

A Guide to Tax Resolution: Solving IRS Problems

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Course Description

Tax resolution means providing solutions to businesses and individuals alike who find themselves in trouble with the IRS. To resolve tax matters with the IRS, the IRS' Offer in Compromise (OIC) program encourages delinquent taxpayers to settle their back taxes—often for pennies on the dollar. This course covers other options to explore. The areas to be covered are: Offers in Compromise, Wage Garnishments, Bankruptcy, Installment, Delinquent Tax Returns, IRS Bank Levies, Freedom of Information Requests, IRS Payment Plans, Payroll Tax Problems, IRS Audits, Penalty Abatement, Liens, Collection Appeals, IRS Appeals, Innocent Spouse and Expiration of Statutes. The course also contains step-by-step information needed in order to prepare a complete and accurate Offer in Compromise (Form 656), 433-A, and 433-B.

Field of Study	Taxation
Level of Knowledge	Overview
Prerequisite	None
Advanced Preparation	None

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PREFACE

Tax resolution is the process of developing and implementing a solution to solve a taxpayer's IRS problem. This course covers both individuals and businesses. In the truest sense, the optimal resolution will solve the problem permanently and settle the tax liability for the lowest amount allowed by law.

There are a number of different options the taxpayer has at their disposal to resolve their tax matter with the IRS. However, relatively few taxpayers and for that matter practitioners are aware of the options. And in many cases, the taxpayer is not adequately informed by the IRS of all options, let alone which option may best suit the taxpayer's specific situation. This is in spite of both guidance and dictates from the U.S. Senate Finance Committee which has oversight for the IRS.

The options include filing unfiled tax returns, disputing the tax on technical grounds, request for penalty abatement, bankruptcy, negotiating an installment agreement, negotiating an offer in compromise, request for innocent spouse relief, expiration of the collections statute, and being placed in currently not collectable status. One of the more well-known options is the Offer in Compromise program. This allows a taxpayer who owes more than they could ever afford to pay the opportunity to settle their tax debt for a portion of the total- often for a fraction of what is owed.

While the United States Congress has mandated that the IRS create a variety of programs to ensure 'equity' within the voluntary U.S. tax assessment system, the IRS is continually challenged to balance two disparate objectives:

- Ensure taxpayer compliance and collection of tax receipts to fund running the Federal government
- Provide and administer programs which give the tax payer who has significant tax problems a fresh start.

This inherent conflict routinely sends mixed signals to taxpayers and IRS employees. This was most clearly evident when Congress initiated a series of hearings in 1998 in response to a perception on the part of the public that the IRS was 'heavy handed' in its approach to enforcement. These hearings resulted in a series of significant reforms. Subsequent to these hearings, a GAO report dated August 2001 indicated these reforms have been slow to take hold.

While this should not be surprising in an organization as massive as the IRS, the report went on to say that significant system and process deficiencies continue to impede collections and affect the accuracy of taxpayer accounts. Discussions with taxpayers, practitioners, and IRS employees over many months show there is still much work to be done to achieve a balanced and equitable system.

Other related areas which are covered in these materials include: Wage Garnishments, Bank Levies, Freedom of Information Requests, Payroll Tax Problems, IRS Audits, Liens, Collection Appeals, IRS Appeals. Also included is guidance on how to determine when you need professional help and how to find it.

Chapter 1:

IRS Overview and Taxpayer Rights

Learning Objective

After completing this section, you should be able to:

- Recognize the mission of the IRS and its organization.
 - Identify the role of Taxpayer Advocate and the Freedom of Information Act.
-

Due to Congressional concerns over the growing gap between taxes that should have been collected and taxes that were actually collected, the IRS is moving to reallocate its budget resources. Ultimately, this will be evidenced by a significant increase in IRS personnel and potentially third party collection agencies dedicated to support tax compliance and collection efforts. Recent IRS collection initiatives are yielding increases in both levies and tax revenues collected.

On the other side of the coin, new taxpayer protections continue to be adopted as part of the 1998 IRS Restructuring and Reform Act. These protections are helping to create a more level playing field for taxpayer. They include the creation of a more robust and independent Taxpayer Advocate with broader powers to more effectively resolve taxpayer disputes with the IRS.

While the Secretary of the Treasury is responsible for oversight and administration of the Internal Revenue Code, much of that authority has been delegated by the Secretary of the Treasury to the Commissioner of the IRS. The Commissioner, appointed by the President and confirmed by the Senate for a five-year term, manages the administration of the tax laws. There is also significant Congressional oversight spearheaded by the Chairman of the Finance Committee of the U.S. Senate.

The Mission of the IRS

The Mission Statement of the IRS has been amplified to refocus the organizations efforts on service to the taxpayer. The mission of the IRS is to provide America's taxpayers with top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

This is in contrast to the previous Mission Statement which read:

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost, serve the public by continually improving the quality of our products and services, and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness.

In light of the above, it is not surprising that IRS management appears to be enhancing the agency's focus on enforcement and compliance- as indicated by recent IRS pronouncements and public communications.

IRS Operating Divisions

There are four operating divisions with specific responsibility for taxpayers assigned to that division. Each operating division has Criminal Investigation Division, Appeals, Taxpayer Advocate, and Chief Counsel personnel attached to the division.

Areas and Territories

The divisions are divided into areas and territories. The Territory Managers and Area Managers have responsibility for practitioner liaison relationships and resolution of issues in the field. The Territory Managers are responsible for the day-to-day operations of the examination and collection employees in their territories.

Appeals

Appeals offers Fast Track Mediation and the other early resolution and alternative dispute resolution options

The Office of Chief Counsel

The Office of Chief Counsel is divided into groups which are aligned with the operating divisions.

The mission of the Chief Counsel is to:

- Provide the correct legal interpretation of the Internal Revenue laws
- Represent the IRS in litigation
- Provide all other legal support for the IRS
- Interpret the law with complete impartiality, so that taxpayers will know the law is being applied with integrity and fairness.

Criminal Investigation Division

The mission of the Criminal Investigation Division is to:

- Serve the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law.

Taxpayer Advocate

The mission of the Taxpayer Advocate is to:

- Help taxpayers solve problems with the IRS and recommend changes that will prevent those problems from reoccurring
- The Taxpayer Advocates have been folded into the National Taxpayer Advocate Service to establish an independent channel for taxpayers who are having problems with a specific case.
- The Taxpayer Advocate other role is to address systemic problems within the IRS and identifying issues that cause taxpayers problems.
- Taxpayer Advocates provide local points of contact for taxpayers.
- Each state and Service Center also has a Taxpayer Advocate.

The Taxpayer Advocate

The IRS Restructuring and Reform Act of 1998 strengthened the Taxpayer Advocate and renamed the position the National Taxpayer Advocate.

- The National Taxpayer Advocate is appointed by the Secretary of the Treasury in consultation with the IRS Oversight Board.
- The purpose of the Taxpayer Advocate is to help the taxpayer solve problems with the IRS when the normal processes and procedures do not work.
- The Taxpayer Advocate will usually suspend pending collection action until the issue in question is reviewed.
- As a rule, the sooner the Taxpayer Advocate assistance is requested, the sooner the issue will be resolved.
- Requesting intervention by the Taxpayer Advocate as soon as the necessary criteria are met should be done at the earliest opportunity.
- Going forward, the National Taxpayer Advocate must have substantial experience in customer service, tax law and representing taxpayers.
- An individual cannot be the National Taxpayer Advocate if that person was an officer or employee of the IRS during the two-year period ending on the date of appointment-- an exception is made for members of the Taxpayer Advocate's staff .

- The individual must also agree not to accept other employment within the IRS for five years following leaving the position of Taxpayer Advocate.
- Annually, the National Taxpayer Advocate must issue a report to Congress identifying the tax areas which are creating significant compliance burdens for taxpayers or the IRS and how best to resolve those issues.
- The toll free number for the National Taxpayer Advocate is (877) 777-4778.

Taxpayer Assistance Orders

A Taxpayer Advocate is authorized to issue a Taxpayer Assistance Order (TAO) if the taxpayer is found to be suffering or about to suffer a significant hardship as a result of the way the tax laws are being administered.

- TAO's are intended to provide the taxpayer with an easy and inexpensive way to resolve disputes with the IRS.
- Their purpose is not to contest the law re: the tax liability.
- The TAO procedure is not a substitute for established administrative or judicial review procedures.
- TAO's can be an effective tool in stopping unreasonable examination or collection activity.
- Often the threat of a TAO is often sufficient to cause a Revenue Agent or Revenue Officer to rethink the proposed course of action.
- The TAO process starts with the taxpayer or taxpayer's representative filing a Form 911

Taxpayer Rights

Taxpayer Rights are specifically addressed in publication 1 (see Appendix A – Declaration of Taxpayer Rights). The original Taxpayer Bill of Rights focused on providing taxpayers protection during the audit process.

Original Taxpayer Bill of Rights

- Taxpayers have a right to an explanation of the audit process, their appeal rights, and the collection process at the start of an audit.
- Taxpayers have a right to be represented by a representative authorized to practice before the IRS.
- Taxpayers have a right to suspend any interview to consult with a representative, provided the interview was not arranged through the use of an administrative summons.
- Taxpayers have a right, with advance notice to the IRS, to make an audio recording of any IRS interview.

Taxpayer Bill of Rights II

- Taxpayer Bill of Rights II focused on collection matters.
- Besides the protections in the Original TBOR, Congress still did not have adequate protections, so they enacted the Taxpayer Bill of Rights II (TBOR 2) in 1996.

- TBOR 2 addressed a number of different issues, including the creation of a Taxpayer Advocate whose powers were much broader than the old Taxpayer Ombudsman and granting the IRS new authority to abate interest and penalties in certain situations.

Taxpayer Bill of Rights III

Additional taxpayers' rights were added, and were delineated in the Taxpayer Bill of Rights III (TBOR 3) which was enacted in 1998. The impetus behind TBOR 3 was the findings which emanated from hearings held by the National Commission on Restructuring the IRS and from Congressional hearings on IRS abuses. The legislation enacted a number of notable changes:

When is the Confidentiality Privilege Extended to Taxpayer Communications?

- Communications between clients and authorized tax practitioners are privileged as long as the communications relate to tax advice.
- This privilege applies to non-criminal tax matters.

IRS Employee Contacts

- Manually generated correspondence received by a taxpayer from the IRS must clearly identify the name, telephone number, and unique identifying number of an IRS employee whom the taxpayer may contact about the correspondence.
- Other correspondence or notice received by a taxpayer from the IRS must include in a prominent manner a telephone number that the taxpayer may contact.
- An IRS employee must give a taxpayer, during a telephone or personal contact, the employee's telephone number and unique identifying number.

Listing of Local IRS Telephone Numbers and Addresses

- The IRS must publish addresses and telephone numbers of local IRS offices in appropriate telephone directories.

Ten Deadly Sins

The 1998 IRS Restructuring and Reform Act lists 10 types of actions for which employees of the agency can be fired:

1. Willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings or business assets.

2. Providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative.
3. With respect to a taxpayer, taxpayer representative or other employee of the IRS, the violation of any right under the Constitution or federal laws such as the 1964 Civil Rights Act and the 1990 Americans With Disabilities Act.
4. Falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative.
5. Assault or battery on a taxpayer, taxpayer representative or other employee of the IRS but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery.
6. Violations of the Internal Revenue Code of 1986, Treasury Department regulations or IRS policies for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the IRS.
7. Willful misuse of the provisions of Section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry.
8. Willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed to do so.
9. Willful understatement of federal tax liability.
10. Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

The Practitioner Priority Service

Practitioner Priority Service (PPS) provides practitioners access to a number of IRS resources.

- PPS is located at five sites—Brookhaven, NY, Philadelphia, PA, Cincinnati, OH, Memphis, TN, and Ogden, UT.
- Calls are routed based on area codes. Both business and individual questions are addressed by PPS.
- If for some reason a call cannot be handled at PPS, it will be given priority routing to the appropriate IRS function.
- The toll-free number for the PPS is (866) 860-4259.

Freedom of Information Requests

Many taxpayers just want to know what type of information is in their IRS file without drawing a lot of attention to themselves. Congress passed legislation (Freedom of Information Act) that requires government agencies, including the IRS, to disclose such information when requested.

Freedom of Information documents can also be used to explain why, how, when and where a taxpayer's IRS problems started. Having this information is helpful as it discloses the IRS information used to assess taxes, penalties and interest against the taxpayer.

Any taxpayer having difficulty in sorting out what the IRS is doing to them should consider using the Freedom of Information Act to obtain their IRS files. Often the information you receive can help the taxpayer better understand their IRS problems.

Working with the IRS to Resolve the Taxpayer's Problem

One of the most frequent and frustrating aspects of working with the IRS is being transferred from person to person while trying to resolve a tax related problem. Sometimes, this arises as a result of the practitioner either not understanding the central issue or failing to accurately assess which section of the IRS is responsible for addressing the issue. However, the fault can also rest with the IRS employee or both practitioner and IRS employee.

One outcome of the Congressional oversight hearings re: IRS practices, was to significantly enhance the focus on improving customer service across all levels of the IRS. As a result, IRS employees have been encouraged to take 'true ownership' of resolving the taxpayer's problem. To say a cultural transformation of this magnitude is massive is at best an understatement. It will likely take many years for the full impact of the initiatives to take effect and to be readily apparent to both practitioners and taxpayers.

To Resolve the Problem by Telephone, Request the Following

- Name
- Badge number
- Position of the IRS employee
- Address
- Date and time of the conversation
- Identify notices received by the taxpayer
- Request that the IRS employee provide you with the background of the taxpayer's situation
- Provide an overview of the taxpayer's problem and relevant evidence to advocate your client's position.
- Agree upon next steps and a timeline including deadlines for sending copies of the documentation.

- Follow up the telephone conversation with a letter outlining the details of the call and what conclusions were reached including an executed Power of Attorney

To Resolve the Problem by Letter

- Specify the required action to be taken by the IRS to resolve the problem including a detailed description of the issue.
- Include the name, badge number, position of the IRS employee and address
- Include a copy of an executed Power of Attorney
- Include copies of notices received by the taxpayer
- Provide copies of all taxpayer and practitioner responses to the IRS notices
- Provide copies of all documents supporting the client's position

Chapter 1 Review Questions

1. The 1990 IRS Restructuring and Reform Act helped create
 - A. A decrease in personnel.
 - B. A decrease in third party tax collection.
 - C. A more level playing field for the taxpayer.
 - D. A dependent advocate to resolve taxpayers disputes with the IRS.

2. The IRS has four operating divisions with specific responsibilities that include all the following EXCEPT
 - A. Criminal Investigation.
 - B. Appeals and taxpayers advocate.
 - C. Chief Counsel Personnel.
 - D. Management and public communications.

3. Confidentiality privileges are extended to the taxpayer when
 - A. Criminal matters are discussed.
 - B. The communication relates to tax advice.
 - C. The communication involves investment strategies.
 - D. The privileges involve strategies to avoid paying taxes.

4. The Freedom of Information Act can be used to disclose information used by the IRS EXCEPT for
 - A. Assessing taxes against the taxpayer.
 - B. Determining penalties against the taxpayer.
 - C. Assessing interest against the taxpayer.
 - D. Concealing mistakes made by an employee with respect to a matter involving a taxpayer or taxpayer representative.

Chapter 2:

Which Option Is Best? Alternatives to an Offer in Compromise

Learning Objective

After completing this section, you should be able to:

- Recognize traits of unfiled tax returns and an Offer In Compromise.
 - Identify reasons for Penalty Abatement.
 - Recognize when the Collection Statute expires.
-

What is an offer in compromise? What are the alternatives to an offer in compromise? Which option is best? This is a key question which must be addressed. Left to only the IRS or the taxpayer, this question is usually not fully or adequately explored.

There are 10 options commonly employed to resolve a tax collection matter:

- Full pay the tax owed
- File unfiled returns to replace Substitute for Returns (SFR's)
- Dispute the tax on technical grounds
- Currently Not Collectable
- Installment Agreements
- Offers In Compromise
- Penalty Abatement
- Discharging taxes in bankruptcy
- Innocent Spouse
- Expiration of the Collection Statute

Only when each option is explored in relation to the specific facts and circumstances surrounding the taxpayer's tax problem, can the best option be selected and then implemented. In some instances, it may be necessary to employ two or more options to settle the taxpayer's tax obligations. Keeping in mind that the ultimate goal is to solve the tax problem permanently and settling for the lowest amount allowed by law.

Full Pay the Tax Owed

While seldom a popular option, sometimes the taxpayer does have the ability to pay the tax outright or borrow against an existing asset e.g. refinance a home mortgage or take out a home equity loan.

Surprisingly, in this situation, this option is usually the least costly of viable options available to the taxpayer. The reason for this is two-fold

- The taxpayer's equity in assets will usually disqualify the taxpayer from benefiting from options which grant debt forgiveness.
- Until the tax debt is paid in its entirety, it will continue to accrue additional penalties and interest.

Filing Unfiled Tax Returns and Replacing Substitute for Returns

When resolving a tax problem, it is relatively common to find that the taxpayer has back tax returns which have not been filed. There are three reasons why it is necessary to file the required back tax returns and get the taxpayer 'Current':

- Failure to file tax returns may be construed as a criminal act by the IRS and can be punishable by one year in jail for each year not filed. Filing unfiled returns brings the taxpayer 'Current.'
- Filing unfiled returns to replace Substitute for Returns may lower the tax liability owed and the associated interest and penalties.
- A settlement cannot be negotiated with the IRS until the taxpayer becomes current.

Dispute the Tax on Technical Grounds

If there is a technical basis to dispute the amount of tax owed, there are a number of paths to consider, including:

- Filing an amended return if the statute of limitations to file has not expired.
- Filing an Offer In Compromise - Doubt as to Liability

Currently Not Collectable Status

If a taxpayer does not have positive cash flow above the level to pay their necessary living expenses or have equity in assets to liquidate, the taxpayer may qualify for Currently Not Collectable Status (CNC). This is most commonly seen when the tax payer is unemployed or underemployed. In this situation, the IRS places a

temporary hold on the collection of the tax owed until the taxpayer's financial situation improves. If over a longer period of time, the tax payer's financial situation does not improve, the taxpayer may then become a viable Offer In Compromise candidate.

Installment Agreements

In most cases, the IRS will accept some type of payment arrangement for past due taxes. In order to qualify for a payment plan the taxpayer must meet set criteria. They include:

- The taxpayer must be current- all returns must be filed.
- Disclose all assets owned.
- The difference between the taxpayer's monthly income and allowable monthly expenses will be the amount that the IRS will request that the taxpayer pay on a monthly basis.
- Monthly payments will continue until the taxes owed are paid in full.

Offers in Compromise

The IRS 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 settlement.

- This program also allows taxpayers who do not agree that they owe the tax or feel that the tax has been incorrectly calculated a chance to file an Offer in Compromise and have their tax liabilities reconsidered.
- The Offer in Compromise program allows taxpayers to get a fresh start.
- All back tax liabilities are settled with the amount of the Offer In Compromise.
- All federal tax liens are released upon IRS acceptance of an Offer In Compromise and payment of the amount offered.

An Offer in Compromise filed based on the taxpayers inability to pay the IRS looks at the taxpayer's current financial position and considers the taxpayers ability to pay as well as the taxpayers equity in assets. Based on these factors, an Offer amount is determined.

- Taxpayers can compromise all types of IRS taxes, penalties and interest.
- Even payroll taxes can be compromised.

If the taxpayer qualifies for the Offer In Compromise program, they may be able save thousands of dollars in taxes, penalties and interest.

Penalty Abatement

In most cases, penalties make up 10-30% of the total tax obligation. A penalty abatement request can eliminate some or all penalties if the taxpayer has reasonable cause for not paying the tax on time or paying the appropriate amount of tax.

Reasonable cause includes:

- Prolonged unemployment
- Business failure
- Major illness
- Incorrect accounting advice
- Incorrect advice from the IRS

To prevail in a penalty abatement request, as in most tax matters, the burden rests with the taxpayer to be able to adequately document the reasonable cause.

Discharging Taxes in Bankruptcy

Bankruptcy can discharge federal income taxes if certain requirements are met. However, this depends upon both the type of bankruptcy and the type of tax owed.

Chapter 7 is the chapter of bankruptcy law that provides for the liquidation of non-exempt assets and the discharge of dischargeable debts. Chapter 11 and Chapter 13 provide for repayment of debt in whole or in part.

To discharge taxes in bankruptcy, a number of criteria must be met including:

- 36 months have expired from the tax return due date
- 24 months have expired from the date the tax was assessed
- 240 days have passed since the tax was assessed and filing bankruptcy
- All tax returns must have been filed

Innocent Spouse

Sometimes a taxpayer will find themselves in trouble with the IRS because of their spouses or Ex-spouse's actions. The IRS realizes that these situations do in fact occur.

In order to help taxpayers who have tax problems which are due to the actions of their spouse's, the IRS has developed guidelines for taxpayers to qualify as an innocent spouse. If a taxpayer can prove they meet these guidelines, then the innocent taxpayer may not have to pay some or all the taxes caused by their spouse or ex-spouse.

Expiration of the Collection Statute

The IRS has 10 years from the date of assessment (usually close to the filing date) to collect all taxes, penalties and interest from the taxpayer. The taxpayer does not owe the tax after the 10-year date has passed.

Listed below are some of the most common exceptions to this rule:

- If the taxpayer agrees in writing to allow the IRS more time to collect the tax.
- If the taxpayer files bankruptcy during the 10 year period.

- If the taxpayer files an Offer In Compromise.

In these situations, the amount of time for the IRS to collect the tax is extended- the amount of time is codified in the Internal Revenue Code. If the IRS attempts to collect a tax obligation which has expired under the 10 year collection statute, the tax payer must inform the IRS in writing that the statute of limitations has expired. Once this notification occurs, the tax can be forgiven.

Chapter 2 Review Questions

1. The least popular option to resolve a tax collection matter from the taxpayer's point is
 - A. An offer in compromise.
 - B. Pay the tax outright.
 - C. Dispute the tax on technical grounds.
 - D. To wait until expiration of the collection statute.

2. If a taxpayer does not have a positive cash flow above the level to pay their necessary living expenses or equity in assets to liquidate, they may qualify for
 - A. Currently not collectible status.
 - B. An exemption from filing a back tax return not previously filed.
 - C. Full payment of the tax they owe.
 - D. Disputing the tax liability on technical grounds.

3. The Offer in Compromise (OIC) program provides taxpayers to
 - A. Discharge taxes in bankruptcy.
 - B. File as currently not collectible.
 - C. Settle all tax liabilities.
 - D. Receive abatement without making an offer in compromise.

4. To discharge federal income tax in bankruptcy the following must be met
 - A. 18 months have expired from the tax return due date.
 - B. 12 months have expired from the date the tax was assessed.
 - C. All tax returns must have been filed.
 - D. 20 days have passed since the tax was assessed and filed for bankruptcy.

Chapter 3:

How to Determine When A Taxpayer Needs Professional Help

Learning Objective

After completing this section, you should be able to:

- Identify how to select the best tax consulting firm.
-

Can the Taxpayers Handle Their Own Case?

A taxpayer may always represent themselves before the IRS. However, many taxpayers find dealing with the IRS frustrating, time-consuming, intimidating or all of the above.

