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## **An Overview of Offers in Compromise**

Course #6800/QAS6800

**Course Material**



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# **An Overview of Offers in Compromise (Course #6800/QAS6800)**

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# Chapter 1: Introduction to Settling with the IRS

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## I. Course Overview

I am sure that most of you have heard the following type of commercials on one of your favorite radio stations:

*I was tens of thousands of dollars in debt to the IRS. I could not sleep at night and was stressed all of the time. Finally, I called XYZ Tax Resolution Center and they settled my debt for pennies on the dollar. My only regret is that I did not call sooner. Do yourself a favor and call XYZ Tax Resolution Center today.*

These types of claims and commercials have become so prevalent that both the IRS and the Consumer Financial Protection Bureau are considering oversight of this portion of the financial services industry. Concerns have developed based on requirements of large “up front” fees and frequent failures to settle debts based on promised terms. The Federal Trade Commission and state attorneys general also have won some high-profile cases against tax debt firms in recent years.

The fact is that there is an industry dedicated to help taxpayers resolve cases with the IRS. For many taxpayers, hiring a CPA or attorney or resolution company may make sense. For others, it does not. The fact remains, however, that there are a variety of mechanisms in place for taxpayers to resolve disputes, including entering into settlement agreements, appealing IRS assessments and seeking relief as an innocent spouse. There are a variety of problems a taxpayer can have and a variety of ways to try to resolve them.

The following is taken verbatim from the website of one company actively involved in resolving a claim with the IRS:

### **Back Taxes: Settle Tax Debt and IRS Problems**

#### *Owe IRS Back Taxes?*

*Whether the IRS is demanding full payment of back taxes up-front or a payment plan that is substantially higher than what you can afford to pay, we can negotiate an offer in compromise settlement on your behalf for a fraction of what is owed or to set up an arrangement for the lowest possible monthly payment with various options for making those payments, if you qualify.*

*Don't be afraid of the IRS anymore. Get tax relief fast from the nation's leading expert in resolving back taxes and IRS problems.*

*Even if you can't afford to pay your back taxes, a Certified Tax Resolution Specialist, tax attorney or CPA, can give you the help you need to settle your IRS debt.*

#### *Owe Unpaid Employment Taxes or Delinquent Payroll Taxes?*

*If you owe back taxes or if you've been threatened with an IRS levy, lien, seizure or the denial or termination of an installment agreement, let us represent you and put an end to your IRS problems! We can help you file an IRS Collection Appeal to stop an IRS levy or seizure.*

*Check out these tax resolution strategies that can help you resolve your back taxes:*

*If you owe less than \$10,000 in back taxes: If you have a clean IRS record and all your tax returns are filed - you can call the IRS directly and they can (it's guaranteed) arrange a payment plan to be paid in 36 monthly installments.*

*If you owe \$20,000 or more in back taxes: You will want to partner with a Certified Tax Resolution Specialist or a tax attorney to increase your chances of qualifying for an IRS payment plan, helping you settle your back tax debt for the lowest possible amount, and removing bank levies, tax liens or wage garnishments.*

#### *Offer in Compromise*

*If you can't afford to pay your back taxes in full, the Offer in Compromise program provides taxpayers who owe the IRS more than they could ever afford to pay, the opportunity to pay a small amount as a full and final payment. Taxpayers who attempt to file for an Offer in Compromise on their own often put themselves at risk of not qualifying for a settlement or they end up paying more than they have to.*

#### *IRS Payment Plans*

*If you can't pay your back taxes in full but could potentially pay them back over time, you can negotiate a reasonable monthly payment plan with the IRS. Once an IRS Payment Plan (also known as an Installment Agreement) is established, the IRS will not enforce collection action, including the levy of bank accounts or wages, as long as the taxpayer remains current with all filing and payment obligations.*

#### *Delinquent Tax Returns*

*To qualify for an IRS payment plan or Offer in Compromise tax settlement to resolve your back taxes, you need to file all delinquent tax returns with the IRS. Regardless of what you have heard, you have the right to file your original tax return, no matter how late it's filed. Until you have filed all legally required tax returns, the IRS will not entertain any type of tax settlement or payment plan to settle your back taxes.*

#### *Expiration of Back Taxes: Statute of Limitations on IRS Collections*

*This can be one of the most effective ways to eliminate back taxes, especially if they have been assessed against you years ago. The IRS is prohibited, by law, from collecting on expired back taxes. Generally, the IRS has 10 years from the date of assessment (usually close to the filing date or audit assessment date) to collect back taxes. An expert tax attorney, CPA or Certified Tax Resolution Specialist can help resolve your back taxes and other IRS problems by performing a Collection Statute Expiration Date (CSED) analysis. We can determine on what day you will be free of this obligation. We accomplish this by obtaining and analyzing your IRS Tax Transcripts and Records of Account. If the expiration date is nearing, many times it is advantageous to*

*the consumer to just "do nothing". However, you need an expert to guide you through this process due to the many exceptions and obstacles that can get in the way.*

#### *IRS Bankruptcy Filing for Discharging Back Taxes and IRS Debt*

*As a last resort for resolving back taxes, you can file for bankruptcy if the IRS rejects your IRS Payment Plan or Offer in Compromise. However, only a seasoned tax attorney, CPA or Certified Tax Resolution Specialist can provide tax help to show you the proper sequence of events to declare bankruptcy and completely eliminate all of your back taxes, if you are eligible.*

#### *Offshore Bank Accounts: IRS Tax Settlements*

*If you owe back taxes on undeclared funds in overseas bank accounts, being proactive about disclosing your foreign funds can help reduce your chances of criminal prosecution, minimize severe IRS penalties and work out a structured IRS payment plan. If you believe that you owe back taxes on your foreign accounts, you will need a tax attorney or certified tax resolution specialist to provide professional tax help and experienced representation to proceed in your best interest.*

#### *Innocent Spouse Tax Relief*

*If you owe back taxes due to your spouse's (or ex-spouse's) actions, you may be eligible to obtain tax relief by qualifying as an innocent spouse. This means that if you can prove you are an innocent spouse, as defined by the Internal Revenue Code, the IRS can relieve you of this debt and obtain tax relief. You may not be subject to the taxes caused by your spouse or ex-spouse.*

#### *Investment Fraud Representation*

*If you owe back taxes paid on phantom profits from a fraudulent investment scheme ("Ponzi" Scheme), you may be eligible to take advantage the United States Tax Code (law) to recoup 30% to 40% of your losses. This highly technical and complex process can help you reduce taxes paid in previous years resulting in a refund with interest.*

#### *Payroll Tax Problems*

*If you owe back taxes on delinquent payroll and employment taxes, it is important to resolve the ensuing payroll tax debt problems swiftly to protect the future of your company since the IRS assigns a higher priority to collecting employment taxes than income taxes. We've helped businesses across the nation permanently resolve payroll problems and back taxes.*

#### *Freedom of Information Requests*

*It is important to understand how the IRS has assessed back taxes and penalties against you. You have the right to see governmental documents, including your IRS files, to better understand your IRS problems. The IRS must disclose the information used to assess back taxes and interest against taxpayers.*

### *Why Hire a Tax Attorney or Certified Tax Resolution Specialist?*

*While taxpayers may always represent themselves before the IRS to resolve back taxes and IRS problems, many taxpayers find dealing with the IRS frustrating, time-consuming, intimidating or all of the above and so they make the decision to hire professional tax help (specialized tax attorney, tax resolution firm, etc.) to negotiate a tax relief settlement with the IRS on their behalf.*

\* \* \* \*

While the truth is that the IRS rarely settles for only pennies on the dollar, there are procedures and rules in place that allow delinquent taxpayers to pay their taxes over time via an installment agreement or to set up a payment plan in which the IRS agrees to accept less than the total due (referred to as an Offer in Compromise). When the amount of tax owed is relatively small (typically under \$10,000), taxpayers can often reach an agreement with the IRS themselves. In larger cases, representation is usually recommended.

**Table 1.1. Major Types of Relief from Federal Tax Liability.**

<b>Installment Agreements</b>	Taxpayer makes payments over time in agreed upon intervals in which the full amount of the debt is eventually paid.
<b>Offers in Compromise</b>	Taxpayer makes payments over time in agreed upon intervals, but the IRS agrees to waive the collection of a portion of the taxes owed.
<b>Innocent Spouse Relief</b>	This provides the innocent spouse relief from additional tax owed by a taxpayer if his or her spouse or former spouse failed to report income, reported income improperly, or claimed improper deductions or credits.
<b>Bankruptcy</b>	Some federal taxes can be discharged by filing for bankruptcy protection. Depending on the type of bankruptcy protection sought, the debtor's assets will be sold and used to pay the debt or the debtor will enter into a repayment plan. In either case, much of the debt is invariably not paid.

There are also opportunities for taxpayers to challenge determinations made by the IRS through a variety of appeals processes. A delinquent taxpayer may have a number of issues to resolve with the IRS, including liens filed by the IRS on their real property or even wage attachments. This course will focus on the most common way taxpayers can attempt to reduce their tax debts – the Offer In Compromise (which will be commonly referred to throughout this course as “OIC”). The course will evaluate the bases upon which an OIC can be made, how the IRS calculates the amount of money it will receive, completing the formal application process, and post-approval actions.

A taxpayer can apply for an OIC *without the help of a third party*. If a taxpayer prefers third-party assistance in negotiating with the IRS, only certain tax professionals — Enrolled Agents (federally-authorized tax practitioners who can represent taxpayers before all administrative levels of the IRS), Certified Public Accountants (CPAs), and attorneys — have the authority to represent third parties. This is particularly important when the amount of debt the taxpayer wishes to compromise is large.

Taxpayers may also contact the Taxpayer Advocate Service, an independent organization within the IRS that provides free help to people who are experiencing financial difficulties or who need help resolving a problem with the IRS.

## **II. Overview of IRS Fresh Start Initiative**

In early 2011, the IRS announced new efforts to help some taxpayers get a “fresh start” and made major changes in the process it uses to place a lien on taxpayers’ property. The goal, according to the IRS, was to help individuals and small businesses meet their tax obligations, without adding unnecessary burden to the taxpayers. “We are making fundamental changes to our lien system and other collection tools that will help taxpayers and give them a fresh start,” IRS Commissioner Doug Shulman said at the time. “These steps are good for people facing tough times, and they reflect a responsible approach for the tax system.”

The announcement centered on the IRS making important changes to its lien filing practices that will lessen the negative impact on taxpayers. The changes included expanding a streamlined Offer in Compromise program to cover more taxpayers. In May 2012, the IRS again expanded some of the provisions of the Fresh Start program by offering more flexible terms to its Offer in Compromise (OIC) program that will enable some of the most financially distressed taxpayers to clear up their tax problems and, in many cases, more quickly than in the past.

In the past the IRS strictly applied its rules with respect to taxpayers’ budgets and valuation of assets. As a result, most taxpayers who sought a compromise received a rejection. Below are the statistics for offer acceptances during the past several years:

<b>Offers</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Number Received by IRS</b>	46,000	44,000	52,000	57,000	59,000
<b>Number Approved by IRS</b>	12,000	11,000	11,000	14,000	20,000

The changes focused on the financial analysis used to determine which taxpayers qualify for an OIC. The changes also enabled some taxpayers to resolve their tax problems in as little as two years compared to four or five years in the past. The changes announced include:

- Revising the calculation for the taxpayer’s future income;
- Allowing taxpayers to repay their student loans;



- Allowing taxpayers to pay state and local delinquent taxes; and
- Expanding the Allowable Living Expense allowance category and amount.

In general, an OIC is a legal contract between a taxpayer and the IRS that settles the taxpayer's tax liabilities for less than the full amount owed. An OIC is generally not accepted if the IRS believes the liability can be paid in full as a lump sum or a through payment agreement. The IRS looks at the taxpayer's income and assets to make a determination of the taxpayer's reasonable collection potential. OICs are subject to acceptance on legal requirements.

When the IRS calculates a taxpayer's reasonable collection potential, it will now look at only one year of future income for offers paid in five or fewer months, down from four years, and two years of future income for offers paid in six to 24 months, down from five years. All offers must be fully paid within 24 months of the date the offer is accepted.

Other changes to the program include narrowed parameters and clarification of when a dissipated asset will be included in the calculation of reasonable collection potential. In addition, equity in income producing assets generally will not be included in the calculation of reasonable collection potential for on-going businesses.

The Allowable Living Expense standards are used in cases requiring financial analysis to determine a taxpayer's ability to pay. The standard allowances provide consistency and fairness in collection determinations by incorporating average expenditures for basic necessities for citizens in similar geographic areas. These standards are used when evaluating installment agreement and offer in compromise requests.

The IRS expanded the National Standard miscellaneous allowance to include additional items. Taxpayers can use the miscellaneous allowance for expenses such as credit card payments and bank fees and charges.

Guidance has also been clarified to allow payments for loans guaranteed by the federal government for the taxpayer's post-high school education. In addition, payments for delinquent state and local taxes may be allowed based on a percentage basis of tax owed to the state and IRS.

## Chapter 1 – Review Questions

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*The following questions are designed to ensure that you have a complete understanding of the information presented in the chapter. They do not need to be submitted in order to receive CPE credit. They are included as an additional tool to enhance your learning experience.*

*We recommend that you answer each review question and then compare your response to the suggested solution before answering the final exam questions related to this chapter.*

1. Which of the following statements about Offers in Compromise is not correct:
  - a) the Offer in Compromise requires the taxpayer to pay at least 80% of his or her federal tax debt
  - b) the IRS accepts an Offer in Compromise only when they believe they could not otherwise collect the entire debt
  - c) the IRS investigates a taxpayer's financial situation before accepting an Offer in Compromise
  - d) an Offer in Compromise is a binding legal contract

## Chapter 1 – Solutions and Suggested Responses

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1. **A: Correct.** The IRS may settle for substantially less than 80% of the outstanding tax debt depending on the facts and circumstances of the case. There is no maximum percentage.

B: Incorrect. The IRS will not accept an Offer in Compromise if they think the taxpayer can pay the full amount owed, either in a lump sum or through an Installment Agreement.

C: Incorrect. The IRS wants to be sure the taxpayer is paying the most possible before entering into an Offer in Compromise. The IRS has an obligation to protect the interests of the taxpayers.

D: Incorrect. The Offer in Compromise is binding on both the IRS and the taxpayer, and contains a number of detailed terms governing payments.

(See pages 1-5 to 1-6 of the course material.)

## Chapter 2: Grounds for Seeking an Offer in Compromise

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### I. Overview

In many ways, the IRS is like any other creditor. They want to get paid everything they are owed. Like other creditors, however, they sometimes realize that it is impossible to collect all or a portion of a debt. It is in such a case that the IRS will consider allowing a taxpayer to enter into an Offer in Compromise (OIC). An OIC is an agreement between a taxpayer and the IRS that settles the taxpayer's tax liabilities for less than the full amount owed. An OIC is generally not accepted if the IRS believes the liability can be paid in full, either as a lump sum or a through payment agreement. The IRS looks at the taxpayer's income and assets – as well as a variety of other factors - to make a determination of the taxpayer's reasonable collection potential.

### A. GROUNDS FOR OFFERS IN COMPROMISE

The Internal Revenue Code gives the IRS very broad authority to compromise federal tax liabilities (IRC Section 7122). Specifically, the IRS is authorized to settle claims in one of three circumstances<sup>1</sup>:

- Doubt as to Collectability (DATC);
- Doubt as to Liability (DATL); or
- Effective Tax Administration.

IRS Policy Statement P-5-100 states:

*The Service will accept an offer in compromise when it is unlikely that the tax liability can be collected in full and the amount offered reasonably reflects collection potential. An OIC is a legitimate alternative to declaring a case currently not collectable or to a protracted installment agreement. The goal is to achieve collection of what is potentially collectable at the earliest possible time and at the least cost to the Government.*

*In cases where an OIC appears to be a viable solution to a tax delinquency, the Service employee assigned the case will discuss the compromise alternative with the taxpayer and, when necessary, assist in preparing the required forms. The taxpayer will be responsible for initiating the first specific proposal for compromise.*

*The success of the OIC program will be assured only if taxpayers make adequate compromise proposals consistent with their ability to pay and the Service makes prompt and reasonable decisions. Taxpayers are expected to provide reasonable documentation to verify their ability to pay. The ultimate goal is a compromise that is in the best interest of both the taxpayer and the government. Acceptance of an adequate offer will*

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<sup>1</sup> Treasury Regulation § 301.7122-1

*also result in creating for the taxpayer an expectation of a fresh start toward compliance with all future filing and payment requirements.*

*Unless special circumstances exist, offers will not be accepted if it is believed that the liability can be paid in full as a lump sum, or by installment payments extending through the remaining statutory period for collection, or other means of collection.*

*A Doubt As To Collectability (DATC) offer amount must usually equal or exceed a taxpayer's reasonable collection potential (RCP) in order to be acceptable. The exceptions include special circumstances in IRM 5.8.4 and acceptance on the basis of hardship or effective tax administration (ETA) as defined in IRM 5.8.11.*

The three circumstances under which the IRS may enter into an OIC each further, in some way, the objectives of the OIC program. Those objectives are to:

- Facilitate collection of what can reasonably be collected at the earliest possible time and at the least cost to the government;
- Achieve a resolution that is in the best interests of both the taxpayer and the government;
- Provide the taxpayer with a fresh start toward future voluntary compliance with all filing and payment requirements; and
- Secure collection of revenue that may not be collected through other means.

## **B. GENERAL RULES**

### **1. Deal Must Be Good for IRS**

The IRS will generally approve an offer in compromise when the amount offered represents the most they can expect to collect within a reasonable period of time. There are some precise calculations involved in coming up with that number that will be explored in great detail later. As with all choices, there are pros and cons to an OIC for a delinquent taxpayer, so a tax advisor should consider all options for their client before applying for an OIC. There are also eligibility criteria, i.e., a taxpayer in the midst of a bankruptcy proceeding is not eligible for an OIC.

### **2. Where Offers Must Be Denied**

The IRS generally does not have the authority to accept an OIC when:

- Questions concerning the amount of the taxpayer's liability or the collection of a liability for all or part of the periods the taxpayer owes is in litigation being handled by the Department of Justice;
- The federal tax liability for all or part of the periods the taxpayer owes has been reduced to a judgment;

- An offer is received that covers tax periods for which restitution was ordered. The IRS cannot accept an OIC that in any way modifies the terms of a restitution order. The IRS may consider an OIC for periods for which restitution was ordered only if the defendant has paid or will pay the full amount of the restitution as part of the offer;
- The IRS has a civil or criminal prosecution pending against the taxpayer in the Department of Justice or U.S. Attorney's Office; or
- Acceptance by the IRS is dependent upon the Department of Justice accepting a related offer or settlement.

Another limitation is that offers based on Doubt as to Collectability or Effective Tax Administration must include all unpaid tax liabilities and periods for which the taxpayer is liable.

**Example.**

*If a taxpayer submits an OIC for income tax liabilities and the taxpayer is also responsible for employment taxes for a sole-proprietorship, both the income tax and business liabilities must be included in the accepted offer.*

An OIC is effective for the entire assessed liability for tax, penalties, and interest for the years or periods covered by the offer. All questions of tax liability for the years or periods covered by the agreement are conclusively settled. Neither the taxpayer nor the government can reopen a compromised tax year or period unless there was falsification of information or documents, concealment of ability to pay, or a mutual mistake of a material fact which would be sufficient to set aside or reform a contract.

### 3. Unassessed Liability

The IRS will not consider an offer that is solely for a tax period or tax year that has not been assessed unless a return has been received or an assessment is pending. Taxpayers may submit, and the IRS will consider, an offer to compromise taxes due on tax returns which have been filed but have not yet been assessed when unpaid liabilities already exist. However, before the offer can be accepted, the unassessed taxes must be assessed.

### 4. Lapsed Statute of Limitations

If the statute of limitations has passed, the taxpayer is obviously not obligated to pay. Therefore, the IRS will not enter into a compromise when the taxpayer is indeed no longer liable for the tax. If a taxpayer makes a voluntary payment to a liability barred by statute, the IRS is required, pursuant to the Internal Revenue Manual, to inform the taxpayer that the payment is not required and ask if they want the payment applied to their account or returned. The taxpayer must be advised that the payment is purely voluntary.

### **C. OBLIGATIONS THE IRS MAY NOT COMPROMISE**

The IRS does not have the authority to compromise certain financial obligations, including child support orders. If a taxpayer proposes a compromise that includes child support liability, the IRS will ask the taxpayer to remove that from his or her offer. Failure by the taxpayer to abide by such a request will result in a rejection of the offer.

The IRS may not accept an OIC that in any way modifies the terms of a restitution order. Any changes to the terms of a restitution payment must be made pursuant to the direction of the ordering court. There may be situations where the IRS has assessed civil tax liabilities, interests and penalties in excess of the amount that was awarded as restitution. In this situation, the IRS may consider an OIC to pay the additional taxes, penalties, and interest for the same tax periods for which restitution was ordered only if the defendant has paid or will pay as part of the offer the full amount of the restitution.

#### **Example.**

*The court orders payment of restitution to the IRS for the 2008 tax year in the amount of \$50,000. The IRS assesses civil tax liabilities, interest, and penalties in the amount of \$80,000 for the same tax year. The IRS may compromise the additional assessed as civil tax liabilities (\$30,000), only if the defendant has paid or will pay the full amount of the restitution (\$50,000).*

The IRS also will not consider an offer based on Doubt as to Collectability or Effective Tax Administration for "non-restitution" taxes or years because those offers must include a compromise of all unpaid taxes.

#### **Example.**

*The court awards restitution payable to the IRS in the amount of \$50,000 for the tax years 2005 and 2006. The IRS assesses civil tax liabilities in the amount of \$25,000 for tax year 2007. The IRS may not compromise the civil tax liability for the 2007 tax year based on doubt as to collectability or effective tax administration because the offer would have to include tax years for which restitution was ordered payable to the IRS.*

If an OIC is submitted by a taxpayer that includes tax periods for which criminal restitution was ordered payable to the IRS, the IRS will not consider the offer unless it provides for full payment of the amount of restitution. Taxpayers submitting such offers will be informed by the IRS that only the district court that entered the restitution order can modify the order.

### **D. NOTE ON TAXPAYERS WHO SUBMIT MULTIPLE OFFERS**

When a taxpayer files a Doubt as to Liability (DATL) and Doubt as to Collectability (DATC) at the same time, the IRS cannot consider both offers simultaneously. In most instances, the IRS will consider the DATL offer first and return the second offer. The taxpayer, however, will be given the opportunity to select which offer to have considered first.

## **II. Doubt as to Liability Offer in Compromise**

Remember that the IRS will only consider an OIC if it falls into one of the three categories listed above, one of which is called Doubt as to Liability, or DATL. An OIC based on DATL must be submitted to the IRS using Form 656-L.

### **A. WHAT IS A DOUBT AS TO LIABILITY OFFER**

“Doubt as to liability<sup>2</sup>” exists where there is a genuine dispute as to the existence or amount of the correct tax debt under the law. Doubt as to liability does not exist if the tax debt has been established by a final court decision or judgment concerning the existence or amount of the tax debt or if the tax debt is based on current law.

### **B. REQUIRED DOCUMENTATION**

A taxpayer seeking relief must provide the IRS with the supporting documentation or evidence that will show the reason or reasons the taxpayer doubts the accuracy of the assessed tax debt. The taxpayer must include within his or her application a written statement explaining why the debt or a portion thereof is incorrect. The amount of a taxpayer’s offer should be based on what he or she believes is the correct amount of debt as opposed to what the IRS says is owed. The offer must be more than zero.

### **C. TAXPAYER MUST CHOOSE APPROACH**

Taxpayers may not submit an offer based on DATL (Form 656-L) and an offer based on Doubt As To Collectability (Form 656 or 656-B) at the same time, claiming that they do not believe the tax debt is correct (doubt as to liability) and that they are unable to pay it (doubt as to collectability). It is in the best interest of most taxpayers to resolve any disagreements about the validity of the tax debt before filing an offer based on doubt as to collectability. If a taxpayer sends applications for both kinds of offers at the same time, the doubt to collectability offer will be returned by the IRS without further consideration.

### **D. BASIS FOR OFFER**

Generally, a taxpayer will submit a doubt as to liability offer when he or she is unable to dispute the amount of tax the IRS claims he or she owes during the time allowed by the Internal Revenue Code or IRS guidelines. Possible reasons for submitting a doubt as to liability offer in compromise include the following:

- The examiner made a mistake interpreting the tax law;
- The examiner failed to consider all of the evidence presented; or
- New evidence is available to support a change to the assessment.

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<sup>2</sup> Juxtapose “doubt as to liability” with “doubt as to collectability.” A doubt as to collectability offer is when a taxpayer agrees that he or she owes the taxes but cannot pay the tax debt in full. To be considered for a doubt as to collectability offer, a taxpayer must make an appropriate offer based on what the IRS considers the taxpayer’s true ability to pay.



The following examples illustrate the type of circumstances in which it is generally advisable to file an application based on "doubt as to liability" theory.

**Example.**

*William filed his tax return reporting stock options as valued by his employer, which created a large tax liability including Alternative Minimum Tax (AMT). William paid part of the tax debt, but could not pay the full amount owed. He later discovered that the stocks were not worth as much as he originally reported. This was due to fraudulent acts by the broker and/or his employer. William filed a claim for a refund based on the reduced value of stock options. The IRS told William that the full amount of the tax debt had to be paid before they could consider his claim and denied his claim for refund. This situation may warrant an OIC based on Doubt as to Liability.*

**Example.**

*Sally received a notice from the IRS that she was being audited. Immediately thereafter, her records were destroyed in a house fire and she missed the meeting with the auditor. She never followed up. The IRS disallowed all expenses and determined that Sally owed the IRS a substantial sum of money. When Sally tried to borrow money, she determined that the IRS had filed a federal tax lien. Sally was able to reconstruct her books and records with the correct expenses that would significantly lower her tax debt. This situation may warrant an OIC based on Doubt as to Liability.*

**Example.**

*Mike is an officer of a corporation that has employees. Mike is not in a decision-making position nor does he have the authority to pay bills or sign checks. The business is struggling to make ends meet. In order to pay suppliers, the money that should have been paid to the IRS as a federal tax deposit was used to continue business operation. In an effort to collect the trust fund part of the employee's wages, the IRS assessed the trust fund portion of the tax against Mike and all the other officers of the corporation. Mike was not a person responsible for collecting and paying the withheld income and employment taxes. He has supporting statements and documentation to support that fact. This situation may warrant an OIC based on Doubt as to Liability.*

## **E. DOUBT AS TO LIABILITY OFFER WITHDRAWN**

If the IRS and taxpayer reach an agreement on the correct tax liability, a "compromise" is not required. That is because, by definition, if the parties agree on the level of tax owed there is no doubt as to the amount due. When an agreement is made, the taxpayer must therefore withdraw his or her offer in compromise. Any adjustments required to correct the outstanding tax liability are then accomplished through abatement of any erroneously assessed tax. A taxpayer may agree to a portion of the adjustment and

disagree with the remaining liability. This should be treated as a partial agreement. The remaining portion of the disagreed liability is then treated as a rejection of the OIC.

#### **F. DOUBT AS TO LIABILITY OFFER REJECTED**

If the taxpayer does not agree with the IRS's conclusions and does not withdraw his or her offer, the IRS will prepare a report to reflect any decrease in tax and penalties (based on the correct tax liability determined by the IRS examiner). If requested, the IRS must explain to the taxpayer the recommendation with the caveat that it is subject to review. If the taxpayer does not agree with the examiner's conclusions, the case is processed as a rejection and any partial abatement (in arriving at the correct tax) is made before the file is forwarded for final processing. The taxpayer has 30 days from the date of the rejection letter to file an appeal request.

#### **G. CIRCUMSTANCES WHEN DATL CANNOT BE CONSIDERED**

The IRS will not consider DATL offers if any of the following conditions exist:

- It is clearly not the taxpayer's intention to compromise the tax liability based on the belief that it is not incorrect. For example, taxpayers may erroneously submit the Form 656-L when the intent is to request an installment agreement to pay the existing liability or to compromise the liability on the basis that they cannot pay;
- The liabilities involve Bureau of Alcohol, Tobacco, and Firearms (BATF) penalties;
- The taxpayer seeks to compromise a tax period for an unassessed liability; or
- A determination is pending before the Tax Court.

