This notice was revoked on June 6, 2005 by Revenue Notice # 05-04.

Minnesota revenue notice number 99-03

Collections - Installment Payment Agreements

Statutory Authority

The Department of Revenue ("Department") has the authority to enter into installment payment agreements with taxpayers under Minnesota Statutes, § 270.67, subdivision 2. The criteria used to determine whether the Department will enter into an installment payment agreement are described below.

Factors Considered by the Department

A taxpayer who wishes to enter into a payment agreement must submit a proposal to the Department setting forth the requested payment terms. The factors the Department uses to determine whether it will agree to the proposal are as follows:

- ability of the taxpayer(s) to pay in full now; thus, a complete and accurate financial statement (on a form prescribed by the Department) may be required from the taxpayer;
- the taxpayer must be current in filing all tax returns;
- frequency and amount of the payments being proposed;
- previous non-payment history of the taxpayer;
- liquor retailers with tax debts who have been placed on liquor posting with the Department of Public Safety under Minnesota Statutes, § 270.73, do not qualify for installment payment agreements. They must pay the tax debt in full;
- the Department may require security to guarantee payment of the debt; and
- taxpayers who have a license to conduct a profession, occupation, trade, or business, and whose license is being denied to enforce the license clearance program under Minnesota Statutes, § 270.72, are required to furnish security equal to the full amount of the liability

Terms of the Agreement

If the facts of a case justify an installment payment agreement, then the following conditions apply:

- all unpaid tax amounts owed, including penalty and interest (if applicable), must be included in the principal amount of the payment;
- a tax lien may be filed on delinquent tax liabilities;
- the length of the payment agreement generally should not exceed one year, with two years as the outside maximum; a balloon payment can be used for the last payment;
- all payments made under the agreement must be paid through electronic funds transfer (EFT), unless this is impossible or impractical;
- any further tax delinquencies will result in immediate default of the payment agreement and, after notice and demand for payment, will result in enforced collection methods (such as bank or wage levies, or other types of property seizures);
- a substantial change in the taxpayer's financial ability to pay may result in a cancellation of or amendment to the payment agreement, and the taxpayer will be notified of the intent to cancel or modify;
- lottery prize winnings and tax refunds due to the taxpayer will be applied to the tax debt owed, and payments under the agreement are still required to continue on schedule;
- in the case of a tax liability owed by a business, lottery prize winnings and tax refunds of corporate officers or other responsible parties who have been assessed for personal liability, and for whom the order assessing personal liability is final, will be applied to the tax debt;
- the vendor set-off program under Minnesota Statutes, § 270.66, which authorizes the Department to apply payments owed by other state agencies to taxpayers who do business with the State of Minnesota toward their tax debt, is stopped when a payment plan has been established.

However, if the taxpayer defaults on the payment agreement, vendor set-off may be reinstated immediately; and

if the taxpayer has a sales and use tax permit issued by the Department and there are unpaid sales and use taxes included in the payment agreement, the taxpayer agrees to waive a contested case hearing in the event of revocation of the permit; in other words, if the taxpayer defaults on the agreement, the Department notifies the taxpayer of the default and if it is not cured, the taxpayer's sales tax permit is revoked without a hearing.

Dated: 1 March 1999

Terese Koenig, Director
Appeals, Legal Services and Criminal Investigation Division