The disadvantages of a taxpayer representing themselves are many:

- The taxpayer does not have the professional's expertise or know what the options are or how to get the lowest settlement allowed by law.
- 4 out of 5 Offers In Compromise (OIC's) submitted by the taxpayer are rejected by the IRS.
- Many taxpayer-negotiated OICs offer the IRS much more than is required by law.
- The taxpayer may be too frightened, frustrated or intimidated by the IRS to effectively or comfortably to negotiate a settlement.
- Most taxpayers are far happier to keep their distance from the IRS and prefer to leave the sparring to their advisors. Still, dealing with the IRS is not always as painful as you may imagine. In fact, most IRS officers are reasonable and helpful, particularly when they see you are making an honest effort to resolve your tax problems.
- The taxpayer may slip up and inadvertently make statements that can make the problem worse—perhaps triggering an audit or even criminal prosecution

- Professionals know where to draw the line. The taxpayer may make statements that can create tax liability for their spouse or business associate.
- The taxpayer takes valuable time away from their work and family to wrestle with their own case. Doctors, dentists, lawyers, executives, successful business owners, and other high-income taxpayers will do appreciably better paying a tax professional while they more profitably ply their own occupations.

How to Select the Best Tax Consulting Firm

When choosing a firm who will represent the taxpayer before the IRS, it's important that the taxpayer knows that they are dealing with a professional who is well versed in tax law and IRS procedures.

IRS representation is a complicated field with many different laws to interpret. While any Attorney, CPA or Enrolled Agent may represent clients before the IRS, few are truly qualified to provide the knowledge, experience and negotiating skills needed to successfully represent a taxpayer before the IRS.

As a rule, the firm's 'Track Record' is the best objective indicator of how that firm will manage your case. Listed below are some of the key questions to be addressed:

- How many years has the firm been in business?
- Has the firm been designated as a Certified Tax Resolution Specialist?
- Does the firm discuss all options available to the taxpayer to resolve their tax problem?
- How many Offers in Compromise has the firm successfully settled?
- What is the firm's success rate - total dollars negotiated in settlements divided by total dollars in tax, interest and penalties owed?
- What is the firm's rating with the Better Business Bureau?
- What is the firm's Credit and Financial rating with Dun and Bradstreet?

Areas of concern:

- Beware of organizations and telemarketers that are paid on an incentive basis for bringing your business to their firm. Be especially aware of unrealistic promises or improbable results. You want to be sure that you receive top quality work and that you get the services that you pay for.
- Beware of firms that charge you a fee exclusively based on the amount of money that you owe the IRS. Usually, the same procedural steps are required to solve both large and small tax obligations.
- Ask the tax resolution firm direct questions about your case. If the firm is evasive or their answers seem intentionally complex, it is possible that they are trying to disguise direct answers to your questions. You deserve straightforward answers.

Do not make emotional decisions. When you decide to hire a tax resolution specialist firm, you are seeking peace of mind that your problem will be handled. Regardless of which firm you hire, you should feel that you are being properly taken care of and that your tax problem will be solved for the lowest amount allowed by law.

Attorneys, Accountants, CPAs, Enrolled Agents and former IRS employees may provide valuable assistance when it comes to traditional tax accounting work. However, they may not have all of the necessary expertise, experience and negotiating skills to permanently solve your IRS matter. Solving an IRS dispute involves day-to-day administrative dealings and requires the know-how to manage the maze of IRS protocols as well as 'top notch' negotiating skills

How to Save On Professional Fees

The one advantage of the taxpayer representing themselves is that they will not incur the fees of a professional. And for most taxpayers this is no small matter. However the amount of fees saved may be dwarfed by the actual tax settlement. In these situations, the taxpayer must look at their total financial picture to determine how much money they may be leaving on the table if they do not have expert representation. The age old adage, 'Penny wise and pound foolish' should be top of mind.

Tax professional's fees can range from \$25 per hour for an enrolled agent or new accountant in a rural area, to \$300 or more per hour for an expert tax resolution specialist in a major city. Many tax consultants won't agree to a fixed fee to handle your OIC. As they are not able to anticipate how many hours will be required to effectively manage the case- due to a multitude of unforeseen contingencies, including reluctance on the part of the IRS to negotiate a final settlement.

Regardless of the fee arrangement, there's much the taxpayer can do to keep fees to a minimum:

- Request monthly statements. This will alert you to overcharges or extensive fees you cannot afford before they accumulate.
- Delegate only the critical parts of the case that you cannot handle yourself.
- Cooperate. Get your financial information together quickly and in an orderly fashion. Don't make your professional chase you for information.
- Keep communication with your professional to a minimum. Call sparingly, get to the point and hang up!

Tax Professionals to Consider

You can choose among three types of tax professionals to represent you on your OIC;

- Attorneys
- Certified Public Accountants (CPA)
- Enrolled Agents

Attorneys

An attorney in good standing in a state bar may represent taxpayers on IRS matters. This doesn't mean all lawyers are qualified to handle an OIC. Obviously, you need an attorney who is not only experienced, but who has an exceptional track record. A lawyer inexperienced with OIC's or who has a poor rating or no rating with the Better Business Bureau will likely provide little value because they have yet to develop the "feel" of what the IRS will accept and are unfamiliar with the OIC procedure.

Most tax problems are not solved in the court room, but are resolved in an administrative forum. Since it is likely your tax matter will be settled out-of-court, an attorney's hourly fees and miscellaneous charges often will be the most expensive representation alternative. While highly unlikely, you will want a tax lawyer if the IRS suspects fraud, is threatening criminal prosecution, or if an appeal to tax court is likely.

Ultimately, the firm's track record is the best indicator of how the taxpayer's case will be settled.

Certified Public Accountants

Less than 1% of all CPA's are qualified to practice in this arena- and most have had little exposure to OICs. As with attorneys, any CPA is permitted to handle OIC cases. However, that by itself is no assurance of their competence. Call your state association of Certified Public Accountants or better still the American Society of IRS Problem Solvers for a referral. A CPA inexperienced with OICs or who has a poor rating or no rating with the Better Business Bureau will likely provide little value because they have yet to develop the "feel" of what the IRS will accept and are unfamiliar with the OIC procedure.

Again, the firm's track record will be the best indicator of how the taxpayer's case will be settled.

Enrolled Agents

Enrolled agents (EAs) are neither attorneys nor accountants. They are usually former IRS officers or examiners who are now in practice for themselves and are permitted to represent taxpayers before the IRS. However, in and of itself, this is little assurance of the EA's competence. To negotiate a settlement requires knowledge of the tax law, IRS procedures and expert negotiating skills. Call your state association of Enrolled Agents or better still the American Society of IRS Problem Solvers for a referral. An EA inexperienced with OIC's or who has a poor rating or no rating with the Better Business Bureau will likely provide little value because they have yet to develop the "feel" of what the IRS will accept and are unfamiliar with the OIC procedure.

Remember, the firm's track record is the best indicator of how the taxpayer's case will be settled.

Full-service Tax Resolution Specialists

There are a number of highly reputable firms that specialize in OIC's. These firms either employ attorneys, CPA's or EA's. Due to their high volume of cases, these firms are often more economical, and because they handle only OICs and related cases, they offer considerable expertise.

Call the American Society of Tax Problem Solvers (ASTPS) for a referral. Like other types of professionals, a full-service specialist inexperienced with OIC's or who has a poor rating or no rating with the Better Business Bureau

will likely provide little value because they have yet to develop the “feel” of what the IRS will accept and are unfamiliar with the OIC procedure. The ASTPS awards a Certified Tax Resolution Specialist (CTRS) designation to individuals who have met certain educational, experience and examination requirements, and all CTRS must be either an attorney, CPA or enrolled agent.

The firm’s track record will be the best indicator of how the taxpayer’s case will be settled.

How to Find a Tax Professional

- *Ask your professional advisors.* Your accountant or attorney may not excel in OICs, but may refer you to another professional who does.
- *Personal referrals-* do you have a friend or acquaintance who has gone through an OIC with good results? His or her advisor may do equally well for you.
- *Professional associations.* Your local bar or accounting association may have a referral panel, but their referral does not necessarily insure competence as they may loosely categorize their specialists, such as under “taxation.”
- *Advertising.* Internet, yellow pages and newspapers feature tax professionals. However few advertise as OIC specialists. Screen these specialists to ensure that they have the requisite experience with OICs.

Finally, consider the “chemistry” between you and your prospect. You need a professional who can offer more than technical capability. You may need empathy and emotional support from your advisor. When you battle the IRS, you need a strong ally in every sense of the word!

Chapter 3 Review Questions

1. The taxpayer who decides to represent themselves before the IRS should
 - A. Take time away from their work and family to settle their own cases.
 - B. Reconsider and select a truly qualified provider with good negotiating skills.
 - C. Try to make the best possible settlement allowed by law.
 - D. Make an honest effort to solve their own tax problems.

2. The best person to represent you before the IRS in a tax dispute is
 - A. A Certified Public Accountant (CPA).
 - B. An attorney at law (ESQ).
 - C. A Certified Tax Resolution Specialist (CTRS).
 - D. An enrolled agent.

3. A tax professional that should be least considered to represent you in an Offer in Compromise (OIC) is a(n)
 - A. Attorney.
 - B. Enrolled Agent.
 - C. Certified Public Accountant.
 - D. Accountant.

Chapter 4:

Statutes Of Limitations

Learning Objective

After completing this section, you should be able to:

- Recognize three-year statute of limitations.
 - Recognize other statute of limitations rules and the steps of the collection process.
-

Two Perspectives of the Statute of limitations

From the government's perspective, the statute of limitations restricts the taxpayer's rights as follows:

- Claim a refund of overpaid tax
- Initiate action to obtain a refund

From the taxpayer's perspective, the statute of limitations restricts the IRS's rights as follows:

- From collecting a deficiency in tax
- Asserting a civil or criminal case

In either case, the statute of limitations provides a date of finality after which actions may not be taken either the IRS or the taxpayer.

Three-year Statute of Limitations

General rule: The IRS must assess tax within three years after the return has been filed. This three year period also applies to penalties

Timely Mailing of a Return

A return is treated as being filed timely even if the return is received by the IRS after the return's due date

- Timely filing is determined by the postmark stamped on the envelope by the U.S. Postal Service, this includes mail sent via a 'private' delivery services
- A good rule of thumb is to send all returns and other important documents to the IRS via registered or certified mail, return receipt requested.

Designated private delivery services include:

- Airborne Express
- DHL
- Federal Express
- Overnight Air Express Service
- Next Afternoon Service
- Second-day Service
- United Parcel Service

Is There a 'Bright Line' Test for Assessment Purposes?

There does not appear to be a 'bright line' test to determine whether a Form 1040 lacking a required form is a valid return. Courts typically apply the substantial compliance standard to the facts of each case:

- There must be adequate information to calculate the tax liability.
- The document must indicate that it is a tax return.
- An honest and reasonable attempt must be made to satisfy the tax law.
- The taxpayer must execute the return under penalties of perjury.

Based upon the above guidance, a complete return that lacks a required form is still sufficient to begin the statute of limitations for assessment purposes

Special Statute of Limitations Rules

- A substitute for a return (SFR) prepared by the IRS for the taxpayer does not start the running of the statute of limitations for assessment.
- A taxpayer for whom a (SFR) was prepared can start the running of the three-year statute of limitations on assessment by filing a correct tax return.

Six-year Statute of Limitations

- A six-year statute of limitations on assessment applies to returns that omit a substantial amount of gross income- an amount which exceeds 25% of gross income reported on the tax return
- The limitations period is extended to the taxpayer's entire tax liability for the year, not just the omitted items

- Applies only to innocent or negligent omissions of gross income
- The six-year limitations period does not apply to fraudulent omissions of gross income- these types of omissions may be assessed at any time.
- The burden of proof rests with the IRS on proving the 25% omission from income- the IRS cannot solely rely on the amount of unreported income asserted in the Notice of Deficiency

No Statute of Limitations

The Internal Revenue Code states that the IRS can assess tax or bring a suit to collect an unassessed tax at any time in specific situations

The following lists those situations:

- The taxpayer does not file a tax return
- A false or fraudulent return is filed with the intent to evade the tax
- The taxpayer attempts to defeat or evade the tax
- Once the taxpayer files a fraudulent return, the taxpayer cannot later start the running of the three-year statute of limitations period by filing an amended return to include the omitted income

Statute of Limitations on Collection

- The IRS has 10 years to collect assessed tax from taxpayers who filed returns but failed to pay due tax.
- The 10-year period is similar to the three-year period the IRS has to assess the tax- there are certain events that can extend the statutory period past the 10-year period

Reasons for extending the statute of limitations on the collections period include:

- Bankruptcy
- Collection Due Process Appeal Requests (Form 12153)
- Litigation
- Offers In Compromise
- Pending Installment Agreements
- Military Deferment
- Innocent Spouse Defense

The Date of Assessment

- This is the date the Assessment Officer signs the summary record of assessment.
- This information can be verified by obtaining a transcript of the taxpayer's Record of Account
- Certain penalties have a different assessment date from that of the original tax assessment- in those instances the penalty has a separate collection statute expiration date.

The IRS can use Administrative or Judicial Methods to Collect Delinquent Taxes

- The IRS can proceed administratively by levying and seizing assets owned by the delinquent taxpayer
- If the IRS embarks upon this course of action, the levy must occur within the 10-year statute of limitations period.
- The IRS can also proceed judicially by filing a lawsuit against the taxpayer within the 10-year limitation period.

When is the Statute of Limitations on Collections Suspended for an Installment Agreement?

During the period of time (pendency) which the Installment Agreement is pending with the IRS

- 30 days following the rejection of a proposed installment agreement
- 30 days following the termination of an installment agreement

When is the Statute of Limitations on Collections Suspended for an Offer In Compromise?

During the period time (pendency) which the Offer In Compromise is pending with the IRS

- 30 days following the rejection of an OIC
- Any period when a timely filed appeal from the rejection is being considered by the Appeals Office

When is the Statute of Limitations on Collections Suspended for Bankruptcy?

- A bankruptcy petition prohibits the IRS from assessing or collecting a claim from the taxpayer which arose prior to the bankruptcy petition being filed
- During the pendency period, the assessment limitations period is suspended, plus a period of 60 days after the bankruptcy has been discharged.
- The limitations period for collection is suspended during pendency, plus a period of six months after the bankruptcy has been discharged.

What is the Authority for Appeals Officers to Resolve the Tax Issue?

- Their Settlement authority is very broad
- The primary focus of the Appeals Officer's job is to resolve the tax issue expeditiously and to weigh the costs of litigation
- Since the Appeals process relies upon negotiation, a high percentage of cases are resolved.

Collection Appeals Program

The IRS Collection Appeals Program (CAP) program facilitates a broad range of appeals issues- they include appeals levies, installment agreements and liens.

- There are no rights to appeal an appellate decision if the taxpayer client does not like Appeals' decision
- Appeals Officer's decision is also binding to the IRS.
- To enter a CAP, the practitioner must first request a conference with the appropriate Collection Manager.
- If that conference does not resolve the problem, then Form 9423 (Collection Appeal Request) must be filed within two days of the Collection Manager conference.
- As part of the filing, the practitioner or client must propose a viable solution to the collection problem
- Failure to file Form 9423 within the two-day window permits the IRS to resume collection activity

Assessments

- The first step in the collection process is for the IRS to make an assessment against a taxpayer- until this occurs, the IRS cannot act to collect the tax.
- An assessment is simply what the IRS claims the taxpayer owes

Summary Assessment and Deficiency Assessment

- The most common forms of assessment are summary assessment and deficiency assessment.
- A summary assessment usually represents the amount reflected on a tax return filed by the taxpayer.
- A deficiency assessment can occur due to an adjustment being made to a filed tax return as a result of an audit or a tax return being filed by the IRS for the taxpayer who has not filed a tax return.

Chapter 4 Review Questions

1. From the government's perspective the statute of limitations restricts the taxpayer's rights from
 - A. Claiming a refund of overpaid tax or initiating action to obtain a refund.
 - B. Collecting a deficiency in taxes.
 - C. Asserting a civil or criminal case.
 - D. Assessing taxes five years after the return has been filed.

2. A valid Form 1040 for assessment purposes must include all the following EXCEPT
 - A. Have adequate information to calculate the tax liability.
 - B. Indicate that it is a tax return.
 - C. Make an honest and reasonable attempt to satisfy the tax law.
 - D. Need only file the return but will not be held under penalties of perjury.

3. The IRS can assess taxes or bring a law suit to collect un-assessed taxes at any time if the tax payer
 - A. Files for bankruptcy.
 - B. Attempts to evade the tax.
 - C. Executes an offer in compromise.
 - D. Uses the innocent spouse defense.

4. Reasons for extending the statute of limitations on the collection period do NOT include
 - A. Litigation.
 - B. Military deferment.
 - C. Failure to file a tax return.
 - D. Pending installment agreements.

Chapter 5:

Liens and Levies

Learning Objective

After completing this section, you should be able to:

- Identify steps followed by the IRS when issuing tax liens, levies and wage garnishments.
-

Liens and levies

A Federal Tax Lien is an encumbrance and establishes a legal claim by the government- it does not result in the physical transfer of the taxpayer's property to the IRS.

A levy allows the IRS to seize the taxpayer's property.

Levies are divided into two categories.

- The first category includes tangible real and personal property owned by the taxpayer
- The second category includes third parties who hold property belonging to the taxpayer these include bank deposits and wages
- The first category is often referred to as a seizure, while the second category is usually referred to as a levy or garnishment.
- The IRS must place a levy upon the taxpayer's property before the IRS can seize the taxpayer's property

IRS Bank Levies

An IRS levy is the actual action taken by the IRS to collect taxes. For example, the IRS can issue a bank levy to obtain your cash in savings and checking accounts. Or the IRS can levy your wages or accounts receivable. The

person, company, or institution that is served the levy must comply or face their own IRS problems. The additional paperwork this person, company or institution is faced with to comply with the levy usually causes the taxpayer's relationship to suffer with the person being levied. Levies should be avoided at all costs and are usually the result of poor or no communication with the IRS.

When the IRS levies a bank account, the levy is only for the particular day the levy is received by the bank. The bank is required to remove whatever amount is available in your account that day (up to the amount of the IRS levy) and send it to the IRS in 21 days unless notified otherwise by the IRS. This type of levy does not affect any future deposits made into your bank account unless the IRS issues another Bank Account Levy.

An IRS Wage Levy is different. Wage levies are filed with your employer and remain in effect until the IRS notifies the employer who the wage levy has been released. Most wage levies take so much money from the taxpayer's paycheck that the taxpayer doesn't have enough money to live on.

Federal Tax Liens

- Once the IRS makes a valid assessment against the taxpayer, the IRS is required to give notice and demand for payment within 60 days.
- If the taxpayer does not pay the taxes owed, a federal tax lien arises and attaches to property and property rights either owned by the taxpayer or acquired after the date of assessment.
- Both federal law and state law are relevant in determining the effect of the federal tax lien on the taxpayer and the taxpayer's property.
- Federal law determines whether the tax lien has validly attached.
- State law determines to what property the lien attaches.
- Notice of lien must be filed in the proper location as established by local law

Certificate of Release of Paid or Unenforceable Lien

The IRS must issue a certificate of release of lien no later than 30 days after one of the following events occur:

- The tax liability is paid in full
- The tax liability is no longer legally unenforceable- the 10-year CSED has expired
- The IRS accepts the bond of a surety company- where payment of all taxes owed is to make no later than six months before the expiration of the 10-year CSED.
- The taxpayer should deliver a cashier's check to the IRS and receive a Certificate of Release of Tax Lien.

Levying the Taxpayer's Property

The IRS's levy power is very broad and does not require the IRS to go to court

- The IRS can use its authority to gain possession of the taxpayer's property to pay back taxes owed.
- To levy a taxpayer the IRS must do the following:
- First, the IRS must file a notice and demand payment.
- Second, the taxpayer must neglect or refuse to pay the tax within 10 days of the notice and demand.

- Finally, the IRS must provide at least 30 days' notice of its intent to levy on the taxpayer's property.

Once these criteria are met, the IRS can levy property and rights to property belonging to the taxpayer

Effect of a Levy

The effect of a levy is to compel the taxpayer to turn the property over to the IRS.

Amounts realized by the IRS from a levy or garnishment are applied as follows:

- First to the expenses of the levy and sale
- Second to the tax relating specifically to the levied property
- Third to the delinquent tax liability that caused the levy or seizure
- Funds collected by levy are considered to have been paid involuntarily, accordingly the taxpayer cannot specify to the IRS how to apply the funds.

Notice of Intent to Levy

- The IRS is required to notify the taxpayer of its intent to levy on salary, wages, or other property, at least 30 days before the levy
- This is done thru a Letter 1058 and states that this is the final notice of intent to levy

Notice of Seizure

The IRS must issue a Notice of Seizure to the owner of real property or the possessor of personal property as soon as practicable after the property is seized

- This notice has the same effect as the Notice of Levy and can be delivered in person to the owner-possessor, or left at his usual place of home or business
- Lien, levy, or seizure must be approved by a supervisor
- The supervisor must review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy, or seizure is appropriate under the circumstances.
- Failure to give the proper notice will invalidate the seizure
- The IRS publishes tables to be used for the current calendar year in computing the amount of income exempt from levy.

Bank Account 21-day Waiting Period

When a financial institution receives a levy on a bank account, it cannot surrender the money until 21 calendar days after the levy has been served

- The 21-day waiting period provides the taxpayer the opportunity to notify the IRS and correct any errors regarding the taxpayer's account.
- An extension of the 21-day period may be granted by the Area Director if there is a legitimate dispute regarding the tax owed.

- During the 21-day waiting period, the levy can be released

Seizure of a Taxpayer's Residence or Business

- Seizures of homes and business have become relatively infrequent- in part due to the adverse publicity that the IRS has received in the past
- TBOR 3 prohibits the IRS from seizing real property that is used as a residence by the taxpayer for tax amounts of \$5,000 or less- this includes penalties and interest
- TBOR 3 only permits a levy on a principal residence if a judge approves of the levy in writing

Wage Garnishments

The IRS wage garnishment is a very powerful tool used to collect taxes owed through your employer. Once a wage garnishment is filed with an employer, the employer is required to collect a large percentage of each paycheck. The paycheck that would have otherwise been paid to the employee, instead will now be paid to the IRS. The wage garnishment stays in effect until the IRS is fully paid or until the IRS agrees to release the garnishment.

Fair Debt Collection Practices

- The Fair Debt Collection Practices Act includes a number of rules controlling debt collection practices.
- TBOR 3 follows these guidelines and restricts communications with the taxpayer on telephone calls outside the hours of 8:00 a.m. to 9:00 p.m. and prohibits harassing or abusing the debtor to the IRS.
- Unless prior consent of the taxpayer is given directly to the IRS, the IRS may not communicate with a taxpayer in connection with the collection of a taxes owed:
- At an unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer
- At the taxpayer's place of employment if the IRS knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication
- If the IRS knows the taxpayer is represented by someone who is authorized to practice before the IRS- this provision no longer applies if the authorized representative does not respond to an IRS communication within a reasonable period of time

The Collection Information Statement

The Collection Information Statement (CIS) is commonly used by the IRS to gather the necessary information to determine the taxpayer's ability to pay- the CIS is the taxpayer's financial statement

- The forms used are Form 433-A for wage earners and self-employed individuals and Form 433-B for businesses.