#### **H. DATL OFFERS MADE SOLELY TO DELAY COLLECTION**

The IRS will reject offers based on DATL when the offer is made solely to delay collection efforts. Examples include:

- Resubmission of offers that are based on offer explanations that have previously been rejected or previously returned offers for which the taxpayer has not provided any new information;
- Claims that the liability stems from the operation of a law that is unfair (e.g., liability based on withdrawing funds from a 401(k) plan);
- Claims based on a divorce decree which stipulates the spouses each owe certain portions of a joint liability (the government is not party to such agreements);
- Those that do not raise a valid liability issue or that give no reason for DATL basis; or
- Frivolous or patently groundless offers.

### **III. Doubt as to Collectability**

The most common basis upon which the IRS will agree to an OIC is when there is Doubt as to Collectability (DATC), meaning that the IRS does not believe it is likely they can collect the full amount of the debt from the taxpayer either presently or in the near future. In these cases, the taxpayer agrees that he or she is unable to pay the debt in full.

#### **A. GENERAL GUIDELINES**

The IRS will not accept an offer in compromise if the tax can be paid in full as a lump sum or can be paid pursuant to an installment agreement, unless special circumstances are identified that warrant consideration of a lesser amount. Once the ability to make payments is established, the IRS will determine if a greater amount can be collected through an installment agreement than is being offered. If so, the IRS will reject the offer of a compromise absent special circumstances. To determine if the taxpayer can pay his or her tax debt in full, the IRS must base the calculation on the balance due at the time the offer was submitted.

#### **B. DETERMINING REASONABLE COLLECTION POTENTIAL (RCP)**

For DATC offers, the IRS's decision to accept or reject the offer usually rests on whether the amount offered reflects the Reasonable Collection Potential (RCP). Generally, this means the most the IRS can expect to get from the delinquent taxpayer taking into consideration his or her financial condition, including income and assets. The exception to this rule is for offers not accepted based on public policy reasons. RCP is defined as the amount that can be collected from all available means, including administrative and judicial collection remedies. Generally, the components of collectability will be included in calculating the total RCP. In determining the taxpayer's future ability to pay, the IRS is required to give full consideration to the taxpayer's overall general situation, including such factors as age, health, marital status, number and age of dependents, education or occupational training, and work experience.

The IRS will not accept an OIC when the tax can be paid in full as a lump sum or can be paid under installment agreement guidelines, unless special circumstances are identified that warrant consideration of a lesser amount. Once the ability to make payments is established, the IRS is required to determine if a greater amount can be collected through current installment agreement guidelines than is being offered. If so, the IRS will generally reject the offer unless special circumstances warrant acceptance. To determine if a taxpayer can pay in full, the IRS makes the calculation based on the balance due at the time the offer was submitted.

**Table 2.1. Components of Collectability.**

The following four components of collectability will ordinarily be included in calculating the Reasonable Collection Potential for offer purposes:

<b>Components</b>	<b>Definition</b>
<b>Assets</b>	The amount collectable from the taxpayer's net realizable equity in assets.
<b>Future Income</b>	<p>The amount collectable from the taxpayer's expected future income after allowing for payment of necessary living expenses.</p> <ul style="list-style-type: none"><li>• For Lump Sum Cash offers, (1) if the offer is payable in five or fewer installments within five months – project for the next 48 months or the remaining statutory period, whichever is less; (2) if the offer is payable in five or fewer installments in more than five months and less than 24 months – project for the next 60 months or the remaining statutory period, whichever is less; (3) if the offer is payable in five or fewer installments in more than 24 months – project through the statutory period</li><li>• For Short Term Periodic Payment offers, it is the amount collectable over the next 60 months or the remaining statutory period, whichever is less.</li><li>• For Deferred Periodic Payment offers, it is the amount that is collectable over the life of the collection statute.</li></ul>
<b>Amount Collectable from third parties</b>	The amount we could expect to collect from third parties through administrative or judicial action. For example, amounts collectable through a transferee assessment, nominee lien, or suit to set aside a fraudulent conveyance.
<b>Assets and/or income that are available to the taxpayer but are beyond the reach of the government</b>	Assets that the lien will not attach, such as equity in assets located outside the country.

Once the IRS calculates a Reasonable Collection Potential for a case, they will process the case as follows in the Table 2.2.

**Table 2.2. Actions Based on Reasonable Collection Potential.**

<b>If...</b>	<b>Then...</b>
The offer must be increased before recommending for acceptance	The IRS will contact the taxpayer by telephone to discuss amending the offer to the acceptable amount. If the taxpayer's response does not change the case determination, the IRS will issue a rejection letter. If the taxpayer agrees to pay the higher amount, the IRS will send them an amended Form 656 for the taxpayer's signature.
The analysis shows the taxpayer can fully pay the tax through liquidating assets and/or installment payments	The IRS will contact the taxpayer by telephone to discuss withdrawing the offer and entering into an alternative resolution. If the taxpayer's response does not change the case determination, the IRS will issue a rejection letter. If the taxpayer provides additional information, the IRS will make the appropriate adjustment to the RCP and contact the taxpayer by telephone to discuss the case decision.
The offer amount equals or exceeds the RCP and the offer is otherwise acceptable	The IRS will issue an acceptance letter.
Special circumstances are identified that warrant acceptance for less than the RCP	The IRS will consider a compromise based on Effective Tax Administration or Doubt as to Collectability with Special Circumstances.

**1. Actions Based on Reasonable Collection Potential**

Once the RCP has been calculated, the IRS will compare that figure with the amount offered by the taxpayer. If the offer is below the RCP calculated by the IRS, the IRS will contact the taxpayer and give them the opportunity to increase his or her offer. If the taxpayer is unwilling to increase his or her offer, the IRS will reject the offer. If the analysis shows that the taxpayer can fully pay the tax either through liquidation and/or installment payments, the IRS will notify the taxpayer that an OIC will not be accepted. Absent special circumstances (discussed below), the offer of the taxpayer must be at least equal to or higher than the RCP figure or the offer must be rejected.

**2. Filing Notice of Federal Tax Lien When OIC Is Rejected**

After rejecting an OIC, the IRS may elect to file a Notice of Federal Tax Liability in order to protect the government's collection rights. A NFTL will generally be filed whenever the unpaid aggregate balance of assessments exceeds \$10,000, and an offer is recommended for rejection, return, withdrawal, or acceptance for the following:

- Lump sum cash offer (20%), and five or fewer installments paid in six months or more;
- Short term periodic payment offer; or
- Deferred periodic payment offers.

A lien notice will generally not be filed on accepted offers when the offer amount will be paid in five months or less.

**Example.**

*A taxpayer submits an offer for \$20,000. He pays 20% or \$4,000. The remaining balance is \$16,000. If the taxpayer offers to pay the \$16,000 within five months from the date of acceptance, the IRS will not file a Notice of Federal Tax Lien. That is certainly good for the taxpayer, whose credit would be adversely affected by the filing of a NFTL.*

**IV. Effective Tax Administration and Doubt as to Collectability with Special Circumstances (DCSC)**

When investigating any OIC, the IRS requires its staff to give consideration to the following issues when present, whether identified by the taxpayer or not:

- Economic Hardship – when a taxpayer is unable to pay necessary basic living expenses; and
- Public Policy or Equity – where, due to exceptional circumstances, collection in full would undermine public confidence that the tax laws are being administered in a fair and equitable manner.

Offers can be considered under ETA criteria when:

- There is no doubt the tax is owed and no doubt that the full amount owed can be collected from the taxpayer;
- The taxpayer has a proven economic hardship or has presented facts that would support acceptance under the public policy/equity basis; and
- Compromise would not undermine compliance with tax laws.

Offers can be considered under DCSC criteria when:

- The taxpayer cannot fully pay the tax due; and
- The taxpayer has proven special circumstances that warrant acceptance for less than the amount of the calculated RCP.

Factors establishing special circumstances under DATC are the same as those considered under ETA.

**A. LEGAL BASIS FOR EFFECTIVE TAX ADMINISTRATION OFFER**

Before the IRS will consider an OIC based on economic hardship or public policy/equity considerations, three factors must exist:

- A liability has been or will be assessed against taxpayer(s) before acceptance of the OIC;
- The sum of net equity in assets, future income, and the other components of collectability making up RCP must be greater than the amount owed; and
- Exceptional circumstances exist, such as the collection of the tax would create an economic hardship, or there is compelling public policy or equity considerations that provide sufficient basis for compromise.

## **B. COMPARISON TO OTHER TYPES OF COMPROMISES**

### **1. Compared to Doubt as to Collectability (DATC)**

In a DATC offer, the tax liability equals or exceeds the taxpayer's Reasonable Collection Potential (RCP), which is: (a) net equity, plus (b) future income, and (c) other components of collectability. In an Effective Tax Administration offer, the tax liability is less than the taxpayer's RCP. The RCP shows the taxes owed can be collected in full either in a lump sum or through an installment agreement. A DATC offer does not convert to an ETA offer if the IRS and the taxpayer cannot agree on an acceptable offer amount.

### **2. Compared to Doubt as to Collectability with Special Circumstances (DCSC)**

Taxpayers may qualify for an ETA offer when their RCP is greater than the liability but there are economic or public policy/equity circumstances that would justify accepting the offer for an amount less than full payment. Taxpayers may qualify for a DCSC offer when they cannot fully pay the tax due but have proven special circumstances that warrant acceptance for less than RCP. Factors establishing special circumstances under DATC are the same as those considered under ETA.

#### **Example.**

*The taxpayer owes \$20,000. The RCP is \$25,000. The taxpayer could have an offer accepted for less than the total liability of \$20,000 under the ETA provisions if economic hardship, or public policy/equity issues exist which would support an acceptance recommendation.*

#### **Example.**

*The taxpayer owes \$20,000. However, his RCP is \$15,000. The offer does not meet the legal basis for an ETA because the RCP is lower than the liability. However, applying the same factors of economic hardship, or public policy/equity, an offer could be accepted for less than the RCP (\$15,000) under DCSC provisions.*

### **3. Compared to Doubt as to Liability**

An offer can be considered under ETA provisions only when there are no DATL issues. In reaching these determinations, the IRS will generally comply with the rules detailed in Table 2.3, below:

**Table 2.3. Comparing ETA with Doubt as to Liability.**

If...	Then...
The IRS determines that there is doubt as to the amount of the liability the taxpayer owes	The taxpayer is not eligible for ETA consideration. The taxpayer's offer will be considered based on the DATL issue.
The IRS determines that the taxpayer's equity in assets plus future income (RCP) does not exceed the amount of the tax liability	The taxpayer is not eligible for an ETA offer. The OIC is considered based on DATC. However, hardship or public policy/equity may be present in the case to allow consideration under DCSC.
The IRS determines the taxpayer is not eligible for compromise based on DATL or DATC, and the taxpayer can demonstrate that collection of the tax liability in full would create economic hardship, or demonstrate that there is compelling public policy or equity issues in the case that would provide sufficient basis for compromise	The taxpayer would be eligible for ETA consideration.

### **C. ECONOMIC HARDSHIP CONSIDERATIONS**

When a taxpayer's liability can be collected in full but collection would create an economic hardship, an Effective Tax Administration (ETA) offer based on economic hardship can be considered. The definition of economic hardship as it applies to ETA offers is derived from Treasury Regulations § 301.6343-1. Economic hardship<sup>3</sup> occurs when a taxpayer is unable to pay reasonable basic living expenses. The determination of a reasonable amount for basic living expenses will be made by the Commissioner of the IRS and will vary according to the unique circumstances of the individual taxpayer. Unique circumstances, however, do not include the maintenance of an affluent or luxurious standard of living.

#### **1. Basic Living Expenses**

The IRS will examine the taxpayer's financial information and special circumstances to determine if he or she qualifies for an ETA offer based on economic hardship. Financial analysis includes reviewing basic living expenses as well as other considerations. The taxpayer's income and basic living expenses must be considered to determine if the claim for economic hardship should be accepted. Basic living expenses are those expenses that provide for health, welfare, and production of income of the taxpayer and the taxpayer's family. National and local standard expense amounts are designed to provide accuracy and consistency in determining a taxpayer's basic living expenses. These standards are guidelines and if it is determined that a standard amount is inadequate to provide for a specific taxpayer's basic living expenses, the IRS is allowed to deviate from them. However, the IRS will require the taxpayer to provide reasonable substantiation and document the case file.

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<sup>3</sup> Because economic hardship is defined as the inability to meet reasonable basic living expenses, it applies only to individuals (including sole proprietorship entities). Compromise on economic hardship grounds is not available to corporations, partnerships, or other non-individual entities.



## 2. Other Factors

In addition to the basic living expenses, other factors the IRS will consider that impact the taxpayers financial condition include:

- The taxpayer's age and employment status;
- Number, age, and health of the taxpayer's dependents;
- Cost of living in the area the taxpayer resides; and
- Any extraordinary circumstances such as special education expenses, a medical catastrophe, or natural disaster.

Note that the above list is not all-inclusive. The IRS may consider other factors in making an economic hardship determination.

## 3. Factors Supporting Economic Hardship Argument

Factors that support an economic hardship determination may include:

- The taxpayer is incapable of earning a living because of a long-term illness, medical condition or disability, and it is reasonably foreseeable that the financial resources will be exhausted providing for care and support during the course of the condition;
- The taxpayer may have a set monthly income and no other means of support and the income is exhausted each month in providing for the care of dependents; and
- The taxpayer has assets, but is unable to borrow against the equity in those assets, and liquidation to pay the outstanding tax liability(ies) would render the taxpayer unable to meet basic living expenses.

These factors are representative of situations the IRS regularly encounters when working with taxpayers to resolve delinquent accounts. They are not intended to provide an exhaustive list of the types of cases that can be compromised based on economic hardship.

## 4. Examples

The following examples illustrate the types of cases that may be compromised under the economic hardship standard.

### **Example.**

*The taxpayer has assets sufficient to satisfy the tax liability and provides full time care and assistance to a dependent child, who has a serious long-term illness. It is expected that the taxpayer will need to use the equity in assets to provide for adequate basic living expenses and*

*medical care for the child. The taxpayer's overall compliance history does not weigh against compromise.*

**Example.**

*The taxpayer is retired and the only income is from a pension. The only asset is a retirement account and the funds in the account are sufficient to satisfy the liability. Liquidation of the retirement account would leave the taxpayer without adequate means to provide for basic living expenses. The taxpayer's overall compliance history does not weigh against compromise.*

**Example.**

*The taxpayer is disabled and lives on a fixed income that will not, after allowance of adequate basic living expenses, permit full payment of the liability under an installment agreement. The taxpayer also owns a modest house that has been specially equipped to accommodate for a disability. The equity in the house is sufficient to permit payment of the liability owed. However, because of the disability and limited earning potential, the taxpayer is unable to obtain a mortgage or otherwise borrow against this equity. In addition, because the taxpayer's home has been specially equipped to accommodate the disability, forced sale of the taxpayer's residence would create severe adverse consequences for the taxpayer, making such a sale unlikely. The taxpayer's overall compliance history does not weigh against compromise.*

The economic hardship standard authorizes the IRS to compromise regardless of the cause of the liability, provided compromise does not undermine compliance by other taxpayers.

**Example.**

*The taxpayer submitted an ETA offer based on economic hardship. The financial statement appears to support the offer. When a research of the county property records is conducted, it is noted that the home was transferred to a child for \$100 plus love and affection. The transfer of the home was made after the tax was assessed. It is confirmed that deliberate actions were taken to avoid the payment of tax; therefore, the offer should not be accepted.*

In economic hardship cases, an acceptable offer amount is determined by analyzing the financial information, supporting documentation, and the hardship that would be created if certain assets, or a portion of certain assets, were used to pay the liability.

**Example.**

*The taxpayer was diagnosed with an illness that eventually will hinder any ability to work. Although currently employed, the taxpayer will soon be forced to quit his job and will use personal funds for basic living expenses. The taxpayer owes \$100,000 and has a reasonable collection potential of \$150,000. An offer was*

*submitted for \$35,000. Through the investigation, it is determined that collecting more than \$50,000 would cause an economic hardship for the taxpayer. A determination on economic hardship was made due to the fact the taxpayer's reasonable living expenses, including ongoing medical costs, will exceed his or her income once the taxpayer is unemployed. The taxpayer is advised to raise the offer to \$50,000 since it is the amount the IRS can collect without creating an economic hardship.*

The existence of economic hardship criteria does not dictate that an Offer in Compromise must be accepted. An acceptable offer amount must still be determined based on a full financial analysis and negotiation with the taxpayer. When hardship criteria are identified but the taxpayer does not offer an acceptable amount, the IRS will generally not approve the offer.

#### **D. PUBLIC POLICY OR EQUITY GROUNDS**

Acceptance of an OIC based on considerations of equity and public policy will generally be based on a combination of facts and circumstances. Where there is no DATL, no DATC, and the liability could be collected in full without causing economic hardship, the IRS may compromise to promote ETA where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for accepting less than full payment. Compromise is authorized on this basis only where, due to exceptional circumstances, collection in full would undermine public confidence that the tax laws are being administered in a fair and equitable manner. Because the IRS assumes that Congress imposes tax liabilities only where it determines it is fair to do so, compromise on these grounds is rare.

The IRS recognizes that compromise on these grounds will often raise the issue of disparate treatment of taxpayers who can pay in full and whose liabilities arose under substantially similar circumstances. Taxpayers seeking compromise on this basis bear the burden of demonstrating circumstances that are compelling enough to justify compromise notwithstanding this inherent inequity.

All non-hardship ETA offers should meet the following requirements:

- The taxpayer has remained in compliance since incurring the liability and overall his or her compliance history does not weigh against compromise;
- The taxpayer must have acted reasonably and responsibly in the situation giving rise to the liabilities; and
- The circumstances of the case must be such that other taxpayers would view the compromise as a fair and equitable result. For example, it should not appear to other taxpayers that the result of the compromise places the taxpayer in a better position than he or she would occupy had the taxpayer timely and fully met his or her obligations.

Generally, tax liabilities associated with the taxpayer's participation in abusive tax avoidance transactions will not be compromised under these procedures.

## 1. Public Policy or Equity Compelling Factors

Compromise may promote ETA where a taxpayer's liability was directly caused by a processing error on the part of the IRS and would otherwise have been avoided. Compromise to remedy the mistake may be appropriate to the extent correction of the mistake (such as through abatements, reversal of credits, etc.) does not put the taxpayer back in the same position that he or she would have occupied if the error had not been made.

### **Example.**

*The taxpayer is a closely-held corporation. The IRS audited the taxpayer's tax returns for 2000, 2001, and 2002 and determined that the taxpayer was a personal holding company liable for personal holding company tax. The taxpayer agreed to immediate assessment of the tax, but attempted to take advantage of the deduction for deficiency dividends under section 547. Although the taxpayer made the distributions necessary to qualify for the deduction, the IRS made several errors in executing the required agreements and other paperwork. As a result, the taxpayer could not avail itself of the section 547 deduction. Under the statute, applicable regulations, and pertinent case law, there is no means by which the mistakes can be corrected to allow the taxpayer to take advantage of the deduction. There is documentary evidence that all of the required Service officials intended to complete the processing of the agreements and that, but for their failure to do so, the taxpayer would have qualified for the deduction. The taxpayer has no prior history of noncompliance.*

The fact that the tax liability was caused solely by an error on the part of the IRS supports the determination that collection in full would cause other taxpayers to question the fairness of the tax system. Furthermore, the policies underlying the imposition of the personal holding company tax and the rules regarding deficiency deductions are not undermined by compromise under these circumstances. The IRS may consider accepting a compromise that would reflect the amount the taxpayer would now owe had the IRS not made an error.

Compromise may promote ETA where the taxpayer incurred the liability because of having followed erroneous advice or instructions from the Service. The advice or instructions caused the taxpayer to incur a tax liability that would not otherwise have been incurred.

### **Example.**

*The taxpayer is a salaried sales manager at a department store who has been able to place \$2,000 in a tax-deductible IRA account for each of the last two years. The taxpayer learns that a higher rate of interest can be earned on his IRA savings by moving the savings from a Money Management account to a Certificate of Deposit at a different financial institution. Prior to transferring the savings, the taxpayer submits an E-mail inquiry to the IRS at its Web Page, requesting information about the steps needed to preserve the tax benefits currently enjoyed and to avoid any penalty. The IRS responds in an answering E-mail that the taxpayer*

*may withdraw the IRA savings from the neighborhood bank, but it must be redeposited in a new IRA account within 90 days. The taxpayer withdraws the funds and redeposits them in a new IRA account 63 days later. Upon audit, the taxpayer learns that he has been misinformed about the required rollover period and is now liable for additional taxes, penalties and interest for not redepositing the amount within 60 days. Had the advice provided been accurate, the taxpayer would have redeposited the funds in a timely manner. The taxpayer is able to provide documentation that demonstrates the taxpayer was provided incorrect information. The taxpayer's overall compliance history does not weigh against compromise.*

Because the tax liability in this example was caused by relying on the IRS's erroneous statement, and the taxpayer clearly could have avoided the liability had the Service given correct information, it is reasonable to conclude that collection in full would cause other taxpayers to question the fairness of the tax system. The IRS may consider accepting a compromise that would reflect the amount the taxpayer would now owe had the Service not made an error.

If actions or inaction of the IRS unreasonably delayed resolution of the taxpayer's case and interest or penalty abatement is not available, compromise may still be warranted if the circumstances are sufficiently compelling. An OIC should not be accepted under ETA provisions, in lieu of abatement under IRC Section 6404(e), when appropriate.

These provisions may allow for relief if the taxpayer alleges that the criminal or fraudulent act of a third party is directly responsible for the tax liability. The taxpayer should be able to provide supporting documentation that the act occurred and was the direct cause of the delinquency. The taxpayer should also be able to show that the nature of the crime was such that even a prudent, responsible business owner would have been misled to believe the tax obligations were properly addressed. There should be evidence that the funds required for the payment of the taxes were segregated or otherwise identified and were available to pay the taxes in a timely manner. Compromise would promote ETA in such situations only where the failure to comply is directly attributable to intervention by a third party and where the taxpayer has made every effort to comply and taken reasonable precautions to prevent the criminal or fraudulent acts at issue. The taxpayer's efforts to mitigate the damages by pursuing collection from the third party should also be considered. Compromise for this reason would only promote ETA where there is a very close nexus between the actions at issue and the failure to comply.

#### **Example.**

*The taxpayer was using a payroll service provider (PSP) who deducted all tax payments from the taxpayer's bank account, yet did not remit them to the Service. The taxpayer took all reasonable precautions to prevent this from occurring. The PSP also falsified documents to conceal the embezzlement. Since the abatement of interest is not available under 6404(e) on employment taxes, an offer in the amount of the tax balance may be accepted. The taxpayer's overall compliance history does not weigh against acceptance of the offer.*

The IRS will not compromise on public policy or equity grounds solely on the argument that the acts of a third party caused the unpaid tax liability. Third parties include: representatives, partners, agents, or employees. The actions of the third party may be part of a fact pattern that, viewed as a whole, present compelling public policy or equity concerns justifying compromise. As with all compromises based on public policy or equity, the taxpayer's situations must be compelling enough to justify compromise even though similarly situated taxpayers may have paid in full.

Compromise may be appropriate where there is clear and convincing evidence that rejecting the OIC, and pursuing other collection alternatives, would have a significantly negative impact on the community in which the taxpayer lives or does business, i.e., does the taxpayer provide essential services to the community that would be lost if the tax liability was collected in full? The taxpayer should be asked to provide documentation that full payment of the tax liabilities would likely result in the inability of the business to provide these essential services. The businesses that would typically qualify under this provision are not for profit, charitable, or exempt organizations.

**Example.**

*A non-profit organization provides quality health and human services to indigent, low-income and under-served residents in two counties. Rejecting the offer and pursuing collection action for full payment would result in forcing the center to choose between paying the delinquent taxes or providing competent medical care. After conducting a thorough review of the facts, it was determined that services would not be provided to the community if the taxpayer was no longer able to operate. Since the taxpayer took all reasonable actions to prevent the delinquency from occurring and the taxpayer's overall compliance history does not weigh against acceptance of the offer, an offer amount for less than the remaining tax balance may be considered.*

Compromise may promote ETA where the taxpayer was incapacitated and thus unable to comply with the tax laws.

**Example.**

*In October 2003, the taxpayer developed a serious illness that resulted in almost continuous hospitalization for a number of years. The medical condition was such that during this period, the taxpayer was unable to manage any of his financial affairs. The taxpayer has not filed tax returns since that time. The taxpayer's health has now improved and has promptly begun to attend to tax matters. The taxpayer discovered that the IRS prepared a substitute for return for the 2003 tax year based on information documents it had received and assessed a tax deficiency. When the taxpayer discovered the liability, with penalties and interest, the tax bill was more than three times the original tax liability. The taxpayer's overall compliance history does not weigh against compromise. In this situation, the IRS should first work with the taxpayer and attempt to prepare an accurate return for the 2003 tax year and adjust the taxpayer's account accordingly. The IRS should also work with the taxpayer to secure the filing of any missing returns. Following that, the IRS should*

*consider accepting a compromise that would approximate the amount the taxpayer would have been assessed had he been able to comply with his filing and payment responsibilities in a timely manner. Such a compromise would be fair and equitable to the taxpayer and, under these circumstances, would advance the public policy of voluntary compliance with the tax laws.*

Focusing still on the above example, it would not promote ETA to compromise with the taxpayer, if the investigation revealed that the taxpayer was able to attend to financial matters during the time of the illness. For example, assume the taxpayer paid all other bills and continued to successfully operate a business during the illness. Under such circumstances, compromise would not promote ETA, and could serve to undermine compliance by other taxpayers.

Compromise on public policy or equity grounds is not authorized based solely on a taxpayer's belief that a provision of the tax law is itself unfair. Where a taxpayer is clearly liable for taxes, penalties, or interest due to operation of law, a finding that the law is unfair would undermine the will of Congress in imposing liability under those circumstances.

**Example.**

*The taxpayer argues that collection would be inequitable because the liability resulted from a discharge of indebtedness rather than from wages. Because Congress has clearly stated that a discharge of indebtedness results in taxable income to the taxpayer, it would not promote ETA to compromise on these grounds.*

**Example.**

*In 2000, the taxpayer invested in a nationally marketed partnership which promised the taxpayer tax benefits far exceeding the amount of the investment. Immediately upon investing, the taxpayer claimed investment tax credits that significantly reduced or eliminated the tax liabilities for the years 1997 through 2000. In 2001, the IRS opened an audit of the partnership under the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). After issuance of the Final Partnership Administrative Adjustment (FPAA), but prior to any proceedings in Tax Court, the IRS made a global settlement offer in which it offered to concede a substantial portion of the interest and penalties that could be expected to be assessed if the IRS's determinations were upheld by the court. The taxpayer rejected the settlement offer. After several years of litigation, the partnership level proceeding eventually ended in Tax Court decisions upholding the vast majority of the deficiencies asserted in the FPAA on the grounds that the partnership's activities lacked economic substance.*

*The taxpayer has now offered to compromise all the penalties and interest on terms more favorable than those contained in the prior settlement offer, arguing that TEFRA is unfair and that the liabilities accrued in large part due to the actions of the Tax Matters Partner (TMP)*

*during the audit and litigation. Neither the operation of the TEFRA rules nor the TMP's actions on behalf of the taxpayer provide grounds to compromise. Compromise on those grounds would undermine the purpose of both the penalty and interest provisions at issue and the consistent settlement principles of TEFRA. Furthermore, reducing the risks of participating in tax shelters would encourage more taxpayers to run those risks, which would undermine compliance. Depending on the taxpayer's particular facts and circumstances, however, compromise may be authorized on the grounds of Doubt as to Collectability (DATC), or because collection of the full liability would cause an economic hardship.*

In both of the above examples, the taxpayers are essentially claiming that Congress enacted unfair statutes and are arguing that the Service should use its compromise authority to rewrite those statutes based on a perception of unfairness. Compromise for that reason would not promote ETA. The compromise authority under Section 7122 is not so broad as to allow the Service to disregard or override the judgments of Congress.

There may be other circumstances involved in a case that would lead a reasonable third party to conclude that acceptance of the OIC would be fair, equitable, and promote effective tax administration. Other factors not discussed above may be present to support the conclusion that the case presents compelling public policy or equity considerations sufficient to justify compromise. The IRS is very critical in making such determinations, however, because of the impact they could have on future cases.

## 2. Compromise Would Not Undermine Compliance With Tax Laws

Compromise under the ETA economic hardship or non-economic hardship provisions are permissible if acceptance does not undermine compliance. The public should not perceive that the taxpayer whose offer is accepted benefited by not complying with the tax laws. Factors supporting (but not conclusive of), a determination that compromise would undermine compliance includes, but is not limited to:

- The taxpayer has an overall history of noncompliance with the filing and payment requirements of the Internal Revenue Code;
- The taxpayer has taken deliberate actions to avoid the payment of taxes; and
- The taxpayer has encouraged others to refuse to comply with the tax laws.

