credited against the tax liability that is the subject of the installment payment agreement.

(c) During the course of the installment payment agreement, additional interest as provided by law will accrue on the total unpaid balance at the rate established under the authority of §40-1-44, Code of Ala. 1975.

(d) All tax returns for taxes administered or collected by the department that become due while the agreement is in effect must be filed by the due date, and all taxes due in connection with the return must be timely remitted, unless the taxpayer has contested the validity or amount of the tax pursuant to the terms of Chapter 2A of Title 40, Code of Ala. 1975.

(e) During the course of the installment payment agreement, taxpayers are required to provide notification to the department of any significant change in financial condition that would affect the ability to pay the liability.

(5) Alteration, Modification, or Termination of the Agreement.

(a) The following circumstances may result in termination, alteration, or modification of an installment payment agreement:

1. Failure to make a payments according to the terms of the agreement.
2. Failure to notify the department of any significant change in financial condition that would affect the taxpayer's ability to pay or to provide updated Collection Information Statements as requested by the department pursuant to paragraph (3) of this rule.
3. A determination by the Commissioner or the Commissioner's delegate that there is reason to believe that the collection of the tax liability which is the subject of the agreement is in jeopardy.

Note: Jeopardy is a condition that would prohibit or impede collection of a tax assessment characterized by the concealment or transfer of assets or the attempt to flee the state with assets.

4. Failure to file or pay any taxes administered by the department that come due while the installment payment agreement is in effect.

(b) Except in the case of jeopardy, prior notice will be given to the taxpayer should it become necessary to alter, modify, or terminate an installment payment agreement. Notice of termination of an installment payment agreement shall include a statement indicating that the department may collect the balance due by any method allowed by law. Notice may be provided by any of the following methods:

1. Written notice to the taxpayer's last known address.
2. Delivery of written notice in person.
3. Electronic notification.

(6) Recording of Liens and Notice to Taxpayers. An installment payment agreement will in no way prevent the department from recording liens with the Secretary of State, county probate offices, or any other location necessary to protect the state's interest in property of the taxpayer. Liens may not be released until the final payment has been received and cleared, unless the Commissioner elects otherwise.

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Authority: §§ 40-1-44, 40-2A, 40-2A-7(a)(5), 40-2A-4(b)(6), 40-29-72, and 40-29-73, Code of Ala. 1975

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