- In addition to these forms, IRS personnel may use an abbreviated one page Form 433F for individual taxpayers who owe less than \$100,000
- The IRS has established standards for allowable and necessary monthly living expenses

Analysis of Taxpayer's Financial Condition

There are three categories of necessary expenses (see Internal Revenue Manual Sec. 5)

- They are National Standards, Local Standards, and Other Necessary Expenses (see the IRS website at www.irs.gov for current standards.
- National Standards are set for five necessary expenses.
- Four of the standards- food, housekeeping supplies, apparel, and personal care products and services are set according to the Bureau of Labor Statistics.
- The fifth standard- miscellaneous expenses are set by the IRS.
- Housing and utilities and transportation expenses are covered by standards established by geographical region.
- Taxpayers are not required to substantiate the amount of expenses categorized as National Standards for the taxpayer's corresponding income level.
- Taxpayers are required to substantiate expenses categorized as Local Standards or Other Necessary expenses.
- Necessary expenses are those that provide for the health and welfare of the taxpayer and the taxpayer's family, or relate to the production of income.
- Necessary expenses must be reasonable in amount.
- Other Necessary Expenses may include child care, dependent care for the elderly, or disabled, taxes, health care, court-ordered payments, secured debts, term life insurance, disability insurance, union dues, professional association dues, accounting and legal fees for representing a taxpayer before the IRS.

Chapter 5 Review Questions

1. A federal tax lien is an encumbrance and
 - A. Results in the physical transfer of a taxpayer's property to the IRS.
 - B. Allows the IRS to seize the taxpayer's property.
 - C. Establishes a legal claim.
 - D. Allows the IRS to impose a wage garnishment.

2. The IRS's levy power is very broad, including
 - A. The IRS can seize the asset immediately.
 - B. The IRS has the taxpayer refuse payment immediately on receipt of the demand for payment.
 - C. The IRS must provide at least 30 days' notice of its intent to levy on the taxpayer's property.
 - D. The IRS is required to go to court.

3. Seizures of a taxpayer's residence has become
 - A. Very frequent.
 - B. Relatively infrequent.
 - C. Prohibited for amounts of \$50,000 or more.
 - D. Common practice by the IRS.

4. The Fair Debt Collection Practices Act
 - A. Allows the IRS to communicate with the taxpayer 7 days a week, 24 hours a day.
 - B. Allows the IRS to communicate with a taxpayer without the taxpayer's prior consent.
 - C. Restricts communication with the taxpayer on the telephone outside the hours of 8:00 AM to 9:00 PM.
 - D. Allows the IRS to bring pressure against a taxpayer who refuses to pay a tax debt.

5. An analysis of a taxpayer's financial conditions includes three categories: National Standards, Local Standards, and
 - A. Housing.
 - B. Utilities.
 - C. Transportation.

D. Other necessary expenses.

6. National standards are set for five necessary expenses. Four of these are set by the Bureau of Labor Statistics (BLS). The fifth standard of expenses is set by the IRS which includes

- A. Food.
- B. Miscellaneous expenses.
- C. Housekeeping supplies.
- D. Apparel and personal care products and services.

Chapter 6:

Filing Unfiled Returns and Replacing Substitute for Returns

Learning Objective

After completing this section, you should be able to:

- Recognize the reasons for filing substitute for returns (SFRs).
-

Every year, tens of thousands of taxpayers fail to file required tax returns. The act of not filing usually contributes to more significant problems with the passing of time.

While there are many reasons why a taxpayer has not filed a tax return, you need to aware of the following:

- Failure to file tax returns may be construed as a criminal act by the IRS.
- This type of criminal act is punishable by one year in jail for each year not filed.
- Needless to say, it's one thing to owe the IRS money, but another thing to potentially lose your freedom for failure to file a tax return.
- The IRS may file "SFR" (Substitute For Return) Tax Returns for you. This is the IRS's version of an unfiled tax return.
- Because SFR returns are filed in the best interest of the government, the only deductions you'll see are standard deductions and one personal exemption.
- You will not get credit for deductions which you may be entitled to such as exemptions for spouses, children, interest and taxes on your home, cost of any stock or real estate sales, and business expenses, etc.

Regardless of what you have heard, you have the right to file your original tax return, no matter how late it's filed.

When resolving a tax problem, it is relatively common to find that the taxpayer has back tax returns which have not been filed. There are three reasons why it is necessary to file the required back tax returns and get the taxpayer 'Current':

- Failure to file tax returns may be construed as a criminal act by the IRS and can be punishable by one year in jail for each year not filed. Filing unfiled returns brings the taxpayer 'Current'
- Filing unfiled returns to replace Substitute for Returns may lower the tax liability owed and the associated interest and penalties
- A settlement cannot be negotiated with the IRS until the taxpayer becomes current

Chapter 6 Review Questions

1. If you fail to file a tax return, the IRS may file a Substitute For Return (SFR) tax return for you. This is the IRS's version of an unfiled tax return that allows standard deductions for

- A. One personal exemption.
- B. Spouse and children.
- C. Taxes on your home.
- D. Cost of any stock or real estate sales.

2. Taxpayers who failed to file their tax return

- A. Need not file if the government filed a Substitute for Return (SFR) for them.
- B. May avoid jail time if a SFR was filed by the government on their behalf.
- C. Cannot negotiate a settlement with the IRS until the taxpayer becomes current.
- D. Cannot file for an unfiled tax return to replace a Substitute For Return.

Chapter 7:

Installment Agreements

Learning Objective

After completing this section, you should be able to:

- Outline IRS payment plans.
 - Detail what installment agreements involve.
-

IRS Payment Plans

In most cases, the IRS will accept some type of payment arrangement for past due taxes. In order to qualify for a payment plan with the IRS you must meet the following rules and provide the IRS with this information:

- You must have filed all tax returns (It's OK to owe money but you must file).
- You will need to disclose all assets owned including all cash and bank accounts.
- You must not have adequate cash available in a checking, savings, money market, or brokerage account to pay the IRS.
- You must not have the capacity to borrow the amount owed to the IRS from other sources (i.e., a second mortgage on your home).
- You must not have adequate equity in a retirement account from which you can borrow or liquidate; for example, IRA's or 401K's.
- The total dollar amount you owe usually dictates with whom the negotiations will be handled.
- Typically, IRS Revenue Officers are not involved in cases where the amounts owed are less than \$50,000.
- The IRS will ask you to complete a personal financial statement and if a business is involved, you will also need a business financial statement.

- The IRS has determined allowable monthly expenses for individuals, which will be matched against your actual monthly expenses.
- The difference between your monthly income and your allowable monthly expenses will be the amount that the IRS will require you to pay on a monthly basis.

These monthly payments will continue until your outstanding tax liabilities are paid in full.

Note: The IRS continues to add penalties and interest while you are making monthly payments. This may cause you to be paying what you consider a large monthly payment to the IRS and your outstanding balance may in fact be increasing due to additional penalties and interest. The IRS may not explain this to you! Be careful!

Installment Agreements

Installment agreements are a widely used tool for tax collection. They are generally used when you are unable to pay the tax but you can pay enough each month to pay off the tax in a reasonable amount of time—generally no more than five years. Unfortunately, there are many installment agreement cases where the amount paid monthly does not even cover the accruing interest. If this is true in your case, you should consider an Offer in Compromise.

IRS encourages taxpayers to pay what they owe as quickly as possible. For those individuals or businesses not able to resolve a tax debt immediately, an installment agreement can be a reasonable payment option. Installment agreements allow for the full payment of the tax debt in smaller, more manageable amounts.

To be eligible for an installment agreement, all returns that are due must first be filed.

Installment agreements generally require equal monthly payments. The amount of an installment payment will be based on the amount owed and on the taxpayer's ability to pay that amount within the time legally available for the IRS to collect. By law, the IRS has the authority to collect outstanding federal taxes for ten years from the date of assessment. For taxpayers who enter into an installment agreement, the IRS may require a signed waiver to extend the time IRS can collect.

Taxpayers who already have an installment agreement from a previous amount owed may still find help. All of the amounts owed could be included in one installment agreement. Additionally, a Collection Information Statement may have to be completed to further illustrate their financial situation.

As a condition of an installment agreement, any refund due in a future year will be applied against the amount owed. Therefore, taxpayers may not get all of their refund if they owe certain past-due amounts, such as federal tax, state tax, a student loan, or child support. The IRS will automatically apply the refund to the taxes owed. If the refund does not take care of the tax debt; then the installment agreement continues until all of the terms are met.

- The Internal Revenue Code allows taxpayers to pay their tax liabilities over time

- The IRS is authorized to enter into a written installment agreement where “the agreement will facilitate collection” of the tax liability.
- An installment agreement is often used where the taxpayer cannot pay his tax liability in a lump sum and has no equity in assets against which to borrow, but has sufficient income to pay the amount over time
- A taxpayer should press for an installment agreement on the taxpayer’s terms whenever possible
- While the IRS can directly influence the amount to be paid, because it is a negotiation process there is latitude for the practitioner to influence the payment terms (length of time and amount of the monthly payment)
- Since every situation is different, different Revenue Officers take different approaches.
- If the taxpayer owes \$50,000 or less (Streamlined Installment Agreement), and the amount of tax owed can be paid in less than five years, the taxpayer is allowed to make monthly payments even if he or she has sufficient assets to pay the taxes.
- Streamlined Installment Agreement are negotiated without the need for Collection Information Statements
- Once the installment agreement is entered into, the taxpayer must remain current for the agreement to remain in force
- If the taxpayer is unable to make a payment and the payment cannot be made on time, the practitioner or taxpayer should immediately notify the IRS to avoid enforced collection action e.g. levy or wage garnishment
- Failure to make the required payments under the installment agreement will default the agreement
- Once a taxpayer defaults on an installment agreement, it is very difficult to obtain another one
- The taxpayer is entitled to receive a notice from the IRS that the installment agreement is being terminated.
- At that point, the practitioner can file an appeal on behalf of the taxpayer to the IRS Appeals Office.

User Fees for Installment Agreements

- Generally, user fees are \$120 for non-direct debit agreements and \$52 for direct debit agreements. However, the fee is only \$43 for taxpayers with income at or below certain U.S. Department of Health and Human Services poverty guidelines.
- The fee must be paid for the installment agreement to be valid.

Interest Does Not Stop with an Installment Agreement

An installment agreement is more costly than paying all the taxes owed now. Penalties and interest continue to be charged on the unpaid portion of the debt throughout the duration of an installment agreement.

Note: The interest rate on a loan or on a credit card may be lower than the combination of penalties and interest imposed by the Internal Revenue Code. It is best to pay as much as possible before entering into an agreement.

How Best to Make Timely Installment Payments

The IRS strongly recommends one of the following options for payment under an installment agreement:

- Direct Debit - electronic transfers from a checking account, or
- Payroll Deduction - deductions that an employer takes from wages or salary. Call toll free 1-800-829-1040 to set this option up.

These forms of payment help to reduce the burden of mailing the payments, save postage, help ensure timely payments, and decrease the likelihood that the agreement will default. If the agreement defaults, enforced collection action could be taken.

Installment agreement payments can also be made by electronic funds transfer (www.eftps.gov), credit card (www.officialpayments.com or www.pay1040.com), personal or business check, money order, cashier's check, certified funds or cash (cash payments can only be made in person at a local IRS Office-do not send cash through the mail). Fees to Set-up an Installment Agreement

The IRS charges a user fee of \$120 to set up the installment agreement (\$52 for direct debit). It is possible for an installment agreement to be reinstated if the agreement defaults. Also, installment agreements may be restructured to include additional amounts owed in one agreement. Reinstating or restructuring an existing installment agreement will cost an additional \$50 user fee.

How to Set-up an Installment Agreement

Taxpayers wishing to pay off a tax debt through an installment agreement, and owe:

- \$50,000 or less in combined tax, penalties, and interest can use the Online Payment Agreement (OPA) or call the number on the bill or notice (have the bill or notice available, along with the social security number). A fill-in Request for Installment Agreement, Form 9465 (PDF), is available online that can be mailed to the address on the bill.

Note: If you recently filed your income tax return and owe but have NOT yet received a bill from the IRS, you can use the Online Payment Agreement to establish an installment agreement on current year returns. To determine the information needed to establish a pre-assessed installment agreement, refer to **What Information Do I Need to Use OPA?** More than \$50,000 in combined tax, penalties, and interest may still qualify for an installment agreement, but a Collection Information Statement, Form 433F (PDF) may need to be completed. Call the number on the bill or mail the Request for Installment Agreement, Form 9465 (PDF) and Form 433F (PDF) to the address on the bill. You will receive a written notification telling you whether your terms for an installment agreement have been accepted or if they need to be modified.

What Information Do I Need to Use the Online Payment Agreement (OPA)?

If you received a bill from the IRS (balance due notice), you will need the following to apply online:

- Your Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN).

- Your Personal Identification Number (PIN), if already established. If you have not already established a PIN, you will need an IRS notice that displays your Caller Identification Number (Caller ID) in order to do so. If you do not have either you will need to call the IRS.
- When applying for a monthly payment plan, you may need additional information about your income and expenses to determine the amount of your monthly installment payment (rent or mortgage statements, pay stubs, utility bills, etc.). With this information, you can calculate a monthly payment that will fit into your budget. In some cases, OPA will provide a payment calculator to assist you in determining an appropriate payment amount. You will also need to select the day of the month you want your monthly payment to be due.

If you owe but have NOT yet received a bill from the IRS, you will need the following information to establish a pre-assessed agreement on current year returns:

- The balance due shown on the return
- Taxpayer identification number
- Spouse's taxpayer identification number (if applicable)
- Date of birth
- Adjusted Gross Income from last year's income tax return
- Total tax from last year's income tax return

Enforced Collection Actions

Generally, IRS enforced collection actions (i.e., levy against personal or real property) are not made while an installment agreement request is being considered, or:

- While an agreement is in effect,
- For 30 days after a request for an agreement has been rejected, and
- For any period while a timely appeal of the rejection or termination is being evaluated by the IRS.

Payments Should be Made Timely

Throughout the term of an installment agreement, payments must be made on time. If payments cannot be made due to a change in financial condition, taxpayers should contact the IRS immediately. Failure to make timely payments could default the agreement. A defaulted installment agreement could subject a taxpayer's account to enforced collection action and potentially have a negative effect on a taxpayer's credit standing.

Annual Statements of Balance Due

In accordance with the law, installment agreement taxpayers receive an annual statement from the IRS. The statement provides the amount owed at the beginning of the statement period, the payments (credits) posted to account(s), any fees or assessments, and the ending balance. Currently, the annual statement is sent each year in July.

Meeting the Terms of an Installment Agreement

Besides making installment payments on time, the terms of an installment agreement require that all tax returns required to be filed and payments (including any Estimated Tax payments or Federal Tax Deposits) due during the life of the agreement be made timely.

Why an Installment Agreement Will Cost You More

Are you aware that interest and penalties do not stop with an installment agreement/payment plan? You can save money by paying the full amount you owe, as quickly as possible; to minimize the interest and penalties you will be charged. Penalties and interest will continue to be charged on the unpaid portion of the debt throughout the duration of the installment agreement/payment plan.

Remember, the interest rate on a loan or credit card may be lower than the combination of penalties and interest imposed by the Internal Revenue Code. It is best that you pay as much as possible before entering into an agreement. See the example showing how borrowing money to pay your taxes could cost you less than an installment agreement.

A Notice of Federal Tax Lien would also be avoided, thereby maintaining your credit standing. Additionally, the installment agreement fee would not apply.

Paying your taxes in full, or partially paying your tax liabilities through liquidating or borrowing against real estate or personal property (bank accounts, stocks, bonds, 401(k) plans, or life insurance), would cost less than an installment agreement.

Chapter 7 Review Questions

1. The IRS will accept some type of payment arrangement for past due taxes if you have
 - A. Unfiled tax returns.
 - B. Adequate cash available in a checking or savings account to pay the IRS.
 - C. The capacity to borrow the amount owed to the IRS from other sources.
 - D. Filed all tax returns and are current in your filing.

2. For those individuals or businesses unable to resolve a tax debt immediately, a reasonable option is
 - A. Bankruptcy.
 - B. An installment agreement.
 - C. An offer in compromise.
 - D. To have the IRS file a SFR tax return for you.

3. As a condition of an installment agreement, which of the following statement is true?
 - A. Any refund cannot be applied against a student loan.
 - B. Refunds will be made to taxpayers who have past due child support liabilities.
 - C. The IRS will automatically apply the refund to taxes owed.
 - D. Refunds will be returned to the taxpayer if past due taxes are owed.

Chapter 8:

Delayed Collection and Currently Not Collectable Status

Learning Objective

After completing this section, you should be able to:

- Recognize the reasons the IRS may close a case as uncollectible.
-

Delayed Collection

IRS policy states that whenever the taxpayer raises a question or presents information creating reasonable doubt as to the correctness or validity of an assessment, “reasonable forbearance” will be exercised with respect to collection efforts as long as the interests of the government are not jeopardized.

- This does not mean the taxpayer’s debt will be forgiven, or a tax lien will not be filed, or interest and late payment penalties do not accrue
- It only suspends collection action until the taxpayer has the ability to pay the tax.

Accounts Currently Not Collectible Stop collection by Becoming Uncollectible

Do you have negligible assets subject to levy by the IRS and no income beyond that which is absolutely necessary to cover your living expenses? If the IRS determines that you cannot currently pay any of your tax debt, the IRS may temporarily defer collection against you under the “undue hardship” rule. If you are one of

these uncollectible cases, which the IRS often reports as “currently not collectible” (CNC), the revenue officer will remove your case from the active inventory until your financial condition improves.

There are many reasons the IRS may close your case as uncollectible:

- collection would cause an undue hardship for the taxpayer, leaving him or her unable to meet necessary living expenses
- inability to locate the taxpayer’s assets
- inability to contact a taxpayer
- death of a taxpayer with no significant estate
- bankruptcy or suspension of corporate business activities and no remaining assets
- special action, such as with the accounts of military personnel in a combat zone

If the IRS does temporarily close your case as “uncollectible,” your debt will increase because interest and penalties will be charge until you pay the debt in full or until the statute of limitations for collection expires. Generally, if you owe over \$5,000, a *Notice of Federal Tax Lien* will be filed.

You will continue to owe the taxes and penalties, and interest will accrue. Once the IRS has earmarked you as “uncollectible,” they will temporarily suspend further collection activity.

Before closing your case for the reason of “undue hardship,” the IRS will request a *Collection Information Statement* (Form 433-A, Form 433-B or Form 433-F) so they can review your finances. The review is similar to the review of an Installment Agreement request (see previous section). And, if your assets are negligible and your net disposable income is negligible, you will most likely be classified as “uncollectible.” *Note:* If you (or your spouse) are self-employed or if you own a business, you only need to complete the 433-A. If you are an employer (you have employees that work for you), complete the 433-B. In some cases, you may need to complete both forms.

The IRS will periodically re-examine your finances to see if your financial condition has improved to the point that some payment can be demanded. This financial review will occur about once a year, and you must then complete a new financial statement. The IRS may question you by phone or in conference about this updated financial information or simply request that you complete and return a form by mail. As with all information you give the IRS, make certain that what you say is completely truthful.

The IRS may also monitor your financial condition by computerized review of your tax returns. For example, the IRS computer may “trigger” your return if your reported gross income exceeds a pre-established amount.

Note: the IRS only has ten years from the date of assessment to collect delinquent taxes. Once the statute expires, so does your liability.

Millions of Americans have remained “uncollectible” for years and completely avoided paying their back taxes. Obviously, these individuals could not title assets in their name or have significant income available for IRS levy. Still, many of these “uncollectible” enjoyed relatively comfortable lifestyles.

If you have no valuable assets in your name, a small income and expect your bleak financial situation to continue, then remaining “uncollectible” may be your most practical remedy. However, if you do not intend on remaining “uncollectible” until the statute of limitations for collection expires, or you do not want the tax liability hanging over your head, you may want to file an *Offer in Compromise* while you are registered as “uncollectible.” Taxpayers have been able to get offers accepted, while being “uncollectible,” for as little as \$1,000 or less when they have been able to borrow money “strictly for the purposes of settling their tax debt in an *Offer In Compromise.*”

- Revenue Officers have the authority to determine that a taxpayer’s account is Currently Not Collectible (CNC)
- While declaring an account CNC does not eliminate the assessment, it does stop current efforts to collect the tax
- Collection can resume any time before the expiration of the 10-year Collection Statute Expiration Date (CSED)
- The decision to place an account in CNC status is usually based upon the information in a Collection Information Statement (CIS) that is no more than 12 months old.
- Accounts can be placed in CNC status, even when the taxpayer’s CIS reflects assets or income which can be levied, as long as the collection of the delinquent taxes would prevent the taxpayer from affording necessary living expenses.
- Each taxpayer’s circumstances are unique- factors, such as health and age, are also considered.
- If monthly payments of at least \$25 per month can be made, the IRS will require the taxpayer to enter into an installment agreement before placing the account in CNC.
- If the taxpayer’s account is deemed to be CNC, the Revenue Officer will document the decision on Form 53 (Report of Currently Not Collectible Taxes)
- A lien will be filed before an account is declared CNC if the Revenue Officer believes collection efforts will be successful in the future, or if the total tax liability is \$5,000 or more.
- The decision to place an account in a currently not collectible (CNC) status is determined by a revenue officer and an automated collection system (ACS) that bases it on the collection information submitted by you. ACS, a branch of the IRS, is the first contact most taxpayers have with the IRS after receiving a past-due tax bill. As its name suggests, ACS is a large, computer driven system that attempts to collect on past due tax liabilities. ACS is responsible for sending out nearly all of the various collection letters and legal notices required to collect delinquent tax liabilities

Collection Due Process Hearing (CDP)

- When a Collection Due Process (Form 12153) request for hearing is filed, all enforced collection action stops.
- The request for a CDP hearing must be sent to the Service Center which sent the Final Notice of Intent to Levy (Letter 1058).
- Once the request is received by the IRS, the practitioner will be contacted in an attempt to resolve the tax issue.

- If the tax issue cannot be resolved, the case will then be sent on to the Appeals Office.

Chapter 8 Review Questions

1. Once the IRS temporary closes your case as uncollectible
 - A. Your taxes due will not ever be collectible.
 - B. Your interest and penalties will be dismissed.
 - C. You will continue to owe the taxes and penalties and interest will accrue.
 - D. The statute of limitations will not apply.

2. The IRS may close your case for the following reasons EXCEPT for
 - A. Undue hardship.
 - B. Death of a taxpayer with significant estate.
 - C. Inability to locate taxpayers' assets.
 - D. Special action

Chapter 9:

Offers in Compromise

Learning Objective

After completing this section, you should be able to:

- Identify key details about how the IRS handles an Offer In Compromise (OIC).
 - Recognize the financial analysis in determining the amount for an Offer In Compromise.
 - Recognize possible actions on submitted and accepted offers.
 - Identify issues from the Tax Increase Prevention and Reconciliation Act of 2005 (T1PRA) Section 509 that affect OICs.
-

The IRS 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 settlement.

- This program also allows taxpayers who do not agree that they owe the tax or feel that the tax has been incorrectly calculated a chance to file an Offer in Compromise and have their tax liabilities reconsidered.
- The Offer in Compromise program allows taxpayers to get a fresh start.
- All back tax liabilities are settled with the amount of the Offer In Compromise.
- All federal tax liens are released upon IRS acceptance of an Offer In Compromise and payment of the amount offered.

An Offer in Compromise filed based on the taxpayer's inability to pay the IRS looks at the taxpayer's *current financial position* and considers the taxpayer's ability to pay as well as the taxpayer's *equity in assets*. Based on these factors, an Offer amount is determined.

- Taxpayers can compromise all types of IRS taxes, penalties and interest.

- Even payroll taxes can be compromised.

If you qualify for the Offer In Compromise program you can save thousands of dollars in taxes, penalties and interest.