There may be other situations where compromise would be undermined.



## Chapter 2 – Review Questions

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*The following questions are designed to ensure that you have a complete understanding of the information presented in the chapter. They do not need to be submitted in order to receive CPE credit. They are included as an additional tool to enhance your learning experience.*

*We recommend that you answer each review question and then compare your response to the suggested solution before answering the final exam questions related to this chapter.*

1. Which of the following statements best describes a situation where Doubt as to Liability exists:
  - a) where the taxpayer asserts that federal income taxes are unconstitutional
  - b) when a federal tax court assesses a specific amount of tax due
  - c) when the taxpayer believes they should not have to pay the tax due
  - d) when the taxpayer has evidence to show that the tax assessed is too high
2. How does the IRS generally determine whether or not to accept an Offer in Compromise based on Doubt as to Collectability:
  - a) when it is obvious from reviewing the taxpayer's application that the taxpayer is a deadbeat
  - b) when the amount offered represents the most the IRS can reasonably expect to receive from the taxpayer
  - c) when the IRS determines that the taxpayer has made every effort to pay his or her tax debt
  - d) when the amount offered is at least half of what the taxpayer owes
3. The IRS will generally not consider an Offer in Compromise based on Effective Tax Administration when:
  - a) the taxpayer faces dire economic circumstances
  - b) there is real doubt that the taxpayer owes all of the money being assessed
  - c) the IRS does not believe it will be able to collect any of the debt without entering into the compromise
  - d) they do not believe the compromise will encourage other taxpayers to be delinquent

## **Chapter 2 – Solutions and Suggested Responses**

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1. A: Incorrect. This type of argument does not give rise to a Doubt as to Liability Offer in Compromise with the IRS. An application submitted based on this type of constitutional argument will be rejected.

B: Incorrect. When a court of competent jurisdiction has entered a judgment, that amount cannot be compromised based on Doubt as to Liability.

C: Incorrect. The taxpayer must have a legitimate argument that he or she does not owe the full amount being sought by the IRS.

**D: Correct.** This is a situation where there is a legitimate argument that the tax is not owed and, therefore, is the proper subject of a Doubt as to Liability Offer in Compromise.

(See page 2-5 of the course material.)

2. A: Incorrect. A detailed financial analysis is required before the IRS will agree to accept an Offer in Compromise.

**B: Correct.** The IRS calculates the Reasonable Collection Potential of each case, which is how much they can reasonably hope to collect from the delinquent taxpayer. If the offer is at least that amount, the IRS will accept it.

C: Incorrect. The IRS always undertakes a specific financial analysis to determine the precise amount the taxpayer can afford to pay.

D: Incorrect. There is no percentage formula. The IRS will not accept less than they can reasonably expect to collect, whether it is 40%, 20% or less.

(See page 2-8 of the course material.)

3. A: Incorrect. Economic hardship to the taxpayer is one of the many circumstances the IRS will consider when evaluating an offer.

**B: Correct.** Under these circumstances, the taxpayer should appropriately seek relief based on Doubt as to Liability.

C: Incorrect. Collectability is not a controlling factor with this type of compromise.

D: Incorrect. Unless the agreement would undermine the public confidence in the administration of the tax system, the IRS is willing to compromise tax obligations in certain circumstances.

(See pages 2-11 to 2-12 of the course material.)

## **Chapter 3: Applying for an Offer in Compromise**

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### **I. Overview**

The previous chapter reviewed the different situations in which the IRS will generally accept an Offer in Compromise (OIC). Therefore, remember that submitting an offer application does not ensure that the IRS will accept the offer. Submission of the offer merely begins a process of evaluation and verification by the IRS, taking into consideration any special circumstances that might affect the taxpayer's ability to pay. Generally, the IRS will not accept an offer if they believe that the taxpayer can pay his or her tax debt in full via an installment agreement or a lump sum. This chapter will review the process of applying for an OIC, including the specific forms that must be filed. All of those forms are reproduced at the end of this course.

The key eligibility requirements that must be met prior to filing an offer include:

- The taxpayer must have filed all legally required tax returns;
- The taxpayer must have made all required estimated tax payments for the current year; and
- For a business with employees seeking a compromise, the taxpayer must have made all required federal tax deposits for the current quarter.

In addition, if an individual taxpayer or business is in an open bankruptcy proceeding, they are not eligible to submit an offer. Any resolution of outstanding tax debts under those circumstances must take place within the context of the bankruptcy proceeding.

Applicants must complete IRS Form 656. However, taxpayers who have a legitimate doubt that they owe all or a portion of the assessed tax will need to complete Form 656-L, Offer in Compromise (Doubt as to Liability). This form is also included at the end of the course.

CPAs considering advising their clients to apply for an Offer in Compromise should also be aware of the following facts:

- Penalties and interest will continue to accrue while the IRS is evaluating an OIC;
- The IRS may file a Notice of Federal Tax Lien while they are investigating an offer;
- Taxpayers may not submit an offer that is only for a tax year or tax period that has not been assessed;
- The law also requires the IRS to make certain information from accepted offers available for public inspection and review. These public inspection files are located in designated IRS Area Offices;

- If a business owes trust fund taxes<sup>1</sup> and responsible individuals may be held personally liable for the trust fund portion of the tax, the business is not eligible to submit an OIC unless the trust fund portion of the tax is paid or the Trust Fund Recovery Penalty determinations have been made on all potentially responsible individuals;
- The IRS will keep any refund, including interest, for tax periods extending through the calendar year during which the IRS accepts an OIC. For example, if a taxpayer's offer is accepted in 2012 and the taxpayer files his or her 2012 Form 1040 showing a refund, the IRS will apply the refund towards the tax debt; and
- The IRS may keep any proceeds from a levy served prior to the taxpayer submitting his or her offer. The IRS may levy the taxpayer's assets up to the time that the IRS official signs and accepts the offer as pending.

Finally, if a taxpayer currently has an approved installment agreement with the IRS and is making installment payments, then he or she may stop making those installment agreement payments when the taxpayer submits his or her OIC. If the OIC is returned for any reason, the taxpayer's installment agreement with the IRS will be reinstated with no additional fee.

## **II. Application Process**

The application process generally involves sending the IRS the following:

- Form 656 (or Form 656-L, Offer in Compromise, Doubt as to Liability);
- Completed Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals, if applicable;
- Completed Form 433-B (OIC), Collection Information Statement for Businesses, if applicable;
- A \$150 application fee, unless the taxpayer meets low income certification; and
- An initial offer payment, unless the taxpayer meets low income certification.

### **A. NOTE ABOUT SPOUSES**

If a taxpayer and his spouse have both joint tax debts and individual tax debt, the taxpayer will send the IRS two forms. He will send a single Form 656 with all of the individual tax debt(s) and the taxpayer and his spouse will send a second Form 656 with his joint tax debts.

In the case where a married couple has joint tax debt and each spouse also has separate tax debt, each spouse will have to send in a separate Form 656. Each spouse will complete one form setting out his or her individual debt and also the joint debt.

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<sup>1</sup> Trust fund taxes are the money withheld from an employee's wages, such as income tax, Social Security, and Medicare taxes.

If a taxpayer and his or her spouse/ex-spouse have a joint tax debt and his spouse/ex-spouse does not want to submit a Form 656, the taxpayer may submit a Form 656 on his own to compromise his responsibility for the joint debt.

Each Form 656 will require the \$150 application fee and initial down payment unless the taxpayer's household meets the Low Income Certification guidelines set forth on Form 656 (found in the Appendix of this course).

## **B. INITIAL STEPS FOR COMPLETING THE OIC**

Before completing Form 656 containing his or her offer, the taxpayer must gather information about his or her financial situation, including cash, investments, available credit, assets, income and debt. The taxpayer will also need to gather information about his or her average gross monthly household income and expenses. The entire household includes spouse, significant other, children, and others that reside in the taxpayer's household. This is necessary for the IRS to accurately evaluate the offer. In general, the IRS will not accept expenses for tuition for private schools, college expenses, charitable contributions, and other unsecured debt payments as part of the expenses calculation.

**Table 3.1. Steps for Completing the Application Package.**

<b>Step 1: Fill out the Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals</b>	Fill out the Form 433-A (OIC) if the taxpayer is an individual wage earner and/or a self-employed individual. This will be used to calculate an appropriate offer amount based on the taxpayer's assets, income, expenses, and future earning potential. The taxpayer will have the opportunity to provide a written explanation of any special circumstances that affect his or her financial situation.
<b>Step 2 – Fill out Form 433-B (OIC), Collection Information Statement for Businesses</b>	Fill out the Form 433-B (OIC) if the taxpayer's business is a Corporation, Partnership, Limited Liability Company (LLC) classified as a corporation, single member LLC, or other multi-owner/multi-member LLC. This will be used to calculate an appropriate offer amount based on the business's assets, income, expenses, and future earning potential. If the taxpayer has assets that are used to produce income (for example, a tow truck used in a business for towing vehicles), the taxpayer may be allowed to exclude equity in these assets.

<b>Step 3 – Attach required documentation<sup>2</sup></b>	The taxpayer will need to attach supporting documentation with Form(s) 433-A (OIC) and 433-B (OIC). A list of the documents required is included at the end of each form.
<b>Step 4 – Fill out Form 656, Offer in Compromise</b>	<p>Fill out Form 656. The Form 656 identifies the tax years and type of tax the taxpayer would like to compromise. It also identifies the taxpayer's offer amount and the payment terms.</p> <p>The Low Income Certification guidelines are included on Form 656. If the taxpayer is an individual and meets the guidelines, the Low Income Certification box in Section 4, on Form 656 should be checked.</p>
<b>Step 5 – Include initial payment and \$150 application fee</b>	In most cases, a taxpayer must include a check, cashier's check, or money order for his or her initial payment based on the payment option he or she selected (20% of offer amount or first month's installment). A separate check or money order must be included for the \$150 application fee. If the taxpayer meets the Low Income Certification guidelines, the initial payment and application fee are not required.

The final step is for the taxpayer to mail all of the above information to the IRS.

After submitting the OIC, the taxpayer must file all required federal returns, make all required federal estimated payments and tax deposits due for current taxes, and make all required periodic offer payments. In addition, the IRS will often request additional information while evaluating an OIC. Failure to reply to such request in a timely manner could result in the offer being rejected.

### **C. REQUIRED INFORMATION**

A taxpayer must complete all parts of the Form 656 (i.e., name, address, social security number, etc.), including the basis upon which he or she proposes to compromise. Remember we saw in the previous chapter that there are three bases upon which the IRS will enter into an OIC. The total amount of money offered must be indicated and must be more than zero. The amount offered may not include money already paid, expected future refunds, funds attached by levy, or anticipated benefits from capital/net operating losses.

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<sup>2</sup> A completed Form 433-A (OIC) and/or Form 433-B (OIC) must be included with the Form 656 application.

## **D. PAYING FOR THE OFFER**

Generally, taxpayers are expected to pay the entire amount offered in as short of time as reasonably possible. Acceptable offer terms should be determined by the IRS staff evaluating the offer and should not be limited to the proposal of the taxpayer. The amounts and due dates of payments must be specified. There are three types of payment terms that the IRS and the taxpayer may agree to, each of which is specified below in detail.

## **E. STANDARD CONDITIONS**

Taxpayers must agree to all the standard conditions of the agreement as they are printed on the Form 656.

## **F. TOTAL LIABILITY**

Each separate tax period and type of tax must be indicated on the Form 656. If a taxpayer submits an offer that does not include all outstanding liabilities, the IRS will require the taxpayer to amend the offer to include all outstanding tax liabilities prior to considering acceptance. An offer submitted on Form 656-L, under DATL criteria, will be accepted for only the tax periods that are in question.

## **G. EXPLANATION OF CIRCUMSTANCES**

Taxpayers may use the designated space on the Form 656, Offer in Compromise, or attach a separate statement to explain why they are submitting the offer. If a special circumstance exists, the taxpayer should explain the situation and include all supporting documents to assist in verification of the special circumstance that is being claimed.

## **H. SIGNATURE REQUIREMENTS**

Each taxpayer that is party to an OIC should personally sign the Form 656. When unusual circumstances prevent this (e.g., the taxpayer is incapacitated), an authorized representative may sign for the taxpayer. Remember that the Form 656 is considered a legal, binding contract and therefore must have an original signature. All parties, or their designated representative (CPA, attorney), must sign the Form 656 to ensure the provisions of the agreement bind all parties.

### **1. Offer on Behalf of Corporation**

Offers submitted for corporations should reflect the corporate name on the first signature line. The signature name and title of the authorized officer should be reflected on the second line.

### **2. Offer on Behalf of Estate**

An offer submitted by the fiduciary of an estate of a deceased taxpayer will be binding on the taxpayer's estate to the extent that it would be binding on a taxpayer who submits an offer on his or her own behalf. A copy of the fiduciary's appointment document must be included with the application. If an offer is submitted on behalf of a deceased taxpayer, when there is no estate, the individual who signs the offer must have authority. This

authority can be designated by a will appointing that individual as the executor or by written authorization from the probate court.

## **I. EXPEDITED HANDLING**

There may be occasions where a taxpayer or representative may request expedited processing of his or her OIC due to an emergency or perceived emergency situation. Situations that may warrant expedited case processing include:

- A contract or business agreement requiring the taxpayer, as a condition of the contract or agreement, to resolve the tax liability by a specific date;
- Availability of the money to fund the offer is limited to a certain time; or
- A terminal illness may affect the ability to complete the payment terms.

The IRS will consider all requests for an expedited handling of the application. In such cases, the IRS will attempt to make a decision within 90 days of submittal of the OIC.

## **III. Paying for the Offer in Compromise**

### **A. APPLICATION FEE**

Submittal of a Form 656 requires a one-time application fee of \$150. However, taxpayers who meet the Low Income Certification guidelines set forth on Form 656 (included in the Appendix) are not required to pay the application fee.

### **B. PAYMENT TERMS**

Payment terms in an Offer in Compromise are negotiable, but the IRS will always look to ensure that the payment of the offered amount is in the least time possible. For example, if a taxpayer is planning to sell asset(s) to fund all or a portion of the offer, the payment terms for the offer should provide for immediate payment of the amounts received from the sale. Likewise, if the taxpayer is planning to borrow a portion of the money, the IRS will determine when the loan will be received and the payment terms of the offer should provide for payment of the borrowed portion at the time the funds are received.

Offers in Compromise must be accompanied by partial payment of the proposed offer amount. These payments are applied to the tax liabilities included on the offer and are in addition to any application fee imposed. The form of these partial payments depends on the taxpayer's proposed offer and its terms. There are generally two types of payment options associated with an OIC:

- **Lump Sum Cash:** The taxpayer must submit an initial payment of 20 percent of the total offer amount with the application. The remaining balance must be paid in five or fewer payments; or
- **Periodic Payment:** The initial payment must be submitted with the application and the taxpayer must continue to make the periodic payments while the IRS is evaluating the offer.



A periodic payment (defined as payable in six or more installments or through the statutory period) must be accompanied by payment of the first proposed installment, and additional payments must be paid in accordance with the taxpayer's proposed offer terms while the IRS evaluates the offer. If the taxpayer qualifies for the Form 656-A waiver, the taxpayer is not required to pay the application fee, or installment payment(s), including any future payments, until accepted.

If a short-term offer is accepted, the 24-month timeframe for paying the accepted offer amount will start on the date of written notice of acceptance. At that time, the taxpayer will begin making the payments in accordance to the terms of the accepted offer. While a periodic payment offer is being evaluated by the IRS, the taxpayer must make subsequent proposed payments as they become due. There is no requirement that the payments be made monthly or in equal amounts. The IRS is not bound by either the offer amount or the terms. The IRS offer may determine that the proposed offer amount is too low or the payment terms too protracted to recommend acceptance. In this situation, the IRS may advise the taxpayer that a larger amount or different terms would likely be recommended for acceptance.

Taxpayers may designate how the required payments are to be applied to their liabilities. The request for designation must be made in writing when the offer is submitted (in the case of the initial partial payments) or when the payment is made (in the case of subsequent installment payments made for a periodic payment offer). Once a designation of payment is made, it cannot be changed at a later time. The written payment designation must clearly explain how these payments are to be applied to specific tax periods or liabilities (e.g., income taxes, employment taxes, trust fund portions of employment or excise taxes, etc.). This written payment designation must become part of, and remain with, the offer case file. In the absence of any written payment designation by the taxpayer when the offer was submitted or when the payment is made, the IRS will apply the payments in the best interest of the government.

Generally, the IRS will approve offers based on the payment terms set forth in the table below.

**Table 3.2. Payment Terms Required by IRS.**

<b>Payment Type</b>	<b>Payment Terms</b>	<b>Number of Months Future Income Required</b>
Lump Sum Cash	5 or fewer installments within 5 months	48 months or the remaining statutory period, whichever is less
Lump Sum Cash	5 or fewer installments paid in more than 5 months and less than 24 months	60 months or the remaining statutory period, whichever is less
Lump Sum Cash	5 or fewer installments paid in more than 24 months	Number of months remaining on the statute
Short Term Periodic Payment	Within 6 to 24 months	60 months or the remaining statutory period, whichever is less
Deferred Periodic Payment	Within time remaining on the statute	Number of months remaining on the statute

### **C. MISSED PAYMENT(S)**

If the taxpayer fails to make a proposed installment for a periodic payment offer, the IRS will allow one opportunity to pay the missing amount(s). If the taxpayer submits the payment(s) within 30 calendar days from the date of the letter sent by the IRS requesting payment (allowing 15 calendar days for mail), the IRS will continue processing the application. If the taxpayer fails to submit the payment or request an extension of time within 30 calendar days from the date of the letter, the IRS will generally consider the taxpayer to have withdrawn his or her offer unless special circumstances exist.

Taxpayers will be afforded one opportunity to make up the missed payment(s) for a periodic payment offer, including any amended offers, unless special circumstances exist. The proposed offer amounts and terms submitted by a taxpayer dictate the required partial offer payments. The IRS is not bound by those same terms in determining an acceptable offer.

### **D. REQUEST FOR LARGER PAYMENT(S): REVISIONS OF OIC**

While the IRS is considering a periodic payment offer in compromise, the taxpayer must make subsequent proposed installment payments as they become due. There is no requirement that the payments be made monthly or in equal amounts. However, the IRS is not bound by either the offer amount or the terms. The IRS may determine that the proposed offer amount is too low or the payment terms too protracted to recommend acceptance. In this situation, the IRS will generally advise the taxpayer of a larger amount or different terms that would likely be considered for acceptance.

#### **Example.**

*Acceptable Payment Terms for a Short Term Periodic Payment Offer – A taxpayer submits an offer for \$10,000. The IRS received date is January 1, 2007. The taxpayer's offer of \$10,000 was accepted in November 2007, and the taxpayer remained current on all required payments during the investigation. During the investigation, the taxpayer paid \$500. The taxpayer has 24 months from the date of acceptance to complete the terms of the offer. The terms of the offer were \$100 every other month for a total of 23 months and the balance would be due on the 24th month. On the 24th month, January 2009, the taxpayer would then be required to pay the balance of \$8,300 (\$10,000 less \$1,700 [\$1,200 in installments plus \$500 in installments paid during the investigation]). No adjustments to the terms would be required.*

#### **Example.**

*Unacceptable Payment Terms for a Short Term Periodic Payment Offer – A taxpayer submits an offer for \$1,000. The IRS received date is January 5, 2010. The taxpayer has 24 months to complete the offer. The taxpayer pays \$100 with the offer as the first payment. The taxpayer structures the remaining payments as follows: \$100 within 90 days from written notice of acceptance; \$100 by the 4th month following the date of the written notice of acceptance of the offer; \$100 per month for the next 7 months thereafter for a total of \$1,000 (\$100 times 10 payments).*

Remember that although the taxpayer may technically structure payments in the manner described above, the IRS is not bound by either the offer amount or the terms proposed by the taxpayer, and the IRS may negotiate a different offer amount or terms when appropriate. In the above example, the taxpayer has proposed payment terms that may not meet the requirements of a short term payment offer, and the taxpayer will be contacted to re-negotiate the offer terms.

The types of actions required when the IRS requires an increased payment are set forth in Table 3.3, below:

**Table 3.3. IRS Requests for Revised OIC.**

<b>If...</b>	<b>And...</b>	<b>Then...</b>
Original offer was a lump sum cash offer	Revised offer is a lump sum with a greater proposed offer amount	Taxpayer must pay 20% of the revised amount, less the partial payment made with the original offer, with the revised OIC.
Original offer was a periodic payment	Revised offer is a lump sum	Taxpayer must pay 20% of revised offer amount, less any installment payments already paid toward the original offer, with the revised OIC.
Original offer was periodic payment	Revised offer is periodic payment with greater proposed offer amount and/or different proposed installment amounts or schedule	Taxpayer must make the initial proposed installment in accordance with the terms of the revised offer, and continue to make the proposed installments during evaluation of the OIC.
Original offer was lump sum cash offer	Revised offer is periodic payment with greater proposed offer amount	Taxpayer must make the initial proposed installment in accordance with the terms of the revised offer, and continue to make the proposed installments during evaluation of the revised OIC.

#### **IV. Returned and Withdrawn Offers**

##### **A. RETURN FOR FAILURE TO PROVIDE INFORMATION**

An offer may be returned at any time during processing if the taxpayer fails to provide information necessary for the IRS to determine whether it should be accepted or rejected. The IRS will make every reasonable effort to secure sufficient information needed so a recommendation can be made. If the taxpayer has substantively complied or if only limited information is missing, the IRS will attempt to contact the taxpayer by telephone to secure the missing information prior to returning the offer. In those cases where the taxpayer or his or her representative has attempted to cooperate with any requests, the IRS will attempt a second telephone call to the taxpayer or his or her representative to request the additional information prior to returning the offer.

## **B. WITHDRAWAL OF AN OFFER IN COMPROMISE**

There are two kinds of withdrawn offers; they are (1) voluntary and (2) mandatory. A taxpayer may voluntarily withdraw an offer at any time during the offer investigation. A mandatory withdrawal of an offer is an action that may be taken by the IRS during the offer investigation.

### **1. Voluntary Withdrawal**

Taxpayers may voluntarily withdraw their OIC at any time after the offer has been submitted. When an OIC cannot be recommended for acceptance, the IRS will normally give the taxpayer an opportunity to voluntarily withdraw the offer and at the same time inform the taxpayer that withdrawing the offer forfeits his or her appeal rights. For example, if the IRS determines that a taxpayer can fully pay his or her tax debt through an Installment Agreement, they will inform the taxpayer of that determination so the taxpayer can withdraw his or her offer and enter into an installment agreement.

A voluntary withdrawal request may be made orally, by fax, or in writing. The IRS is required to encourage taxpayers to provide the withdrawal in writing, but if a taxpayer or authorized representative provides a clear statement, either in writing or orally, indicating a wish to withdraw the offer, the offer may be closed as a withdrawal.

If a request for a voluntary withdrawal is made and a deposit has been received, the taxpayer will be asked to:

- Provide a request in writing clearly indicating a desire to withdraw the offer;
- Include a statement indicating that it is understood that rights to appeal are forfeited by a withdrawal;
- Include a statement indicating how any deposit made (if any) should be disposed (i.e., should it be refunded or applied to the tax debt); and
- Sign and date the request.

### **2. Mandatory Withdrawal**

Taxpayers are required to submit an initial payment with the offers. If the taxpayer sends a portion of the required payment, the IRS is required to attempt to contact the taxpayer before closing the offer. If the taxpayer fails to pay the remainder of the initial payment within the deadline given, the offer will be considered a mandatory withdrawal.

If during the investigation the taxpayer fails to make the required subsequent periodic payments as required by the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), the offer also may be considered withdrawn.

The IRS is required to make one request for the missed payment(s) by telephone. If the taxpayer or his or her representative cannot be contacted by telephone, a letter is issued requesting the missed payment(s). If the contact is by telephone, the taxpayer is allowed 15 calendar days to submit the payment(s) before taking the next action. If the contact is

written, the taxpayer is allowed 15 calendar days from the date of the letter to submit the payment(s) (plus 15 calendar days for mailing for a total of 30 calendar days), before taking the next action. The IRS should document the case history.

If the taxpayer provides a reasonable explanation for missing the payment(s) (i.e., special circumstances exist), the investigation of the offer by the IRS will continue.

### **C. CIVIL PENALTIES FOR FRIVOLOUS OFFERS**

If a taxpayer files an offer in compromise (OIC) that states the OIC should be accepted based on a frivolous position or reflects a desire to delay or impede the administration of federal tax laws, the IRS may determine that the taxpayer should be subject to a civil penalty under Internal Revenue Code section 6702(b)<sup>3</sup>. In such cases, the taxpayer will

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#### <sup>3</sup> **26 USC § 6702 - Frivolous tax submissions**

##### **(a) Civil penalty for frivolous tax returns**

A person shall pay a penalty of \$5,000 if—

(1) such person files what purports to be a return of a tax imposed by this title but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

(2) the conduct referred to in paragraph (1)—

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(B) reflects a desire to delay or impede the administration of Federal tax laws.

##### **(b) Civil penalty for specified frivolous submissions**

###### **(1) Imposition of penalty**

Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of \$5,000.

###### **(2) Specified frivolous submission**

For purposes of this section—

###### **(A) Specified frivolous submission**

The term “specified frivolous submission” means a specified submission if any portion of such submission—

(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(ii) reflects a desire to delay or impede the administration of Federal tax laws.

###### **(B) Specified submission**

The term “specified submission” means—

(i) a request for a hearing under—

(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

(II) section 6330 (relating to notice and opportunity for hearing before levy), and

(ii) an application under—

(I) section 6159 (relating to agreements for payment of tax liability in installments),

(II) section 7122 (relating to compromises), or

(III) section 7811 (relating to taxpayer assistance orders).

###### **(3) Opportunity to withdraw submission**

If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

##### **(c) Listing of frivolous positions**

The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662 (d)(2)(B)(ii)(II).

##### **(d) Reduction of penalty**

The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

##### **(e) Penalties in addition to other penalties**

The penalties imposed by this section shall be in addition to any other penalty provided by law.

be given 30 days to withdraw or amend his or her offer in order to avoid the IRS's attempt to collect the penalty.

The IRS must make the opportunity to withdraw or amend the offer in writing and included in correspondence that advises the taxpayer that actions to avoid the \$5,000 IRC 6702(b) penalty are either to withdraw the offer or amend the offer so it only includes a valid reason for acceptance based on existing law.

## **V. Mandatory Acceptance**

Under Internal Revenue Code Section 7122(f), an Offer in Compromise (OIC) will be deemed accepted if the IRS does not make a determination regarding whether to accept the offer and notify the taxpayer of its determination within two years of the date the IRS receives the offer. Any period during which any tax liability that is the subject of such [OIC] is in dispute in any judicial proceeding shall not be taken into account in determining the expiration of the 24-month period.

An OIC will not be deemed to be accepted pursuant to section § 7122(f), if within the 24-month period, the OIC is:

- Rejected by the IRS;
- Returned by the IRS to the taxpayer;
- Withdrawn by the taxpayer; or
- Treated as withdrawn under section § 7122(c)(1)(B)(ii) because the taxpayer failed to make the second or later installment due on a periodic payment OIC.

## **VI. Forms 433-A and 433-B**

Part of the application process for requesting an Offer in Compromise from the IRS is completion of Form 433-A or Form 433-B. These forms (A for individuals and B for businesses) gives the IRS detailed financial information about the taxpayer requesting an offer. This information allows the IRS to calculate its Reasonable Collection Potential – how much money it can realistically expect to collect – and therefore decide whether or not to accept the OIC. Taxpayers seeking to compromise relatively small amounts are exempt from these additional filing requirements. The calculation of Reasonable Collection Potential (RCP) is discussed in greater detail in Chapter 5.

### **A. INSTRUCTIONS FOR FORM 433-A**

- **Section A: Accounts / Lines Of Credit**

List all accounts, even if they currently have no balance. However, do not enter bank loans in this section.

- **Section B: Real Estate**

List all real estate taxpayer owns or is purchasing including his or her home. Include insurance and taxes in the monthly payment. The county and description is needed if different than the address and county taxpayer listed above. To determine equity, subtract the amount owed for each piece of real estate from its current market value.

- **Section C: Other Assets**

List all cars, boats, and recreational vehicles with their make, model, and year. If a vehicle is leased, write "lease" in the "year purchased" column. List whole life insurance policies with the name of the insurance company. List other assets with a description such as "paintings", "coin collection", or "antiques". To determine equity, subtract the amount owed from its current market value.

- **Section D: Credit Cards**

List all credit cards and lines of credit, even if there is no balance owed.

- **Section E: Wage Information**

Provide the name and address of employers for taxpayer and taxpayer's spouse. Include both spouses' income, even if the tax liability is not the result of a jointly filed return. Check the appropriate box indicating how taxpayer is paid. List employment information for a second or part time job on a separate sheet of paper.

- **Section F: Non-Wage Household Income**

Enter monthly amounts for all sources of household income. For any income not received monthly, calculate the monthly amount as follows:

- If received quarterly - divide by three.
- If received weekly - multiply by 4.3.
- If received biweekly - multiply by 2.17.

**Net Self-Employment Income** is the amount taxpayer earns after he or she pays ordinary and necessary monthly business expenses. This figure should relate to the yearly net profit from Schedule C on taxpayer's Form 1040 or the current year profit and loss statement. Please attach a copy of taxpayer's current year profit and loss statement. If net income is a loss, enter "0".

**Net Rental Income** is the amount taxpayer earns after he or she pays ordinary and necessary monthly rental expenses. This figure should relate to the amount reported on Schedule E of your Form 1040 (do not include depreciation expenses). If net rental income is loss, enter "0".

**Other Income** may include distributions from an IRA or reported on a K-1, agricultural subsidies, oil credits, gambling income, etc.

- **Section G: Monthly Necessary Living Expenses**

Enter monthly amounts for expenses. For any expenses not paid monthly, calculate the monthly amount as follows:

- If paid quarterly - divide by three.
- If paid weekly - multiply by 4.3.
- If paid biweekly - multiply by 2.17.

For expenses claimed in boxes 1 and 4, taxpayer may provide actual expenses or the IRS allowable standards. IRS allowable standards can be found by accessing <http://www.irs.gov> and entering "Collection Financial Standards" in the search field. Substantiation may be required for any expenses over the standard once the financial analysis is completed. The amount claimed for Miscellaneous cannot exceed the standard amount for the number of people in taxpayer's family. The miscellaneous allowance is for expenses incurred that are not included in any other allowable living expense items. Examples are credit card payments, bank fees and charges, reading material and school supplies. If taxpayer does not have access to the IRS web site, itemize his or her actual expenses and the IRS will ask for additional proof, if required. Documentation may include pay statements, bank and investment statements, loan statements and bills for recurring expenses, etc.

**Rent** - Do not enter mortgage payment here. Mortgage payment is listed in Section B.

**Medical** - Enter only ongoing medical expenses. Out-of-pocket health care expenses include:

- Medical services
- Prescription drugs
- Medical supplies, including eyeglasses and contact lenses.

**Child/Dependent Care** - Enter the monthly amount taxpayer pays for the care of dependents that can be claimed on Form 1040.

**Estimated Tax Payments** - Calculate the monthly amount taxpayer pays for estimated taxes by dividing the quarterly amount due on Form 1040ES by 3.

**Life Insurance** - Enter the amount taxpayer pays for term life insurance only. Whole life insurance has cash value and should be listed in Section C.

**Delinquent State & Local Taxes** - Enter the minimum amount taxpayer is required to pay monthly. Be prepared to provide a copy of the statement showing the amount taxpayer owes and if applicable, any agreement taxpayer has for monthly payments.

**Student Loans** - Minimum payments on student loans for the taxpayer's post-secondary education may be allowed if they are guaranteed by the federal government. Be prepared to provide proof of loan balance and payments.



**Court Ordered Payments** - For any court ordered payments, be prepared to submit a copy of the court order portion showing the amount taxpayer is ordered to pay, the signatures, and proof of taxpayer making the payments. Acceptable forms of proof are copies of cancelled checks or copies of bank or pay statements.

## **B. INSTRUCTIONS FOR FORM 433-B**

This form is used to collect information from businesses seeking to compromise tax liability with the IRS.

- **Section 1: Business Information**

Include the name, address and type of entity, i.e., partnership, corporation, etc. The form also seeks information about the number of employees the taxpayer has and the regular payroll costs.

- **Section 2: Business Personnel**

This section requires the taxpayer to specify all partners, officers, LLC members and major shareholders. The IRS also wants to know which people are responsible for depositing payroll taxes since those persons can be individually liable for certain delinquent payments.

- **Section 3: Other Financial Information**

This section seeks information about the business's payroll service, if any, and pending lawsuits, whether the business has ever filed for bankruptcy protection, whether any related parties owe the business money, whether any assets have been transferred from the business for less than full value, whether the business has any other business affiliates and whether the business anticipates a near-term increase in revenue.

- **Section 4: Business Asset and Liability Information**

In this section, the IRS asks the business to provide information about the amount of cash it has on hand and specific bank account information. It also seeks information about outstanding accounts receivable, investments and outstanding credit, including credit lines and credit cards. If applicable, this section requires a listing of all real property owned by the business, vehicles both purchased and leased to the business, business equipment, and intangible assets, as well as business liabilities.

- **Section 5: Monthly Income and Expenses**

This final section seeks to help the IRS understand the monthly cash flow of the business by seeing the monthly income and expenses. Income includes gross receipts from sales or services, gross rental income, interest income, dividends and cash receipts. Expenses requested include rents, materials or inventory purchased, supplies, utilities, wages, insurance and taxes.

## Chapter 3 – Review Questions

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*The following questions are designed to ensure that you have a complete understanding of the information presented in the chapter. They do not need to be submitted in order to receive CPE credit. They are included as an additional tool to enhance your learning experience.*

*We recommend that you answer each review question and then compare your response to the suggested solution before answering the final exam questions related to this chapter.*

1. A taxpayer who wishes to enter into an Offer in Compromise with the IRS must:
  - a) have filed his or her federal return for the year in which he or she is filing the Offer in Compromise
  - b) never have filed for bankruptcy
  - c) complete Form 656
  - d) not owe more than \$50,000
2. Does a taxpayer seeking an Offer in Compromise need to send the IRS money along with his or her application:
  - a) the taxpayer must generally send both an application fee, and an initial payment
  - b) the taxpayer must submit an application fee, but is not required to make a payment unless and until the offer is accepted
  - c) there is no application fee associated with a submitted an Offer in Compromise
  - d) the taxpayer must always submit an initial payment of 10% of his or her outstanding tax liability
3. Under which of the following situations might the IRS return an Offer in Compromise to the taxpayer:
  - a) if the taxpayer fails to provide the IRS with requested information
  - b) if the taxpayer fails to include a required initial payment with his or her application
  - c) if the taxpayer fails to complete the entire application
  - d) all of the above

## Chapter 3 – Solutions and Suggested Responses

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1. A: Incorrect. A taxpayer must have filed all legally required tax returns to be eligible for an Offer in Compromise, not simply in the year in which he or she is seeking the compromise.

B: Incorrect. Taxpayers currently in bankruptcy are not eligible, but a former bankruptcy does not render the taxpayer ineligible.

**C: Correct.** The form must be completed by the taxpayer.

D: Incorrect. There is no maximum tax debt for Offers in Compromise.

(See pages 3-1 to 3-2 of the course material.)

2. **A: Correct.** There is a one-time \$150 application fee. The taxpayer must also submit an initial payment, the amount of which depends on the type of offer being sought.

B: Incorrect. An initial payment is required.

C: Incorrect. There is an application fee of \$150 that is only waived in the event the taxpayer meets a low-income threshold.

D: Incorrect. The amount depends on the type of offer being submitted.

(See pages 3-5 to 3-6 of the course material.)

3. A: Incorrect. The IRS will make reasonable attempts to contact the taxpayer for additional information required to process the application. If the taxpayer is not responsive, the application may be returned. However, this is not the best answer.

B: Incorrect. An initial payment is required when the application is submitted. If the payment – or only a portion thereof – is included, the IRS will contact the taxpayer to secure the remainder. Failure to comply will result in a return of the offer. However, this is not the best answer.

C: Incorrect. All portions of the application must be completed. However, this is not the best answer.

**D: Correct.** All of the above are grounds for the IRS to return an Offer in Compromise.

(See pages 3-10 to 3-11 of the course material.)

## **Chapter 4: Rejecting Offers in Compromise**

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When the facts of the case do not support acceptance of the taxpayer's Offer in Compromise – and the taxpayer is unwilling to amend his or her offer – the IRS will inform the taxpayer that his or her offer is being rejected. When the offer is rejected, the taxpayer will be notified in writing and the letter will explain how the taxpayer may exercise his or her appeal rights. Generally, rejections on offers based on Doubt as to Liability are because the tax is believed to be correct as assessed.

The most common reason for rejecting an offer based on Doubt as to Collectability is because it has been determined that more can be collected than was offered. The IRS generally notifies taxpayers by telephone prior to the issuance of the rejection letter that an acceptance cannot be recommended. At this time, the taxpayer is given a final opportunity to submit any additional financial information (except for those cases rejected under "public policy" or as not in the "best interest of the government"). When an offer is rejected, there is no obligation on the part of the taxpayer to continue to make periodic payments pursuant to the offer schedule, even if the taxpayer has appealed the rejection.

### **I. Offers Submitted Solely to Delay Collection**

When the IRS determines that an OIC has been submitted solely to delay collection, the offer will be returned to the taxpayer without further consideration. The term "solely to delay collection" means an offer was submitted for the sole purpose of avoiding or delaying collection activity. A determination that an offer is submitted solely for the purpose of delaying collection should be apparent to an impartial observer.

#### **A. REJECTION OF PRIOR OFFER NOT DETERMINATIVE**

The fact that a prior offer was submitted and rejected does not necessarily mean that the second offer is intended solely to delay collection. However, when a taxpayer submits an offer that is not materially different from a previous offer that was considered and rejected with appeal rights, the offer may be returned as solely to delay collection.

The offer may be considered as materially different when the amount reflected on the re-submission is substantially similar to, less than, or the same as the prior offer and the following exists:

- The taxpayer's financial situation has changed. A change in the taxpayer's financial situation may include: (1) a change in employment and/or income, (2) a change in marital status affecting future ability to pay, (3) a change in ownership of assets or significant decline in the value of any assets, (4) the loss of an asset that was included in the original offer investigation, or (5) a change in circumstances that would affect allowable expenses and future ability to pay; or
- The taxpayer has raised special circumstances that were not considered during the prior investigation.

## **B. SOLELY TO DELAY EXAMPLES AND DISCUSSION**

The following are examples of offers considered submitted solely to delay collection based on re-submission after a prior rejection or return:

### **Example.**

*During initial analysis by the IRS, it is discovered that the taxpayer had a previous offer returned six months ago in which the taxpayer failed to respond to requests for additional information from the IRS. The taxpayer did not provide any bank statements with the first offer and did not respond to a letter requesting the necessary documentation to determine an accurate RCP. The initial analysis indicated bank statements are required to determine an accurate Reasonable Collection Potential; however, none was provided with the new offer and there was no indication from the taxpayer the accounts were closed. No special circumstances were indicated. This offer will be rejected.*

### **Example.**

*The taxpayer submitted an offer for \$10,000. The IRS computed the Reasonable Collection Potential to be \$20,000. The taxpayer refused to increase the offer to the computed Reasonable Collection Potential. A rejection letter was issued, and the taxpayer did not appeal. One month later, the taxpayer resubmitted an offer for \$10,100. A thorough analysis indicated there is no change in the taxpayer's financial condition and no special circumstances were indicated. This offer will be rejected.*

### **Example.**

*A taxpayer submits an offer for \$3,000 to be paid within 90 days of acceptance. A prior offer was submitted for \$10,000 to be paid within 90 days. The investigation of the initial offer submission resulted in the offer being rejected with appeal rights. During that offer investigation it was determined that a piece of property was transferred to a non-liable spouse for no consideration and that a clear transferee issue exists. The value placed on the transferred property was \$30,000, and was included in the Reasonable Collection Potential. The taxpayer failed to request a timely appeal on the rejected offer. There were no special circumstances indicated. This offer will be rejected.*

### **Example.**

*During initial processing of an OIC, the IRS learns that there have been three offers submitted by the taxpayer over the past 18 months. All three were returned for failure to provide requested financial information. The closed return file indicates the taxpayer was asked to provide a financial statement for a closely held corporation, which the taxpayer holds 75% interest in and is the corporate president. A Form 433-B for this corporation was requested during the offer investigation. The offer specialist clearly documented in the file the taxpayer's interest and position in this corporation. The request was clear and specific and the taxpayer refused to provide this information, claiming the IRS has no right to place a value on the corporation when determining his ability to pay on*

*personal tax liabilities. The newly submitted offer package does not include a Form 433-B for the corporation and the Form 433-A indicates the same corporation is the taxpayer's current employer. The offer will be rejected.*

**Example.**

*An offer is submitted for \$30,000 payable within 90 days of acceptance. Research on AOIC indicates the second offer submitted by the taxpayer. A prior offer was submitted for \$20,000 payable within 90 days of acceptance. The original offer was rejected with appeal rights, the taxpayer filed a timely appeal, and Appeals sustained the rejection. A review of the prior offer file indicates the taxpayer has the ability to full pay the outstanding liability through an installment agreement. The total liability is for \$40,000. A review of the financial information indicates the taxpayer still has the ability to full pay the liability. The original offer was received 18 months ago and no payments have been made during this period. There is no change indicated on the financial statement, except the taxpayer has a new employer. The taxpayer's income remained the same. There are no special circumstances indicated. The offer will be rejected.*

In some situations, it may be determined that an offer is submitted as solely to delay collection when no prior offer has been submitted. When a collection employee has contacted the taxpayer and determined that the next action necessary is to enforce collection through levy or seizure, but the taxpayer files an offer to delay this enforcement action, the offer may be returned as solely to delay collection, unless there is a change of circumstances not considered by the collection employee.

## **II. Frivolous Offers**

A taxpayer may submit an OIC which provides a frivolous or groundless position as the reason the OIC should be accepted. In these instances, the IRS will return the offer. In certain cases, the IRS will treat the offer as if it was never made. The collection statute expiration date will not be suspended and any application fee and offer payment will be required to be returned if the offer is treated as though it was never submitted.

The taxpayer's basis for submitting the offer is deemed frivolous if it includes a tax argument discussed in Internal Revenue Service Notice 2010-33 including, but not limited to, federal income taxes are unconstitutional, enforcement of the tax laws invades a taxpayer's privacy under the Fourth Amendment, or the Fifth Amendment privilege against self-incrimination grants taxpayers the right not to file returns or the right to withhold all financial information from the IRS.

If the taxpayer includes any of the positions listed in Notice 2010-33 as the reason an offer in compromise should be accepted, then the assertion of a penalty for a frivolous submission under IRC 6702(b) may be appropriate. IRC 6702(b) provides for a penalty in situations when there is a frivolous offer submission or an offer submission in which the taxpayer has demonstrated a desire to delay or impede the administration of federal tax laws.

### **III. Not in the Best Interest of the Government**

An offer rejection may also be based on a determination that acceptance of the specific offer at hand is not in the best interest of the government. The IRS requires that rejections under this provision must be fully supported by the facts outlined in the record. Offers rejected under this section require the review of an IRS manager. Below is an example of a situation that may warrant rejection as not being in the best interest of the government.

#### **Example.**

*An offer in compromise in the amount of \$100 is submitted by a taxpayer who has a history of filing frivolous returns. The OIC includes tax assessments which were completed by the IRS under substitute for return procedures. The financial statements submitted with the offer include very little income on which minimal estimate tax payments have been made. Information from internal sources reveals the taxpayer has additional income not being reported on the financial statement. It is not in the government's interest to investigate an OIC until the taxpayer demonstrates compliance with filing and payment of the appropriate tax.*

Other bases for rejecting an offer as not in the best interests of the government include the following situations:

- An in-business taxpayer compromising employment taxes, where financial analysis indicates the business does not have the ability to fund the offer, remain current with future tax obligations, and meet the business's normal operating expenses;
- Any offer involving deferred payment where financial analysis indicates the taxpayer cannot fund the offer and an acceptable explanation as to where the additional funds may be secured is not provided;
- The taxpayer is the primary responsible party for a related entity, i.e., corporation, partnership, etc., that is not in compliance with its filing and paying requirements; or
- The offer is from an ongoing business that appears to be insolvent, and it appears that the government's position would be better protected through a formal insolvency proceeding.

#### **A. PUBLIC POLICY REJECTION**

The Internal Revenue Manual establishes that offers may be rejected on the basis of public policy if acceptance might in any way be detrimental to the interests of fair tax administration, even though it is shown conclusively that the amount offered is greater than could be collected by any other means, provided no Effective Tax Administration issues exist. A decision to reject an offer for public policy reason(s) by the IRS must be based on the fact that public reaction to the acceptance of the offer could be so negative as to diminish future voluntary compliance by the general public. Decisions to reject offers for this reason should be rare. Below are some examples of situations that may warrant rejection based on a public policy decision:

- The taxpayer has in the past, and continues to openly encourage others to refuse to comply with the tax laws;
- Indicators exist showing that the financial benefits of a criminal activity are concealed or the criminal activity is continuing; or
- The taxpayer engaged in a pattern of conduct suggesting intentional dissipation of assets.

**Example.**

*The taxpayer, a payroll service provider, has received from its clients payments of employment taxes in the amount of \$10 million. The taxpayer remits to the Service an amount equal to the trust fund portion of the employment taxes and designates the payment for application to the trust fund portion of the tax. The taxpayer pays no more of the employment tax. Meanwhile, the taxpayer dissipates all of its remaining assets, reducing its reasonable collection potential to \$0. The taxpayer then submits an OIC for \$10,000. Because the OIC exceeds reasonable collection potential, the taxpayer would qualify for the OIC on the grounds of doubt as to collectability. Nevertheless, the OIC should be rejected on public policy grounds.*

An offer will not be rejected on public policy grounds solely because: (a) it would generate considerable public interest, some of it critical; or (b) a taxpayer was criminally prosecuted for a tax or non-tax violation.

#### **IV. Other Notes on Rejection of Offers in Compromise**

##### **A. INDEPENDENT IRS REVIEW**

IRC § 7122(d)(1) requires the IRS to conduct an independent administrative review of a proposal to reject an OIC. The review must be conducted prior to the rejection being communicated to the taxpayer. The Independent Administrative Reviewer (IAR) is responsible for conducting this review. The IAR is responsible for reviewing each case to determine if the proposed rejection is reasonable based on the taxpayer's facts and circumstances.

##### **B. BASIC APPEAL RIGHTS**

Treasury Regulation 301.7122-1 (f) (5) gives taxpayers 30 days to appeal a rejection of an offer in compromise. The 30-day period to request an appeal starts the day after the date on the rejection letter. The rejected offer must be suspended during this 30-day period to allow the taxpayer an opportunity to request an appeal, even if the taxpayer advises the IRS that no appeal is desired. If the 30th day falls on a Saturday, Sunday, or holiday the date for timely submission will be the next business day. For example, the 30th day for appeal falls on Saturday, August 7, 2012. The request for the appeal is dated Monday, August 9, 2012. This is considered to be a timely appeal because it was postmarked on the first regular business day following the 30th calendar day.



## **V. Actions on Post-Accepted Offers**

During the time an accepted offer is monitored, a determination to terminate or rescind an existing compromise agreement may need to be made. A determination whether to compromise an existing accepted offer may also be considered.

### **A. RESCISSION OF ACCEPTED OFFERS**

An Offer in Compromise is an agreement which is binding on both the government and the taxpayer, and precludes further inquiry into the matters to which it relates, unless fraud or a mutual mistake of fact is identified. An offer may be rescinded or set aside when there was a mutual mistake as it relates to a material fact or a false representation that was made by one party. A "mutual mistake of fact" is defined as an erroneous belief held by both parties about the facts as they existed at the time the contract was entered into. The mere fact that both parties are mistaken with respect to the same basic assumption about an existing fact does not, of itself, provide reason for the affected party to void the contract. Rescission is only appropriate where a mistake of both parties has such a material effect on the agreed exchange of performance that it upsets the very basis of the offer in compromise. To constitute fraud or false representation, the following must be present:

- The representations related to material facts were false;
- The maker knew or should have known the facts to be false; and
- The facts were made for the purpose of inducing, and did induce the other party to make the contract, and that the latter had the right to rely on them, and did rely on them, thereby sustaining injury.

### **B. COMPROMISE OF A COMPROMISE**

The compromise of a compromise is rare. However, in cases where the taxpayer is unable to pay the balance of an accepted offer, the balance of a non-rebate erroneously issued refund, or the balance of the contingent liability under the terms of a collateral agreement and the investigation reveals that extreme hardship or special circumstances exist, which would justify that a default is not in the best interest of the government, the IRS has the option to:

- Adjust the payment terms of the offer;
- Formally compromise the existing compromise; or
- Obtain managerial approval to settle the offer for the amount already paid and not default the offer.

A proposal to compromise the balance of an accepted offer must rest on DATC, DATC with special circumstances, or effective tax administration (ETA).

## Chapter 4 – Review Questions

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*The following questions are designed to ensure that you have a complete understanding of the information presented in the assignment. They do not need to be submitted in order to receive CPE credit. They are included as an additional tool to enhance your learning experience.*

*We recommend that you answer each review question and then compare your response to the suggested solution before answering the final exam questions related to this assignment.*

1. What is the most common reason for the IRS to reject a taxpayer's Offer in Compromise based on Doubt as to Collectability:
  - a) the IRS believes the taxpayer owes all of the assessed tax
  - b) the taxpayer has filed for bankruptcy
  - c) the IRS believes the taxpayer can afford to pay more than is being offered
  - d) the IRS is not in the business of accepting less than the total amount owed
2. Which of the following arguments in support of an Offer in Compromise would be rejected by the IRS as frivolous:
  - a) income taxes are unconstitutional
  - b) the IRS's assessment was incorrect
  - c) the taxpayer cannot fully pay the tax based on his current income
  - d) collection of the tax would violate public policy

## Chapter 4 – Solutions and Suggested Responses

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1. A: Incorrect. This is a basis for rejecting an Offer in Compromise based on Doubt as to Liability, not based on Doubt as to Collectability.

B: Incorrect. An open bankruptcy case will prevent the taxpayer from submitting an offer; it is not a basis for rejecting the offer.

**C: Correct.** The IRS will not generally accept an Offer in Compromise based on Doubt as to Collectability unless it believes it is collecting the most the taxpayer can reasonably be expected to pay based on his or her circumstance.

D: Incorrect. The basis of an Offer in Compromise is that the IRS is accepting less than the total owed.

(See page 4-1 of the course material.)

2. **A: Correct.** This argument is deemed frivolous by the IRS and will result in an automatic rejection and potentially a fine as well.

B: Incorrect. This would give rise to an Offer in Compromise based on Doubt as to Liability and is not a frivolous argument.

C: Incorrect. This would give rise to an Offer in Compromise based on Doubt as to Collectability and is not a frivolous argument.

D: Incorrect. This would give rise to an Offer in Compromise based on Effective Tax Administration and is not a frivolous offer.

(See page 4-3 of the course material.)

## **Chapter 5: Financial Analysis of Offers in Compromise**

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The prior chapter discussed Reasonable Collection Potential, which is the amount of money the IRS believes the taxpayer should be able to pay in an Offer in Compromise based on Doubt as to Collectability. This chapter reviews how that analysis is done in detail. Since a taxpayer will want to know how much he or she will be expected to pay in the event he or she submits an OIC, CPAs should be able to do a rough calculation of what the IRS will likely expect from their client.

### **I. Calculating the Taxpayer's Ability to Pay: An Overview**

When the IRS evaluates a taxpayer's ability to pay tax debt, the determination is made on the liability due at the time the offer is submitted. The IRS will complete an initial calculation to determine if the taxpayer can pay his or her tax debt in full either presently or through an installment agreement<sup>1</sup> prior to considering whether to accept the Offer in Compromise. The standards the IRS staff must use to calculate the taxpayer's present ability to pay is made using detailed criteria set forth in the Internal Revenue Code, Internal Revenue Manual and other regulations. Many of those rules are condensed and explained in this chapter.

#### **A. INITIAL DETERMINATION**

If the initial calculation indicates the taxpayer is unable to fully pay his or her tax debt either presently or through an installment agreement, the IRS must calculate the Reasonable Collection Potential. This determination will be made from evaluating a variety of sources, including the Collection Information Statements (CIS) that the taxpayer must submit with the offer.

#### **B. INFORMATION MUST BE CURRENT**

Collection Information Statements (CIS) and related documentation submitted with an OIC should reflect information no older than the prior six months from the date of the OIC submission.

If during the investigation, the financial information becomes older than 12 months and it appears that significant changes have occurred, the IRS will normally request updated information from the taxpayer.

In certain situations, information may become outdated due to significant processing delays caused by the IRS and through no fault of the taxpayer. In those cases, the IRS may rely on the outdated information if there is no indication the taxpayer's overall situation has significantly changed. If there is any reason to believe the taxpayer's situation may have significantly changed, a taxpayer may be asked to submit a new CIS.

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<sup>1</sup> With an Installment Agreement, the taxpayer pays off his or her entire debt by making periodic payments over an agreed-upon timeframe.

## C. VERIFICATION

The IRS will thoroughly review the taxpayer's financial statements submitted with the OIC. They will also review all of the internal records they already have about the taxpayer, i.e., prior tax returns, to ensure that the information provided by the taxpayer is correct.

Collection issues that have been previously addressed during a prior investigation will not be re-examined unless there is convincing evidence that such reinvestigation is absolutely necessary. Investigative actions that are less than 12 months old may be used to evaluate the OIC, unless the taxpayer indicates there has been a material change or there is evidence indicating his financial situation has changed in the intervening months.

### 1. Credit Reports

In verifying taxpayer information, the IRS may secure a full credit report to assist in locating taxpayer assets, verifying financial information, and/or determining an alternative resolution to an OIC. A full credit report will generally be requested prior to the IRS accepting an offer when the current balance exceeds \$100,000. When computing equity in real estate or allowable motor vehicles, and the taxpayer has not submitted substantiation of loan balances claimed on the Form 433-A, the IRS will generally request a credit report and use the loan balance information to determine the current balances of any relevant loans from commercial lenders. If the loan is from a private source, the IRS will contact the taxpayer for more information.

### 2. Verification Through Taxpayer Contact

If not present in the file when assigned for investigation and internal sources are not available or indicate a discrepancy, appropriate documentation should be requested from the taxpayer, either verbal or written, to verify the information on the CIS. A request for additional information and verification should be based on the taxpayer's circumstances and the information must be necessary to make an informed decision on the acceptability of the taxpayer's OIC. A blanket request should not be made for information that would have no impact on the case resolution. Also, no request should be made for any information that is available internally.

The table below provides guidance to the types of information that may be needed to verify the CIS if not included or addressed with the original Form 656, 433-A, or 433-B. This list is not all inclusive.

**Table 5.1. Information Required to Verify Taxpayer Information.**

<b>Taxpayer Documentation</b>	<b>The IRS Will ...</b>
Wage Earner — wage statements for the prior three months or a statement with current year-to-date figures	<ul style="list-style-type: none"><li>• Compare average earnings to the income declared on the CIS.</li><li>• Verify adequate tax withholding.</li><li>• Identify payroll deductions.</li><li>• Identify deductions to savings accounts, credit union accounts, or retirement accounts.</li></ul>
Self-employed – proof of gross income (accounts receivable, commission statements, etc.) for the prior six months for operating businesses  Seasonal businesses may require up to 12 months of verified income.	Compare average earnings to the income declared on the CIS
Bank statements – three current months showing the monthly transactions, withdrawals, and deposits for IMF accounts and six months for operating businesses	Compare deposit amounts to income reported on the tax return and CIS. Question deposits that exceed reported income and unusual expenses paid <sup>2</sup>
Retirement account statements and brochures, brokerage account statements, securities, or other investments	Identify the type (mandatory/voluntary), conditions for borrowing, conditions for withdrawal, and current market value.
Life insurance policies	Identify the cash value of the policy.
Motor vehicle statements from the lender	Verify monthly payment and payoff amount.
Real estate lender statements	Identify the payoff amount and monthly payment expense and verify the property address on the real estate or lender statement.
Court orders and court ordered payments for child support/alimony	Verify responsibility for child support/alimony, that the payments are actually being made, and the length of time payments are required to be made.

<sup>2</sup> The IRS may request specific cancelled checks and deposit items if questionable items cannot be adequately explained.