Why the Taxpayer Needs an Expert In Their Corner

- On October 31, 2004, the Los Angeles Times reported that the IRS National Acceptance rate for Offers In Compromise was less than 20%.
- One month earlier, a letter from the U.S. Senate Committee on Finance authored by Senators Grassley and Baucus to the Secretary of the Treasury raised concerns about the IRS's continued failure to efficiently and effectively administer the Offer In Compromise program:
 - We have heard from many practitioners and interested parties that the IRS is more interested in managing Offer In Compromise inventory rather than getting to a resolution of tax debt and giving the taxpayer a fresh start.
 - We are also troubled by the apparent failure of the Treasury and the IRS to fully utilize the flexibilities provided in the effective tax administration provision.
 - The Chief of Appeals had indicated that 86% of all Offers In Compromise are appealed.
 - It is our understanding that the IRS first processes the DATC (Doubt as to Collectability) component before determining whether the taxpayer actually owes the tax, in whole or in part.
 - The IRS calculates the ability to pay, in part by computing the monthly installment payment the taxpayer can pay for the remainder of the statutory collection period, particularly in light of the IRS's policy...that an Offer In Compromise is a viable collection alternative to a protracted Installment Agreement.
- Due to the complexities of negotiating an Offer In Compromise, The Tax Consulting Firm's track record is your best indicator of how that firm will manage your case.

Offer in Compromise Questions

Can I file an Offer In Compromise to delay collection action?

- Once it is determined an Offer In Compromise was filed solely to hinder and/or delay collection actions, the IRS will return the Offer In Compromise without any further consideration.
- Taxpayers will not be afforded the right to appeal this decision.

What is an Offer In Compromise user or application fee?

- Federal agencies are authorized to establish charges for services provided by the agency, called "user fees".

- The U.S. Office of Management and Budget encourages agencies to implement these fees to recover the cost of providing special services to some recipients that others do not use.
- The IRS has established a user fee that will recover part of the cost of processing and reviewing Offer In Compromise requests.
- The IRS has chosen to call it an "application fee" because the fee is required when an Offer In Compromise application is submitted for consideration.

How much is the application fee and when does it begin?

- The application fee for submitting an Offer In Compromise is \$186 and will be required on all.

Who has to pay the application fee?

All taxpayers who submit an Offer in Compromise must pay the \$186 fee, except in two instances:

- The Offer In Compromise is submitted based solely on "doubt as to liability".
- The taxpayer's total monthly income falls at or below income levels based on the Department of Health and Human Services (DHSS) poverty guidelines.

What method of payment does the IRS accept?

- A check or money order made payable to the United States Treasury.

Can I send cash as payment for the application fee?

- No. Taxpayers must send a check or money order for \$186 made payable to the United States Treasury.

Can I send one check to cover both the application fee and Offer In Compromise amount?

- No. Taxpayers must initially pay the application fee.
- After the IRS accepts the Offer In Compromise, the IRS will notify the taxpayer to promptly pay any unpaid amounts that become due under the terms of the Offer In Compromise agreement.

Can a tax practitioner who represents a number of clients and files multiple Offer In Compromise combine several application fees into one check?

- No. Checks that combine application fees for several offers will not be accepted, and the offers will be returned. Each Offer In Compromise must have a separate check attached.

What happens if I submit an application fee and find that I have insufficient funds in my account to cover the check?

- If the IRS receives notification of insufficient funds, the IRS will immediately stop processing the Offer In Compromise, and the Offer in Compromise will be returned to the taxpayer without any further consideration.

Will payment of the application fee reduce the Offer In Compromise amount?

- The application fee is in addition to the amount listed on the Offer In Compromise.
- However, when the IRS determines the acceptable amount of an Offer In Compromise based on doubt as to collectibility, it considers the value of all of the taxpayer's assets.
- Because some of the taxpayer's assets were used to pay the Offer In Compromise application fee, payment of the fee will reduce the acceptable amount of the Offer In Compromise.
- The taxpayer therefore pays no more for an Offer In Compromise with the fee than the taxpayer would have paid without the fee.

Will the application fee create an additional financial hardship on taxpayers who are already having payment problems?

- Because payment of the fee reduces the acceptable Offer In Compromise amount, most taxpayers will not experience any additional financial hardship as a result of the fee.
- However, for some taxpayers the \$186 fee may exceed their ability to pay.
- In most cases, the IRS exempts taxpayers whose income is at or below the poverty level from paying this fee.

What happens to my fee if the Offer In Compromise is not considered processible?

- The application fee will be returned to the taxpayer if the Offer In Compromise is determined not to be processible.

How do I know if I qualify for the income exception?

- The IRS has developed a worksheet to assist taxpayers in determining whether they qualify for the income exception.
- If they determine that they qualify, taxpayers must complete the "Income Certification for Offer in Compromise Application Fee," and attach it along with the worksheet at the time of submission.

What do I need to do if the Offer In Compromise Application Fee Worksheet shows that I qualify for the income exception?

- Taxpayers must sign and date "Income Certification for Offer in Compromise Application Fee."
- If a taxpayer is submitting a joint Offer In Compromise with a spouse, the spouse must also sign the certification.
- The Income Certification must be attached to the Offer In Compromise.

What happens if I submit the Offer In Compromise and the IRS later says I made an error and do not qualify for the poverty guideline exception?

- The IRS will return the Offer In Compromise to the taxpayer without any further processing.

Does the poverty guideline exception apply to businesses?

- No. The exception for taxpayers with total monthly incomes falling at or below income levels based on DHSS poverty guidelines only applies to individuals.
- It does not apply to other entities, such as corporations or partnerships.

What happens if I do not submit the Offer In Compromise application fee with the Offer In Compromise?

- Unless the taxpayer has submitted an Offer In Compromise under the doubt as to liability provision showing a poverty guideline certification, the IRS will return the Offer In Compromise as not processible.

How is the application fee collected?

- The application fee is collected when a taxpayer submits an Offer In Compromise.
- The general rule is that the IRS needs as many Offer In Compromises as there are entities seeking to compromise.
- A check or money order in the amount of \$186 must be attached to each Offer In Compromise.

This assumes that the taxpayer does not meet one of the exceptions for paying the application fee:

- The Offer In Compromise is filed solely under doubt as to liability.
- The Taxpayer's total monthly income falls at or below income levels based on the DHSS poverty guideline levels.

How many Offers In Compromise must I complete if my spouse and I are submitting one offer to compromise the same joint liability? How many application fees must be attached?

- A married couple owing the same joint income tax liability may file only one Offer In Compromise listing the joint liability. One fee of \$186 should be attached to the Offer In Compromise.
- A married couple opting to file separate Offers In Compromise for the same joint liability may do so, but two \$186 fees will be required.

This assumes that the taxpayer does not meet one of the exceptions for paying the application fee:

- The Offer In Compromise is filed solely under doubt as to liability.
- The Taxpayer's total monthly income falls at or below income levels based on the DHSS poverty guideline levels.

When a married couple owes a joint liability and one spouse also owes an individual (non-joint) liability, how many Offers In Compromise are required?

- Two Offers In Compromise are needed- One for the joint liability and another one for the individual (non-joint) liability. A check or money order for \$186 should accompany each Offer In Compromise.

This assumes that the taxpayer does not meet one of the exceptions for paying the application fee:

- The Offer In Compromise is filed solely under doubt as to liability.
- The Taxpayer's total monthly income falls at or below income levels based on the DHSS poverty guideline levels.

How many Offers In Compromise are required from a married couple who owe joint income tax, plus the husband owes an individual year before he was married and a business liability, and the wife owes an individual year with her prior spouse? How many application fees will be required?

In keeping with the "one fee per entity" rule:

- The husband should file one Offer In Compromise listing the joint income tax, the individual year he owes before the marriage and his business liability, and attach a \$186 application fee to the Offer In Compromise.
- The wife should file an Offer In Compromise listing the joint income tax and the individual year that she owes with her prior spouse, and attach a \$186 application fee to the Offer In Compromise.
- It does not matter that the joint liability will appear on both offers.

This assumes that the taxpayer does not meet one of the exceptions for paying the application fee:

- The Offer In Compromise is filed solely under doubt as to liability.
- The Taxpayer's total monthly income falls at or below income levels based on the DHSS poverty guideline levels.

How many Offers In Compromise are required if you have an individual who owes tax and who also owes a partnership debt as a general partner or corporate debt from a closely held corporation? How much would the application fee be?

- In this situation, two Offers In Compromise will be required.
- One for the individual liability, and the other for the partnership or corporate liability.
- A check or money order for \$186 must be attached to each Offer In Compromise, for a total of \$372.
- The IRS cannot combine individual tax on an Offer In Compromise application with taxes owed by a partnership or corporation.

This assumes that the taxpayer does not meet one of the exceptions for paying the application fee:

- The Offer In Compromise is filed solely under doubt as to liability.
- The Taxpayer's total monthly income falls at or below income levels based on the DHSS poverty guideline levels.

What will happen if the IRS accepts an Offer In Compromise for processing, along with the \$186 application fee, but then requests additional Offers In Compromise be submitted with additional \$186 fees, and the taxpayer fails to respond?

- Taxpayers are required to submit one fee for each Offer In Compromise submitted for processing.
- Failure to submit additional Offers In Compromise with the corresponding \$186 application fee when requested, will cause the IRS to return the offer without any further consideration.
- The \$186 application fee will be retained.

What happens to the Offer In Compromise and the application fee after I send it to the IRS?

- The \$186 is retained until the IRS determines whether the Offer In Compromise is processible.

Are there any instances when the application fee will be applied against the amount of the Offer In Compromise or refunded to me after the Offer In Compromise has been accepted for processing?

Yes. The fee will be applied against the amount of the offer or, if the taxpayer requests, returned to the taxpayer if:

- If the IRS accepts an Offer In Compromise based on effective tax administration (ETA).
- If the IRS accepts an Offer In Compromise based on a determination of doubt as to collectability with special circumstances.

What if my Offer In Compromise is not accepted, will the application fee be refunded to me?

No. The IRS will retain the fee when:

- The taxpayer's initial Offer In Compromise amount is too low - based on the IRS evaluation of the taxpayer's financial condition - and the taxpayer is given the opportunity to increase it.
- If the taxpayer does not increase the Offer In Compromise amount, or show special circumstances, the IRS will reject the Offer In Compromise.
- The taxpayer fails to submit additional financial documents to assist in the IRS review.
- If the taxpayer fails to respond, and/or submit the requested information, the Offer In Compromise will be returned without further consideration.
- The taxpayer chooses to withdraw the Offer in Compromise.

Processing Your Offer in Compromise

What happens if an Offer In Compromise is submitted using the wrong forms?

- The Offer In Compromise forms and "Collection Information Statements" are necessary to conduct an Offer In Compromise investigation.
- Failure to submit these documents will cause considerable delay in the process.
- Taxpayers wanting to pursue the Offer In Compromise as a way to satisfy their tax liability will have to submit the forms in order to have the Offer In Compromise reconsidered.

Will the submission of an inaccurate Offer In Compromise affect the timely disposition of my case?

- Yes. The IRS' procedures require that a taxpayer be contacted in writing and provided a one-time opportunity to correct the error(s), and/or update the financial statement.
- Failure to correct the error(s) and/or respond results in the Offer In Compromise being returned to the taxpayer without any further actions on the part of the IRS.

What happens if I miscalculate my Offer In Compromise or do not offer an amount equal to my reasonable collection potential?

- This will result in processing delays and could be grounds for the IRS ultimate decision to reject an Offer In Compromise.
- The IRS is observing a large upsurge of receipts in which the offered amount is clearly much lower than the reasonable collection potential illustrated on the taxpayer's financial statement.
- In a significant number of cases, the taxpayer's financial statements show that the taxpayer has a clear ability to satisfy the liability in full, or via an installment agreement during the course of the collection statute, and the taxpayer cites no special circumstances.
- The IRS reviews Offers In Compromise for fraudulent intent.
- Submitting an Offer In Compromise with false information, or making a false statement to an IRS employee, is considered an indicator of fraud and may subject the taxpayer to civil or criminal penalties.

What are the National and Local Standards and how are they considered in evaluating an Offer In Compromise?

- Collection Financial Standards are used to help determine a taxpayer's ability to pay a delinquent tax liability.
- Allowances for food, clothing and other items, known as the National Standards, apply nationwide, except for Alaska and Hawaii , which have their own tables.
- Taxpayers are allowed the total National Standards amount for their family size and income level, without having to supply supporting documentation.
- Maximum allowances for housing and utilities and transportation, known as the Local Standards, vary by location.

Unlike the National Standards, the taxpayer is allowed the lesser of the amount actually spent or the standard.

Offer in Compromise Determinations

What happens if the IRS accepts an Offer In Compromise?

If an Offer In Compromise is accepted, the following guidelines apply:

- The taxpayer must pay the Offer In Compromise amount in accordance with the acceptance agreement.
- The IRS will keep any tax refund, including interest due, as the result of an overpayment of any tax or other liability for the tax period extending through the calendar year the IRS accepts the Offer In Compromise.
- A taxpayer may not designate a refund and/or overpayment to be applied to estimated tax payments for the following year. This condition does not apply if the Offer In Compromise is based on Doubt as to Liability only.
- The taxpayer will waive their right to contest in court or otherwise, the amount of the tax liability.
- If a Notice of Federal Tax Lien has been filed against a taxpayer, the IRS will release the lien once all payment terms of the Offer In Compromise are satisfied.
- The taxpayer must remain in compliance with filing and payment of all tax returns **for a period of five years from the date the Offer In Compromise is accepted or until the Offer In Compromise is paid in full, whichever is longer.**
- Failure to pay the Offer In Compromise on time, and/or to remain in compliance during the five-year period or until the Offer In Compromise is paid in full, whichever is longer, will result in the Offer In Compromise being declared in default..

What happens if the IRS does not accept an Offer In Compromise?

- Once the IRS determines it cannot accept an Offer In Compromise, the taxpayer will be advised of the reasons behind the decision.
- The taxpayer will be afforded another opportunity to submit additional information that might cause the IRS to reconsider its preliminary decision to reject the offer.
- The exception to this is when the taxpayer has an ability to satisfy the liability in full and has not pointed to special circumstances.

How much interest am I going to pay if my Offer In Compromise is accepted?

- Interest will not accrue on the taxpayer's accepted Offer In Compromise amount from the date of acceptance until the Offer In Compromise is paid.
- Interest and penalties will continue to accrue on the unpaid tax liability while the Offer In Compromise is under consideration.

Will I be entitled to receive tax refunds if my Offer In Compromise is accepted?

- The IRS will keep any refund, including interest due, because of an overpayment of any tax or other liability, for tax periods extending through the calendar year the IRS accepts an Offer In Compromise.

Can I designate any payments once my Offer In Compromise is accepted?

- No. Refunds and overpayments may not be designated as estimated tax payments for the following year.
- This condition does not apply if the Offer In Compromise was accepted under doubt as to liability only.

Is a tax lien released when an Offer In Compromise is accepted?

- The IRS releases a Notice of Federal Tax Lien when all of the Offer In Compromise payment terms are satisfied.
- For an immediate release of a lien, a taxpayer can submit payment using a certified check and include a request letter.

What happens if I do not meet all the terms of my accepted Offer In Compromise?

- The IRS may default the Offer In Compromise and reinstate the entire tax liability, less all payments and credits received.

What happens if I default my Offer In Compromise?

The IRS may take the following actions:

- Immediately file suit to collect the entire unpaid balance of the Offer In Compromise
- Immediately file suit to collect an amount equal to the original amount of the tax liability as liquidating damages, minus any payment already received under the terms of the Offer In Compromise
- Disregard the amount of the Offer In Compromise and apply all amounts already paid under the Offer In Compromise against the original amount of the tax liability
- File suit or levy to collect the original amount of the tax liability, without further notice

The IRS will not default an agreement when taxpayers have filed a joint Offer In Compromise with your spouse or ex-spouse, as long as you have kept, or are keeping, all the terms of the agreement, even if your spouse or ex-spouse violates the future compliance provision.

What happens if I do not file my tax return or pay my taxes next year?

The Offer In Compromise will be defaulted.

- An Offer In Compromise requires future compliance for a period of five (5) years from the date of acceptance of the Offer In Compromise, or until the offered amount is paid in full, whichever is longer.
- Compliance is the timely filing and paying of all required returns and taxes.

Financial Analysis

This section provides instructions for analyzing the taxpayer's financial condition to determine reasonable collection potential (RCP). IRM 5.15 Financial Analysis Handbook provides information for the analyzing and verifying of financial information and should be used in conjunction with this section.

Verification

1. A thorough verification of the taxpayer's Collection Information Statement (CIS) involves reviewing information available from internal sources and requesting that the taxpayer provide additional information or documents that are necessary to determine reasonable collection potential (RCP).
2. Collection issues that have been previously addressed during a balance due investigation by field personnel will not be re-examined unless there is convincing evidence that such reinvestigation is absolutely necessary. It is expected that the results of a previous collection investigation will be used and only supplemented when necessary to make a determination on an offer in compromise. Investigative actions that are less than 12 months old may be used to evaluate the offer in compromise.

Example:

If a Revenue Officer has completed a full CIS analysis including verification of assets, income and expenses and has made a determination of Fair Market Value of assets, equity in assets and monthly ability to pay, this information should not be reinvestigated. The Offer Examiner should use the Revenue Officer's (RO) determinations to calculate reasonable collection potential (RCP). If the balance due case file does not provide documentation to indicate the source of the offer amount, the taxpayer will be contacted to determine the source of the offer funds

Internal Sources

1. Verify as much of the collection information statement (CIS) as possible through internal sources.

2. When internal locator services are not available, or indicate a discrepancy, request that the taxpayer provide reasonable information necessary to support the Collection Information Statement (CIS).
3. A full credit report should be requested prior to accepting an offer when the current balance due exceeds \$100,000.
4. Regardless of the amount of the liability the following information sources may be considered:

Internal Sources	Review
ENMOD and INOLES	Identify cross reference TINs for related business activity not declared on the CIS.
SUMRY, IMFOL and BMFOL	Verify full compliance.
RTVUE (IMF) or copy of the last filed income tax return	<ul style="list-style-type: none"> • Compare the amount of reported income to that declared on the CIS. • Identify past sources of income: <ul style="list-style-type: none"> Schedule B — interest and dividends Schedule C — self-employment income Schedule D — capital gains or losses Schedule E — rental or other investment income, net operating loss deduction Schedule F — farm income
IRPTRO and/or copy of older year income tax returns	<ul style="list-style-type: none"> • Compare real estate tax and mortgage interest deductions to the amounts declared on the CIS. Higher amounts may indicate present or past real property ownership not declared on the CIS. Lower amounts may indicate property has been recently sold or transferred. • Identify accounts not reported on the CIS, such as certificates of deposit or investment accounts. • Verify sources of income, such as employers, bank accounts, and retirement accounts. • Identify recently dissipated assets.
BRTVUE (BMF) or copy of last filed income tax return	<ul style="list-style-type: none"> • Compare the amount of reported income to that declared on the CIS. • Compare the value of assets and the amount of reported depreciation to the asset values declared on the CIS.
State Motor Vehicle Records	Identify motor vehicles registered to the taxpayer but not declared on the CIS. Also check for ownership in business names.

Internal Sources	Review
Real Estate Records	<ul style="list-style-type: none"> • Identify real property titled to the taxpayer but not declared on the CIS. • Identify property held by transferee, nominee or alter ego. Also check for ownership in business names.
Credit Bureau Report	<ul style="list-style-type: none"> • Identify past residences and employers. • Verify competing lien holders, balances due and payment history. • Identify property not listed on CIS.

Taxpayer Submitted Documents

1. Collection Information Statements (CIS) submitted with an offer in compromise should reflect information no older than the prior six months. If during the processing of the offer, the financial information becomes older than 12 months, contact should be made with the taxpayer to update the information. However, in certain situations information may become outdated due to significant processing delays caused by the Service, through no fault of the taxpayer. In those cases, it may be appropriate to rely on the outdated information if there is no indication the taxpayer's overall situation has significantly changed. Judgment should be exercised to determine whether, and to what extent, updated information is necessary. If there is any reason to believe the taxpayer's situation may have significantly changed, secure a new CIS.
2. The IRS guidance indicates that IRS employees are not allowed to make blanket requests for information. They are required to tailor the request to each taxpayer's specific situation. They should not require the taxpayer to provide information that is available from IRS internal sources.
3. Offer Investigators may receive offers (other than those identified by the "Screen for Obvious Full Pay" process) where the taxpayers have not provided, either proof of payment for certain monthly expenses claimed in Section 9 of Form 433-A, or statements showing current real estate mortgage or motor vehicle loan balance. Often the taxpayers are not actually paying claimed expenses, or they are not allowable under offer program guidelines. For example, taxpayers frequently list their unallowable credit card bills under secured debt or other expenses. While a taxpayer may have a liability for a court ordered judgment that is senior to the Notice of Federal Tax Lien (NFTL), unless they are actually making payments on that liability it is not considered as an allowable monthly expense.
4. If taxpayers do not substantiate claimed expenses for Form 433-A categories of health care expenses, court ordered payments, child/dependent care, life insurance, other secured debt or other expenses, Offers Investigators will complete the (Income/Expense Table (IET) assuming that the taxpayer is not making any payments for the particular unsubstantiated expense, except for health care. In those cases, refer to LEM 5.3.1.
5. 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, Offers Investigators should rely on credit report loan balance information to determine the current balances of any relevant loans from

commercial lenders. If the loan is from a private source, it may be necessary to contact the taxpayer/representative for the information.

6. If not present in the file when assigned for investigation, appropriate documentation from the chart below should be requested to verify the information on the Collection Information Statement (CIS).

Taxpayer Documentation	Review
<p>Wage Earner — wage statements for the prior 3-6 months A statement with current year-to-date figures is also acceptable.</p>	<ul style="list-style-type: none"> • Compare average earnings to the income declared on the CIS. • Verify adequate tax withholding. • Identify payroll deductions to ensure the expense is necessary and not claimed again on the CIS. • Identify deductions to savings accounts, credit union accounts or retirement accounts.
<p>Self-employed — proof of gross income (invoices, accounts receivable, commission statements, etc.) for the prior three months.</p>	<ul style="list-style-type: none"> • Compare average earnings to the income declared on the CIS. • Identify deductions to ensure the expense is necessary and not claimed again on the CIS.
<p>Three (3) current months of bank statements that show the monthly transactions, withdrawals and deposits.</p>	<p>Compare deposit amounts to income reported on the tax return and CIS. Question deposits that exceed reported income and unusual expenses paid. Consider asking for the cancelled checks and deposit items for a specified time frame if questionable items cannot be adequately explained.</p>
<p>Retirement account statements and brochures, brokerage account statements, securities or other investments</p>	<p>Identify the type, conditions for withdrawal and current market value.</p>
<p>Life insurance policies</p>	<ul style="list-style-type: none"> • Identify the type, conditions for borrowing or cancellation and the current loan and cash values. • Verify the amount of the required premiums and ensure payments are being made.
<p>Motor vehicle purchase or</p>	<p>Verify equity and monthly payment expense.</p>

Taxpayer Documentation**Review**

lease contracts, statements from the lender indicating the payoff amount

Real estate warranty deeds, mortgage deeds, HUD closing statements, statements from the lender indicating the pay off amount

Identify the type of ownership, amount of equity and monthly payment expense.

Homeowners or renters insurance policies and riders.

- Compare the insured value to the value declared on the CIS.
- Identify high value personal items such as jewelry, antiques or artwork.

Financial statements recently provided to lending institutions or others.

Compare the financial information on the CIS to those submitted to other lending institutions.

Divorce court orders.