## **II. Calculating Equity in Assets**

Proper asset valuation is essential for the IRS to determine RCP. In some cases, the IRS may need to review the following documents to determine undisclosed assets or income and assist in valuing the property:

- Divorce decrees or separation agreements to determine the disposition of assets in the property settlements;
- Homeowners or renters insurance policies and riders to identify high value personal items such as jewelry, antiques, or artwork; and
- Financial statements recently provided to lending institutions or others to identify assets or income that may not have been revealed on the CIS.

For an on-going business, the IRS will make calls to validate the existence and value of business assets and inventory. The IRS may also make field calls on non-operating businesses or individuals after all internal research has been exhausted.

### **A. NET REALIZABLE EQUITY**

For purposes of evaluating an OIC, the IRS will value assets at net realizable equity (NRE). Net realizable equity is defined as quick sale value (QSV) less amounts owed to secured lien holders with priority over the federal tax lien, if applicable, and levy exemption amounts. QSV is defined as an estimate of the price a seller could get for the asset in a situation where financial pressures motivate the owner to sell in a short period of time, usually 90 calendar days or less. Generally, QSV is an amount less than fair market value (FMV). For purposes of determining the taxpayer's reasonable collection potential (RCP), information provided by the taxpayer and third party sources available to the IRS will be reviewed to arrive at an appropriate FMV of the property.

Normally, QSV is calculated at 80% of FMV. A higher or lower percentage may be applied in determining QSV when appropriate, depending on the type of asset and current market conditions. If, based on the current market and area economic conditions, it is believed that the property would quickly sell at full FMV, then the IRS may consider QSV to be the same as FMV. This is occasionally found to be true in real estate markets where real estate is selling quickly at or above the listing price. As long as the value chosen represents a fair estimate of the price a seller could get for the asset in a situation where the asset must be sold quickly (usually 90 calendar days or less) then it would be appropriate to use a percentage other than 80%. Generally, it is the policy of the IRS to apply QSV in valuing property for offer purposes.

When a particular asset has been sold (or a sale is pending) in order to fund the offer, no reduction for QSV will be made. Instead, the IRS will verify the actual sale price, ensuring that the sale is an arms-length transaction, and use that amount as the QSV. A reduction may be made for the costs of the sale and the expected current year tax consequence to arrive at the NRE of the asset.

## **B. JOINTLY HELD ASSETS**

When taxpayers submit separate offers but have jointly owned assets, the IRS will allocate equity in the assets equally between the owners, with the following exceptions:

- If the joint owners demonstrate their interest in the property is not equally divided, then the IRS will allocate the equity based on each owner's contribution to the value of the asset; and
- If the joint owners have joint and individual tax liabilities included in their offer, the IRS will apply the equity first to the joint liability and then to the individual liability.

For property held as tenancies by the entirety when the tax is owed by only one spouse, the taxpayer's portion is usually 50% of the property's Net Realizable Equity (NRE), which is the amount a taxpayer would receive if he or she sold the asset, less an amount owed on that asset.

The IRS will review applicable state law, including the effect community property and registered domestic partnership laws have on property ownership rights in order to determine the taxpayer's interest in assets that should be included in the RCP.

## **III. Valuing Business Assets**

### **A. INCOME-PRODUCING ASSETS**

When investigating the Reasonable Collection Potential for an offer that includes business assets, the IRS will try to determine whether certain assets are essential for the production of income. When it has been identified that an asset or a portion of an asset is necessary for the production of income, the IRS may adjust the income or expense calculation for that taxpayer to account for the loss of income stream if the asset was either liquidated or used as collateral to secure a loan to fund the offer. When valuing income-producing assets, the IRS will follow the guidelines set forth in Table 5.2 on the next page.



**Table 5.2. Valuing Income Producing Assets.**

<b>If...</b>	<b>Then the IRS will...</b>
There is no equity in the assets	There is no adjustment necessary to the income stream.
There is equity and no available income stream (i.e., profit) produced by those assets	There is no adjustment necessary to the income stream. The IRS will consider including the equity in the asset in the RCP.
There are both equity in the assets that are determined to be necessary for the production of income and an available income stream produced by those assets	Compare the value of the income stream produced by the income producing asset(s) to the equity that is available. Determine if an adjustment to income or expenses is appropriate.
An asset used in the production of income will be liquidated to help fund an offer	Adjusting the income to account for the loss of the asset.
A taxpayer borrows against an asset that is necessary for the production of income, and devotes the proceeds to the payment of the offer	Consider the effect that loan will have on future expenses and the future income stream.
The taxpayer is either unable or unwilling to secure a loan on the equity in income producing assets	Compare the equity in the assets with the income produced by those assets. Determine if an adjustment to income stream is appropriate to account for the potential loss of the assets.

The IRS is required to document the above considerations and evaluations in the case file. Below are some examples of the type of consideration the IRS gives certain types of business property.

**Example.**

*A self-employed construction tradesman sells a truck, which he uses to haul materials, and devotes the proceeds to his OIC. The IRS will have to consider allowing the expected cost of delivery services as a future business expense.*

**Example.**

*Assume the same facts as above, except that instead of selling the truck, the tradesman takes out a loan using the truck as collateral and uses the proceeds of the loan towards paying the IRS. The IRS will have to consider allowing the loan repayment to be included as a business expense.*

**Example.**

*Again using the scenario above, assume that the tradesman cannot secure a loan and that the sale of his truck would create an economic hardship. In this situation, the IRS will need to compare the equity in the*

*truck with the income produced by the asset to determine if an adjustment to the individual's income stream is appropriate to account for the potential loss of the assets.*

**Example.**

*An outside salesman owns an expensive luxury automobile. Since any type of car is likely acceptable for the salesman to conduct his work, the IRS will consider the value in determine the taxpayer's RCP. He might, therefore, be forced to sell the car and purchase a less expensive one.*

**Example.**

*A company delinquent in tax payments owns a vacation home used occasionally for board meetings. The IRS will not consider the payment on the property as a required business expense because it is not crucial to the operations of the business. The taxpayer may, therefore, be forced to sell the property or allow the bank to take it back.*

## **B. ASSETS HELD BY OTHERS AS TRANSFEREES, NOMINEES OR ALTER EGOS**

A critical part of the financial analysis is done by the IRS to determine what degree of control the taxpayer has over assets and income in the possession of others. This is especially true when the offer will be funded by a third party. If the taxpayer has a beneficial interest in the asset or income stream, then the value should be reflected in the RCP. This may require the taxpayer to submit completed financial statements for the entity identified.

If the taxpayer is unwilling or unable to provide the financial information requested, the IRS may simply assign a value based on available information. If information necessary to determine whether the taxpayer's offer should be accepted is not provided, the IRS may simply return the taxpayer's offer. If, however, the information that was provided is sufficient for the IRS to calculate the RCP and the taxpayer's assets – other than the transferred property – are greater than the offer amount – the offer will likely be rejected.

## **C. ACCOUNTS AND NOTES RECEIVABLE**

Accounts and notes receivable are considered assets unless the IRS makes a determination to treat them as part of the income stream when they are required for the production of income. When it is determined that liquidation of a receivable would be detrimental to the continued operation of an otherwise profitable business, it may be treated as future income.

### **1. Accounts Receivable**

The IRS will normally value all accounts receivable at 100% of the balance due, unless the taxpayer can substantiate the account has been delinquent over 90 days. Accounts receivable that are current (i.e., less than 90 days past due) generally should not be discounted at Quick Sale Value (QSV). If the account is determined to be delinquent, the IRS may discount appropriately based on the age of the receivable and the potential for collection.

## 2. Notes Receivable

To determine the value of a note receivable, the IRS will consider the following:

- Whether it is secured and if so by what asset(s);
- What is collectable from the borrower; and
- If it could be successfully levied upon.

### **D. INVENTORY, MACHINERY, EQUIPMENT AND TOOLS OF THE TRADE**

Inventory, machinery, and equipment may be considered income-producing assets when it is determined that liquidation of these assets would be detrimental to the continued operation of an otherwise profitable business. To determine the value of business assets, the IRS will generally use the following:

- For assets commonly used in many businesses, such as automobiles and trucks, the value may be easily determined by consulting trade association guides;
- For specialized machinery and equipment suitable for only certain applications, the IRS will consult a trade association guide, secure an appraisal from a knowledgeable and impartial dealer, or contact the manufacturer; and
- Consider asking the taxpayer to secure an appraisal from a qualified business appraiser.

There is a statutory exemption from levy that applies to an individual taxpayer's tools used in a trade or business, which will be allowed in addition to any encumbrance that has priority over the Notice of Federal Tax Lien (NFTL). This exemption for tools of the trade generally does not apply to automobiles. The levy exemption amount is updated on an annual basis.

### **E. BUSINESS AS A GOING CONCERN**

Evaluation of a business as a going concern is sometimes necessary when determining RCP of an operating business owned individually or by a corporation, partnership, or LLC. This analysis recognizes that a business may be worth more than the sum of its parts, when sold as a going concern. To determine the value of a business as a going concern, the IRS will consider the value of assets, future income, and intangible assets such as:

- Ability or reputation of a professional;
- Established customer base;
- Prominent location;
- Well known trade name, trademark, or telephone number; and

- Possession of government licenses, copyrights, or patents.

Generally, the difference between what an ongoing business would realize if sold on the open market as a going concern and the traditional the RCP analysis is attributable to the value of these intangibles. When determining the equity to include in RCP for an individual taxpayer who has an interest in a business entity, the IRS will give consideration to the taxpayer's control over the business.

## **F. LIMITED LIABILITY COMPANY (LLC) ISSUES**

Collection from a LLC involves unique issues especially when the liabilities include employment or excise taxes. While investigating an offer in compromise that involves an LLC, knowing the classification for federal tax purposes is necessary. Yet, classification of the LLC for federal tax purposes does not negate state law provisions concerning the legal status of the LLC. For example:

- Classification of an LLC as a partnership does not mean the member/owners have liability for LLC debts as would be the case in a state law partnership; and
- Under certain circumstances, an LLC may be disregarded as an entity separate from its owner. This classification does not mean that an LLC owned by an individual is the equivalent of a sole proprietorship.

As with any entity, the IRS must secure sufficient information to make an informed decision on the acceptability of the taxpayer's compromise proposal. In all instances, a financial statement will be required from the LLC. This includes employment tax liabilities for wages paid where the classification of the LLC is a disregarded entity even though the LLC is not the liable taxpayer.

Financial information of all member owners will also be collected by the IRS. When a member owner holds only a negligible or token interest, has made no or minimal investment, and exercises no control over the corporate affairs, financial information may not be required unless other factors are present to indicate the information is necessary to determine the acceptability of the taxpayer's offer. If the taxpayer is unwilling or unable to provide the financial information requested and the information is necessary to determine whether the taxpayer's offer should be accepted, the IRS is likely to return the offer to the taxpayer.

## **IV. Dissipation of Assets**

The IRS will not automatically include the value of dissipated assets in the calculation of the RCP. Each particular case is evaluated on its own merit. During its investigation of an offer, the IRS may discover, for example, that assets (liquid or non-liquid) have been sold, gifted, transferred, or spent on non-priority items or debts and are no longer available to pay the tax liability. Once it is determined that a specific asset has been dissipated, the IRS will investigate whether the value of the asset, or a portion of the value, should be included in an acceptable offer amount. A determination that assets were dissipated by the IRS will include an analysis of the following facts:

- When the asset(s) were dissipated in relation to the offer submission. Absent unique circumstances, the value of assets dissipated more than five years prior to the offer submission will not be included in the RCP;
- When the assets were used by the taxpayer to pay for existing on-going business operating expenses, the funds should not be considered to be a dissipated asset;
- When the asset(s) were dissipated in relation to the liability;
- How the asset was transferred;
- If the taxpayer realized any funds from the transfer of assets;
- How any funds realized from the disposition of assets were used; and
- The value of the assets and the taxpayer's interest in those assets.

When it can be shown through internal research or substantiation provided by the taxpayer that the funds were needed to provide for necessary living expenses, the IRS will not include them in the RCP calculation.

**Example.**

*John, who is applying for an OIC, dissolved his IRA during a period of unemployment. The IRS's review verified the John's income was insufficient to meet necessary living expenses. In this case, the IRS will not include the funds up to the amount needed to meet allowable expenses in the RCP calculation.*

**Example.**

*Tina is applying for an OIC. The IRS determined that Tina withdrew a substantial amount of money from her bank accounts. She provided the IRS with supporting documentation to show that the funds were used to pay for unexpected medical expenses. This amount will not be included in the RCP calculation.*

If the IRS determines during the course of evaluating the OIC that the taxpayer's assets have been dissipated with a disregard of the outstanding tax liability, the IRS will consider including the value in the RCP calculation. Dissipated assets that may result in an increase to the RCP calculation include dissolving an IRA account or refinancing equity in property to pay for a child's wedding or vacation, and sale of real estate and gifting the funds from the sale to family members. On the other hand, if the taxpayer refinanced his or her home and used a portion of the funds to pay for living expenses or medical costs, only the portion of the funds that were not used for necessary living expenses should be considered for inclusion as a dissipated asset when calculating the RCP.

Prior to including the dissipated asset in the RCP, the IRS will normally contact the taxpayer and provide them with the opportunity to explain or verify the dissipation of the

asset. If during the investigation it is determined the assets were deliberately dissipated in anticipation of the tax liability or the filing of the OIC, the IRS may reject the offer under public policy criteria.

## **V. Valuing an Individual Taxpayer's Assets**

### **A. CASH**

The IRS will determine the taxpayer's interest in bank accounts by ascertaining the manner in which it is held. They will verify whether deposits in escrow or trust accounts are actually held for the benefit of others. They will also review checking account statements over a reasonable period of time, generally three months for wage earners and six months for in-business taxpayers.

The checking account would normally be valued at the lowest daily balance during the month. If the lowest balance is not available, the ending balance may be used, if it is determined to approximate a reasonable value for the account.

An individual account may be valued at zero if the monthly ending or lowest daily balance is minimal, income and expenses are approximately equal on the taxpayer's application, the only deposits into the account are from the taxpayer's wages/salary or pension, and the taxpayer does not have any other account from which he or she pays expenses.

The IRS will also analyze the statement for any unusual activity, such as deposits in excess of reported income, withdrawals, transfers, or checks for expenses not reflected on the taxpayer's application. The IRS will question any inconsistencies.

#### **Example.**

*A review of the bank statement of a taxpayer seeking an OIC shows a beginning balance of \$10,000. Discussion with the taxpayer revealed that he maintains a \$10,000 monthly balance after allowable living expenses. The IRS will include the \$10,000 as an asset when calculating the taxpayer's RCP.*

The IRS will also undertake the following actions:

- Review savings accounts statements over a reasonable period of time, generally three months; and
- If the account has little withdrawal activity, use the ending balance on the latest statement as an asset in determining the taxpayer's RCP. If it is apparent that the account is used for paying monthly living expenses, the IRS will treat it as a checking account.

If analysis of the bank statement reveals large amounts of recently expended funds, the IRS will fully investigate the disposition of those assets. Also, in circumstances where a taxpayer offers the balances of accounts (for example, certificate of deposit, savings bonds, etc.) to fund the offer, the IRS will allow for any penalty for early withdrawal and the expected current year tax consequence.

## B. SECURITIES AND STOCKS OF CLOSELY HELD ENTITIES

Financial securities are considered an asset and their value is included by the IRS in calculating the taxpayer's RCP. In cases where the taxpayer will liquidate the investment to fund the offer, the IRS will allow associated fees in addition to any penalty for early withdrawal and the current year tax consequence. To determine the value of publicly traded stock, the IRS will research a daily paper, other internal sources, or inquire with a broker for the current market price. Then, the IRS will allow for the estimated costs of the sale to arrive at the QSV. To determine the value of closely held stock that is either not traded publicly or for which there is no established market, the IRS will consider the following methods of valuing the company and assign the applicable portion of the company's value to the taxpayer's stock or other interest:

- Secure and verify a CIS;
- Review recent year's annual report to stockholders;
- Review recent year's corporate income tax returns; and
- Request an appraisal of the business as a going concern by a qualified and impartial appraiser.

When a taxpayer holds only a negligible or token interest, has made no investment, and exercises no control over the corporate affairs, the IRS may assign no value to the stock.

## C. LIFE INSURANCE

The IRS will identify the type, conditions for borrowing or cancellation, and the current loan and cash values of any life insurance. Life insurance as an investment (e.g., whole life) is not considered necessary. Reasonable premiums for term life policies may be allowed as a necessary expense. The IRS will also verify the amount of the premiums and ensure payments are being made. When determining the value in a taxpayer's insurance policy, the IRS will make valuations as set forth in the table below.

**Table 5.3. Valuing Insurance.**

<b>If...</b>	<b>Then the IRS will value...</b>
The taxpayer will retain or sell the policy to help fund the offer	Equity as the cash surrender value.
The taxpayer will borrow on the policy to help fund the offer	Equity as the cash loan value less any prior policy loans or automatic premium loans required to keep the contract in force.

## D. RETIREMENT OR PROFIT SHARING PLANS

Funds held in a retirement or profit sharing plan are considered an asset and must be valued for offer purposes. Contributions to voluntary retirement plans are not a necessary expense for purposes of determining RCP. If a taxpayer plans on liquidating the retirement plan to contribute towards the OIC, the IRS will allow any penalty for early withdrawal and the current year tax consequence.

When determining the value of a taxpayer's pension and profit sharing plans, the IRS generally follows the rules set forth below:

**Table 5.4. Valuing Retirement Plans.**

If...	And...	Then...
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account	The taxpayer is not retired or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal tax.
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account	The taxpayer is retired or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal tax. The plan may be considered as income, if the income from the plan is required to provide for necessary living expenses.
The contribution to a retirement plan is required as a condition of employment	The taxpayer is able to withdraw funds from the account	Equity is the amount the taxpayer can withdraw less any tax consequences and early withdrawal tax.
The contribution to an employer's plan is required as a condition of employment	The taxpayer is unable to withdraw funds from the account but is permitted to borrow on the plan	Equity is the available loan value.
Any retirement plan that may not be borrowed on or liquidated until separation from employment	The taxpayer is retired, eligible to retire, or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal tax, or consider the plan as income if the income from the plan is necessary to provide for necessary living expenses.
The plan may not be borrowed on or liquidated until separation from employment and the taxpayer has no vested interest	The taxpayer is not eligible to retire until after the period for which we are calculating future income	The plan has no equity.
The plan includes a stock option	The taxpayer is eligible to take the option	Equity is the value of the stock at current market price less any expense to exercise the option.

## **E. FURNITURE, FIXTURES AND PERSONAL EFFECTS**

The taxpayer's declared value of household goods is usually acceptable unless there are articles of extraordinary value, such as antiques, artwork, jewelry, or collector's items. There is a statutory exemption from levy that applies to the taxpayer's furniture and personal effects. This exemption amount is updated on an annual basis. This exemption



applies only to individual taxpayers. When determining the value, the IRS will consider the factors in the Table below:

**Table 5.5. Valuing Furniture, Fixtures and Personal Effects.**

<b>If...</b>	<b>Then the IRS will...</b>
The taxpayer qualifies as head of household, single, or married	Grant a reduction in the value of personal effects for the levy exemption amount.
The property is owned jointly with any person who is not liable for the tax	Determine the value of the taxpayer's proportionate share of property before allowing the levy exemption.
Some of the furniture or fixtures are used in a business	Say that they are not personal effects, but they may qualify for the levy exemption as tools of a trade.
If the property has an encumbrance with priority over the Notice of Federal Tax Lien	Allow the encumbrance in addition to the statutory exemption.

## **F. MOTOR VEHICLES, AIRPLANES AND BOATS**

Equity in motor vehicles, airplanes, and boats must be determined and included in the RCP. The general rule for determining NRE, as discussed above, applies when determining equity in these assets. Unusual assets such as airplanes and boats may require an appraisal to determine FMV, unless the items can be located in a trade association guide.

The IRS will normally not personally inspect automobiles used for personal transportation. When it appears reasonable, they will accept the taxpayers stated value. If the taxpayer failed to provide the value or the value appears to be unreasonable, the IRS will consult a trade association guide. Generally, the Private Party or equivalent value will be used. In most cases, the vehicle will be discounted for the FMV to 80% to arrive at the QSV. When these assets are used for business purposes, they may be considered income-producing assets.

## **G. REAL ESTATE**

The IRS will verify types of ownership through warranty and mortgage deeds to determine the FMV. For purposes of real estate, FMV is defined as the price at which a willing seller will sell and a willing buyer will pay for the property, given time to obtain the best and highest possible price. The IRS will use the following methods may be used to establish FMV:

- Recent purchase price or an existing contract to sell;
- Recent appraisals;
- Real estate tax assessment;
- Market comparables; and
- Homeowner's insurance policy(s).

Once the FMV of real estate is established, the IRS will make a determination regarding a reduction of value for offer purposes must be made. Equity in real estate is included when calculating the taxpayer's RCP in an acceptable offer amount. This may be established through HUD closing statements, statements from the lenders, etc. For real estate and other related property held as tenancies by the entirety when the tax is owed by only one spouse, the taxpayer's portion is usually 50% of the property's NRE.

## **H. RETIRED DEBT**

Retired debt is defined as an expected change in necessary or allowable expenses. The necessary/allowable expenses may decrease, which would change the taxpayer's ability to pay.

### **Example.**

*John is seeking an OIC. He is currently paying child support for his 17-year-old son who resides with his ex-wife. When his son turns 18, John will no longer be obligated to make those payments. Since the required child support payments will stop before the future income period ends, the retiring of those payments will increase the amount of money John will have available towards resolving his tax debt.*

Inclusion of retired debt should not be automatically included in the calculation of the RCP by the IRS. The IRS will evaluate on a case-by-case basis whether inclusion of the retired debt is appropriate based on the facts of the case.

## **I. FUTURE INCOME**

Future income is defined as an estimate of the taxpayer's ability to pay based on an analysis of gross income, less necessary living expenses, for a specific number of months into the future<sup>3</sup>. As a general rule, the taxpayer's current income should be used in the analysis of future ability to pay. This may include situations where the taxpayer's income is recently reduced based on a change in occupation or employment status.

### **1. Considerations Made by IRS**

The IRS will also give consideration to the taxpayer's overall general situation including such facts as age, health, marital status, number and age of dependents, level of education or occupational training, and work experience. Situations that may warrant placing a different value on future income than current or past income are discussed in the table below. Additionally, in some cases, the IRS may request a future income collateral agreement based on the taxpayer's earnings potential.

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<sup>3</sup> See IRM 5.8.5.23(2) table for calculation.

**Table 5.6. Calculating Future Income.**

If...	Then the IRS will...
Income will increase or decrease or current necessary expenses will increase or decrease	Adjust the amount or number of payments to what is expected during the appropriate number of months.
A taxpayer is temporarily or recently unemployed or underemployed	<p>Use the level of income expected if the taxpayer were fully employed and if the potential for employment is apparent. Each case should be judged on its own merit, including consideration of special circumstances or ETA issues.</p> <p><b>Example:</b>  <i>Unemployed – The taxpayer is a construction worker who currently is not employed due to lack of work during the winter months. Since this loss of employment during the winter is normal for the taxpayer, use of the taxpayer’s previous annual income or income averaging may be used to accurately determine the taxpayer’s income.</i></p> <p><b>Example:</b>  <i>Underemployed – The taxpayer is a teacher and is currently employed at a lesser paying job, yet will begin or return to work as a teacher when the school year begins in the fall. The taxpayer is considered to be currently underemployed. The anticipated income once the taxpayer is fully employed is used.</i></p>
A taxpayer is unemployed and is not expected to return to his or her previous occupation or previous level of earnings	<p>Contact the taxpayer to discuss the expected future level of income. When considering future income, also allow anticipated increases in necessary living expenses and/or applicable taxes.</p> <p><b>Note:</b>  <i>Each case should be judged on its own merit, including consideration of special circumstances or ETA issues.</i></p>
A taxpayer is long-term unemployed	<p>Not income average. The taxpayer’s current income should be used in the future income calculation. If there is a verified expectation the taxpayer will be securing employment, then the use of anticipated future income may be appropriate. Anticipated future income should not be used in situations where the future employment is uncertain.</p>

If...	Then the IRS will...
	<p><b>Example:</b>  <i>Taxpayer has been unemployed for over one year. There are currently no employment opportunities for the taxpayer and the household is living on one income. Use of the taxpayer's current income with a future income collateral agreement is appropriate.</i></p>
A taxpayer is long-term underemployed	<p>Not income average. Use the taxpayer's current income.</p> <p><b>Example:</b>  <i>The taxpayer was previously employed in a manufacturing plant making \$75,000 per year. There are currently no opportunities for the taxpayer to secure employment making the same rate of pay as his or her prior job. The taxpayer's income is now \$25,000 per year with no anticipated increase. Use the current income only.</i></p>
A taxpayer has an irregular employment history or fluctuating income	<p>Average earnings over the three prior years. The use of a time period other than three years should be the exception and only when specific circumstances are present.</p> <p><b>Example:</b>  <i>The taxpayer is a stock broker whose income in 2007 was \$150,000 and income in 2008 was \$25,000. In this case, you should consider income averaging the prior three years or secure a future income collateral agreement if the offer is accepted.</i></p> <p><b>Note:</b>  <i>This practice does not apply to wage earners. Wage earners should be based on current income unless the taxpayer has unique circumstances.</i></p>
A taxpayer is in poor health and his or her ability to continue working is questionable	<p>Reduce the number of payments to the appropriate number of months it is anticipated the taxpayer will continue working. Consider special circumstance situations when making any adjustments.</p> <p><b>Example:</b>  <i>Taxpayer has a serious health issue and it is anticipated he or she will be unable to work after six months. Use the taxpayer's current income for six months, then reduce his or her income to the anticipated amount the taxpayer</i></p>

If...	Then the IRS will...
	<i>will be receiving after he or she is unable to work.</i>
A taxpayer is close to retirement and has indicated he or she will be retiring	<p>If the taxpayer can substantiate retirement is imminent, adjust the taxpayer's future earnings and expenses accordingly. If it cannot be substantiated, the calculation will be based on current earnings. At this point, it may be appropriate to discuss other options available to the taxpayer, for example, an installment agreement.</p> <p><b>Example:</b>  <i>The taxpayer is 65 years of age and has indicated he will retire at the age of 66. The taxpayer provided copies of documents that have been submitted to his employer discussing his retirement date. Use the taxpayer's current income until the taxpayer's anticipated retirement date, and then adjust the taxpayer's income to reflect the amount expected in retirement.</i></p> <p><b>Example:</b>  <i>The taxpayer is 62 years of age, is in good health, and has remained stable for the past three years. The taxpayer states she would like to retire at age 65. Use the taxpayer's current income and if the RCP exceeds the offer amount, discuss the option of securing an installment agreement until the taxpayer actually retires, at which time an offer may be appropriate.</i></p>
A taxpayer will file a petition for liquidating bankruptcy	Consider reducing the value of future income. The total value of future income should not be reduced to an amount less than what could be paid toward non-dischargeable periods, or what could be recovered through bankruptcy, whichever is greater. When considering a reduction in future income, the IRS will also consider the intangible value to the taxpayer of avoiding bankruptcy.

The IRS will consider all circumstances of the taxpayer when determining the appropriate application of income averaging, including special circumstances and ETA considerations. Below are some examples of when income averaging may or may not be appropriate.

**Example.**

*A taxpayer's spouse has not worked for over two and one-half years and has no expectations of returning to work. The IRS will not average income for the spouse's past employment under these circumstances.*

**Example.**

*The taxpayer has been unemployed for over one year and provided proof that Social Security Disability is the sole source of income. The IRS will not apply income averaging in this case, but use current income to determine the taxpayer's future ability to pay.*

**Example.**

*The taxpayer was incarcerated and unable to work for the past four years and provided proof that a relative is paying for all expenses, including child support payments. The taxpayer has no skills or promise of work in the near future, but is planning on attending trade school to improve his chances of getting a job. The IRS will not include income prior to the incarceration. In this case, since the taxpayer has no skills or promise of employment, his future income value may be determined to be zero. The IRS will give consideration to whether it would be in the best interest of the government to accept the offer or reject the offer in favor of other case resolutions.*

**Example.**

*The taxpayer recently began working after several months of unemployment. The IRS will use the most recent three months pay statements to determine future income. Since the taxpayer is a wage earner, the use of income averaging over the prior three years of income is not appropriate.*

In situations where the taxpayer's income does not appear to meet his or her stated living expenses, the difference should not be included as additional income to the taxpayer, unless there are clear indications additional income not included on the collection information statement is being received and will continue to be received by the taxpayer. The IRS must speak with the taxpayer in order to determine the appropriateness of including an additional amount in the calculation of future income. Verification of the source of unexplained bank deposits or statements from the source of gifts may be required to correctly determine the taxpayer's current income.

**Example.**

*The taxpayer has been receiving gifts from her parents to meet current living expenses for the past six months. The taxpayer has no guaranteed right to the funds in the future and the amount does not appear to be based on the transfer of assets to the parents. The gift amount should not be included as income.*

**Example.**

*The taxpayer has been receiving an amount each month that only began recently, which he states is a gift from a friend. Further research has determined the taxpayer is in business with the friend and the amount is from their business. This amount should be included as income to the taxpayer.*

**Example.**

*The taxpayer had gambling winnings over a period of time, but is not consistent. Do not include those winnings as additional income on the Income and Expense Table (IET). This does not apply to professional gamblers.*

**Example.**

*The collection information statement (CIS) submitted by the taxpayer included \$3,000.00 of monthly income, which is verified by paystubs. The CIS submitted by the taxpayer includes \$4,000.00 of expenses. An additional \$1,000.00 should not be added to the taxpayer's income based solely on the fact it appears the taxpayer has been meeting the living expenses included on the CIS. The IRS will speak with the taxpayer to clarify the discrepancy prior to including the amount as additional income.*

**2. Future Income Collateral Agreements**

In some instances, it may be difficult for the IRS to calculate the taxpayer's anticipated income. While the use of income averaging is one method available and is used when averaging the taxpayer's income provides a reasonable calculation of the taxpayer's future earnings potential, the IRS may choose to use the taxpayer's current income and secure a future income collateral agreement. The use of a future income collateral agreement is used to protect the government's interest in any substantial increase in the taxpayer's earnings. A future income collateral agreement is normally used where the taxpayer's future income is uncertain, but it is reasonably expected that the taxpayer will be receiving a substantial increase in income.

**Example.**

*A taxpayer is currently in medical school; upon graduation, income should increase dramatically. The IRS will consider securing a future income collateral agreement.*

**Example.**

*A taxpayer recently secured a job as an attorney with a starting salary of \$80,000 per year, with potential for significant increases in salary. The IRS will consider securing a future income collateral agreement.*

### **Example.**

A taxpayer is a real estate agent who has had two years of high income and the current income is significantly diminished. Based on the current real estate market, it may be appropriate for the IRS to use the taxpayer's current income and secure a future income collateral agreement in lieu of income averaging.

## **VI. Allowable Expenses**

Allowable expenses consist of necessary and conditional expenses<sup>4</sup>. The IRS is required to use the amount shown in the expense standard schedules unless that amount would result in the taxpayer not having adequate means to provide for basic living expenses. Once allowable expenses are determined, they are used to calculate the amount that can be collected from the taxpayer's future income.

### **A. NECESSARY EXPENSES**

A necessary expense is one that is necessary for the production of income or for the health and welfare of the taxpayer's family. IRM 5.15.1, Financial Analysis Handbook, discusses the national and local expense standards, which serve as guidelines to provide accuracy and consistency in determining a taxpayer's basic living expenses. The standards are available on the IRS web site and are periodically updated.

Taxpayers are allowed the National Standard Expense amount for their family size, without questioning the amount actually spent. If the total amount claimed is more than the total allowed by the National Standards, the taxpayer must provide documentation to substantiate and justify that the allowed expenses are inadequate to provide basic living expenses. National and local expense standards are guidelines. If it is determined a standard amount is inadequate to provide for a specific taxpayer's basic living expenses, the IRS may allow a deviation.

Generally, the total number of persons allowed for national standard expenses should be the same as those allowed as dependents on the taxpayer's current year income tax return. There may be reasonable exceptions. An example would include foster children or children for whom adoption is pending, or if a custodial parent released the dependency exemption to his or her ex-spouse.

A deviation from the standards should not be considered merely because it is inconvenient for the taxpayer to dispose of high value assets. In some situations, taxpayers may be expected to make life-style choices that will facilitate collection of the delinquent tax.

#### **1. Housing and Utilities**

When determining a taxpayer's housing and utility expense, the IRS will use an amount sufficient to provide for basic living expenses. They will use the amount shown in the expense standard schedules as a guideline unless such use results in the taxpayer not

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<sup>4</sup> This is defined in IRM 5.15.1, Financial Analysis Handbook.



having adequate means to provide for basic living expenses. If it is determined that a standard amount is inadequate to provide for basic living expenses, the IRS will allow a deviation. If the amount of the payment cannot be verified through other sources (such as, bank statements), the IRS will require the taxpayer to provide reasonable substantiation. Deviations from the expense standards must be verified and reasonable. Below are two examples, which are not all inclusive. Each decision should be based on the merits of the particular case.

**Example.**

*A taxpayer with a physical disability or an unusually large family requires a housing cost that is not covered by the local standard. The IRS will require the taxpayer to provide copies of mortgage or rent payments, utility bills and maintenance costs to verify the necessary amount.*

**Example.**

*A taxpayer has owned his home for several years and the payment is above the established standard. The IRS investigation indicates the taxpayer would not be able to rent an apartment for less than his current loan payment. In that case, the IRS will likely allow the full amount of the loan payment.*

Absent special circumstances, when determining a taxpayer's housing and utility expense, the IRS will use the amount that is claimed or the standard, whichever is less.

## **2. Transportation Expenses**

Transportation expenses are considered necessary when they are used by taxpayers and their families to provide for their health and welfare and/or the production of income. The transportation standards consist of nationwide figures for loan or lease payments, referred to as ownership costs, and additional amounts for operating costs broken down by Census Region and Metropolitan Statistical Area. Operating costs include maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking and tolls.

### **a. Ownership Expenses**

These expenses are allowed for the purchase or lease of a vehicle. Taxpayers will be allowed the local standard or the amount actually paid, whichever is less, unless the taxpayer provides documentation to verify and substantiate that the higher expenses are necessary. Generally, auto loan or lease payments will not continue as allowed expenses after the terms of the loan/lease have been satisfied. However, depending on the age or condition of the vehicle, the complete disallowance of the ownership expense may result in a transportation expense allowance that does not adequately meet the necessary expenses of the taxpayer.

### **b. Operating Expenses**

The IRS will allow the full operating costs portion of the local transportation standard, or the amount actually claimed by the taxpayer, whichever is less, unless the taxpayer

provides documentation to verify and substantiate that the higher expenses are necessary. Substantiation for this allowance is not required.

In situations where the taxpayer has a vehicle that is currently over six years old or has reported mileage of 75,000 miles or more, an additional monthly operating expense of \$200 will generally be allowed per vehicle.

**Example.**

*The taxpayer who has a 1998 Chevrolet Cavalier with 50,000 miles, will be allowed the standard of \$231 per month plus \$200 per month operating expense (because of the age of the vehicle), for a total operating expense allowance of \$431 per month.*

**Example.**

*The taxpayer has a 1995 Ford Taurus, with 90,000 reported miles. The vehicle was bought used, and the auto loan will be fully paid in 30 months, at \$300 per month. In this situation, the taxpayer will be allowed the ownership expense until the loan is fully paid; i.e., \$300 plus the allowable operating expense of \$231 per month, for a total transportation allowance of \$531 per month. After the auto loan is "retired" in 30 months, the ownership expense is not applicable; however, at that point, the taxpayer will be allowed a \$200 operating expense allowance, in addition to the standard \$231, for a total operating expense allowance of \$431 per month.*

If a taxpayer claims higher amounts of operating costs because he commutes long distances to reach his place of employment, he may be allowed greater than the standard. The additional operating expense would generally meet the production of income test and, therefore, be allowed if the taxpayer provides substantiation.

If the amount claimed is more than the total allowed by any of the transportation standards, the taxpayer must provide documentation to verify and substantiate that those expenses are necessary. All deviations from the transportation standards must be verified, reasonable and documented in the case history.

### 3. Other Expenses

Other expenses may be allowed in determining the value of future income for offer purposes. The expense must meet the necessary expense test by providing for the health and welfare of the taxpayer and/or his or her family or must be for the production of income. This is determined based on the facts and circumstances of each case. Repayment of loans incurred to fund the offer and secured by the taxpayer's assets will be allowed, if the asset is necessary for the health and welfare of the taxpayer and/or his or her family, i.e., taxpayer's residence, and the repayment amount is reasonable. The same rule applies whether the equity is paid to the IRS before the offer is submitted or will be paid upon acceptance of the offer.

**Example.**

*The taxpayer has secured a 2nd mortgage against her residence which will be paid toward the offer amount upon acceptance. The payment is reasonable based on the amount borrowed and terms of repayment. The payment should be allowed as an expense by the IRS.*

**Example.**

*A taxpayer may have a liability for a court ordered judgment that is senior to the Notice of Federal Tax Lien. Unless the taxpayer is actually making payments on that liability, it is not considered as an allowable monthly expense.*

**4. Student Loans/Education Expenses**

Repayment of student loans secured by the federal government will be allowed only for the taxpayer's post-secondary education. If student loans are owed but no payments are being made, they are not allowed, unless the non-payment is due to temporary job loss or illness.

Education expenses will be allowed only for the taxpayer, and only if they are required as a condition of present employment. Expenses for dependents to attend colleges, universities, or private schools will not be allowed unless the dependents have special needs that cannot be met by public schools.

**5. Child Support Payments**

Child support payments for natural children or legally adopted dependents may be allowed based on the taxpayer's situation. A copy of the court order and proof of payments should be provided. If no payments are being made, the IRS will not allow the expense, unless the nonpayment was due to temporary job loss or illness. In situations where a court order is pending, additional verification may be required. For example, a draft or copy of the court order may be requested.

**Example.**

*The taxpayers are separated and a court date has not been established but child support payments are being made and the taxpayer provided verification of payments. Such payments will be used to determine the taxpayer's Reasonable Collection Potential.*

The IRS will not allow payments for expenses, such as college tuition or life insurance for children, made pursuant to a court order. The fact that the taxpayer may be under court order to make payments with respect to such expenses does not change the character of the expense. Therefore, the fact that the taxpayer is under court order to provide a payment should not in the ordinary course elevate that expense to allowable status as an offer expense, when the IRS would not otherwise allow it.

## 6. Health Care Expenses

Substantiation of claimed health care expenses of less than the allowable standard is not required.

## 7. State or Local Taxing Agencies

Monthly payments to state or local taxing agencies should not be allowed as a necessary expense, even if the state or local taxing agency has a lien that is senior to the IRS's lien or is collecting funds through a wage attachment or approved installment agreement. State and federal liens (regardless of priority) attach simultaneously to after-acquired-property. In general, if the federal tax lien attaches to after-acquired-property simultaneously with a competing perfected lien, the federal tax lien will take priority.

Since future earnings of the taxpayer are after-acquired-property, the IRS has first right to the earnings. The IRS will explain to the taxpayer in such a situation that although the payment may be allowed in an installment agreement, where the tax will be paid in full, it will not be allowed for computation of an acceptable offer amount because the federal government has priority rights to the funds. State or local liens may enjoy a priority in fixed payment streams such as annuity payments.

Current taxes are allowed regardless of whether the taxpayer made them in the past or not. If an adjustment to the taxpayer's income is made, an adjustment of the tax liability must also be made. Current taxes include federal, state, and local taxes. In a wage earner situation, allow the amount shown on the pay stub. If the current withholding amount is insufficient, the tax expenses should be based on the actual tax expense.

## 8. Charitable Contributions

Generally, charitable contributions are not allowed in the RCP calculation. However, charitable contributions may be an allowable expense if they are a condition of employment or meet the necessary expense test. For example, a minister may be required to tithe according to the terms of his employment contract.

## 9. Shared Expenses

Generally, a taxpayer will be allowed only the expenses the taxpayer is required to pay. Consideration must be given to situations where the taxpayer shares expenses with another. Shared expenses may exist in one of two situations:

- An offer is submitted by a taxpayer who shares living expenses with another individual who is not liable for the tax; and
- Separate offers are submitted by two or more persons who owe joint liabilities and/or separate liabilities and who share the same household.

Generally, the assets and income of a not liable person are excluded from the computation of the taxpayer's ability to pay. An exception exists for related offers that include both joint and separate liabilities, i.e., in the case of registered domestic partners. In such a case, the amount of both offers should equal the total amount collectable from the shared household.

## Chapter 5 – Review Questions

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*The following questions are designed to ensure that you have a complete understanding of the information presented in the chapter. They do not need to be submitted in order to receive CPE credit. They are included as an additional tool to enhance your learning experience.*

*We recommend that you answer each review question and then compare your response to the suggested solution before answering the final exam questions related to this chapter.*

1. Under which of the following circumstances will the IRS consider property owned by a business necessary to the production of income:
  - a) a company owns a limousine that is occasionally used to transport large clients
  - b) a company owns a vacation home where the Board of Directors meets annually
  - c) a delivery company owns a truck used to make 80% of its deliveries
  - d) a company owns 40 delivery trucks, 25 of which are used on a daily basis
2. For purposes of calculating the Reasonable Collection Potential, which of the following statements about how insurance policies are treated by the IRS is true:
  - a) they are completely ignored since they do not pay until the insured dies
  - b) the IRS believes that whole life insurance policies held as an investment is a necessary expense
  - c) any cash surrender value is used to determine the taxpayer's RCP
  - d) premiums for term life insurance policies are never allowed as a necessary expense
3. When calculating a taxpayer's necessary living expenses, how are the costs for housing determined by the IRS:
  - a) the taxpayer is allowed to include as a necessary expense whatever his or her cost is at the time the Offer in Compromise is submitted
  - b) the IRS allows the taxpayer an amount necessary for basic expenses only
  - c) there is a flat rate determined annually by the IRS that applies nationwide
  - d) 20% of the taxpayer's take-home pay

## Chapter 5 – Solutions and Suggested Responses

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1. A: Incorrect. This is clearly not instrumental to the company's income stream, and the value would be considered an asset that could be used towards repayment of tax debt under an Offer in Compromise.

B: Incorrect. Clearly the Board can meet almost anywhere, so this is not considered property necessary for maintaining the income stream of the company.

**C: Correct.** The truck in this case is needed to produce income, so the value of the truck cannot be used in calculating the ability of the company to repay its debt through an Offer in Compromise.

D: Incorrect. Since only 25 trucks are used regularly, the IRS will likely consider the value of the remainder to be part of the repayment calculation.

(See pages 5-5 to 5-6 of the course material.)

2. A: Incorrect. Many policies are investment vehicles with cash value and can be considered.

B: Incorrect. The opposite is true.

**C: Correct.** In cases where there is a cash value, that amount is factored in when determining a taxpayer's RCP.

D: Incorrect. They can be allowed by the IRS in certain cases.

(See page 5-11 of the course material.)

3. A: Incorrect. The cost may have to be adjusted down if the current expense is not considered necessary.

**B: Correct.** In some cases, therefore, a taxpayer may be forced to move.

C: Incorrect. There are rates adopted that are regional in nature that can be used as a guide, but there is no single national rate.

D: Incorrect. There is no such percentage formula.

(See pages 5-20 to 5-21 of the course material.)

## Glossary

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**Abatements:** Reductions in tax assessments. Abatements may occur for a number of reasons. For example, a taxpayer may file an amended return claiming a lower tax liability than previously reported or a qualifying corporation may claim a net operating loss which created a credit that can be carried back to reduce a prior year's tax liability.

**Asset Equity Table (AET):** A table listing all a taxpayer's assets, encumbrances, and exemptions. It is used to calculate the equity which is included in calculating a taxpayer's Reasonable Collection Potential (RCP).

**Collection Information Statement (CIS):** A financial statement listing assets, income, liabilities, and expenses submitted by the taxpayer. This financial statement can be submitted on Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, or Form 433-B, Collection Information Statement for Businesses. It is used by the IRS in evaluating Offers in Compromise.

**Doubt as to Collectability (DATC):** Basis for acceptance of an Offer in Compromise where there is doubt that the tax can be paid in full. The IRS will evaluate the assets of the taxpayer and consider whether to take less than the amount owed based on the fact that they are unlikely to recoup all of the amount owed.

**Doubt as to Liability (DATL):** Basis for acceptance of an offer where there is doubt that the liability is correct. There must be a genuine dispute as to whether the amount assessed by the IRS is actually due.

**Doubt as to Collectability with Special Circumstance (DCSC):** Basis for acceptance of an offer where there is doubt that the tax can be paid in full and special circumstances exist that warrant accepting the offer for less than the reasonable collection potential (RCP).

**Effective Tax Administration (ETA):** Basis for acceptance of an offer where there is no doubt that the liability is correct or can be paid in full. However, requiring the taxpayer to fully pay the tax would either create an economic hardship or be a public policy/equity issue.

**Independent Administrative Reviewer (IAR):** An independent third party who reviews a decision to reject an offer prior to that decision being conveyed to a taxpayer. This person is not in the chain of command of the IRS employees responsible for the rejection of an Offer in Compromise.

**Notice of Federal Tax Lien (NFTL):** A federal tax lien is the federal government's legal claim against a taxpayer's property when the taxpayer neglects or fails to pay a tax debt. The lien protects the government's interest in all of the taxpayer's property, including real estate, personal property and financial assets. A federal tax lien exists after the IRS assesses the taxpayer's liability, sends the taxpayer a bill that explains how much is owed, and the taxpayer refuses or neglects to pay the debt in full.

**Net Realizable Equity (NRE):** For purposes of determining whether to accept an Offer in Compromise, the IRS values a taxpayer's assets as net realizable equity (NRE). Net realizable equity is defined as quick sale value (QSV) less amounts owed to secured lien holders with priority over the federal tax lien, if applicable, and levy exemption amounts.

**Reasonable Collection Potential (RCP):** The amount that could reasonably be collected from the taxpayer towards an Offer in Compromise. This figure takes into account both the current and likely future assets and liabilities of the taxpayer. The IRS will generally not accept an Offer in Compromise that is less than the taxpayer's RCP.

**Trust Fund Recovery Penalties (TFRP):** These are the assessments made against responsible business officers of a company that have not paid the taxes it withholds from employees' wages, such as social security or individual income tax withholding to the IRS. The IRS may record assessments against each of several individuals for the employee-withholding component of payroll tax liability of a given business in an effort to collect the total tax liability of the business. Although assessed against multiple parties, the liability need only be paid once. Thus, two or more assessments exist for the same tax liability. For financial reporting purposes only, one can be considered the account of record and the others are duplicates.



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# Appendix

Form 656 – Offer in Compromise

Form 656-L – Offer in Compromise (Doubt as to Liability)

Form 433-A – Collection Information Statement for Wage  
Earners and Self-Employed Individuals

Form 433-B – Collection Information Statement for  
Businesses

Form 433-F – Collection Information Statement

## Offer in Compromise

**Attach Application Fee and Payment (check or money order) here.**

**IRS Received Date**

**Section 1 Your Contact Information**

Your First Name, Middle Initial, Last Name

If a Joint Offer, Spouse's First Name, Middle Initial, Last Name

Your Physical Home Address (Street, City, State, ZIP Code)

Mailing Address (if different from above or Post Office Box number)

Business Name

Your Business Address (Street, City, State, ZIP Code)

Social Security Number (SSN)  
(Primary)

(Secondary)

Employer Identification Number  
(EIN)

(EIN not included in offer)

**Section 2**

**Tax Periods**

**To: Commissioner of Internal Revenue Service**

**In the following agreement, the pronoun "we" may be assumed in place of "I" when there are joint liabilities and both parties are signing this agreement.**

I submit this offer to compromise the tax liabilities plus any interest, penalties, additions to tax, and additional amounts required by law for the tax type and period(s) marked below:

☐ 1040 Income Tax-Year(s) \_\_\_\_\_

☐ 1120 Income Tax-Year(s) \_\_\_\_\_

☐ 941 Employer's Quarterly Federal Tax Return - Quarterly period(s) \_\_\_\_\_

☐ 940 Employer's Annual Federal Unemployment (FUTA) Tax Return - Year(s) \_\_\_\_\_

☐ Trust Fund Recovery Penalty as a responsible person of (enter corporation name) \_\_\_\_\_  
for failure to pay withholding and Federal Insurance Contributions Act taxes (Social Security taxes), for period(s) ending \_\_\_\_\_

☐ Other Federal Tax(es) [specify type(s) and period(s)] \_\_\_\_\_

**Note:** If you need more space, use attachment and title it "Attachment to Form 656 dated \_\_\_\_\_." Make sure to sign and date the attachment.

**Section 3**

**Reason for Offer**

☐ **Doubt as to Collectibility** - I have insufficient assets and income to pay the full amount.

☐ **Exceptional Circumstances (Effective Tax Administration)** - I owe this amount and have sufficient assets to pay the full amount, but due to my exceptional circumstances, requiring full payment would cause an economic hardship or would be unfair and inequitable. I am submitting a written narrative explaining my circumstances.

**Section 3 (Continued)****Reason for Offer****Explanation of Circumstances (Add additional pages, if needed)**

The IRS understands that there are unplanned events or special circumstances, such as serious illness, where paying the full amount or the minimum offer amount might impair your ability to provide for yourself and your family. If this is the case and you can provide documentation to prove your situation, then your offer may be accepted despite your financial profile. Describe your situation below and attach appropriate documents to this offer application.

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**Section 4****Low Income Certification (Individuals Only)**

**Do you qualify for Low-Income Certification?** You qualify if your gross monthly household income is less than or equal to the amount shown in the chart below based on your family size and where you live. If you qualify, you are not required to submit any payments during the consideration of your offer.

☐ Check here if you qualify for Low-Income Certification based on the monthly income guidelines below.

Size of family unit	48 contiguous states and D.C.	Hawaii	Alaska
1	\$2,327	\$2,679	\$2,910
2	\$3,152	\$3,627	\$3,942
3	\$3,997	\$4,575	\$4,973
4	\$4,802	\$5,523	\$6,004
5	\$5,627	\$6,471	\$7,035
6	\$6,452	\$7,419	\$8,067
7	\$7,277	\$8,367	\$9,098
8	\$8,102	\$9,315	\$10,129
For each additional person, add	\$825	\$948	\$1,031

**Section 5****Payment Terms**

↓ Check one of the payment options below to indicate how long it will take you to pay your offer in full ↓

**Lump Sum Cash**

Enter the amount of your offer \$ \_\_\_\_\_

☐ Check here if you will pay your offer in five or fewer payments:

Enclose a check for 20% of the offer amount (waived if you are an individual and met the requirements for Low-Income certification) and fill in the amount(s) and date(s) of your future payment(s). Your offer must be fully paid 24 months from the date your offer is accepted.

Total Offer Amount	-	20% Initial Payment	=	Remaining Balance
\$ _____	-	\$ _____	=	\$ _____

You may pay the remaining balance in one payment after acceptance of the offer or up to five payments.

- 1) \$ \_\_\_\_\_ paid on the \_\_\_\_\_ (day), \_\_\_\_\_ month(s) after acceptance.
- 2) \$ \_\_\_\_\_ paid on the \_\_\_\_\_ (day), \_\_\_\_\_ month(s) after acceptance.
- 3) \$ \_\_\_\_\_ paid on the \_\_\_\_\_ (day), \_\_\_\_\_ month(s) after acceptance.
- 4) \$ \_\_\_\_\_ paid on the \_\_\_\_\_ (day), \_\_\_\_\_ month(s) after acceptance.
- 5) \$ \_\_\_\_\_ paid on the \_\_\_\_\_ (day), \_\_\_\_\_ month(s) after acceptance.

**Periodic Payment**

Enter the amount of your offer \$ \_\_\_\_\_

☐ Check here if you will pay your offer in full in more than five monthly installments.

Enclose a check for one month's installment (waived if you are an individual and met the requirements for Low-Income certification)

\$ \_\_\_\_\_ is being submitted with the Form 656 and then \$ \_\_\_\_\_ on the \_\_\_\_\_ (day) of each month thereafter for a total of \_\_\_\_\_ months (may not exceed 23). Total payments must equal the total Offer Amount.

**You must continue to make these monthly payments while the IRS is considering the offer. Failure to make regular monthly payments will cause your offer to be returned.**

**Section 6****Designation of Down Payment and Deposit (Optional)**

If you want your payment to be applied to a specific tax year and a specific tax debt, please tell us the tax form \_\_\_\_\_ and Tax Year/Quarter \_\_\_\_\_. If you do not designate a preference, we will apply any money you send in to the governments best interest.

If you are paying more than the required payment when you submit your offer and want any part of that payment treated as a deposit, check the box below and insert the amount.

☐ I am making a deposit of \$ \_\_\_\_\_ with this offer.

**Section 7****Source of Funds and Making Your Payment**

Tell us where you will obtain the funds to pay your offer. You may consider borrowing from friends and/or family, taking out a loan, or selling assets.

**Include separate checks for the payment and application fee.**

Make checks payable to the "United States Treasury" and attach to the front of your Form 656, Offer in Compromise. All payments must be in U.S. dollars. **Do not send cash.** Send a separate application fee with each offer; do not combine it with any other tax payments, as this may delay processing of your offer. Your offer will be returned to you if the application fee and the required payments are not properly remitted, or if your check is returned for insufficient funds.

**Section 8****Offer Terms**

**By submitting this offer, I/we have read, understand and agree to the following terms and conditions:**

**Terms, Conditions, and Legal Agreement**

a) I request that the IRS accept the offer amount listed in this offer application as payment of my outstanding tax debt (including interest, penalties, and any additional amounts required by law) as of the date listed on this form. I authorize the IRS to amend Section 2 on page 1 in the event I failed to list any of my assessed tax debt. I understand that my offer will be accepted, by law, unless IRS notifies me otherwise, in writing, within 24 months of the date my offer was received by IRS.

**IRS will keep my payments, fees, and some refunds.**

b) I voluntarily submit the payments made on this offer and **understand that they are not refundable even if I withdraw the offer or the IRS rejects or returns the offer.** Unless I designated how to apply the required payment (page 3 of this application), the IRS will apply my payment in the best interest of the government, choosing which tax years and tax liabilities to pay off. The IRS will also keep my application fee unless the offer is not accepted for processing.

c) The IRS will keep **any** refund, including interest, that I might be due for tax periods extending through the calendar year in which the IRS accepts my offer. I cannot designate that the refund be applied to estimated tax payments for the following year or the accepted offer amount. If I receive a refund after I submit this offer for any tax period extending through the calendar year in which the IRS accepts my offer, I will return the refund as soon as possible.

d) The IRS will keep any monies it has collected prior to this offer and any payments that I make relating to this offer that I did not designate as a deposit. Only amounts that exceed the mandatory payments can be treated as a deposit. Such a deposit will be refundable if the offer is rejected or returned by the IRS or is withdrawn. I understand that the IRS will not pay interest on any deposit. The IRS may seize ("levy") my assets up to the time that the IRS official signs and accepts my offer as pending.

**Pending status of an offer and right to appeal**

e) Once an authorized IRS official signs this form, my offer is considered pending as of that signature date and it remains pending until the IRS accepts, rejects, returns, or terminates my offer or I withdraw my offer. An offer is also considered pending for 30 days after any rejection of my offer by the IRS, and during the time that any rejection of my offer is being considered by the Appeals Office. An offer will be considered withdrawn when the IRS receives my written notification of withdrawal by personal delivery or certified mail or when I inform the IRS of my withdrawal by other means and the IRS acknowledges in writing my intent to withdraw the offer.

f) I waive the right to an Appeals hearing if I do not request a hearing within 30 days of the date the IRS notifies me of the decision to reject the offer.

**I must comply with my future tax obligations and understand I remain liable for the full amount of my tax debt until all terms and conditions of this offer have been met.**

g) I will file tax returns and pay required taxes for the five year period beginning with the date of acceptance of this offer. If this is an offer being submitted for joint tax debt, and one of us does not comply with future obligations, only the non-compliant taxpayer will be in default of this agreement.

h) The IRS will not remove the original amount of my tax debt from its records until I have met all the terms and conditions of this offer. Penalty and interest will continue to accrue until all payment terms of the offer have been met. If I file for bankruptcy before the terms are fully met, any claim the IRS files in the bankruptcy proceedings will be a tax claim.

i) Once the IRS accepts my offer in writing, I have no right to contest, in court or otherwise, the amount of the tax debt.

**I understand what will happen if I fail to meet the terms of my offer (e.g., default).**

j) If I fail to meet any of the terms of this offer, the IRS may levy or sue me to collect any amount ranging from the unpaid balance of the offer to the original amount of the tax debt without further notice of any kind. The IRS will continue to add interest, as Section 6601 of the Internal Revenue Code requires, on the amount the IRS determines is due after default. The IRS will add interest from the date I default until I completely satisfy the amount owed.