Verify disposition of assets in the property settlement.

Court orders for child support and proof of payment.

Verify responsibility for child support, that the payments are actually being made, and the length of time payments are required to be made.

Equity in Assets

1. Proper asset valuation is essential to determine reasonable collection potential (RCP).
2. Field calls may be made to locate or personally ascertain the condition of assets.
3. Assets will not be eliminated or valued at zero dollars simply because the Service may choose not to take enforcement action against the asset, even though the net result is rejection of the offer and reporting the case currently not collectible.

Net Realizable Equity

1. For offer purposes, assets are valued 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.
2. Quick sale value (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) but greater than forced sale value (FSV). FSV is defined as no less than 75% of FMV.
3. Normally, Quick Sale Value (QSV) is calculated at 80% of Fair Market Value (FMV). A higher or lower percentage may be applied in determining QSV when appropriate, depending on the type of asset and/or 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 it may be appropriate to 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 of a percentage other than 80%. Generally, it is the policy of the Service to apply QSV in valuing property for offer purposes.
4. When a particular asset has been sold (or a sale is pending) in order to fund the offer, no reduction for quick sale value (QSV) should be made. Instead, verify the actual sale price, ensuring that the sale is an arm's 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 net realizable equity (NRE) of the asset.

Jointly Held Assets

When taxpayers submit separate offers but have jointly owned assets, allocate equity in the assets equally between the owners. However:

If...	Then...
The joint owners demonstrate their interest in the property is not equally divided	Allocate the equity based on each owner's contribution to the value of the asset.
The joint owners have joint and individual tax liabilities included in the offer investigation	Apply the equity first to the joint liability and then to the individual liability.

Income-Producing Assets

1. When determining the reasonable collection potential (RCP) for an offer that includes business assets, an analysis is necessary to determine if certain assets are essential for the production of income. When it is determined that an asset or a portion of an asset is necessary for the production of income, it may

be appropriate to 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 .

2. When valuing income-producing assets:

If...	Then...
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. Consider including the equity in the asset in the RCP.
There are both equity in 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.

3. These considerations should be fully documented in the case history. For example:

If...	Then...
A self-employed construction tradesman sells a truck, which he	Consider allowing the expected cost of delivery services as a

If...	Then...
used to haul materials, and devotes the proceeds to the offer	business expense.
A tradesman borrows against the truck instead of selling it and devotes the proceeds to the offer	Consider allowing the loan repayment as a business expense.
A loan cannot be secured and loss of the truck would create an economic hardship	When special circumstances warrant acceptance of less than RCP, document the circumstances and recommend acceptance to the authorized official in Delegation Order 11.
An outside salesman has a luxury car when all that is necessary is a moderate value sedan	The equity should be included in the offer. Consider allowing only a portion of the loan repayment that would be required to purchase a moderate value replacement vehicle.
An outside salesman has a luxury car but no ability to make installment payments for purchase of a moderate value replacement vehicle	The equity should be included in the offer. When special circumstances warrant acceptance of less than the RCP, document the circumstances and recommend acceptance to the authorized official in Delegation Order 11. Determine the acceptable amount of a special circumstances offer by allowing the taxpayer to retain only enough equity to purchase a moderate value replacement vehicle.
A business owns a vacation property, which is used for annual board meetings.	The equity should be included in the offer. Do not allow any loan repayment.

Assets Held By Others as Transferees, Nominees or Alter Egos

1. A critical part of the financial analysis is 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.
2. When these issues arise, apply the principles in IRM 5.17.1, Legal Reference Guide for Revenue Officers or request a counsel opinion.
3. It is not necessary to actually seek or obtain any specific legal remedy in order to address these issues in an offer.

4. If the taxpayer has a beneficial interest in the asset or income stream then the value should be reflected in the reasonable collection potential (RCP).

Cash

1. Review checking account statements over a reasonable period of time, normally 3-6 months.

Note:

Determine if there are funds in the account that are not spent on a monthly basis. Generally this would be the amount reflected on each month's statement when the account is at its lowest point. Treat overdrafts as a zero balance. This should represent the amount available in the account each month after all deposits and withdrawals. Average the lowest daily ending balance on each of the three statements and use this amount as the value of the account. This amount will be added to the Asset/Equity Table (AET) as an asset, however, it cannot be valued for less than zero.

2. Determine the taxpayer's interest in bank accounts by ascertaining the manner in which they are held and applying the principles described in IRM 5.17.1, *Legal Reference Guide for Revenue Officers*.
3. If analysis of the bank statements and/or discussions with the taxpayer reveal that an adjustment to the balance is appropriate based on unusual expenses that are necessary for the production of income or the health and welfare of the taxpayer, consider adjusting the balance. The case file should clearly document these determinations.
4. Analyze the statement for any unusual activity, i.e. deposit in excess of reported income, withdrawals, transfers, or checks for expenses not reflected on the Collection Information Statement (CIS). The Offer Investigator should question these inconsistencies, as appropriate.
5. Review savings accounts statements over a reasonable period of time, normally 3-6 months.
 - If the account has little withdrawal activity use the ending balance on the latest statement as the asset value for the AET.
 - If it is apparent that the account is used for paying monthly living expenses, treat it as a checking account and follow the instructions in paragraphs (1) through (4) above to determine its value.
6. If analysis of the bank statement reveals recently dissipated funds, see 5.8.5.4 for a full discussion of the treatment of dissipated assets.
7. If the taxpayer offers the balances of accounts to fund the offer, allow for any penalty for early withdrawal and the expected current year tax consequence.
8. Verify whether deposits in escrow or trust accounts are actually held for the benefit of others.
9. For funds on deposit with the offer in compromise, allow as an encumbrance any amount borrowed under the provision that, if the offer is not accepted, it must be repaid.

Securities

1. Financial securities are considered an asset and their value should be determined and included in the reasonable collection potential (RCP) when investigating an offer.
2. When the taxpayer will liquidate the investment to fund the offer, allow any penalty for early withdrawal and the current year tax consequence.

3. To determine the value of publicly traded stock, the bid price on the last traded price, or inquire with a broker for the current market price. Then, allow for the estimated costs of the sale to arrive at the Quick Sale Value (QSV).
4. To determine the value of closely held stock that is either not traded publicly or for which there is no established market, consider the following methods of valuing the company and assign a proportion of the company's value to the taxpayer's stock:
 - Secure and verify a Collection Information Statement.
 - Review recent year's annual report to stockholders.
 - Review recent year's corporate income tax returns.
 - Request an appraisal of the business as a going concern by a qualified and impartial appraiser.
5. When a taxpayer holds only a negligible or token interest, has made no investment and exercises no control over the corporate affairs, it is permissible to assign no value to the stock.

Life Insurance

1. Life insurance as an investment is not considered necessary. However, reasonable premiums for term life policies may be allowed as a necessary expense.
2. When determining the value in a taxpayer's insurance policy, consider:

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

Retirement or Profit Sharing Plans

1. Funds held in a retirement or profit sharing plan are considered an asset and must be valued for offer purposes.
2. Contributions to voluntary retirement plans are not a necessary expense. Review of the retirement plan document is generally necessary to determine the taxpayer's benefits and options under the plan.
3. When determining the value of a taxpayer's pension and profit sharing plans consider:

If...	And...	Then...

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 expense for liquidating the account and early withdrawal penalty.
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 expense for liquidating the account and early withdrawal penalty. The plan may be considered as income, if the income from the plan is necessary 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 expense associated with the withdrawal
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.
The plan 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 expense for liquidating the account and early withdrawal penalty, 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	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	The taxpayer is eligible	Equity is the value of the stock at current market price

If...	And...	Then...
stock option	to take the option	less any expense to exercise the option.

4. When the taxpayer will liquidate the retirement plan to fund the offer, allow any penalty for early withdrawal and the current year tax consequence.

Furniture, Fixtures, and Personal Effects

1. 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. Exercise discretion in determining whether the assets warrant personal inspection.
2. There is a statutory exemption from levy that applies to the taxpayer's furniture and personal effects. This exemption applies only to **individual** taxpayers. This exemption amount is updated on an annual basis.
3. When determining the value consider the following:

If...	Then...
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	They are not personal effects, but they may qualify for the levy exemption as tools of a trade.

Motor Vehicles, Airplanes and Boats

1. Equity in motor vehicles, airplanes, and boats must be determined and included in the reasonable collection potential (RCP). The general rule for determining net realizable equity (NRE), as discussed in IRM 5.8.5.3.1, applies when determining equity in these assets. Unusual assets such as airplanes and boats may require an appraisal to determine Fair Market Value (FMV), unless the items can be located in a trade association guide. The case file should document how the values were determined.
2. Generally, it is not necessary to personally inspect automobiles used for personal transportation. When it appears reasonable, accept the taxpayers stated value. No further investigation is required except for

vehicles that are three years old or newer with no lien. For these vehicles, consult a trade association guide and discount the Fair Market Value (FMV) to 80% to arrive at the Quick Sale Value (QSV).

Example:

When investigating an offer in the year 2014, a 2012 model year is 3 years old or newer.

3. When these assets are used for business purposes they may be considered income producing assets. See IRM 5.8.5.3.3 for a full discussion on the treatment of income producing assets.

Real Estate

1. Equity in real estate is included when calculating the taxpayer's reasonable collection potential (RCP) and in an acceptable offer amount.
2. When determining equity in real estate, the fair market value (FMV) of the property must be established. FMV is defined as the price a willing buyer will pay for the property, given time to obtain the best and highest possible price. 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 comparable
 - Homeowners insurance replacement cost
3. Once the Fair Market Value (FMV) of real estate is established, a determination regarding a reduction of value for offer purposes must be made. Procedures outlining reduction to Quick Sale Value (QSV) are discussed in IRM 5.8.5.3.1. If the value of real estate is reduced beyond 80% or if FMV is not reduced to QSV, the case file should document the basis for the value used.
4. 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 net realizable equity (NRE).

Accounts and Notes Receivable

1. Accounts and notes receivable are considered assets unless a determination is made 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.
2. To determine the value of accounts receivable:
 - A. Consider discounting the value of accounts that are over 90 calendar days past due.
 - B. When the receivables have been sold at a discount or pledged as collateral on a loan, apply the provisions of IRC 6323(c) to determine the lien priority of commercial transactions and financing agreements.
 - C. Examine closely accounts of significant value that the taxpayer is not attempting to collect, or that are receivable from officers, stockholders or relatives.

3. To determine the value of a note receivable, consider the following:
 - Whether it is secured and if so by what asset(s)
 - What is collectable from the borrower
 - If it could be successfully levied upon.

Inventory, Machinery and Equipment

1. Inventory, machinery and equipment may be considered income producing assets. See IRM 5.8.5.3.3 when it is determined that liquidation of these assets would be detrimental to the continued operation of an otherwise profitable business.
2. To determine the value of business assets 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, consult a trade association guide, secure an appraisal from a knowledgeable and impartial dealer, or contact the manufacturer.
 - When the property is unique or difficult to value and no other resource will meet the need, follow local procedure to request the services of an IRS valuation engineer.
 - Consider asking the taxpayer to secure an appraisal from a qualified business appraiser.
3. There is a statutory exemption from levy that applies to an **individual** taxpayer's tools used in a trade or business. This exemption for tools of the trade generally does not apply to automobiles. The levy exemption amount is updated on an annual basis.

Business as a Going Concern

1. Evaluation of a business as a going concern is sometimes necessary when determining reasonable collection potential (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.
2. To determine the value of a business as a going concern consider the value of assets, future income, and intangible assets such as:
 - Good will
 - Ability or reputation of a professional
 - Established customer base
 - Prominent location
 - Well known trade name, trademark or telephone number
 - 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 reasonable collection potential (RCP) analysis is attributable to the value of these intangibles.

3. Request the assistance of an IRS valuation engineer when a difficult or complex valuation is necessary.
4. When determining RCP for an individual taxpayer who has an interest in a business entity, flexibility should be used with consideration given to the taxpayer's control over the business.

Dissipation of Assets

1. During an offer investigation it may be discovered that assets (liquid or non-liquid) have been sold, gifted, transferred or spent on non-priority items/debts and are no longer available to pay the tax liability. This section discusses treatment of the value of these assets when considering an offer in compromise.

Note:

The scope of an offer investigation should not be expanded beyond the requirements defined in IRM 5.8.5.4, for the sole purpose of attempting to locate dissipated assets.

2. Once it is determined that a specific asset has been dissipated, the investigation should address whether the value of the asset, or a portion of the value, should be included in an acceptable offer amount.
3. Inclusion of the value of dissipated assets must clearly be justified in the case file. Justification should include an analysis of the following facts:
 - When the asset(s) were dissipated in relation to the offer submission,
 - How the asset was dissipated,
 - If the taxpayer realized any funds from the dissipation of assets,
 - How any funds realized from the dissipation of assets were used,
 - The value of dissipated assets and the taxpayer's interest in those assets.
4. When the taxpayer can show that assets have been dissipated to provide for necessary living expenses, these amounts should *not* be included in the reasonable collection potential (RCP) calculation.
For Example:
 - Dissolving an IRA account to pay for necessary living expenses during unemployment
 - Using bank accounts to pay for medical expenses
 - An asset that was dissipated and the funds were used to purchase another asset that is included in the offer evaluation.
5. If the investigation clearly reveals that assets have been dissipated with a disregard towards the outstanding tax liability, consider including the value in the reasonable collection potential (RCP) calculation.
For Example:
 - Dissolving an IRA account to pay unsecured credit card debt
 - Sale of real estate and "gifting" the funds from the sale to family members.
 - A recent refinancing of equity in property and using the funds to pay unsecured debt.
6. If the taxpayer cannot or will not provide information showing the disposition of funds from dissipated assets, consider including a portion or all of these values in an acceptable offer amount.

Future Income

1. 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. The number of months used depends on the payment terms of the offer.
 - A. For cash offers — project for the next 48 months.
 - B. For short term deferred offers — project for the next 60 months
 - C. For deferred payment offers — project for the number of months remaining on the statutory period for collection.
2. Detailed instructions for calculating future income are contained in IRM 5.8.5.5.4.
3. Consider the taxpayer's overall general situation including such facts as age, health, marital status, number and age of dependents, highest education or occupational training and work experience.
4. Retired Debts: A taxpayer's ability to pay in the future may change during the period it is being considered because necessary expenses may increase or decrease. Adjust the amount or number of payments to be included in the future income calculation, based on the expected change in necessary expenses.

Example:

The taxpayer may pay off an auto loan 24 months from the date the offer is accepted. This would increase the monthly future income by the amount of the loan payment. Child support payments may stop before the future income period is complete because the child turns a certain age. It is expected that these retired payments would increase the taxpayer's ability to pay.

5. Some situations may warrant placing a different value on future income than current or past income indicates:

If...	Then...
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 unemployed or underemployed	Use the level of income expected if the taxpayer were fully employed.
A taxpayer has a sporadic employment history or fluctuating income	Average earnings over several prior years. Usually this is the prior 3 years.

If...	Then...
A taxpayer is elderly, in poor health, or both and the ability to continue working is questionable	Adjust the amount or number of payments to the expected earnings during the appropriate number of months.
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. When considering a reduction in future income also consider the intangible value to the taxpayer of avoiding bankruptcy.

- In some instances, a future income collateral agreement may be used in lieu of including the estimated value of future income in reasonable collection potential (RCP). When investigating an offer where current or past income does not provide an ability to accurately estimate future income, the use of a future income collateral agreement may provide a better means of calculating an acceptable offer amount. Future income collateral agreements should not be used to enable a taxpayer to submit an offer in a lesser amount than the current or past financial condition dictates. However, if the future is uncertain, but it is reasonably expected that the taxpayer will be receiving a substantial increase in income, it may be appropriate.

Example:

A taxpayer is currently in medical school and it is anticipated that upon graduation income should increase dramatically. See IRM 5.8.6.3.1 for instructions on completing collateral agreements

Allowable Expenses

- Allowable expenses as defined in IRM 5.15.1, Financial Analysis Handbook, are those expenses that are necessary for the production of income or for the health and welfare of the taxpayer's family. That handbook also contains national and local standard expense amounts designed to provide accuracy and consistency in determining a taxpayer's basic living expenses. The standards are updated periodically based upon Bureau of Labor Statistics and Census Bureau information.
- National and local expense standards are guidelines. If it is determined that a standard amount is inadequate to provide for a specific taxpayer's basic living expenses, allow a deviation. Require the taxpayer to provide reasonable substantiation and document the case file.

Example:

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

3. 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. Fully document the reasons for any exceptions.

Example:

Foster children or children for whom adoption is pending.

4. A deviation from the local standard is not allowed merely because it is inconvenient for the taxpayer to dispose of excessively valued assets. In some situations, taxpayers may be expected to make life-style choices that will facilitate collection of the delinquent tax.

Conditional Expenses

1. Conditional expenses are defined in IRM 5.15, Financial Analysis Handbook, as those that may be allowed when the tax will be paid in full by an installment agreement. For offers purposes, the full amount of the tax will not be collected; therefore, the rules for conditional expenses are different.
2. The one year rule which allows time for a taxpayer to adjust current expenses to meet the terms of an installment agreement is not allowed for Offers in Compromise.
3. The purchase of discretionary investments is not allowed.

Example:

Payroll savings plans, purchase of whole life policies, mutual funds or voluntary retirement plan contributions.

4. Repayment of loans incurred to fund the offer and secured by the taxpayers' assets are allowed when those assets are of reasonable value and necessary to provide for the health and welfare of the taxpayer's family. The same rule applies whether the equity is paid to tax before the offer is submitted or will be paid upon acceptance of the offer. See IRM 5.8.5.3.3, Income-Producing Assets, to determine when to allow repayment of loans on those assets used to fund the offer.
5. Repayment of student loans secured by the federal government is allowed only for the taxpayer's higher education. If student loans are owed but no payments are being made, do not allow them.
6. Education expense is allowed only for the taxpayer and only if it is required as a condition of present employment. Expenses for dependents to attend colleges, universities or private schools are not allowed unless the dependents have special needs that cannot be met by public schools.
7. Child support payments for natural children or legally adopted dependents may be allowed, based on the taxpayer's situation, even when they are not court ordered. Regardless of whether they are court ordered, if no child support payments are being made, do not allow them.
8. 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 was choate prior to our lien or is collecting funds via a wage attachment or approved installment agreement. State and federal lien (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 (see Legal Reference Guide 5.17.2). Since future earnings of the taxpayer are after acquired property the Service has first right to the earnings. Explain to the taxpayer 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.

Note:

State or local liens may enjoy a priority in fixed payment streams such as annuity payments. If necessary, consult with area counsel to determine lien priorities.

9. Charitable contributions are not allowed.
10. Payments being made to fund or re-pay loans from "voluntary " pension plans will not be allowed. Taxpayers who cannot repay these loans will have a tax consequence in the year that the loan is declared in default and that consequence should be estimated and allowed as an additional tax expense on the IET for the required number of months necessary to cover the additional tax consequence. Request the taxpayer or their representative estimate the tax ramification of the failure to re-pay the loan or the Offers Investigator may request assistance from the Examination function or Customer Service to determine the tax consequences.

Shared Expenses

1. This situation can happen one of two ways:
 - A. Separate offers are submitted by two or more persons who owe joint liabilities and/or separate liabilities and who share the same household.
 - B. An offer is submitted by a taxpayer who shares living expenses with a not liable person.
2. Generally, the assets and income of a not liable person are excluded from the computation of the taxpayer's ability to pay. One notable exception is in community property states. Follow the community property laws in these states to determine what assets and income of the otherwise not liable person are subject to collection of the tax.
3. Regardless of community property laws, the Offers Investigator should secure sufficient information concerning the not liable person to determine the taxpayer's proportionate share of the total household income and expenses. Review the entire household's information and:
 - A. Determine the total actual household income and expense.
 - B. Determine what percentage of the total household income the taxpayer contributes.
 - C. Determine necessary and allowable expense amounts using the rules in this chapter and IRM 5.15, Financial Analysis Handbook.
 - D. Determine which expenses are shared and which expenses are the sole responsibility of the taxpayer.
 - E. Apply the taxpayer's percentage of income to the shared expenses.
 - F. Verify that the taxpayer actually contributes at least this amount to the total household expense.

- G. Do not allow the taxpayer any amount paid toward a not liable person's discretionary expenses.
4. When the taxpayer can provide documentation that income is not commingled (as in the case of roommates who share housing) and responsibility for household expenses are divided equitably between co-habitants, (as documented by rental agreements, bank statement analysis, etc.) the total allowable expense should not exceed the total allowable housing standard for the taxpayer. In this situation, it would not be necessary to obtain the income information of the non-liable person(s), however sufficient financial information must be secured to verify the total household expenses and prove that the taxpayer is paying his/her proportionate share. The investigating employees should exercise sound judgment in these situations to determine which approach is most appropriate, based on the facts of each case.

Note:

In the situation where the taxpayer is renting an apartment or room and the owner of the property is the non-liable person, the rental agreement or signed statement from the owner of the property should support the decision to **not** require the owner to divulge any personal information regarding income or household expenses. In these cases, the investigating employee should accept the information provided by the taxpayer and make a determination based on that information.

If an in-house verification is conducted on the non-liable person, this information cannot be relayed to the taxpayer. This is not a Unauthorized Access (UNAX) violation but would be considered disclosure if any information is shared with someone other than the non-liable person in question.

Calculation of Future Income

1. Generally, the amount to be collected from future income is calculated by taking the projected gross monthly income less allowable expenses and multiplying the difference times the number of months remaining on the statutory period for collection.
2. For cash and short term deferred offers, when there are less than 48 or 60 months remaining on the statutory period for collection, use the number of months remaining. To determine the amount collectible from future income on a deferred payment offer through the life of the statutory period for collection, take the following steps:
 - A. Subtract allowable expenses from the monthly income to determine the monthly installment amount.
 - B. Determine the valid Collection Statute Expiration Date (CSED) for each tax period included in the offer.
 - C. Sort the tax periods by earliest CSED.
 - D. For each tax period, determine the number of months remaining on the statutory period for collection. Begin with the day the offer was determined to be processable and end on the CSED. Round partial months up to the nearest whole month.
 - E. For each tax period, determine the number of installments that may be applied before running out available funds. Round partial payments up to the nearest whole payment.

- F. Calculate the number of installments applied to each period. For succeeding periods, do not count months on the CSED that were used for applying installments to prior periods.

Caution:

If the allowed payment terms call for the first installment to begin later than 30 calendar days from acceptance, there will be one less month available to apply payments.

- G. Add the number of installments applied to all the periods and multiply the sum by the monthly installment amount to arrive at the total amount collectible from future income. For examples of situations where the amount that may be applied to a period is limited, see Exhibits 9-1 through 9-3.

Payment Terms

1. Payment terms are negotiable, but should provide for payment of the offered amount in the least time possible. 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. If the taxpayer is planning to borrow a portion of the money, the Offer Investigator should 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.
2. For those taxpayers who agree to shorter payment terms, fewer months of future income is required:

Payment Type	Payment Terms	Number of Months Future Income Required
Cash	Within 90 calendar days	48
Short term Deferred	Within 2 years	60
Deferred Payment	Within time remaining on the statute	Number of months remaining on the statute

3. There are three possibilities for deferred payment terms:

- A. Payment of an amount equal to the net realizable equity (NRE) in assets within 90 calendar days and payment of the future income amount by monthly installments over the time remaining on the statutory period for collection, or
- B. Payment of a portion of the net realizable equity (NRE) in assets within 90 calendar days and payment of the balance of the equity in assets and the future income amount by monthly installments over the time remaining on the statutory period for collection, or
- C. Payment of the entire compromise amount by monthly installments over the time remaining on the statutory period for collection.