**I agree to waive time limits provided by law.**

k) To have my offer considered, I agree to the extension of the time limit provided by law to assess my tax debt (statutory period of assessment). I agree that the date by which the IRS must assess my tax debt will now be the date by which my debt must currently be assessed plus the period of time my offer is pending plus one additional year if the IRS rejects, returns, or terminates my offer or I withdraw it. (Paragraph (e) of this section

**Section 8 - (Continued)****Offer Terms**

defines pending and withdrawal). I understand that I have the right not to waive the statutory period of assessment or to limit the waiver to a certain length or certain periods or issues. I understand, however, that the IRS may not consider my offer if I refuse to waive the statutory period of assessment or if I provide only a limited waiver. I also understand that the statutory period for collecting my tax debt will be suspended during the time my offer is pending with the IRS, for 30 days after any rejection of my offer by the IRS, and during the time that any rejection of my offer is being considered by the Appeals Office.

**I understand the IRS may file a Notice of Federal Tax Lien on my property.**

l) The IRS may file a Notice of Federal Tax Lien during the offer investigation. The IRS may file a Notice of Federal Tax Lien to protect the Government's interest on offers that will be paid over time. This tax lien will be released when the payment terms of the accepted offer have been satisfied.

**I authorize the IRS to contact relevant third parties in order to process my offer**

m) By authorizing the IRS to contact third parties including credit bureaus, I understand that I will not be notified of which third parties the IRS contacts as part of the offer application process, as stated in section 7602(c) of the Internal Revenue Code.

**I am submitting an offer as an individual for a joint liability**

n) I understand if the liability sought to be compromised is the joint and individual liability of myself and my co-obligor(s) and I am submitting this offer to compromise my individual liability only, then if this offer is accepted, it does not release or discharge my co-obligor(s) from liability. The United States still reserves all rights of collection against the co-obligor(s).

**Section 9****Signatures**

**Under penalties of perjury, I declare that I have examined this offer, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.**

<b>Signature of Taxpayer/Corporation Name</b>	Phone Number	Date (mm/dd/yyyy)
<b>Signature of Taxpayer/Authorized Corporate Officer</b>	Phone Number	Date (mm/dd/yyyy)

**Section 10****Paid Preparer Use Only**

Signature of Preparer	Phone Number	Date (mm/dd/yyyy)
Name of Paid Preparer	Preparer's CAF no. or PTIN	
Firm's Name, Address, and ZIP Code		

**Include a valid, signed Form 2848 or 8821 with this application, if one is not on file.**

**Section 11****Third Party Designee**

Do you want to allow another person to discuss this offer with the IRS?

☐ Yes

☐ No

**If yes**, provide designee's name

Telephone Number  
(       )

**IRS Use Only**

I accept the waiver of the statutory period of limitations on assessment for the Internal Revenue Service, as described in Section 8 (k).

Signature of Authorized Internal Revenue Service Official	Title	Date (mm/dd/yyyy)
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**Privacy Act Statement**

We ask for the information on this form to carry out the internal revenue laws of the United States. Our authority to request this information is Section 7801 of the Internal Revenue Code.

Our purpose for requesting the information is to determine if it is in the best interests of the IRS to accept an offer. You are not required to make an offer; however, if you choose to do so, you must provide all of the taxpayer information requested. Failure to provide all of the information may prevent us from processing your request.

If you are a paid preparer and you prepared the Form 656 for the taxpayer submitting an offer, we request that you complete and sign Section 10 on Form 656, and provide identifying information. Providing this information is voluntary. This information will be used to administer and enforce the internal revenue laws of the United States and may be used to regulate practice before the Internal Revenue Service for those persons subject to Treasury Department Circular No. 230, Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers before the Internal Revenue Service. Information on this form may be disclosed to the Department of Justice for civil and criminal litigation.

We may also disclose this information to cities, states and the District of Columbia for use in administering their tax laws and to combat terrorism. Providing false or fraudulent information on this form may subject you to criminal prosecution and penalties.

**Offer in Compromise (*Doubt as to Liability*)****Section 1****Your Contact Information****IRS Received Date**

Your First Name, Middle Initial, Last Name

If a Joint Offer, Spouse's First Name, Middle Initial, Last Name

Your Physical Home Address (*Street, City, State, ZIP Code*)Mailing Address (*if different from above or P.O. Box number*)

Business Name

Business Address (*Street, City, State, ZIP Code*)Social Security Number (SSN)  
(*Your SSN*)

(Spouse SSN)

Employer Identification Number  
(EIN)

(EIN not included in offer)

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**Section 2****To: Commissioner of Internal Revenue Service**

I/we submit this offer to compromise, based on doubt as to liability plus any interest, penalties, additions to tax, and additional amounts required by law (tax debt) for the tax type and period(s) marked below:

[Please mark an "X" in the box for the correct description and fill-in the correct tax period(s)].

☐ **1040/1120** Income Tax [List all year(s); for example 1040 2009, 1120 2010, etc.]☐ **941** Employer's Quarterly Federal Tax Return [List all quarterly period(s); for example 03/31/2009, 06/30/2010, 09/30/2010, etc.]☐ **940** Employer's Annual Federal Unemployment (FUTA) Tax Return [List all year(s); for example 2010, 2011, etc.]☐ **Trust Fund Recovery Penalty** as a responsible person of (*enter corporation name*) \_\_\_\_\_, for failure to pay withholding and Federal Insurance Contributions Act taxes (Social Security taxes), for period(s) ending [List all quarterly period(s); for example 03/31/2009, 06/30/2009, etc.]☐ **Other Federal Tax(es)** [specify type(s) and period(s)] \_\_\_\_\_

**Note:** If you need more space, use a separate sheet of paper and title it "Attachment to Form 656-L Dated \_\_\_\_\_." Sign and date the attachment following the listing of the tax periods.

**Section 3****Amount of the Offer**

I/we offer to pay \$ \_\_\_\_\_

**Must be more than zero (\$0)** and payable within 90 days of the notification of acceptance, unless an alternative payment term is approved at the time the offer is accepted.

**Section 4****Terms**

By submitting this offer, I/we have read, understand and agree to the following terms and conditions:

**Terms, Conditions, and Legal Agreement**

*In the following agreement, the pronoun "we" may be assumed in place of "I" when there are joint liabilities and both parties are signing this Agreement.*

I/we agree to the following conditions:

**Section 4****Terms (Continued)**

- a) I/we voluntarily submit all payments made on this offer.
- b) The IRS will apply payments made under the terms of this offer in the best interest of the government.

If the IRS rejects or returns the offer or I/we withdraw the offer, the IRS will return any amount paid with the offer. If I/we agree in writing, the IRS will apply the amount paid with the offer to the amount owed. If I/we agree to apply the payment, the date the IRS received the offer remittance will be considered the date of payment. I/we understand the IRS will not pay interest on any amount I/we send with the offer.

**IRS will keep my/our payments and fees**

- c) The IRS will keep all payments and credits made, received, or applied to the total original tax debt before I/we send in the offer or while it is under consideration. The IRS may keep any proceeds from a levy served prior to submission of the offer, but not received at the time the offer is sent in.

If you currently have an approved installment agreement with IRS and are making installment payments, then you may stop making those installment agreement payments when you have been notified your offer has been assigned for consideration. If your offer is rejected or returned for any reason, your installment agreement with IRS will be reinstated with no additional fee.

If the Doubt as to Liability offer determines that you do not owe the taxes, or the IRS ultimately over-collected the compromised tax liability, the IRS will refund the over-collected amount to you, unless such refund is legally prohibited by statute.

**I/we agree to waive time limits provided by law**

- d) To have my offer considered, I/we agree to the extension of time limit provided by law to assess my tax debt (statutory period of assessment). I/we agree that the date by which the IRS must assess my/our tax debt will now be the date by which my/our debt must currently be assessed plus the period of time my/our offer is pending plus one additional year if the IRS rejects, returns, or terminates my/our offer or I/we withdraw it. [Paragraph (i) of this section defines pending and withdrawal]. I/we understand I/we have the right not to waive the statutory period of assessment or to limit the waiver to a certain length or certain periods or issues. I/we understand, however, the IRS may not consider my/our offer if I/we decline to waive the statutory period of assessment or if I/we provide only a limited waiver. I/we also understand the statutory period for collecting my/our tax debt will be suspended during the time my/our offer is pending with the IRS, for 30 days after any rejection of my/our offer by the IRS, and during the time any rejection of my/our offer is being considered by the Appeals Office.

**I/we understand I/we remain responsible for the full amount of the tax liability**

- e) The IRS cannot collect more than the full amount of the tax debt under this offer.
- f) I/we understand I/we remain responsible for the full amount of the tax debt, unless and until the IRS accepts the offer in writing and I/we have met all the terms and conditions of the offer. The IRS will not remove the original amount of the tax debt from its records until I/we have met all the terms of the offer.
- g) I understand the tax I/we offer to compromise is and will remain a tax debt until I/we meet all the terms and conditions of this offer. If I/we file bankruptcy before the terms and conditions of this offer are completed, any claim the IRS files in bankruptcy proceedings will be a tax claim.
- h) Once the IRS accepts the offer in writing, I/we have no right to contest, in court or otherwise, the amount of the tax debt.

**Pending status of an offer and right to appeal**

- i) The offer is pending starting with the date an authorized IRS official signs this form. The offer remains pending until an authorized IRS official accepts, rejects, returns, or acknowledges withdrawal of the offer in writing. If I/we appeal an IRS rejection decision on the offer, the IRS will continue to treat the offer as pending until the Appeals Office accepts or rejects the offer in writing. If I/we do not file a protest within 30 days of the date the IRS notifies me of the right to protest the decision, I/we waive the right to a hearing before the Appeals Office about the offer in compromise.

**I/we understand if IRS fails to make a decision in 24-months my/our offer will be accepted**

- j) I/we understand under Internal Revenue Code (IRC) § 7122(f), my/our offer will be accepted, by law, unless IRS notifies me/us otherwise, in writing, within 24 months of the date my offer was initially received.

**I/we understand what will happen if I/we fail to meet the terms of my/our offer (e.g. default)**

- k) If I/we fail to meet any of the terms and conditions of the offer and the offer defaults, then the IRS may do the following:
  - immediately file suit to collect the entire unpaid balance of the offer;
  - immediately file suit to collect an amount equal to the original amount of the tax debt as liquidating damages, minus any payment already received under the terms of this offer;
  - disregard the amount of the offer and apply all amounts already paid under the offer against the original amount of the tax debt;
  - file suit or levy to collect the original amount of the tax debt, without further notice of any kind.



**Section 4****Terms (Continued)**

The IRS will continue to add interest as provided in IRC Section § 6601 on the amount the IRS determines is due after default. The IRS will add interest from the date the offer is defaulted until I/we completely satisfy the amount owed.

I/we understand the IRS may file a  
Notice of Federal Tax  
Lien on my/our property

- l) The IRS may file a Notice of Federal Tax Lien to protect the Government's interest during the offer investigation. If the offer is accepted, the tax lien will be released when the terms of the offer agreement are satisfied.

I/we authorize the IRS to  
contact relevant third parties  
in order to process my/our  
offer

- m) I/we understand that IRS employees may contact third parties in order to respond to this request, and I/we authorize the IRS to make such contacts. Further, in connection with this request, by authorizing the IRS to contact third parties, I/we understand that I/we will not receive notice of third parties contacted as is otherwise required by IRC § 7602(c).

**Section 5****Explanation of Circumstances****THIS SECTION MUST BE COMPLETED.**

Explain why you believe the tax is incorrect. **Note:** You may attach additional sheets if necessary. Please include your name and SSN and/or EIN on all additional sheets or supporting documentation.

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**Section 6****Mandatory Signature(s)**

**Taxpayer Attestation:** If I/we submit this offer on a substitute form, I/we affirm this form is a verbatim duplicate of the official Form 656-L, and I/we agree to be bound by all the terms and conditions set forth in the official Form 656-L. Under penalties of perjury, I/we declare that I/we have examined this offer, including accompanying schedules and statements, and to the best of my/our knowledge and belief, it is true, correct and complete.

	Signature of Taxpayer	Daytime Telephone Number (       )	Date (mm/dd/yyyy)
	Signature of Taxpayer		Date (mm/dd/yyyy)

**Section 7****Application Prepared by Someone Other than the Taxpayer**

If this application was prepared by someone other than you (the taxpayer), please fill in that person's name and address below.

Name

Address (if known) (Street, City, State, ZIP code)

Daytime Telephone Number

(       )

**Section 8****Paid Preparer Use Only**

Signature of Preparer

Name of Preparer	Date (mm/dd/yyyy)	Preparer's CAF no. or PTIN
Firm's Name, Address, and ZIP Code	Daytime Telephone Number (       )	

**Include a valid, signed Form 2848 or 8821 with this application or a copy of a previously filed form.**

**Section 9****Third Party Designee**

Do you want to allow another person to discuss this offer with the IRS? ☐ Yes. Complete the information below. ☐ No

Designee's Name

Telephone Number  
(       )

**Include a valid, signed Form 2848 or 8821 with this application or a copy of a previously filed form.**

**IRS Use Only**

I accept the waiver of the statutory period of limitations on assessment for the Internal Revenue Service, as described in Section 5 (d).

Signature of Authorized IRS Official

Title

Date (mm/dd/yyyy)

**Privacy Act Statement**

We ask for the information on this form to carry out the internal revenue laws of the United States. Our authority to request this information is contained in Section 7801 of the Internal Revenue Code.

Our purpose for requesting the information is to determine if it is in the best interests of the IRS to accept an offer. You are not required to make an offer; however, if you choose to do so, you must provide all of the information requested. Failure to provide all of the information may prevent us from processing your request.

If you are a paid preparer and you prepared the Form 656-L for the taxpayer submitting an offer, we request that you complete and sign Section 8 on the Form 656-L, and provide identifying information. Providing this information is voluntary. This information will be used to administer and enforce the internal revenue laws of the United States and may be used to regulate practice before the Internal Revenue Service for those persons subject to Treasury Department Circular No. 230, Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers before the Internal Revenue Service. Information on this form may be disclosed to the Department of Justice for civil and criminal litigation.

We may also disclose this information to cities, states and the District of Columbia for use in administering their tax laws and to combat terrorism. Providing false or fraudulent information on this form may subject you to criminal prosecution and penalties.

**Application Checklist**

- ☐ Did you complete all fields and sign the Form 656-L?
- ☐ Did you make an offer amount that is greater than zero (\$0)?
- ☐ If you want to allow the IRS to discuss your offer with another person did you complete the "Third-Party Designee" section on the Form 656-L?
- ☐ If someone other than you completed the Form 656-L, did that person sign it?
- ☐ Did you sign and include the Form 656-L?
- ☐ If you want a third party to represent you during the offer process, did you include a Form 2848 or Form 8821 unless one is already on file?
- ☐ Did you include supporting documentation and an explanation as to why you doubt you owe the tax?

**Note: There is no application fee or deposit required for a Doubt as to Liability offer.**

**Mail your package to:**

Brookhaven Internal Revenue Service  
COIC Unit  
P.O. Box 9008  
Holtsville, NY 11742-9008

**Collection Information Statement for Wage  
Earners and Self-Employed Individuals****Wage Earners** Complete Sections 1, 2, 3, 4, and 5 including the signature line on page 4. *Answer all questions or write N/A if the question is not applicable.***Self-Employed Individuals** Complete Sections 1, 3, 4, 5, 6 and 7 and the signature line on page 4. *Answer all questions or write N/A if the question is not applicable.***For Additional Information**, refer to Publication 1854, "How To Prepare a Collection Information Statement."**Include attachments if additional space is needed to respond completely to any question.**

<b>Name on Internal Revenue Service (IRS) Account</b>	<b>Social Security Number SSN on IRS Account</b>	<b>Employer Identification Number EIN</b>
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**Section 1: Personal Information**

<b>1a</b> Full Name of Taxpayer and Spouse (if applicable)		<b>1c</b> Home Phone ( )	<b>1d</b> Cell Phone ( )
<b>1b</b> Address (Street, City, State, ZIP code) (County of Residence)		<b>1e</b> Business Phone ( )	<b>1f</b> Business Cell Phone ( )
<b>2a</b> Marital Status: <input type="checkbox"/> Married <input type="checkbox"/> Unmarried (Single, Divorced, Widowed)		<b>2b</b> Name, Age, and Relationship of dependent(s)	
<b>3a</b> Taxpayer	Social Security No. (SSN)	Date of Birth (mmddyyyy)	Driver's License Number and State
<b>3b</b> Spouse			

**Section 2: Employment Information for Wage Earners***If you or your spouse have self-employment income instead of, or in addition to wage income, complete Business Information in Sections 6 and 7.*

Taxpayer		Spouse	
<b>4a</b> Taxpayer's Employer Name		<b>5a</b> Spouse's Employer Name	
<b>4b</b> Address (Street, City, State, and ZIP code)		<b>5b</b> Address (Street, City, State, and ZIP code)	
<b>4c</b> Work Telephone Number ( )	<b>4d</b> Does employer allow contact at work <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>5c</b> Work Telephone Number ( )	<b>5d</b> Does employer allow contact at work <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>4e</b> How long with this employer (years)   (months)	<b>4f</b> Occupation	<b>5e</b> How long with this employer (years)   (months)	<b>5f</b> Occupation
<b>4g</b> Number of withholding allowances claimed on Form W-4	<b>4h</b> Pay Period: <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other	<b>5g</b> Number of withholding allowances claimed on Form W-4	<b>5h</b> Pay Period: <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other

**Section 3: Other Financial Information (Attach copies of applicable documentation)**

<b>6 Are you a party to a lawsuit</b> (If yes, answer the following) <input type="checkbox"/> Yes <input type="checkbox"/> No			
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	Location of Filing	Represented by	Docket/Case No.
Amount of Suit \$	Possible Completion Date (mmddyyyy)	Subject of Suit	
<b>7 Have you ever filed bankruptcy</b> (If yes, answer the following) <input type="checkbox"/> Yes <input type="checkbox"/> No			
Date Filed (mmddyyyy)	Date Dismissed (mmddyyyy)	Date Discharged (mmddyyyy)	Petition No.   Location Filed
<b>8 In the past 10 years, have you lived outside of the U.S for 6 months or longer</b> (If yes, answer the following) <input type="checkbox"/> Yes <input type="checkbox"/> No			
Dates lived abroad: from (mmddyyyy)		To (mmddyyyy)	
<b>9a Are you the beneficiary of a trust, estate, or life insurance policy</b> (If yes, answer the following) <input type="checkbox"/> Yes <input type="checkbox"/> No			
Place where recorded:		EIN:	
Name of the trust, estate, or policy		Anticipated amount to be received \$	When will the amount be received
<b>9b Are you a trustee, fiduciary, or contributor of a trust</b> <input type="checkbox"/> Yes <input type="checkbox"/> No			
Name of the trust:		EIN:	
<b>10 Do you have a safe deposit box (business or personal)</b> (If yes, answer the following) <input type="checkbox"/> Yes <input type="checkbox"/> No			
Location (Name, address and box number(s))		Contents	Value \$
<b>11 In the past 10 years, have you transferred any assets for less than their full value</b> (If yes, answer the following) <input type="checkbox"/> Yes <input type="checkbox"/> No			
List Asset(s)	Value at Time of Transfer \$	Date Transferred (mmddyyyy)	To Whom or Where was it Transferred

**Section 4: Personal Asset Information for All Individuals**

**12 CASH ON HAND** Include cash that is not in a bank **Total Cash on Hand** \$

**PERSONAL BANK ACCOUNTS** Include all checking, online and mobile (e.g., PayPal) accounts, money market accounts, savings accounts, and stored value cards (e.g., payroll cards, government benefit cards, etc.).

Type of Account	Full Name & Address (Street, City, State, ZIP code) of Bank, Savings & Loan, Credit Union, or Financial Institution	Account Number	Account Balance As of _____ mmddyyyy
<b>13a</b>			\$
<b>13b</b>			\$
<b>13c</b>			\$

**13d Total Cash** (Add lines 13a through 13c, and amounts from any attachments) \$

**INVESTMENTS** Include stocks, bonds, mutual funds, stock options, certificates of deposit, and retirement assets such as IRAs, Keogh, and 401(k) plans. Include all corporations, partnerships, limited liability companies, or other business entities in which you are an officer, director, owner, member, or otherwise have a financial interest.

Type of Investment or Financial Interest	Full Name & Address (Street, City, State, ZIP code) of Company	Current Value	Loan Balance (if applicable) As of _____ mmddyyyy	Equity Value minus Loan
<b>14a</b>				
	Phone	\$	\$	\$
<b>14b</b>				
	Phone	\$	\$	\$
<b>14c</b>				
	Phone	\$	\$	\$

**14d Total Equity** (Add lines 14a through 14c and amounts from any attachments) \$

**AVAILABLE CREDIT** Include all lines of credit and bank issued credit cards.  
Full Name & Address (Street, City, State, ZIP code) of Credit Institution

	Credit Limit	Amount Owed As of _____ mmddyyyy	Available Credit As of _____ mmddyyyy
<b>15a</b>			
Acct. No	\$	\$	\$
<b>15b</b>			
Acct. No	\$	\$	\$

**15c Total Available Credit** (Add lines 15a, 15b and amounts from any attachments) \$

**16a LIFE INSURANCE** Do you own or have any interest in any life insurance policies with cash value (Term Life insurance does not have a cash value)  
☐ **Yes**    ☐ **No**    If yes, complete blocks 16b through 16f for each policy.

<b>16b</b> Name and Address of Insurance Company(ies):			
<b>16c</b> Policy Number(s)			
<b>16d</b> Owner of Policy			
<b>16e</b> Current Cash Value	\$	\$	\$
<b>16f</b> Outstanding Loan Balance	\$	\$	\$

**16g Total Available Cash** (Subtract amounts on line 16f from line 16e and include amounts from any attachments) \$

**REAL PROPERTY** Include all real property owned or being purchased

	Purchase Date (mmddyyyy)	Current Fair Market Value (FMV)	Current Loan Balance	Amount of Monthly Payment	Date of Final Payment (mmddyyyy)	<b>Equity</b> FMV Minus Loan
<b>17a</b> Property Description		\$	\$	\$		\$
Location (Street, City, State, ZIP code) and County			Lender/Contract Holder Name, Address (Street, City, State, ZIP code), and Phone			
			Phone			
<b>17b</b> Property Description		\$	\$	\$		\$
Location (Street, City, State, ZIP code) and County			Lender/Contract Holder Name, Address (Street, City, State, ZIP code), and Phone			
			Phone			
<b>17c Total Equity</b> (Add lines 17a, 17b and amounts from any attachments)						\$

**PERSONAL VEHICLES LEASED AND PURCHASED** Include boats, RVs, motorcycles, all-terrain and off-road vehicles, trailers, etc.

Description (Year, Mileage, Make/Model, Tag Number, Vehicle Identification Number)		Purchase/ Lease Date (mmddyyyy)	Current Fair Market Value (FMV)	Current Loan Balance	Amount of Monthly Payment	Date of Final Payment (mmddyyyy)	<b>Equity</b> FMV Minus Loan
<b>18a</b> Year	Make/Model		\$	\$	\$		\$
Mileage	License/Tag Number	Lender/Lessor Name, Address (Street, City, State, ZIP code), and Phone					
Vehicle Identification Number		Phone					
<b>18b</b> Year	Make/Model		\$	\$	\$		\$
Mileage	License/Tag Number	Lender/Lessor Name, Address (Street, City, State, ZIP code), and Phone					
Vehicle Identification Number		Phone					
<b>18c Total Equity</b> (Add lines 18a, 18b and amounts from any attachments)							\$

**PERSONAL ASSETS** Include all furniture, personal effects, artwork, jewelry, collections (coins, guns, etc.), antiques or other assets. Include intangible assets such as licenses, domain names, patents, copyrights, mining claims, etc.

	Purchase/ Lease Date (mmddyyyy)	Current Fair Market Value (FMV)	Current Loan Balance	Amount of Monthly Payment	Date of Final Payment (mmddyyyy)	<b>Equity</b> FMV Minus Loan
<b>19a</b> Property Description		\$	\$	\$		\$
Location (Street, City, State, ZIP code) and County			Lender/Lessor Name, Address (Street, City, State, ZIP code), and Phone			
			Phone			
<b>19b</b> Property Description		\$	\$	\$		\$
Location (Street, City, State, ZIP code) and County			Lender/Lessor Name, Address (Street, City, State, ZIP code), and Phone			
			Phone			
<b>19c Total Equity</b> (Add lines 19a, 19b and amounts from any attachments)						\$

**If you are self-employed, sections 6 and 7 must be completed before continuing.**

### Section 5: Monthly Income and Expenses

Monthly Income/Expense Statement (For additional information, refer to Publication 1854.)

Total Income		Total Living Expenses		IRS USE ONLY
Source	Gross Monthly	Expense Items <sup>6</sup>	Actual Monthly	Allowable Expenses
<b>20</b> Wages (Taxpayer) <sup>1</sup>	\$	<b>35</b> Food, Clothing and Misc. <sup>7</sup>	\$	
<b>21</b> Wages (Spouse) <sup>1</sup>	\$	<b>36</b> Housing and Utilities <sup>8</sup>	\$	
<b>22</b> Interest - Dividends	\$	<b>37</b> Vehicle Ownership Costs <sup>9</sup>	\$	
<b>23</b> Net Business Income <sup>2</sup>	\$	<b>38</b> Vehicle Operating Costs <sup>10</sup>	\$	
<b>24</b> Net Rental Income <sup>3</sup>	\$	<b>39</b> Public Transportation <sup>11</sup>	\$	
<b>25</b> Distributions (K-1, IRA, etc.) <sup>4</sup>	\$	<b>40</b> Health Insurance	\$	
<b>26</b> Pension (Taxpayer)	\$	<b>41</b> Out of Pocket Health Care Costs <sup>12</sup>	\$	
<b>27</b> Pension (Spouse)	\$	<b>42</b> Court Ordered Payments	\$	
<b>28</b> Social Security (Taxpayer)	\$	<b>43</b> Child/Dependent Care	\$	
<b>29</b> Social Security (Spouse)	\$	<b>44</b> Life Insurance	\$	
<b>30</b> Child Support	\$	<b>45</b> Current year taxes (Income/FICA) <sup>13</sup>	\$	
<b>31</b> Alimony	\$	<b>46</b> Secured Debts (Attach list)	\$	
Other Income (Specify below) <sup>5</sup>		<b>47</b> Delinquent State or Local Taxes	\$	
<b>32</b>	\$	<b>48</b> Other Expenses (Attach list)	\$	
<b>33</b>	\$	<b>49</b> Total Living Expenses (add lines 35-48)	\$	
<b>34</b> Total Income (add lines 20-33)	\$	<b>50</b> Net difference (Line 34 minus 49)	\$	

**1 Wages, salaries, pensions, and social security:** Enter gross monthly wages and/or salaries. Do not deduct tax withholding or allotments taken out of pay, such as insurance payments, credit union deductions, car payments, etc. To calculate the gross monthly wages and/or salaries:

*If paid weekly* - multiply weekly gross wages by 4.3. Example: \$425.89 x 4.3 = \$1,831.33

*If paid biweekly (every 2 weeks)* - multiply biweekly gross wages by 2.17. Example: \$972.45 x 2.17 = \$2,110.22

*If paid semimonthly (twice each month)* - multiply semimonthly gross wages by 2. Example: \$856.23 x 2 = \$1,712.46

**2 Net Income from Business:** Enter monthly net business income. This is the amount earned after ordinary and necessary monthly business expenses are paid. **This figure is the amount from page 6, line 89.** If the net business income is a loss, enter "0". Do not enter a negative number. If this amount is more or less than previous years, attach an explanation.

**3 Net Rental Income:** Enter monthly net rental income. This is the amount earned after ordinary and necessary monthly rental expenses are paid. Do not include deductions for depreciation or depletion. If the net rental income is a loss, enter "0." Do not enter a negative number.

**4 Distributions:** Enter the total distributions from partnerships and subchapter S corporations reported on Schedule K-1, and from limited liability companies reported on Form 1040, Schedule C, D or E. Enter total distributions from IRAs if not included under pension income.

**5 Other Income:** Include agricultural subsidies, unemployment compensation, gambling income, oil credits, rent subsidies, etc.

**6 Expenses not generally allowed:** We generally do not allow tuition for private schools, public or private college expenses, charitable contributions, voluntary retirement contributions or payments on unsecured debts. However, we may allow the expenses if proven that they are necessary for the health and welfare of the individual or family or the production of income. See Publication 1854 for exceptions.

**7 Food, Clothing and Miscellaneous:** Total of food, clothing, housekeeping supplies, and personal care products for one month. The miscellaneous allowance is for expenses incurred that are not included in any other allowable living expense items. Examples are credit card payments, bank fees and charges, reading material, and school supplies.

**8 Housing and Utilities:** For principal residence: Total of rent or mortgage payment. Add the average monthly expenses for the following: property taxes, homeowner's or renter's insurance, maintenance, dues, fees, and utilities. Utilities include gas, electricity, water, fuel, oil, other fuels, trash collection, telephone, cell phone, cable television and internet services.

**9 Vehicle Ownership Costs:** Total of monthly lease or purchase/loan payments.

**10 Vehicle Operating Costs:** Total of maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking, and tolls for one month.

**11 Public Transportation:** Total of monthly fares for mass transit (e.g., bus, train, ferry, taxi, etc.)

**12 Out of Pocket Health Care Costs:** Monthly total of medical services, prescription drugs and medical supplies (e.g., eyeglasses, hearing aids, etc.)

**13 Current Year Taxes:** Include state and Federal taxes withheld from salary or wages, or paid as estimated taxes.

**Certification:** Under penalties of perjury, I declare that to the best of my knowledge and belief this statement of assets, liabilities, and other information is true, correct, and complete.

Taxpayer's Signature	Spouse's signature	Date
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After we review the completed Form 433-A, you may be asked to provide verification for the assets, encumbrances, income and expenses reported. Documentation may include previously filed income tax returns, pay statements, self-employment records, bank and investment statements, loan statements, bills or statements for recurring expenses, etc.

IRS USE ONLY (Notes)

**Sections 6 and 7 must be completed only if you are SELF-EMPLOYED.****Section 6: Business Information**

**51** Is the business a sole proprietorship (*filing Schedule C*) ☐ **Yes**, Continue with Sections 6 and 7. ☐ **No**, Complete Form 433-B.  
All other business entities, including limited liability companies, partnerships or corporations, must complete Form 433-B.

**52** Business Name & Address (*if different than 1b*)

<b>53</b> Employer Identification Number	<b>54</b> Type of Business	<b>55</b> Is the business a Federal Contractor <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>56</b> Business Website (web address)	<b>57</b> Total Number of Employees	<b>58</b> Average Gross Monthly Payroll
<b>59</b> Frequency of Tax Deposits	<b>60</b> Does the business engage in e-Commerce ( <i>Internet sales</i> ) If yes, complete <i>lines 61a and 61b</i> <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	

<b>PAYMENT PROCESSOR</b> ( <i>e.g., PayPal, Authorize.net, Google Checkout, etc.</i> ) Name & Address ( <i>Street, City, State, ZIP code</i> )	Payment Processor Account Number
<b>61a</b>	
<b>61b</b>	

**CREDIT CARDS ACCEPTED BY THE BUSINESS**

Credit Card	Merchant Account Number	Issuing Bank Name & Address ( <i>Street, City, State, ZIP code</i> )
<b>62a</b>		
<b>62b</b>		
<b>62c</b>		

**63 BUSINESS CASH ON HAND** Include cash that is not in a bank. **Total Cash on Hand** \$

**BUSINESS BANK ACCOUNTS** Include checking accounts, online and mobile (*e.g., PayPal*) accounts, money market accounts, savings accounts, and stored value cards (*e.g., payroll cards, government benefit cards, etc.*). Report Personal Accounts in Section 4.

Type of Account	Full name & Address ( <i>Street, City, State, ZIP code</i> ) of Bank, Savings & Loan, Credit Union or Financial Institution.	Account Number	Account Balance As of _____ mmddyyyy
<b>64a</b>			\$
<b>64b</b>			\$
<b>64c Total Cash in Banks</b> ( <i>Add lines 64a, 64b and amounts from any attachments</i> )			\$

**ACCOUNTS/NOTES RECEIVABLE** Include e-payment accounts receivable and factoring companies, and any bartering or online auction accounts. (*List all contracts separately, including contracts awarded, but not started.*) **Include Federal, state and local government grants and contracts.**

Accounts/Notes Receivable & Address ( <i>Street, City, State, ZIP code</i> )	Status ( <i>e.g., age, factored, other</i> )	Date Due ( <i>mmddyyyy</i> )	Invoice Number or Government Grant or Contract Number	Amount Due
<b>65a</b>				\$
<b>65b</b>				\$
<b>65c</b>				\$
<b>65d</b>				\$
<b>65e</b>				\$
<b>65f Total Outstanding Balance</b> ( <i>Add lines 65a through 65e and amounts from any attachments</i> )				\$



**BUSINESS ASSETS** Include all tools, books, machinery, equipment, inventory or other assets used in trade or business. Include a list and show the value of all intangible assets such as licenses, patents, domain names, copyrights, trademarks, mining claims, etc.

	Purchase/ Lease Date (mmddyyyy)	Current Fair Market Value (FMV)	Current Loan Balance	Amount of Monthly Payment	Date of Final Payment (mmddyyyy)	Equity FMV Minus Loan
<b>66a</b> Property Description		\$	\$	\$		\$
Location (Street, City, State, ZIP code) and Country			Lender/Lessor/Landlord Name, Address (Street, City, State, ZIP code), and Phone			
			Phone			
<b>66b</b> Property Description		\$	\$	\$		\$
Location (Street, City, State, ZIP code) and Country			Lender/Lessor/Landlord Name, Address (Street, City, State, ZIP code), and Phone			
			Phone			
<b>66c Total Equity</b> (Add lines 66a, 66b and amounts from any attachments)						\$

### Section 7 should be completed only if you are SELF-EMPLOYED

#### Section 7: Sole Proprietorship Information (lines 67 through 87 should reconcile with business Profit and Loss Statement)

Accounting Method Used: ☐ Cash ☐ Accrual

Use the prior 3, 6, 9 or 12 month period to determine your typical business income and expenses.

**Income and Expenses during the period** (mmddyyyy) to (mmddyyyy)

Provide a breakdown below of your average monthly income and expenses, based on the period of time used above.

Total Monthly Business Income		Total Monthly Business Expenses (Use attachments as needed)	
Source	Gross Monthly	Expense Items	Actual Monthly
<b>67</b> Gross Receipts	\$	<b>77</b> Materials Purchased <sup>1</sup>	\$
<b>68</b> Gross Rental Income	\$	<b>78</b> Inventory Purchased <sup>2</sup>	\$
<b>69</b> Interest	\$	<b>79</b> Gross Wages & Salaries	\$
<b>70</b> Dividends	\$	<b>80</b> Rent	\$
<b>71</b> Cash Receipts not included in lines 67-70	\$	<b>81</b> Supplies <sup>3</sup>	\$
Other Income (Specify below)		<b>82</b> Utilities/Telephone <sup>4</sup>	\$
<b>72</b>	\$	<b>83</b> Vehicle Gasoline/Oil	\$
<b>73</b>	\$	<b>84</b> Repairs & Maintenance	\$
<b>74</b>	\$	<b>85</b> Insurance	\$
<b>75</b>	\$	<b>86</b> Current Taxes <sup>5</sup>	\$
<b>76 Total Income</b> (Add lines 67 through 75)	\$	<b>87</b> Other Expenses, including installment payments (Specify)	\$
		<b>88 Total Expenses</b> (Add lines 77 through 87)	\$
		<b>89 Net Business Income</b> (Line 76 minus 88) <sup>6</sup>	\$

Enter the monthly net income amount from line 89 on line 23, section 5. If line 89 is a loss, enter "0" on line 23, section 5.  
Self-employed taxpayers must return to page 4 to sign the certification.

**1 Materials Purchased:** Materials are items directly related to the production of a product or service.

**2 Inventory Purchased:** Goods bought for resale.

**3 Supplies:** Supplies are items used in the business that are consumed or used up within one year. This could be the cost of books, office supplies, professional equipment, etc.

**4 Utilities/Telephone:** Utilities include gas, electricity, water, oil, other fuels, trash collection, telephone, cell phone and business internet.

**5 Current Taxes:** Real estate, excise, franchise, occupational, personal property, sales and employer's portion of employment taxes.

**6 Net Business Income:** Net profit from Form 1040, Schedule C may be used if duplicated deductions are eliminated (e.g., expenses for business use of home already included in housing and utility expenses on page 4). Deductions for depreciation and depletion on Schedule C are not cash expenses and must be added back to the net income figure. In addition, interest cannot be deducted if it is already included in any other installment payments allowed.

**IRS USE ONLY** (Notes)



# Collection Information Statement for Businesses

**Complete this form if your business is a**

- Corporation
- Partnership
- Limited Liability Company (LLC) classified as a corporation
- Other multi-owner/multi-member LLC
- Single member LLC

If your business is a sole proprietorship (filing Schedule C), do not use this form. Instead, complete Form 433-A (OIC) Collection Information Statement for Wage Earners and Self-Employed Individuals.

**Include attachments if additional space is needed to respond completely to any question.**

## Section 1

## Business Information

Business Name		Employer Identification Number
Business address ( <i>street, city, state, zip code</i> )		County of Business Location
		Description of Business and dba or "Trade Name"
Primary Phone ( ) -	Secondary Phone ( ) -	Mailing address ( <i>if different from above or Post Office Box number</i> )
Business website address		
Fax Number ( ) -		Does the business outsource its payroll processing and tax return preparation for a fee? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list provider name and address in box below ( <i>Street, City, State, ZIP Code</i> )
Federal Contractor <input type="checkbox"/> Yes <input type="checkbox"/> No	Total Number of Employees	
Frequency of tax deposits	Average gross monthly payroll \$	

**Provide information about all partners, officers, LLC members, major shareholders (foreign and domestic), etc., associated with the business. Include attachments if additional space is needed.**

Last Name	First Name	Title
Percent of Ownership and annual salary	Social Security Number - -	Home address ( <i>Street, City, State, ZIP Code</i> )
Primary Phone ( ) -	Secondary Phone ( ) -	
Last Name	First Name	Title
Percent of Ownership and annual salary	Social Security Number - -	Home address ( <i>Street, City, State, ZIP Code</i> )
Primary Phone ( ) -	Secondary Phone ( ) -	
Last Name	First Name	Title
Percent of Ownership and annual salary	Social Security Number - -	Home address ( <i>Street, City, State, ZIP Code</i> )
Primary Phone ( ) -	Secondary Phone ( ) -	

**Section 2****Business Asset Information**

Gather the **most current** statement from banks, lenders on loans, mortgages (*including second mortgages*), monthly payments, loan balances, and accountant's depreciation schedules, if applicable. Also, include make/model/year/mileage of vehicles and current value of business assets. To estimate the current value, you may consult resources like Kelley Blue Book ([www.kbb.com](http://www.kbb.com)), NADA ([www.nada.com](http://www.nada.com)), local real estate postings of properties similar to yours, and any other websites or publications that show what the business assets would be worth if you were to sell them. Asset value is subject to adjustment by IRS. Enter the total amount available for each of the following (*if additional space is needed, please include attachments*).

**If any line item is zero or less, enter "0". Do not enter negative numbers on this form.**

<input type="checkbox"/> Cash <input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money Market <input type="checkbox"/> Online Account <input type="checkbox"/> Stored Value Card		
Bank Name	Account Number	(1a) \$
<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money Market <input type="checkbox"/> Online Account <input type="checkbox"/> Stored Value Card		
Bank Name	Account Number	(1b) \$
<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money Market <input type="checkbox"/> Online Account <input type="checkbox"/> Stored Value Card		
Bank Name	Account Number	(1c) \$
Total value of bank accounts from attachment		(1d) \$
<b>Add lines (1a) through (1d) =</b>		<b>(1) \$</b>
Investment Account: <input type="checkbox"/> Stocks <input type="checkbox"/> Bonds <input type="checkbox"/> Other		
Name of Financial Institution	Account Number	
Current Market Value	Less Loan Balance	
\$ _____ X .8 = \$ _____	– \$ _____ =	(2a) \$
Investment Account: <input type="checkbox"/> Stocks <input type="checkbox"/> Bonds <input type="checkbox"/> Other		
Name of Financial Institution	Account Number	
Current Market Value	Less Loan Balance	
\$ _____ X .8 = \$ _____	– \$ _____ =	(2b) \$
Total of investment accounts from attachment. [current market value X.8 less loan balance(s)]		(2c) \$
<b>Add lines (2a) through (2c) =</b>		<b>(2) \$</b>
<b>Notes receivable</b> Do you have notes receivable? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes</b> , attach current listing which includes name and amount of note(s) receivable.		
<b>Accounts Receivable</b> Do you have accounts receivable? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>If yes</b> , you may be asked to provide a list of name and amount of the Account(s) Receivable.		

**Section 2 (Continued)****Business Asset Information**

If the business owns more properties, vehicles, or equipment than shown in this form, please list on an attachment.

**Real Estate** (Buildings, Lots, Commercial Property, etc.)**Do not use negative numbers.**

Property Address (Street Address, City, State, ZIP Code)	Property Description	Date Purchased	
	County and Country		
Current Market Value		Less Loan Balance (Mortgages, etc.)	
\$ _____ X .8 = \$ _____ - \$ _____		Total Value of Real Estate =	
		(3a) \$	
Property Address (Street Address, City, State, ZIP Code)	Property Description	Date Purchased	
	County and Country		
Current Market Value		Less Loan Balance (Mortgages, etc.)	
\$ _____ X .8 = \$ _____ - \$ _____		Total Value of Real Estate =	
		(3b) \$	
Total value of property(s) listed from attachment [current market value X .8 less any loan balance(s)]			(3c) \$
<b>Add lines (3a) through (3c) =</b>			<b>(3) \$</b>

**Business Vehicles** (cars, boats, motorcycles, trailers, etc.). If additional space is needed, list on an attachment.

Vehicle Make & Model	Year	Date Purchased	Mileage or Use Hours	
<input type="checkbox"/> Lease <input type="checkbox"/> Loan	Monthly Lease/Loan Amount \$ _____			
Current Market Value		Less Loan Balance		
\$ _____ X .8 = \$ _____ - \$ _____		Total value of vehicle (if the vehicle is leased, enter 0 as the total value) =		
				(4a) \$
Vehicle Make & Model	Year	Date Purchased	Mileage or Use Hours	
<input type="checkbox"/> Lease <input type="checkbox"/> Loan	Monthly Lease/Loan Amount \$ _____			
Current Market Value		Less Loan Balance		
\$ _____ X .8 = \$ _____ - \$ _____		Total value of vehicle (if the vehicle is leased, enter 0 as the total value) =		
				(4b) \$
Vehicle Make & Model	Year	Date Purchased	Mileage or Use Hours	
<input type="checkbox"/> Lease <input type="checkbox"/> Loan	Monthly Lease/Loan Amount \$ _____			
Current Market Value		Less Loan Balance		
\$ _____ X .8 = \$ _____ - \$ _____		Total value of vehicle (if the vehicle is leased, enter 0 as the total value) =		
				(4c) \$
Total value of vehicles listed from attachment [current market value X .8 less any loan balance(s)]				(4d) \$
<b>Add lines (4a) through (4d) =</b>				<b>(4) \$</b>

**Other Business Equipment**

Current Market Value	Less Loan Balance	Total value of equipment	
\$ _____ X .8 = \$ _____ - \$ _____	(if leased, enter 0 as the total value) =		
			(5a) \$
Total value of equipment listed from attachment [current market value X .8 less any loan balance(s)]			(5b) \$
<b>IRS allowed exemption for professional books and tools of trade -</b>			(5c) \$ [4,290]
Total value of all business equipment =			<b>(5) \$</b>
<b>Add lines (5a) and (5b) minus line (5c), if number is less than zero, enter zero =</b>			
Do not include the amount on lines with a letter beside the number. <b>Add lines (1) through (5) and enter the amount in Box 1 =</b>			<b>Box 1 Available Equity in Assets</b> \$

**Section 3****Business Income Information**

Enter the **average** gross monthly income of your business. To determine your gross monthly income use the most recent 6-12 months documentation of commissions, invoices, gross receipts from sales/services, etc.; most recent 6-12 months earnings statements, etc., from every other source of income (such as rental income, interest and dividends, or subsidies); or you may use a most recent 6-12 months Profit and Loss (P&L) to provide the information of income and expenses.

**Note: If you provide a current profit and loss statement for the information below, enter the total gross monthly income in Box 2 below. Do not complete lines (6) - (10).**

Gross receipts	(6) \$
Gross rental income	(7) \$
Interest income	(8) \$
Dividends	(9) \$
Other income <i>(Specify on attachment)</i>	(10) \$
<b>Add lines (6) through (10) and enter the amount in Box 2 =</b>	
	<b>Box 2 Total Business Income</b> \$

**Section 4****Business Expense Information**

Enter the average gross monthly expenses for your business using your most recent 6-12 months statements, bills, receipts, or other documents showing monthly recurring expenses.

**Note: If you provide a current profit and loss statement for the information below, enter the total monthly expenses in Box 3 below. Do not complete lines (11) - (20).**

Materials purchased <i>(e.g., items directly related to the production of a product or service)</i>	(11) \$
Inventory purchased <i>(e.g., goods bought for resale)</i>	(12) \$
Gross wages and salaries	(13) \$
Rent	(14) \$
Supplies <i>(items used to conduct business and used up within one year, e.g., books, office supplies, professional equipment, etc.)</i>	(15) \$
Utilities/telephones	(16) \$
Vehicle costs <i>(gas, oil, repairs, maintenance)</i>	(17) \$
Insurance <i>(other than life)</i>	(18) \$
Current taxes <i>(e.g., real estate, state, and local income tax, excise franchise, occupational, personal property, sales and employer's portion of employment taxes, etc.)</i>	(19) \$
Other expenses <i>(e.g., secured debt payments. Specify on attachment. Do not include credit card payments)</i>	(20) \$
<b>Add lines (11) through (20) and enter the amount in Box 3 =</b>	
	<b>Box 3 Total Business Expenses</b> \$
<b>Subtract Box 3 from Box 2 and enter the amount in Box 4 =</b> If number is less than zero, enter zero.	
	<b>Box 4 Remaining Monthly Income</b> \$

**Section 5****Calculate Your Minimum Offer Amount**

The next steps calculate your minimum offer amount. The amount of time you take to pay your offer in full will affect your minimum offer amount. Paying over a shorter period of time will result in a smaller minimum offer amount.

If you will pay your offer in 5 months or less, multiply "Remaining Monthly Income" (Box 4) by 12 to get "Future Remaining Income."

<b>Enter the amount from Box 4 here</b> \$ _____	<b>X 12 =</b>	<b>Box 5 Future Remaining Income</b> \$ _____
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If you will pay your offer in more than 5 months, multiply "Remaining Monthly Income" (from Box 4) by 24 to get "Future Remaining Income."

<b>Enter the amount from Box 4 here</b> \$ _____	<b>X 24 =</b>	<b>Box 6 Future Remaining Income</b> \$ _____
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Determine your minimum offer amount by adding the total available assets from Box 1 to amount in either Box 5 or Box 6.

<b>Enter the amount from Box 1 here*</b> <b>Do not enter a number less than zero</b> \$ _____	<b>+</b>	<b>Enter the amount from either Box 5 or Box 6</b> \$ _____	<b>=</b>	<div style="text-align: center;"> <b>Offer Amount</b>          Must be more than zero          \$ _____       </div>
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If you have special circumstances that would hinder you from paying this amount, explain them on Form 656, Offer in Compromise, Page 2, "Explanation of Circumstances."

\*You may exclude any equity in income producing assets shown in Section 2 of this form.

**Section 6****Other Information**

**Additional information IRS needs to consider settlement of your tax debt. If this business is currently in a bankruptcy proceeding, the business is not eligible to apply for an offer.**

Is the business currently in bankruptcy?

☐ Yes ☐ No

Has the business ever filed bankruptcy?

☐ Yes ☐ No

**If yes, provide:**

Date Filed (mm/dd/yyyy) \_\_\_\_\_ Date Dismissed or Discharged (mm/dd/yyyy) \_\_\_\_\_

Petition No. \_\_\_\_\_ Location Filed \_\_\_\_\_

Does this business have other business affiliations (e.g., subsidiary or parent companies)?

☐ Yes ☐ No

**If yes, list the Name and Employer Identification Number:**

Do any related parties (e.g., partners, officers, employees) owe money to the business?

☐ Yes ☐ No

Is the business currently, or in the past, a party to a lawsuit?

☐ Yes ☐ No **If applicable**, date the lawsuit was resolved: \_\_\_\_\_

In the past 10 years, has the business transferred any assets for less than their full value?

☐ Yes ☐ No **If applicable**, provide date and type of asset transferred: \_\_\_\_\_

Has the business been located outside the U.S. for 6 months or longer in the past 10 years?

☐ Yes ☐ No

Does the business have any funds being held in trust by a third party?

☐ Yes ☐ No **If yes**, how much \$ \_\_\_\_\_ Where: \_\_\_\_\_

Does the business have any lines of credit?

☐ Yes ☐ No **If yes**, credit limit \$ \_\_\_\_\_ Amount owed \$ \_\_\_\_\_

What property secures the line of credit? \_\_\_\_\_

**Section 7****Signatures**

Under penalties of perjury, I declare that I have examined this offer, including accompanying documents, and to the best of my knowledge it is true, correct, and complete.

<b>Signature of Taxpayer</b>	Title	Date (mm/dd/yyyy)
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**Remember to include all applicable attachments from list below.**

- ☐ A current Profit and Loss statement covering at least the most recent 6-12 month period, if appropriate.
- ☐ Copies of the most recent statement for each bank, investment, and retirement account.
- ☐ If an asset is used as collateral on a loan, include copies of the most recent statement from lender(s) on loans, monthly payments, loan payoffs, and balances.
- ☐ Copies of the most recent statement of outstanding notes receivable.
- ☐ Copies of the most recent statements from lenders on loans, mortgages (including second mortgages), monthly payments, loan payoffs, and balances.
- ☐ Copies of relevant supporting documentation of the special circumstances described in the "Explain special circumstances" section on page 2 of Form 656, if applicable.
- ☐ Attach a Form 2848, Power of Attorney, if you would like your attorney, CPA, or enrolled agent to represent you and you do not have a current form on file with the IRS.

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**Privacy Act Statement**


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The information requested on this Form is covered under Privacy Act and Paperwork Reduction Act Notices which have already been provided to the taxpayer.

# Collection Information Statement

Name(s) and Address   <input type="checkbox"/> If address provided above is different than last return filed, please check here County of Residence	Your Social Security Number or Individual Taxpayer Identification Number	
	Your Spouse's Social Security Number or Individual Taxpayer Identification Number	
	Your Telephone Numbers Home: _____ Work: _____ Cell: _____	Spouse's Telephone Numbers Home: _____ Work: _____ Cell: _____

Enter the number of people in the household who can be claimed on this year's tax return including you and your spouse. Under 65 \_\_\_\_\_ 65 and Over \_\_\_\_\_

If you or your spouse are self employed or have self employment income, provide the following information:

Name of Business	Business EIN	Type of Business	Number of Employees (not counting owner)
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**A. ACCOUNTS / LINES OF CREDIT** Include checking, online, mobile (e.g., PayPal) and savings accounts, Certificates of Deposit, Trusts, Individual Retirement Accounts (IRAs), Keogh Plans, Simplified Employee Pensions, 401(k) Plans, Profit Sharing Plans, Mutual Funds, Stocks, Bonds and other investments. If applicable, include business accounts. (Use additional sheets if necessary.)

Name and Address of Institution	Account Number	Type of Account	Current Balance/Value	Check if Business Account
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

**B. REAL ESTATE** Include home, vacation property, timeshares, vacant land and other real estate. (Use additional sheets if necessary.)

Description/Location/County	Monthly Payment(s)	Financing		Current Value	Balance Owed	Equity
		Year Purchased	Purchase Price			
<input type="checkbox"/> Primary Residence <input type="checkbox"/> Other		Year Refinanced	Refinance Amount			
		Year Purchased	Purchase Price			
<input type="checkbox"/> Primary Residence <input type="checkbox"/> Other		Year Refinanced	Refinance Amount			
		Year Purchased	Purchase Price			

**C. OTHER ASSETS** Include cars, boats, recreational vehicles, whole life policies, etc. Include make, model and year of vehicles and name of Life Insurance company in Description. If applicable, include business assets such as tools, equipment, inventory, etc. (Use additional sheets if necessary.)

Description	Monthly Payment	Year Purchased	Final Payment (mo/yr)	Current Value	Balance Owed	Equity
			/			
			/			
			/			
			/			
			/			
			/			
			/			

**NOTES** (For IRS Use Only)

TURN PAGE TO CONTINUE

**D. CREDIT CARDS** (Visa, MasterCard, American Express, Department Stores, etc.)

Type	Credit Limit	Balance Owed	Minimum Monthly Payment

**E. BUSINESS INFORMATION** Complete E1 for Accounts Receivable owed to you or your business. (Use additional sheets if necessary.) Complete E2 if you or your business accepts credit card payments.**E1.** Accounts Receivable owed to you or your business

Name	Address	Amount Owed
List total amount owed from additional sheets		
Total amount of accounts receivable available to pay to IRS now		

**E2.** Name of individual or business on account

Credit Card (Visa, Master Card, etc.)	Issuing Bank Name and Address	Merchant Account Number

**F. EMPLOYMENT INFORMATION** If you have more than one employer, include the information on another sheet of paper. (If attaching a copy of current pay stub, you do not need to complete this section.)

Your current Employer (name and address)

Spouse's current Employer (name and address)

How often are you paid? (Check one)

☐ Weekly ☐ Biweekly ☐ Semi-monthly ☐ Monthly

Gross per pay period \_\_\_\_\_

Taxes per pay period (Fed) \_\_\_\_\_ (State) \_\_\_\_\_ (Local) \_\_\_\_\_

How long at current employer \_\_\_\_\_

How often are you paid? (Check one)

☐ Weekly ☐ Biweekly ☐ Semi-monthly ☐ Monthly

Gross per pay period \_\_\_\_\_

Taxes per pay period (Fed) \_\_\_\_\_ (State) \_\_\_\_\_ (Local) \_\_\_\_\_

How long at current employer \_\_\_\_\_

**G. NON-WAGE HOUSEHOLD INCOME** List monthly amounts. For Self-Employment and Rental Income, list the monthly amount received after expenses or taxes and attach a copy of your current year profit and loss statement.

Alimony Income		Net Rental Income		Interest/Dividends Income	
Child Support Income		Unemployment Income		Social Security Income	
Net Self Employment Income		Pension Income		Other:	

**H. MONTHLY NECESSARY LIVING EXPENSES** List monthly amounts. (For expenses paid other than monthly, see instructions.)

1. Food / Personal Care **See instructions. If you do not spend more than the standard allowable amount for your family size, fill in the Total amount only.**

Food \_\_\_\_\_  
Housekeeping Supplies \_\_\_\_\_  
Clothing and Clothing Services \_\_\_\_\_  
Personal Care Products & Services \_\_\_\_\_  
Miscellaneous \_\_\_\_\_

Total \_\_\_\_\_

2. Transportation

Gas/Insurance/Licenses/Parking/  
Maintenance etc. \_\_\_\_\_  
Public Transportation \_\_\_\_\_

3. Housing &amp; Utilities

Rent \_\_\_\_\_  
Electric, Oil/Gas, Water/Trash \_\_\_\_\_  
Telephone/Cell/Cable/Internet \_\_\_\_\_  
Real Estate Taxes and Insurance  
(if not included in B above) \_\_\_\_\_  
Maintenance and Repairs \_\_\_\_\_

Total \_\_\_\_\_

4. Medical

Health Insurance \_\_\_\_\_  
Out of Pocket Health Care  
Expenses \_\_\_\_\_

5. Other

Child / Dependent Care \_\_\_\_\_  
Estimated Tax Payments \_\_\_\_\_  
Term Life Insurance \_\_\_\_\_  
Retirement (Employer Required) \_\_\_\_\_  
Retirement (Voluntary) \_\_\_\_\_  
Union Dues \_\_\_\_\_  
Delinquent State & Local Taxes  
(minimum payment) \_\_\_\_\_  
Student Loans (minimum payment) \_\_\_\_\_  
Court Ordered Child Support \_\_\_\_\_  
Court Ordered Alimony \_\_\_\_\_  
Other Court Ordered Payments \_\_\_\_\_

Other (specify) \_\_\_\_\_

Other (specify) \_\_\_\_\_

Other (specify) \_\_\_\_\_

Under penalty of perjury, I declare to the best of my knowledge and belief this statement of assets, liabilities and other information is true, correct and complete.

Your Signature

Spouse's Signature

Date