Note: A third party source of funds may be required to make the portion of the monthly payment that is greater than we determined the taxpayer can afford from future income.

Exhibit 9-1
Deferred Payments Limited by Short Statute

For example, the taxpayer has accrued the following tax liability:

MFT-Period	CSED	Liability
30-9312	07/20/2005	\$29,000
30-9412	07/20/2005	\$61,000
30-9512	09/27/2006	\$ 8,900
30-9612	09/20/2007	\$ 7,400

The offer was determined processable on May 31, 1999. The taxpayer has no equity in assets and can pay \$300 per month.

MFT-Period	Months on the statute	Installments Due	Installments Applied
30-9312	74	96	74
30-9412	74	203	0
30-9512	87	29	14
30-9612	99	24	12
Total			99

The amount collectible from future income is: \$300 times 100 months = \$30,000.

Exhibit 9-2
Deferred Payments Limited by Small Amount Due

For example the taxpayer accrued the following liability:

MFT-Period	CSED	Liability
30-8912	07/20/2000	\$100,000
30-9512	09/27/2006	\$ 1,200
30-9612	09/20/2007	\$ 600

The offer was determined processable on May 31, 1999. The taxpayer has no equity in assets and can pay \$300 per month.

MFT-Period	Months on the statute	Installments Due	Installments Applied
30-8912	14	333	14
30-9512	87	4	4
30-9612	99	2	2

MFT-Period	Months on the statute	Installments Due	Installments Applied
Total			20

The amount collectible from future income is \$300 times 20 months = \$6,000.

Exhibit 9-3

Deferred Payments Limited by Application of Payment From Equity in Assets

For example the taxpayer accrued the following liability:

MFT-Period	CSED	Liability
30-8912	07/20/2000	\$30,000
30-9512	09/27/2006	\$ 1,200
30-9612	09/20/2007	\$ 600

The offer was determined processable on May 31, 1999. The taxpayer has \$30,000 equity in assets which he will pay within 90 calendar days and can pay \$300 per month which he will begin paying within 30 calendar days.

MFT-Period	Months on the statute	Installments Due	Installments Applied
30-8912	13	0	0
30-9512	87	4	4
30-9612	99	2	2
Total			6

After applying the \$30,000 payment for the equity in assets, the amount collectible from future income is \$300 times 6 months = \$1,800. Reasonable collection potential is \$31,800.

Collateral Agreements

A collateral agreement enables the government to collect funds in addition to the amount actually secured by the offer or to add additional terms not included in the standard Form 656 agreement, thereby recouping part or all of the difference between the amount of the offer or additional terms of the offer and the liability compromised.

Co-obligor Agreements

1. When a compromise is accepted from one party to a joint liability, the other party is not released from their several liabilities. Secure a co-obligor agreement from the taxpayer submitting the offer to clarify the effect of the compromise on the obligations of the other parties.

Note: Trust Fund Recovery Penalty assessments are not joint liability assessments and do not require a co-obligor agreement.

If...	Then...
The taxpayer lives in a state where acceptance of an offer in compromise from one party to a joint assessment also releases the other party	Secure the common law co-obligor agreement. (See Exhibit 9-4)
The taxpayer lives in a state where the right is expressly reserved to proceed against the other taxpayer who is not a party to the compromise	Secure the non-common law co-obligor agreement. (See Exhibit 9-5)
The taxpayer lives in a state where acceptance of an offer in compromise from one party to a joint assessment also releases the other party up to the amount of their proportionate share of the liability	There is no co-obligor agreement available for this case. An acceptable offer should include the reasonable collection potential (RCP) of all the obligors. When it is impossible to investigate all the obligors, there is a risk that the full collection potential will not be collected. Such an offer must meet the criteria for acceptance on the basis of Doubt as to Collectibility with Special Circumstances (DCSC) or Effective Tax Administration (ETA).
Both parties have submitted separate offers which are recommended for acceptance	If appropriate, the parties may submit a joint offer to eliminate the need for co-obligor agreements. Otherwise, secure a co-obligor agreement from each taxpayer.

2. A co-obligor agreement is not warranted in the following instances:
 - A. In a proportionate liability state, when the offer amount is equal to or exceeds the not compromising taxpayer's proportionate liability.
 - B. No possibility exists for collecting from the other obligors.
 - C. Under state law, no specific reservation of collection rights is required to protect the ability to collect from co-obligors.

Other Collateral Agreements

1. Other collateral agreements may be appropriate in certain circumstances. Because all other collateral agreements must be monitored for compliance, they should only be secured when a significant recovery is anticipated. *Securing a collateral agreement should be the exception and not the rule.*
2. *Do not* use a collateral agreements to accept an offer amount less than the taxpayer's financial condition indicates.
3. In lieu of a collateral agreement, the taxpayer may increase the amount of the offer equivalent to what the government could reasonably expect to recover from the collateral agreement.
4. A collateral agreement may be appropriate in the following situations:

If the taxpayer...	Then consider securing a...
Anticipates a substantial increase in future income	Future income collateral agreement.
Is compromising the income tax liability of a defunct professional corporation	Future income collateral agreement from the professional to collect from future individual income.
Has real or personal property that is being depreciated	Collateral agreement to reduce the basis of the asset.
Has net operating losses or capital losses arising from prior years available for deduction in future years	A collateral agreement to waive the loss.
Is seeking to compromise a Trust Fund Recovery Penalty (TFRP) and qualifies to take a capital loss benefit from the defunct corporation on the Form 1040	A collateral agreement from the individual taxpayer to waive the capital loss.

Future Income

1. It is appropriate to consider future collateral agreements for both individuals and corporations when the investigation reveals that a substantial increase in the taxpayer's future income is expected.
2. The use of a future income collateral agreement may be an option when attempting to determine a taxpayer's future income for reasonable collection potential (RCP) purposes. When investigating an offer where the taxpayer's past income does not provide an accurate analysis for what may be earned in the future then the use of a FICA may be a better option.

Example:

- 1) The taxpayer is an engineer, but is currently employed as a salesman earning less than half of his prior salary due to difficulty he has had in obtaining a job in the engineering field at the present time, or
- 2) The taxpayer is a student and is expected to graduate soon and begin earning a significant annual income.

3. The period of time a future income collateral agreements should cover will be determined by the circumstances identified in the offer investigation based on the taxpayer's financial situation. Generally the period of time the agreement covers should coincide with the future compliance provision.

Example:

- If the offer terms are for cash payment (paid within 90 days of acceptance) the future income collateral agreement should generally run for a five year period,

- If the offer terms are based on deferred payments calculated through the collection statute periods, the future income collateral should generally run through the last full year before the statutory period for collection expires.

- The offer file should document the basis for the time frame used for each collateral agreement.

4. Use the Form 2261 for individual taxpayers or the Form 2261–A for corporate taxpayers. The beginning year is defined as the year following acceptance of the offer. The ending year is defined as the last year for which the collateral agreement will remain in effect. The beginning dollar amount is negotiable but generally should be the amount determined necessary to meet living expenses during the term of the offer. In determining the beginning dollar amount the expected rate of inflation during the term of the agreement should be considered, as well as any additional expenses such as those for an expected additional child or a replacement auto.
5. Offers with future income collateral agreements must be approved by a second level manager. The Territory manager for the field and Department manager for COIC will indicate approval by signing the Form 7249 and the acceptance letter. The Form 2261 may be signed by the authorized official in Delegation Order 42.
6. *Do not* secure a future income collateral agreement:
 - To collect future income that should be included in the offer amount.
 - Merely on unfounded speculation about an increase in income.
 - To cover statistically improbable events, such as lottery winnings.
 - To attempt collection from a potential inheritance.

Example:

Do not secure a future income collateral agreement when the investigation reveals that the taxpayer is the only child of wealthy parents, and the surviving parent is well advanced in years and in poor health.

7. Future income collateral agreements must be monitored annually for the life of the agreement. The cost of monitoring and the difficulty in tracing income structured through other entities should be considered when deciding whether such an agreement is warranted.

Adjusted Basis of Specific Assets

1. The initial basis of an asset is equal to the cost of acquiring it. Adjustments to the basis are made each year for the cost of improvements and accumulated depreciation. When an asset is sold, the basis is used to determine the amount of capital gain to be taxed.
2. A collateral agreement may be used to reduce the basis after accumulated depreciation, or book value, of a specific asset to a lesser amount or zero. This will have two effects. It will limit or eliminate the amount of depreciation deduction allowed in future years and it will cause a higher capital gain tax to be paid if the asset is later sold for an amount more than the adjusted basis.

3. Use the Form 2261–B. The beginning year is defined as the year after the last filed tax return. Insert the year of the last filed tax return in the phrase "for all taxable years beginning after". Specifically describe each asset. Set the amount of the basis at the reduced or zero value.
4. Adjusted basis collateral agreements must be monitored annually until the asset is ultimately disposed of all value. Consider the cost to monitor the agreement and the difficulty in tracing the sale or exchange of the property when deciding whether such an agreement is warranted.

Waiver of Losses

1. Use the Form 2261–C. The beginning year is defined as the next year after the last filed tax return. Insert the year of the last filed tax return in the phrase "for all taxable years beginning after " . Waive net operating losses and capital losses arising from all years prior to and including the last filed tax return.
2. Do not prohibit the deduction of losses that arise in years after the offer is accepted.
3. The waiver of investment credits is obsolete.
4. Waiver of losses collateral agreements must be monitored annually until all the losses are extinguished, potentially for decades. Consider the cost to monitor the agreement and potential for recovery of future tax liabilities when deciding whether such an agreement is warranted.
5. A waiver of losses collateral agreement may be secured to partially waive a loss, if the facts of the case support this determination.

Net Operating Loss

1. Net Operating Loss (NOL) is a loss incurred when expenses exceed the income of a business.
 - The taxpayer must declare the loss on their tax return the year in which the loss is incurred.
 - The loss will be declared on a Schedule E and may be offset against any "other income" on the tax return.

Note: Not all income qualifies to be offset.

 - Generally, losses may be carried back no more than three years and forward no more than twelve years or until all the loss is offset against taxable income.
 - If the taxpayer wishes to carry the loss forward the taxpayer must elect to do so in the tax year the loss was incurred.
 - If the taxpayer has not taken the loss on the tax return for the year in which the loss occurred and the statute of limitations for assessment has passed for that tax year, the taxpayer is no longer entitled to the loss.
2. When the taxpayer has claimed a Net Operating Loss (NOL), determine and verify the exact origin and amount of the loss. If a taxpayer has been associated with more than one business there may be multiple losses.

When...	Then...
Calculating the remainder of the NOL	The loss can be located on the "other income" line on the Form 1040 and should be labeled as Net Operating Loss.

	1. Determine the original loss amount claimed on the tax return.
	2. Subtract any carry backs (Up to three years back from the tax year the NOL was established.)
	3. Subtract the amounts claimed on subsequent tax returns from the year the NOL was established.

Capital Loss

- Capital Loss is one in which the taxpayer experiences a loss associated with such investments as land, stock, paid in capital, or loans from shareholders. This loss is:
 - Found on a Schedule D.
 - Only offset against income or capital gain in the year in which it is incurred and the remainder carried forward at a limit of \$3,000 per year against other income or;
 - Offset against a capital gain in total

Example:
A taxpayer has a \$100,000 loss and a \$40,000 gain. The taxpayer may offset \$40,000 against the gain and an additional \$3,000 loss against other income leaving a \$57,000 loss that may be carried forward in future years.

 - Individuals may deduct \$3,000 each year until the loss is extinguished with no limit on the number of years. Corporations are limited to 10 years.
- When the taxpayer claims a capital loss, determine and verify the exact origin and amount of the loss.

If...	Then...
The loss is derived from personal investment	<p>The investment can be either loans to the corporation or the individual's capital investment in the corporation.</p> <ul style="list-style-type: none"> Verify loans through copies of checks or general journal entries that establish the loan and track repayment. Verify capital investment through canceled checks or other documents which support the amount of the original loan.
Determining the remaining amount of the loss once you have determined the origin	Trace the loss forward through the tax return copy or RTVUE*.

* RTVUE is an ultra-high speed, high resolution OCT retina scanner used for retina imaging and analysis. RTVUE provides access to the line items transcribed from Forms 1040, 1040A, or 1040EZ, and their accompanying schedules and/or forms as the returns are processed at the service center for returns filed in 1991 and subsequent.

Passive Loss

1. Passive Activity Loss is one that involves the conduct of any trade or business in which the taxpayer does not materially participate. This loss should not be confused with net operating loss.
 - Any rental activity is a passive activity even if the taxpayer does materially participate.
 - Losses from a passive activity generally cannot be deducted from other types of income (e.g., wages, interest, or dividends).
 - The amount of the taxpayer's allowable loss is subject to the "at-risk" rules. Generally losses are limited to the amount of the taxpayer's cash contribution, adjusted basis of other property which contributes to the activity, and amounts borrowed for use in the activity if the taxpayer has personal liability for the borrowed amounts.
2. Because passive losses are not deducted from earned income, waiving them may have little or no effect. One option is to reduce the basis of the property to zero so that the taxpayer cannot carry the loss over to the tax year in which the property is sold and receive benefit of the loss against a capital gain at that time.

Multiple Agreements

1. When related taxpayers submit more than one offer to compromise different tax liabilities secure only one collateral agreement. Describe on the collateral agreement all the offers to which it relates.
2. When more than one type of collateral agreement is secured for the same offer, the terms of all the agreements may be incorporated into one Form 2261 or Form 2261-A. The appropriate language may be found on the Forms 2261-B or 2261-C.

Type of Agreement...	Statement...
Adjusted Basis of Assets	<p>" For the purpose of computing income taxes of the taxpayer for all years beginning after ____, the basis for certain assets, under existing law for computing depreciation and the gain or loss upon sale, exchange or other disposition shall be as follows:</p> <p>Name of asset _____</p> <p>Dollar amount _____</p> <p>That in no event shall the basis set forth above be in excess of the basis that would otherwise be allowable for tax purposes, except for this agreement."</p>
Waiver of Net Operating Loss	<p>" For the purpose of computing income taxes of the taxpayer for all years beginning after ____, Any net operating losses sustained for the years before __ shall not be claimed as net operating loss deductions under the provisions of Section 172 of the Internal Revenue Code."</p>

Type of Agreement...	Statement...
Waiver of Capital Losses	" For the purpose of computing income taxes of the taxpayer for all years beginning after ____, Any net capital losses sustained for the years before __ shall not be claimed as carryovers or carrybacks under the provisions of Section 172 of the Internal Revenue Code."

3. If there is insufficient space on the form to insert all the necessary paragraphs simply type the paragraph numbers followed by "See Attached" and fasten a separate sheet containing the added provisions.

Waiver of Refunds

1. Form 656 contains a term which waives refunds and overpayments for all tax years through the year the offer in compromise is accepted. This waiver is a standard term, which cannot be altered.
2. When accepting an offer based on doubt as to liability or under the basis of Effective Tax Administration (ETA) based on public policy/equity considerations, the waiver of refunds is not applicable.
3. In order to remove the waiver of refund provision for these type of offers, both the taxpayer and the investigating employee must sign an agreement and include it with the accepted offer in compromise.

See Exhibit 9-6

Exhibit 9-3

Co-obligor Agreement Common Law States Pattern Letter P-229 (Rev. 6-90)

Collateral Agreement—Taxpayer Involved in Joint Assessment
(For Use in States Where Common Law Rule Applies)

To: Commissioner of Internal Revenue:

I submitted an offer dated (date) in the amount of \$(amount) to compromise unpaid (Kind of tax) tax, plus statutory additions, for the tax period(s) (date(s)).

The purpose of this letter is to amend that offer by adding the following provisions:

The (a) liability, which is the subject of this proposed agreement, is the joint and individual responsibility of myself and my co-obligor(s). I agree to pay the United States \$(amount). The United States agrees, in turn, not to:

- (1) sue the undersigned for the difference between the amount of the offer in compromise and the amount of the liability, or
- (2) collect the difference from assets of the undersigned by levy or any other means.

If this proposal is accepted, it does not mean that the liability or any part of the liability is settled for myself or

the co-obligor(s). The United States still reserves all its rights to collect the liability from the co-obligors.

Taxpayer's Signature

Date

Exhibit 9-4

Co-obligor Agreement Other States Pattern Letter P-230 (Rev. 6-90)

Collateral Agreement — Taxpayer Involved in Joint Assessment

(For Use in States Where Statutes Expressly Reserve Right to Proceed Against Co-obligor)

To: Commissioner of Internal
Revenue

I submitted an offer dated (date) in the amount of \$(amount), to compromise unpaid (kind of tax) tax, plus statutory additions, for the tax periods (dates).

The purpose of this letter is to amend and clarify that offer by adding the following provision:

Although the liability sought to be compromised is the joint and individual liability of myself and my co-obligors, I am submitting this offer to compromise my individual liability only. 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 co-obligors.

Taxpayer's Signature

Date

Exhibit 9-5

**Collateral Agreement –
Modification of Waiver Provisions of Compromise Agreement**

Collateral Agreement — Modification of Waiver Provisions of Compromise Agreement

(For Use when offer is being accepted under Detriment to Voluntary Compliance only)

To: Commissioner of Internal
Revenue

I submitted an offer dated (date) in the amount of \$(amount), to compromise unpaid (kind of tax) tax, plus

statutory additions, for the tax periods (dates).

The purpose of this letter is to modify that offer by stating that Items 8(g) and (h) of the agreement, Form 656, governing refunds and overpayments, will not apply to this offer. Acceptance of this offer will in no way alter my rights to refunds of overpayment or my ability to designate an overpayment to estimated tax payments for the following year:

Taxpayer's Signature
Date

I accept this modification on behalf of the Internal Revenue Service:

Signature of delegated official — Date

Exhibit 9-6

From 2261-C, Collateral Agreement Waiver of Net Operating Losses, Capital Losses and Unused Investment Credits

This is to help you with the completion of Form 2261-C.

1 — Name and Address of Taxpayer : This must be the same as the name on address that show on the Offer Form 656	7 — line item 1-first space Earliest loss years which could be carried forward to the year of acceptance
2 — Social Security and Employer Identification Number: Both need to be shown	8 — line item 1-second space Year offer is to be accepted
3 — In the body of the form- an offer dated: Date the taxpayer signed the offer. If Amended then the date the taxpayer signed the offer being accepted.	9 — line item 2-space Year following acceptance of the offer
4 — In the body of the form-\$ amount This is the amount of the offer in Item 7. If Amended then the amount of the offer being accepted.	10 — line item 3-first space Earliest year of unused investment credit which could be carried forward to the year of acceptance
5 — In the body of the form-Type of tax and taxable periods Liability identified as to the kind of tax with each year or period involved exactly stated.	11 — line item 3-second space Year offer is to be accepted
6 — In the body of the form-beginning after	12 — Signature and Title line

Ending date of taxable year preceding the year
of acceptance

Waiver of statute of limitations should be signed at the
earliest possible date by the investigation employee

Possible Actions on 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. This chapter addresses the situations which lead to the need for such decisions to be made and the procedures to follow.

Rescission of Accepted Offers

1. An offer is an agreement which is binding and conclusive on both the government and the proponent, and precludes further inquiry into the matters to which it relates unless fraud or a mutual mistake is identified.
2. 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.
3. A "mutual mistake" is defined as an erroneous belief held by both parties about the facts as they exist at the time the contract was entered into. The law in existence at the time of the making of the contract is part of the total state of facts at the time. The parties' mutual mistake with respect to the law, as found in statute, regulations, judicial decisions, or elsewhere, may render the compromise subject to rescission.
4. 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.
5. To constitute fraud or false representation, the following must be present:
 - A. It must appear that the representations related to material facts were false.
 - B. The maker knew the facts to be false.
 - C. 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.
6. If the offer was accepted by Appeals, the offer should be sent to the appropriate Appeals office to make the determination that the offer should be rescinded.

Rescission Procedures

1. Rescind an offer in the following manner:

- a. Prepare a letter to the taxpayer identifying the offer by the day it was accepted, and advising that the acceptance of the offer is rescinded and the acceptance letter is revoked.
- b. Include in the letter the grounds for rescission in general terms with a demand for payment of the unpaid tax liability.
- c. All rescission determinations must be reviewed and approved by counsel before a rescission letter is forwarded to the taxpayer.
- d. Document the basis for the decision to rescind and any taxpayer contact on Automated Offer In Compromise (AOIC).
- e. The letter will be signed by the same level of approval that accepted the offer.

Potential Default Cases

1. An offer can reach a potential default status in one of three ways:
 - A. The taxpayer failed to make timely payment of the amount due based on the terms of the offer or a related collateral agreement;
 - B. The taxpayer has not adhered to the compliance provisions of the compromise.

Note: Offers accepted after December 31, 1999 contain a clause relating to the severability of joint offer periods when a joint Form 656 is accepted. The severability clause will be applied to all joint offers, including those accepted prior to 1/1/2000.

- C. Taxpayer failed to return an erroneously issued refund.
2. Campus Monitoring Offer in Compromise (MOIC) units have responsibility and authority to make determinations on potential offer default cases. IRM 5.19.7.3 provides procedures for the MOIC Unit employees on potential offer default cases.
3. The MOIC unit will make an attempt to secure compliance. If the taxpayer fails to comply with any requests for delinquent returns and/or payment, the MOIC unit will default the offer. After all appropriate letters have been sent, generate a DEL RET or BAL DUE Account, as appropriate and close the case as a default.

Compromise of a Compromise

1. The compromise of a compromise should be rare in light of the investigation completed in connection with the original offer. However, in cases where the taxpayer is unable to pay the balance of an accepted offer and/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 that would justify that a default is not in the best interest of the government, the Service has the option to:
 - A. Adjust the payment terms of the offer,
 - B. Formally compromise the existing compromise, or
 - C. Obtain managerial approval to settle the offer for the amount already paid and not default the offer.

Authority to Compromise Under a Compromise Contract

1. The Commissioner is authorized to accept an offer of an accepted offer.
2. A proposal to compromise the balance of an accepted offer must rest on Doubt as to Collectibility (DATC).

Receipt and Processing

1. The office of jurisdiction that initially accepted the offer will consider the taxpayer's proposal.
2. No offer form (such as Form 656) is prescribed for use in submitting such a proposal. The proposal should be made in letter format. Upon receipt of the proposal, add a history entry to AOIC indicating that an offer on the offer has been received and notify the Monitoring Offer in Compromise (MOIC) unit that the offer should not be defaulted until the results of the investigation are known.

Note:

For Integrated Collection System (ICS), create an Operating Interest (OI) or Coordinated Issue Paper (CIP) to control the taxpayer's proposal. When closing, be sure to note the results in the AOIC history.

3. The total amount offered to satisfy the balance due under a compromise contract must be fully paid no later than 10 calendar days after a notice of acceptance is issued. The taxpayer may:
 - A. Enclose full payment of the proposed amount with the proposal.
 - B. Pay part of the proposed amount with the proposal and pay the balance when notice of acceptance is received.
 - C. Full pay the proposed amount within 10 calendar days of the date the notice of acceptance is received.
4. The proposal letter should be addressed to the Commissioner of Internal Revenue Service and must conform to pattern Letter 1603(P) as printed in Exhibit 9-7.
5. The taxpayer must submit a current financial statement(s) and all required supporting documentation.

Consideration of Proposal

1. The consideration of such a proposal will be made by the office of jurisdiction that originally accepted the offer. Acceptance will depend on:
 - A. If it is in the best interest of the Government; and
 - B. If the same considerations and merits were applied as if it were submitted on a Form 656.
2. The information required to support the proposal should fit the case. Such as:
 - Copy of taxpayer's most recent income tax return or Command Code (CC) RTVUE/BRTVU print.
 - Estimate of the remaining liability under the terms of the future income collateral agreement, if applicable.
 - Reasons why the request is being made to compromise the existing agreement.
 - Full compliance check.
 - Statement of current financial condition.

- Description of future prospects and any other information which might have a bearing upon the acceptability of the offer.
- Estimated and projected amount of future income over the period covered by the remaining terms of the original offer in compromise agreement.

Compare the amount of the taxpayer's offer and the amount which is anticipated to be recouped under the remaining terms of the original offer agreement.

Processing Completed Investigations

1. When the investigation is complete, the taxpayer's proposal, investigative report, and memorandum containing a complete statement of the facts in the case including the recommendation should be forwarded to the next level of authority for approval.
2. An acceptance or denial letter should be prepared for the delegated official. (See Exhibits 9-8 and 9-9)

If...	Then...
The taxpayer's proposal is acceptable	The procedures for acceptance of original offers will be followed which include an opinion of counsel as set forth in IRM 5.8.8.
The offer is accepted	<p>The acceptance file will contain the following:</p> <ul style="list-style-type: none"> • Copy of Acceptance Letter • Taxpayer's proposal • Memorandum supporting the compromise of a compromise • Work papers and financial information • Original acceptance recommendation, if available.
The proposal is not acceptable	<p>Forward to the delegated official for approval and signature. Include:</p> <ul style="list-style-type: none"> • Denial Letter (return without appeals) • Taxpayer's proposal • Memorandum supporting the examiners recommendation • Offer case file <p>Note:</p> <p>No appeal rights are granted to the taxpayer.</p>

3. Update the AOIC history with the results of the investigation. If the proposal is accepted, include in the AOIC history the amount of the accepted proposal and the terms for payment.

4. Once the decision letter has been signed and mailed the Other Investigation (OI) or CIP should be closed. There is no open AOIC record. The closed file should be mailed to the appropriate Monitoring Offer in Compromise (MOIC) unit for monitoring, if accepted, or defaulting if it was not accepted.

Overlooked Periods

1. Occasionally additional periods or years are discovered subsequent to the acceptance of an offer. When such liabilities are discovered, the offer agreement may be modified to include the additional period(s) as long as both the Service and the taxpayer are in agreement. The tax must have been assessed prior to the issuance of the notice of acceptance. Such modification would not require a determination of "mutual mistake of material fact. "
2. If the overlooked periods are discovered by the local office then they should secure the original offer file and have the taxpayer add the omitted period(s) to the original offer. A pen and ink change should be made to the Form 7249 including the additional period(s). The appropriate officials must then initial the recommended changes to the Form 7249. The AOIC history must be documented indicating the period(s) added. The case file must then be returned to the Monitoring Offers in Compromise (MOIC) unit.
3. If the overlooked periods are discovered by the Monitoring Offer in Compromise (MOIC) unit then they should send the file back to the original appropriate Area office or COIC site for consideration of whether to include the periods, per (2) above.

Exhibit 9-7 Pattern Letter 1603(P)

Proposal letter to compromise balance due on offer in compromise and/or to compromise future income collateral agreement contingent liability. The bolded information is to be added for a collateral agreement.

Commissioner of Internal Revenue
Washington, DC 20224

On [enter date from upper right corner of acceptance letter] you accepted [my/our] offer in compromise and the related Form [2261, Collateral Agreement, Future Income –Individual; or 2261–A, Collateral Agreement, Future Income–Corporation]. [I/we] agreed to pay \$[enter amount from Form 656, Offer in Compromise; if you amended Form 656, you must take this information from the latest amendment] to compromise the tax liability(s) listed below:

[List type(s) of tax and period(s) from Form 656 or the latest amendment, if applicable.]

Instead of future payments specified in Form [2261; or 2261–A], [I/we] propose to pay [enter amount you are offering to pay] in full settlement of the original offer and the collateral agreement . [Also select one of the following sentences to describe how you will pay the amount you entered in the previous sentence:

[I/we] have enclosed full payment of the proposed amount.

[I/we] will make full payment of the proposed amount when you notify [me/us] [my/our] proposal. that you have accepted

[I/we] have enclosed \$[enter amount you are sending with this letter] and will pay the balance when you

notify [me/us] that you have accepted [my/our] proposal.]

[If your original offer was submitted on a Form 656, Offer in Compromise, with a revision date of February, 1992, or later, please insert the following sentence:

[I/we] agree to file and pay all taxes as required by the Internal Revenue Code for five years from [enter the date from the upper right corner of the acceptance letter.

[I/we] agree to waive any and all claims to overpayments of tax or other liabilities, including interest on those payments, that I may be entitled to receive under the Internal Revenue Code. This waiver is limited to overpayments which haven't already been refunded to me for any years or tax periods which end before or during the year you accept this proposal.

[I/we] have enclosed a letter with this proposal which contains the detailed reasons for submitting this offer and a completed financial statement showing [my/our] current financial condition.

[Enter your signature and today's date.

Each person who is submitting this proposal must
sign here.]

Enclosure:

Exhibit 9-8
Pattern Letter 1604(P)

Acceptance letter for proposal to compromise balance due on offer in compromise and/or collateral agreement. The bolded information is to be added for a collateral agreement.

Date: Social Security or Employer

Identification Number:

Salutation Person to Contact:

Telephone Number:

We accept your proposal to pay \$---- to settle the remaining liability under the offer in compromise accepted on Enter Date **and/or the related collateral agreement.**

Since you have paid the amount proposed, you do not need to take further action. (or: Since you enclosed \$-- -- with your proposal, please send the balance of \$---- by Enter Date) (or: Since payment was to be made on notice of acceptance of your proposal, please send \$---- by Enter Date.)

Your check or money order should be made payable to the United States Treasury and sent to (service center address Attn.: Collection Offer Unit).

If you receive a refund that you specifically waived under the terms of your proposal, please return it promptly to the service center, to the attention of the Offer Unit.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(Signature and title)

Exhibit 9-9
Pattern Letter 1607(P)

Denial of proposal to compromise balance due on offer in compromise and/ or collateral agreement. The bolded information should be added for a collateral agreement.

Salutation

We are sorry, but we cannot accept your proposal dated ---- to compromise the remaining liability under the offer in compromise accepted on Enter Date(and/or related collateral agreement).

(Explain reasons)

We must, therefore, ask you to comply with the terms of the offer in compromise including any collateral agreement. If you have any questions, please contact (name, Internal Revenue Service Center, address, telephone number).

Sincerely yours,
(Signature and title)

EXHIBIT 9-10
DEFAULT LETTER

Failure to Comply with the terms of an accepted offer in compromise and/or related collateral agreement. The bolded information should be added for a collateral agreement.

Salutation:

This refers to our letter of [date], accepting your offer of \$[amount], in compromise of your [kind of tax] tax liability, plus statutory additions, for [years or tax periods]. Your offer included your agreement to the default provisions, waiver of refunds, payment of interest, and other terms provided on the Form 656.

Also included was a related collateral agreement(s) you submitted as additional consideration for acceptance of your offer.

Under the terms of your offer, \$[amount] was to be paid as follows:
[Quote terms of payment shown on Form 656]

The collateral agreement(s) provide that you must file annual income statements and pay graduated percentages of annual income for the years [date] through [date].

Our records show that you did not comply with the terms of the offer and collateral agreement(s) [specify

reason for non-compliance], therefore your offer in compromise is declared in default and the agreement to compromise the original liability is terminated. All payments on the offer and collateral agreement(s) will be applied to the original liability.

Please contact [name, address, and telephone number] if you have any questions and to discuss payment of the remaining amount of the original liability.

Sincerely yours,

[signature and title]

Tax Increase Prevention and Reconciliation Act of 2005 (T1PRA) Section 509

Under the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2005, taxpayers who submit an offer in compromise (OIC) on or after July 16, 2006, faced new rules and processing procedures. This Act caused changes in how the OIC program operates and impacts the OIC role in the IRS collection process.

Several major changes are summarized below.

1. Taxpayers will need to begin making payments with their offer in compromise. With an OIC, you can choose two payment options: full payment of the offer amount within 90 days of notice that the IRS has accepted your offer, or monthly payments over a period of not more than 24 months from the date your offer is accepted. Under the new Act, taxpayers must pay 20% of the offered amount if they plan to make a lump sum payment. Taxpayers requesting a monthly payment plan must start making their proposed monthly payments immediately, and continue making their payments while the IRS processes their offer in compromise. If taxpayers fail to leave a 20% down payment or if they skip any of their monthly payments, the IRS will consider the OIC withdrawn, and taxpayers will need to make alternate arrangements to settle their tax debts.
2. If the IRS does not act within two years of a submitted OIC, then the IRS must accept the OIC.

Chapter 9 Review Questions

1. Offers in Compromise (OIC) allows taxpayers who owe more than they can afford
 - A. To pay a small amount as a full and final settlement
 - B. To settle current tax due but not all back tax liabilities
 - C. To compromise all types of IRS taxes but not penalties and interest
 - D. To compromise only personal income tax due but not payroll tax

2. Collection Information Statements (CIS) must be submitted with an offer in compromise and should reflect information no older than
 - A. Prior six months.
 - B. Prior two years.
 - C. Prior thirteen months.
 - D. Prior three months.

3. Proper asset valuation is essential to determine reasonable collection potential (RCP). If the IRS chooses not to take enforcement action against an asset the net result will be
 - A. To eliminate the asset.
 - B. To reject the offer.
 - C. To value the asset at zero dollars.
 - D. To report the case as currently uncollectible.

4. Allowable expenses are defined as those expenses that are necessary for the production of income or health and welfare of the taxpayer's family but will NOT include
 - A. Rent payments.
 - B. Utilities.
 - C. Charitable contributions.
 - D. Maintenance costs.

5. An offer is an agreement which is binding and conclusive on both the government and proponent but may be rescinded or set aside if

- A. A mutual mistake has been made that does not have material effect on the agreement.
- B. A material fact or a false representation was made by one party.
- C. An offer precludes further inquiry if it is unrelated to fraud or false representation by one party.
- D. The party's mutual mistake is not a violation of the law, statute, regulation, or judicial decision.

6. Under the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2005, if the IRS does not act within one year of a submitted OIC, then the IRS must accept the OIC. True or False?

Chapter 10:

How to Complete Form 656 (Offers In Compromise)

Learning Objective

After completing this section, you should be able to:

- Identify the documentation required to complete the OIC application.
 - Recognize key determinants in the OIC application process, including payment options and terms.
-

This chapter contains step by step information and IRS guidance on what must be done in order to prepare a complete and accurate offer in compromise (OIC) (Form 656). The information in this chapter is designed to assist you in determining if an offer in compromise is the right payment option for you, as well as guide you through the process of completing a complete offer in compromise application package.

What is an OIC Offer?

An offer in compromise (offer) is an agreement between you (the taxpayer) and the IRS that settles a tax debt for less than the full amount owed. An offer in compromise will *not* be accepted if the reason for filing is that you attempt to delay or avoid the tax due payment.

The offer program provides eligible taxpayers with a path toward paying off their debt and getting a “fresh start.” The ultimate goal is a compromise that suits the best interest of both the taxpayer and the IRS. To be considered, generally you must make an appropriate offer based on what the IRS considers your true ability to

pay. Absent special circumstances, an offer will not be accepted if the IRS believes that the liability can be paid in full as a lump sum or through a payment agreement.

Submitting an offer application does not ensure that the IRS will accept your offer. It begins a process of evaluation and verification by the IRS, taking into consideration any special circumstances that might affect your ability to pay. Generally, the IRS will not accept an offer if you can pay your tax debt in full via an installment agreement or a lump sum. *Note:* Taxpayers should beware of promoters' claims that tax debts can be settled through the offer in compromise program for "pennies on the dollar."

In most cases, the IRS will not accept an OIC unless the amount offered by the taxpayer is equal to or greater than the reasonable collection potential (RCP). The RCP is how the IRS measures the taxpayer's ability to pay and includes the value that can be realized from the taxpayer's assets, such as real property, automobiles, bank accounts, and other property. The RCP also includes anticipated future income, less certain amounts allowed for basic living expenses.

Three Types of OICs

The IRS may accept an offer in compromise based on three grounds:

1. **Doubt as to Collectibility** - Doubt exists that the taxpayer could ever pay the full amount of tax liability owed within the remainder of the statutory period for collection.

Example: A taxpayer owes \$20,000 for unpaid tax liabilities and agrees that the tax she owes is correct. The taxpayer's monthly income does not meet her necessary living expenses. She does not own any real property and does not have the ability to fully pay the liability now or through monthly installment payments.

2. **Doubt as to Liability** - A legitimate doubt exists that the assessed tax liability is correct. Possible reasons to submit a doubt as to liability offer include: (1) the examiner made a mistake interpreting the law, (2) the examiner failed to consider the taxpayer's evidence or (3) the taxpayer has new evidence.

Example: The taxpayer was vice president of a corporation from 2004-2005. In 2006, the corporation accrued unpaid payroll taxes and the taxpayer was assessed a trust fund recovery penalty as a responsible party of the corporation. The taxpayer was no longer a corporate officer and had resigned from the corporation on 12/31/2005. Since the taxpayer had resigned prior to the payroll taxes accruing and was not contacted prior to the assessment, there is legitimate doubt that the assessed tax liability is correct.

If you have a legitimate doubt that you owe part or all of the tax debt, you will need to complete a **Form 656-L Offer in Compromise (Doubt as to Liability)**. The Form 656-L is not included as part of this package. To submit a Doubt as to Liability offer, you may request a form by calling the toll free number 1-800-829-1040, by visiting a local IRS office, or at www.irs.gov.

3. Exceptional Circumstances (Effective Tax Administration) - There is no doubt that the tax is correct and there is potential to collect the full amount of the tax owed, but an exceptional circumstance exists that would allow the IRS to consider an OIC. To be eligible for compromise on this basis, a taxpayer must demonstrate that the collection of the tax would create an economic hardship or would be unfair and inequitable. 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. You must describe your situation on Section 3 of Form 656 and attach appropriate documents to this offer application.

Example: Mr. & Mrs. Taxpayer have assets sufficient to satisfy the tax liability and provide full time care and assistance to a dependent child, who has a serious long-term illness. It is expected that Mr. and Mrs. Taxpayer will need to use the equity in assets to provide for adequate basic living expenses and medical care for the child. There is no doubt that the tax is correct.

Offer in Compromise Payment Options

OIC Payment Option	Terms	\$186 Application Fee Required?	Collection Statement (Forms 433-A(OIC) and/or 433-B(OIC) Required?)	Information (Forms 433-B(OIC) Required?)
Payment Option 1	Must pay 20% of the offered amount when Form 656 is submitted, with the balance to be paid in five or fewer installments from the notice of acceptance.	Yes, unless the individual taxpayer qualifies for Low Income Certification or Doubt as to Liability OIC is submitted.	Yes, with the exception of Doubt as to Liability offers.	
Payment Option 2	Must include an initial payment with the offer and regular payments must continue while the offer is being investigated.	Yes, unless the individual taxpayer qualifies for Low Income Certification or Doubt as to Liability OIC is submitted.	Yes, with the exception of Doubt as to Liability offers.	

Taxpayers qualifying for a Low Income Certification and checking the Low Income Certification box on Form 656, page 2, Section 4 and taxpayers submitting Doubt as to Liability offers, are exempt from the required 20% payment on a Payment Option 1 offer and all payments required during the investigation of a Payment Option 2 offer.

All required payments are not refundable.

Payments and Application Fees

All payments should be made by check or money order made payable to the United States Treasury. Practitioners who file multiple OICs at the same time should not combine application fees for multiple clients.

The Form 656-PPV, *Offer in Compromise Payment Voucher*, included in the Form 656, should be completed and attached to any periodic payment(s) that becomes due. Failure to submit any required periodic payments, after the initial payment has been submitted, will result in the offer being declared withdrawn. For offers originally sent to Holtsville, NY, send payments to: P.O. Box 9011, Holtsville, NY 11742. For offers originally sent to Memphis, TN, send payments to: AMC Stop 880, P.O. Box 30834, Memphis, TN 38130-0634.

The OIC application fee reduces the assessed tax or other amounts due. The application fee will be returned if the OIC is deemed not to be processable. Unless the offer in compromise has been submitted under doubt as to liability, the \$186 application fee must be included with the offer or the IRS will return the offer.

Other important facts

- Penalties and interest will continue to accrue during the offer evaluation process.
- You cannot submit an offer that is only for a tax year or tax period that has not been assessed.
- The law 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.
- A Notice of Federal Tax Lien (lien) gives the IRS a legal claim to your property as security for payment of your tax debt. Generally, if a lien is not already filed, a lien will not be filed during the offer evaluation process. If a lien was filed, it will normally not be released until the payment terms of the accepted offer are satisfied, or the tax debt is paid in full, whichever comes first.
- If your business owes trust fund taxes, and responsible individuals may be held liable for the trust fund portion of the tax, you are not eligible to submit an offer unless you pay the trust fund portion of your tax debt first. Trust fund taxes are the money withheld from an employee's wages, such as income tax, Social Security, and Medicare taxes.
- The IRS will keep any refund, including interest, for tax periods extending through the calendar year that the IRS accepts the offer. For example, if your offer is accepted in 2011 and you file your 2011 Form 1040 showing a refund, IRS will apply your refund to your tax debt.
- The IRS may keep any proceeds from a levy served prior to you submitting an offer. The IRS may levy your assets up to the time that the IRS official signs and accepts your offer as pending. If your assets are levied after your offer is pending, immediately contact the IRS person whose name and phone number are listed on the levy.

- 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 submit an offer. This will allow you to make your offer payments noted below. If your offer is returned for any reason, your installment agreement with IRS will be reinstated with no additional fee.

This chapter will lead you through a series of steps to help you calculate an appropriate offer based on your assets, income, expenses, and future earning potential. The application requires you to describe your financial situation in detail, so before you begin, make sure you have the necessary information and documentation.

Are you eligible?

Before you submit your offer, you must (1) file all tax returns you are legally required to file, (2) make all estimated tax payments for the current year, and (3) make all required federal tax deposits for the current quarter if you are a business owner with employees.

If you or your business is currently in an open bankruptcy proceeding, you are not eligible to apply for an offer. Any resolution of your outstanding tax debts generally must take place within the context of your bankruptcy proceeding. *Note:* If you are not sure of your bankruptcy status, contact the Centralized Insolvency Operation at 1-800-913-9358. Be prepared to provide your bankruptcy case number and/or Taxpayer Identification Number.

Paying For Your Offer

Application fee

All offers require a \$186 application fee.

EXCEPTION: If you are submitting an individual offer and meet the Low Income Certification guidelines (see page 2 of Form 656, Offer in Compromise), you will not be required to send the application fee.

Payment options

Submitting an offer requires the selection of a payment option as well as sending an initial payment with your application. The amount of the initial payment and subsequent payments will depend on the total amount of your offer and which of the following payment options you choose.

Payment option 1: This option requires 20% of the total offer amount to be paid with the offer and the remaining balance paid in five or fewer payments.

Payment option 2: This option requires the first payment with the offer and the remaining balance paid in accordance with your proposed offer terms. Under this option, **you must continue to make all subsequent payments while the IRS is evaluating your offer. Failure to make these payments will cause your offer to be returned.**

The length of the payment option you choose may affect the amount of the offer we will accept. Generally, an offer paid within five months of acceptance will require a lesser amount. Your offer amount cannot include a refund we owe you.

If you meet the Low Income Certification guidelines, you will not be required to send the initial payment, or make the monthly payments during the evaluation of your offer but you will still need to choose one of the payment options.

If your offer is returned or not accepted, any required payment(s) made with the filing of your offer and thereafter, will not be refunded. Your payment(s) will be applied to your tax debt.

If you do not have sufficient cash to pay for your offer, you may need to consider borrowing money from a bank, friends, and/or family. Other options may include borrowing against or selling other assets. NOTE: If retirement savings from an IRA or 401k plan are cashed out, there will be future tax liabilities owed as a result. Contact the IRS or your tax advisor before taking this action.

Future tax obligations

If your offer is accepted, you must continue to timely file and pay your tax obligations. If you fail to file and pay your required tax returns, **before your offer is paid in full, or for five years after your offer is accepted, whichever is longer**, your offer may be defaulted. If your offer is defaulted, all compromised tax debts will be reinstated.

How to Apply

Application process

The application involves filling out Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals **and/or** Form 433-B (OIC), Collection Information Statement for Businesses, filling out a Form 656, (Offer in Compromise), attaching an initial payment, and attaching a \$186 application fee for each offer you send in.

If you and your spouse owe

If you have joint tax debt(s) with your spouse and also have an individual tax **joint and separate tax debt(s)**, you and your spouse will send in one Form 656 with all of the joint tax debt(s) and a second Form 656 with your individual tax debt(s), for a total of two Forms 656.

If you and your spouse have joint tax debt(s) and you are also each responsible for an individual tax debt(s), you will each need to send in a separate Form 656. You will complete one Form 656 for yourself listing all your joint

and separate tax debts and your spouse will complete one Form 656 listing all his or her joint and individual tax debts, for a total of two Forms 656.

If you and your spouse/ex-spouse has a joint tax debt and your spouse/ ex-spouse does not want to submit a Form 656, you on your own may submit a Form 656 to compromise the joint debt.

Each Form 656 will require the \$186 application fee and initial down payment unless your household meets the Low Income Certification guidelines (See page 2 of Form 656, Offer in Compromise).

Completing the Application Package

Step 1 – Gather your information

To calculate an offer amount, you will need to gather information about your financial situation, including cash, investments, available credit, assets, income, and debt.

You will also need to gather information about your average gross monthly household income and expenses. The entire household includes spouse, significant other, children, and others that reside in the household. This is necessary for the IRS to accurately evaluate your offer. In general, the IRS will not consider expenses for tuition for private schools, college expenses, charitable contributions, credit card payments, and other unsecured debt payments as part of the expenses calculation.

Step 2 – Fill out the Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals)

Fill out the Form 433-A(OIC) if you are an individual wage earner and/or a self-employed individual. This will be used to calculate an appropriate offer amount based on your assets, income, expenses, and future earning potential. You will have the opportunity to provide a written explanation of any special circumstances that affect your financial situation.

Step 3 — Fill out Form 433-B(OIC), Collection Information Statement for Businesses

Fill out the Form 433-B(OIC) if your 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 your business assets, income, expenses, and future earning potential. If you have assets that are used to produce income (for example, a tow truck used in your business for towing vehicles), you may be allowed to exempt the equity in these assets.

Step 4 — Attach required documentation

You will need to attach supporting documentation with Form(s) 433-A(OIC) and 433-B(OIC). A list of the documents required will be found at the end of each form. Include copies of all required attachments, as needed. Do not send original documents.

Step 5 — Fill out Form 656, Offer in Compromise

- Fill out Form 656. The Form 656 identifies the tax years and type of tax you would like to compromise. It also identifies your offer amount and the payment terms.

Step 6 – Include initial payment and \$186 application fee

- Include a check, cashier's check, or money order for your initial payment based on the payment option you selected (20% of offer amount or first month's installment).
- Include a separate check, cashier's check, or money order for the application fee (\$186).
- Make both payments payable to the "United States Treasury."
- If you meet the Low Income Certification guidelines, the initial payment and application fee are not required.

Step 7 – Mail the application package

- Make a copy of your application package and keep it for your records.
- Mail the application package to the appropriate IRS facility. See for details, *Application Checklist*.

IMPORTANT INFORMATION

After you mail your application, continue to:

- File all federal tax returns you are legally required to file.
- Make all federal estimated tax payments and tax deposits that are due for current taxes.
- Reply to IRS requests for additional information within the timeframe specified. Failure to reply timely to requests for additional information could result in the return of your offer without appeal rights.

Note: If you want a third party to represent you during the offer process, you must include a **Form 2848** or **Form 8821** unless one is already on file?

Offer in Compromise

Did you use the Pre-Qualifier tool located on our website at www.irs.gov prior to filling out this form?

Yes No

Include the Application Fee and Payment (*personal check, cashier check, or money order*) with your Form 656. You must also include the completed Form 433-A (OIC) and/or 433-B (OIC) and supporting documentation.

Section 1 Your Contact Information

Your First Name, Middle Initial, Last Name	Social Security Number (SSN)	IRS Received Date
<input type="text"/>	<input type="text"/>	
If a Joint Offer, Spouse's First Name, Middle Initial, Last Name	Social Security Number (SSN)	
<input type="text"/>	<input type="text"/>	
Your Physical Home Address (Street, City, State, ZIP Code)		
<input type="text"/>		
Mailing Address (if different from above or Post Office Box number)		
<input type="text"/>		
Business Name (if included in the offer)		
<input type="text"/>		
Business Address (Street, City, State, ZIP Code)		
<input type="text"/>		
Employer Identification Number (EIN)	(EIN not included in offer)	
<input type="text"/>	<input type="text"/>	

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.

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.

Section 4 Low Income Certification (Individuals and Sole Proprietors 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. Businesses other than sole proprietorships do not qualify for the low income waiver.

- 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	\$2,394	\$2,756	\$2,990
2	\$3,231	\$3,719	\$4,038
3	\$4,069	\$4,681	\$5,085
4	\$4,906	\$5,644	\$6,133
5	\$5,744	\$6,606	\$7,181
6	\$6,581	\$7,569	\$8,229
7	\$7,419	\$8,531	\$9,277
8	\$8,256	\$9,494	\$10,325
For each additional person, add	\$ 838	\$ 963	\$1,048

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. You must offer more than \$0. The offer amount should be in whole dollars only.

Lump Sum Cash

Enter the amount of your offer \$ _____

- Check here if you will pay your offer in 5 or fewer months from the date of acceptance.:
Enclose a check for 20% of the offer amount (waived if you are an individual or sole proprietorship and met the requirements for Low Income Certification) and fill in the amount(s) and date(s) of your future payment(s).

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, but cannot exceed 5 months.				
Amount of payment 1	\$ _____	payable within _____		Months after acceptance
Amount of payment 2	\$ _____	payable within _____		Months after acceptance
Amount of payment 3	\$ _____	payable within _____		Months after acceptance
Amount of payment 4	\$ _____	payable within _____		Months after acceptance
Amount of payment 5	\$ _____	payable within _____		Months after acceptance

Periodic Payment

Enter the amount of your offer \$ _____

- Check here if you will pay your offer in full in 6 to 24 months.
Enclose a check for one month's installment
\$ _____ is being submitted with the Form 656 and then \$ _____ on the _____ (day) of each month thereafter for a total of _____ months (may not exceed a total of 24 payments, including any payment submitted with this offer). Total payments must equal the total offer amount.

You must continue to make these monthly payments while the IRS is considering the offer (waived if you are an individual or sole proprietorship and met the requirements for Low Income Certification). Failure to make regular monthly payments will cause your offer to be returned with no appeal rights.

IRS Use Only

- Attached is an addendum dated (insert date) _____ setting forth the amended offer amount and payment terms.

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 government's best interest. If you wish to designate any payments not included with this offer, you must designate a preference for each payment at the time the payment is made. However, you cannot designate the \$186 application fee or any payment after the IRS accepts the offer.

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. Deposits will be refunded if the offer is rejected, returned, or withdrawn, unless you request it to be applied to your tax debt.

- My payment of \$ _____ includes the \$186 application fee and \$ _____ for my initial offer payment. I am requesting the additional payment of \$ _____ be held as a deposit.

CAUTION: Do NOT designate the amounts sent in with your offer to cover the down payment and application fee as "deposits." Doing so will result in the return of your 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, or tax debt assessed before acceptance of my offer. I also authorize the IRS to amend Section 2 on page 1 by removing any tax years on which there is currently no outstanding liability. 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. I also understand that if any tax debt that is included in the offer is in dispute in any judicial proceeding it/they will not be included in determining the expiration of the 24-month period.

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 designate how to apply each required payment in Section 6 page 3, the IRS will apply my payment in the best interest of the government, choosing which tax years and tax debts 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. The IRS may levy my assets up to the time that the IRS official signs and acknowledges my offer as pending, which is accepted for processing and the IRS may keep any proceeds arising from such a levy.

The IRS will keep any payments that I make related to this offer. I agree that any funds submitted with this offer will be treated as a payment unless I checked the box to treat an overpayment as a deposit. Only amounts that exceed the mandatory payments can be treated as a deposit. I also agree that any funds submitted with periodic payments made after the submission of this offer and prior to the acceptance, rejection, or return of this offer will be treated as payments, unless I identify an overpayment as a deposit on the check submitted with the corresponding periodic payment. A deposit will be refundable if the offer is rejected, returned, or withdrawn. I understand that the IRS will not pay interest on any deposit.

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 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.

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

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 timely file tax returns and pay required taxes for the five year period beginning with the date of acceptance of this offer and ending through the fifth year, including any extensions to file and pay. 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) I agree that I will remain liable for the full amount of the tax liability, accrued penalties and interest, until I have met all of 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 and conditions of the offer are met, I agree that the IRS may file a claim for the full amount of the tax liability, accrued penalties and interest, and that any claim the IRS files in the bankruptcy proceeding 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 (less payments made) plus penalties and interest that have accrued from the time the underlying tax liability arose. 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.

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 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.

Correction Agreement

m) I/We authorize IRS, to correct any typographical or clerical errors or make minor modifications to my/our Form 656 that I/We signed in connection to this offer.

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

n) By authorizing the IRS to contact third parties, I understand that I will not be notified of which third parties the IRS contacts as part of the offer application process, including tax periods that have not been assessed, as stated in section 7602 (c) of the Internal Revenue Code. In addition, I authorize the IRS to request a consumer report on me from a credit bureau.

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

o) 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.

Signature of Taxpayer/Corporation Name	Phone Number	Date (mm/dd/yyyy)
Signature of Taxpayer/Authorized Corporate Officer	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? <input type="checkbox"/> Yes <input type="checkbox"/> 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)

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.

Form **656-PPV**
(March 2009)

Department of the Treasury — Internal Revenue Service

Offer in Compromise - Periodic Payment Voucher

If you filed an offer in compromise and the offered amount is to be paid in 24 months or fewer (*Short Term Periodic Payment Offer*) or monthly installments paid within the statutory period (*Deferred Periodic Payment Offer*) in accordance with the **Tax Increase Prevention and Reconciliation Act of 2005**, you must continue to make the payments during the investigation of the offer until you receive a decision letter (*accepted, rejected, returned, or withdrawn*). Mail this voucher with your check or money order payable to the "United States Treasury." Write your social security number or employer identification number on the check or money order. Do not send cash. You may designate a specific tax liability to apply the payments. If you choose to do this, please write it in the "Apply to" section of the **Form 656-PPV**.

Enclose your payment with this voucher and mail to:

For those offers originally sent to Holtsville, NY, please send payments to: P.O. Box 9011, Holtsville, NY 11742

For those offers originally sent to Memphis, TN, please send payments to: AMC-Stop 880, PO Box 30834, Memphis, TN 38130-0834

(Please Print or Type)

Taxpayer's First Name and Initial <input type="text"/>		Taxpayer's Last Name <input type="text"/>	Your Social Security Number (SSN) or Employer Identification Number (EIN) <input type="text"/>	
Taxpayer's Address (number, street, and room or suite no., city, state, ZIP code) <input type="text"/>			Amount of Your Payment	
			(Dollars) \$ <input type="text"/>	(Cents) <input type="text"/>
Offer Number (If you are submitting a payment (as described above) and this Form 656-PPV with your offer, then please leave this section blank. An offer number will be assigned and sent to you once your offer is processed.) <input type="text"/>			Apply Payment to: (optional) Form <input type="text"/> Period <input type="text"/>	

Catalog Number 31131Y

www.irs.gov

Form **656-PPV** (Rev. 3-2009)

Collection Information Statement for Wage Earners and Self-Employed Individuals

Use this form if you are

- ▶ An individual who owes income tax on a Form 1040, U.S. Individual Income Tax Return
- ▶ An individual with a personal liability for Excise Tax
- ▶ An individual responsible for a Trust Fund Recovery Penalty
- ▶ An individual who is personally responsible for a partnership liability
- ▶ An individual who is self-employed or has self-employment income. You are considered to be self-employed if you are in business for yourself, or carry on a trade or business.

Wage earners Complete Sections 1, 2, 3, 7, 8, 9 and the signature line in Section 10.

Self-employed individuals Complete Sections 4, 5, 6, in addition to Sections 1, 2 (if applicable), 3, 7, 8, 9 and the signature line in Section 10.

Note: Include attachments if additional space is needed to respond completely to any question.

Section 1 Personal and Household Information

Last Name	First Name	Date of Birth (mm/dd/yyyy)	Social Security Number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Marital status	Home Address (Street, City, State, ZIP Code)		Do you:
<input type="checkbox"/> Unmarried	<input type="text"/>		<input type="checkbox"/> Own your home
<input type="checkbox"/> Married			<input type="checkbox"/> Rent
County of Residence		Primary Phone	Mailing Address (if different from above or Post Office Box number)
<input type="text"/>		() -	
Secondary Phone	Fax Number		
() -	() -		

Provide information about your spouse.

Spouse's Last Name	Spouse's First Name	Date of Birth (mm/dd/yyyy)	Social Security Number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Provide information for all other persons in the household or claimed as a dependent.

Name	Age	Relationship	Claimed as a dependent on your Form 1040?	Contributes to household income?
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Section 2 Employment Information for Wage Earners

If you or your spouse have self-employment income (that is you file a Schedule C, E, F, etc.) instead of, or in addition to wage income, you must complete Business Information in Sections 4, 5, and 6.

Your Employer's Name	Employer's Address (street, city, state, zip code)
Do you have an interest in this business? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="text"/>
Your Occupation	
How long with this employer () (years) () (months)	<input type="text"/>
Spouse's Employer's Name	
Does your spouse have an interest in this business? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Spouse's Occupation	
How long with this employer () (years) () (months)	

Section 3 Personal Asset Information

Cash and Investments (domestic and foreign)

Use the most current statement for each type of account, such as checking, savings, money market and online accounts, stored value cards (such as, a payroll card from an employer), investment and retirement accounts (IRAs, Keogh, 401(k) plans, stocks, bonds, mutual funds, certificates of deposit), life insurance policies that have a cash value, and safe deposit boxes. Asset value is subject to adjustment by IRS based on individual circumstances. Enter the total amount available for each of the following (if additional space is needed include attachments).

Round to the nearest whole dollar.

Do not enter a negative number. If any line item is a negative number, enter "0".

<input type="checkbox"/> Cash <input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money Market/CD <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/CD <input type="checkbox"/> Online Account <input type="checkbox"/> Stored Value Card		
Bank Name	Account Number	(1b) \$
Total of bank accounts from attachment		(1c) \$
Do not enter a negative number. Add lines (1a) through (1c) less (\$1,000) =		(1) \$
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) \$ _____
Add lines (2a) through (2c) =		(2) \$
Retirement Account: <input type="checkbox"/> 401K <input type="checkbox"/> IRA <input type="checkbox"/> Other		
Name of Financial Institution	Account Number	
Current Market Value	Less Loan Balance	
\$ _____ X .7 = \$ _____	- \$ _____ =	(3a) \$ _____
Retirement Account: <input type="checkbox"/> 401K <input type="checkbox"/> IRA <input type="checkbox"/> Other		
Name of Financial Institution	Account Number	
Current Market Value	Less Loan Balance	
\$ _____ X .7 = \$ _____	- \$ _____ =	(3b) \$ _____
Total of investment accounts from attachment. [current market value X.7 less loan balance(s)]		(3c) \$ _____
Add lines (3a) through (3c) =		(3) \$
Cash Value of Life Insurance Policies		
Name of Insurance Company	Policy Number	
Current Cash Value	Less Loan Balance	
\$ _____	- \$ _____ =	(4a) \$ _____
Total of life insurance policies from attachment	Less Loan Balance(s)	
\$ _____	- \$ _____ =	(4b) \$ _____
Add lines (4a) through (4b) =		(4) \$

Section 3 (Continued)**Personal Asset Information****Real Estate** (Enter information about any house, condo, co-op, time share, etc. that you own or are buying)

Property Address (Street Address, City, State, ZIP Code)		Primary Residence <input type="checkbox"/> Yes <input type="checkbox"/> No		
		Date Purchased		
County and Country		Date of Final Payment		
How title is held (joint tenancy, etc.)		Description of Property		
Current Market Value		Less Loan Balance (Mortgages, etc.)		(5a) \$
\$ _____ X .8 = \$ _____		- \$ _____ (Total Value of Real Estate) =		
Property Address (Street Address, City, State, ZIP Code)		Primary Residence <input type="checkbox"/> Yes <input type="checkbox"/> No		
		Date Purchased		
County and Country		Date of Final Payment		
How Title is Held (joint tenancy, etc.)		Description of Property		
Current Market Value		Less Loan Balance (Mortgages, etc.)		(5b) \$
\$ _____ X .8 = \$ _____		- \$ _____ (Total Value of Real Estate) =		
Total value of property(s) from attachment [current market value X .8 less any loan balance(s)]				(5c) \$
Add lines (5a) through (5c) =				(5) \$

Vehicles (Enter information about any cars, boats, motorcycles, etc. that you own or lease)

Vehicle Make & Model		Year	Date Purchased	Mileage	
<input type="checkbox"/> Loan			\$		
Current Market Value		Less Loan Balance		Total value of vehicle (if the vehicle is leased, enter 0 as the total value) =	
\$ _____ X .8 = \$ _____		- \$ _____		(6a) \$ _____	
Vehicle Make & Model		Year	Date Purchased	Mileage	
<input type="checkbox"/> Loan			\$		
Current Market Value		Less Loan Balance		Total value of vehicle (if the vehicle is leased, enter 0 as the total value) =	
\$ _____ X .8 = \$ _____		- \$ _____		(6b) \$ _____	
Total value of vehicles listed from attachment [current market value X .8 less any loan balance(s)]				(6c) \$	
Enter the allowance of \$3,450 or \$6,900, whichever is applicable. See Note below.				(6d) \$	
Add lines (6a) through (6d) =				(6) \$	

NOTE: If you are filing an individual offer, you may subtract \$3,450 from the value of 1 vehicle. If you are filing a joint offer, you may subtract an additional \$3,450 for a second vehicle for a total of \$6,900. Enter the amount on Line (6d). Do not enter a negative number.

Section 3 (Continued)**Personal Asset Information**

Other valuable items (artwork, collections, jewelry, items of value in safe deposit boxes, interest in a company or business that is not publicly traded, etc.).

Description of asset:		
Current Market Value	Less Loan Balance	
\$ _____ X .8 = \$ _____	- \$ _____ =	(7a) \$ _____
Description of asset:		
Current Market Value	Less Loan Balance	
\$ _____ X .8 = \$ _____	- \$ _____ =	(7b) \$ _____
Total value of valuable items listed from attachment [current market value X .8 less any loan balance(s)]		(7c) \$ _____
Add lines (7a) through (7c) =		(7) \$ _____
Do not include amount on the lines with a letter beside the number. Round to the nearest whole dollar. Do not enter a negative number. If any line item is a negative, enter "0". Add lines (1) through (7) and enter the amount in Box A =		Box A Available Individual Equity in Assets \$ _____

NOTE: If you or your spouse are self-employed, Sections 4, 5, and 6 must be completed before continuing with Sections 7 and 8.

Section 4**Self-Employed Information**

If you or your spouse are self-employed (e.g., files Schedule(s) C, E, F, etc.), complete this section.

Is your business a sole proprietorship? <input type="checkbox"/> Yes <input type="checkbox"/> No		Address of Business (if other than personal residence)		
Name of Business				
Business Telephone Number () -	Employer Identification Number	Business Website	Trade Name or dba	
Description of Business	Total Number of Employees	Frequency of Tax Deposits	Average Gross Monthly Payroll \$	
Do you or your spouse have any other business interests? Include any interest in an LLC, LLP, corporation, partnership, etc. <input type="checkbox"/> Yes (Percentage of ownership:) Title: <input type="checkbox"/> No		Business Address (Street, City, State, ZIP code)		
Business Name		Business Telephone Number () -	Employer Identification Number	
Type of business (Select one) <input type="checkbox"/> Partnership <input type="checkbox"/> LLC <input type="checkbox"/> Corporation <input type="checkbox"/> Other				

Section 5**Business Asset Information (for Self-Employed)**

List business assets such as bank accounts, tools, books, machinery, equipment, business vehicles and real property that is owned/leased/rented. If additional space is needed, attach a list of items.

Round to the nearest whole dollar.
Do not enter a negative number. If any line item is a negative number, enter "0".

<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	(8a) \$ _____
<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	(8b) \$ _____
Total value of bank accounts from attachment		(8c) \$ _____
Add lines (8a) through (8c) =		(8) \$ _____

Section 5 (Continued) Business Asset Information (for Self-Employed)	
Description of asset: _____	
Current Market Value \$ _____ X .8 = \$ _____	Less Loan Balance (If leased or used in the production of income, enter 0 as the total value) = _____
(9a) \$ _____	
Description of asset: _____	
Current Market Value \$ _____ X .8 = \$ _____	Less Loan Balance (If leased or used in the production of income, enter 0 as the total value) = _____
(9b) \$ _____	
Total value of assets listed from attachment [current market value X .8 less any loan balance(s)] (9c) \$ _____	
Add lines (9a) through (9c) = (9) \$ _____	
IRS allowed deduction for professional books and tools of trade - (10) \$ [4,470]	
Enter the value of line (9) minus line (10). If less than zero enter zero. = (11) \$ _____	
Notes Receivable Do you have notes receivable? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach current listing which includes name and amount of note(s) receivable.	
Accounts Receivable Do you have accounts receivable, including e-payment, factoring companies, and any bartering or online auction accounts? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, you may be asked to provide a list of the account(s) receivable.	
Do not include amount on the lines with a letter beside the number. Round to the nearest whole dollar. Do not enter a negative number. If any line item is a negative, enter "0". Add lines (8) and (11) and enter the amount in Box B = \$ _____	
Box B Available Business Equity in Assets	

Section 6 Business Income and Expense Information (for Self-Employed)	
Note: If you provide a current profit and loss (P&L) statement for the information below, enter the total gross monthly income on line 17 and your monthly expenses on line 29 below. Do not complete lines (12) - (16) and (18) - (28). You may use the amounts claimed for income and expenses on your most recent Schedule C; however, if the amount has changed significantly within the past year, a current P&L should be submitted to substantiate the claim.	
Round to the nearest whole dollar.	
Do not enter a negative number. If any line item is a negative number, enter "0".	
Business Income (You may average 6-12 months income/receipts to determine your Gross monthly income/receipts.)	
Gross receipts	(12) \$ _____
Gross rental income	(13) \$ _____
Interest income	(14) \$ _____
Dividends	(15) \$ _____
Other income	(16) \$ _____
Add lines (12) through (16) = (17) \$ _____	
Business Expenses (You may average 6-12 months expenses to determine your average expenses.)	
Materials purchased (e.g., items directly related to the production of a product or service)	(18) \$ _____
Inventory purchased (e.g., goods bought for resale)	(19) \$ _____
Gross wages and salaries	(20) \$ _____
Rent	(21) \$ _____
Supplies (Items used to conduct business and used up within one year, e.g., books, office supplies, professional equipment, etc.)	(22) \$ _____
Utilities/telephones	(23) \$ _____
Vehicle costs (gas, oil, repairs, maintenance)	(24) \$ _____
Business Insurance	(25) \$ _____
Current Business Taxes (e.g., Real estate, excise, franchise, occupational, personal property, sales and employer's portion of employment taxes)	(26) \$ _____
Other secured debts (not credit cards)	(27) \$ _____
Other business expenses (Include a list)	(28) \$ _____
Add lines (18) through (28) = (29) \$ _____	
Round to the nearest whole dollar.	
Do not enter a negative number. If any line item is a negative, enter "0".	
Subtract line (29) from line (17) and enter the amount in Box C = \$ _____	
Box C Net Business Income	

Section 7 Monthly Household Income and Expense Information

Enter your household's gross monthly income. The information below is for yourself, your spouse, and anyone else who contributes to your household's income. The entire household includes spouse, significant other, children, and others who contribute to the household. This is necessary for the IRS to accurately evaluate your offer.

Monthly Household Income

Round to the nearest whole dollar.

Primary taxpayer						
Wages	Social Security	Pension(s)	Other Income (e.g. unemployment)	Total primary taxpayer income =	(30)	\$
\$	+	\$	+	\$	+	\$
Spouse/Other Income						
Wages	Social Security	Pension(s)	Other Income (e.g. unemployment)	Total spouse income =	(31)	\$
\$	+	\$	+	\$	+	\$
Interest and dividends					(32)	\$
Distributions (e.g., income from partnerships, sub-S Corporations, etc.)					(33)	\$
Net rental income					(34)	\$
Net business income from Box C					(35)	\$
Child support received					(36)	\$
Alimony received					(37)	\$
Round to the nearest whole dollar. Do not enter a negative number. If any line item is a negative, enter "0". Add lines (30) through (37) and enter the amount in Box D =					Box D	Total Household Income
					\$	

Are there additional sources of income used to support the household, e.g. non-liable spouse, or anyone else who may contribute to the household income, etc.? Yes No

If yes, include the income on line 31 "Spouse/Other Income" above, as appropriate.

Monthly Household Expenses

Enter your average monthly expenses.

Note: Expenses may be adjusted based on IRS Collection Financial Standards. The standards may be found at www.irs.gov.

Round to the nearest whole dollar.

Food, clothing, and miscellaneous (e.g., housekeeping supplies, personal care products, minimum payment on credit card). A reasonable estimate of these expenses may be used.	(38)	\$
Housing and utilities (e.g., rent or mortgage payment and average monthly cost of property taxes, home insurance, maintenance, dues, fees and utilities including electricity, gas, other fuels, trash collection, water, cable television and Internet, telephone, and cell phone).	(39)	\$
Vehicle loan and/or lease payment(s)	(40)	\$
Vehicle operating costs (e.g., average monthly cost of maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking, tolls, etc.). A reasonable estimate of these expenses may be used.	(41)	\$
Public transportation costs (e.g., average monthly cost of fares for mass transit such as bus, train, ferry, taxi, etc.). A reasonable estimate of these expenses may be used.	(42)	\$
Health insurance premiums	(43)	\$
Out-of-pocket health care costs (e.g. average monthly cost of prescription drugs, medical services, and medical supplies like eyeglasses, hearing aids, etc.)	(44)	\$
Court-ordered payments (e.g., monthly cost of any alimony, child support, etc.)	(45)	\$
Child/dependent care payments (e.g., daycare, etc.)	(46)	\$
Life insurance premiums	(47)	\$
Current taxes (e.g., monthly cost of federal, state, and local tax, personal property tax, etc.)	(48)	\$

Section 7 Monthly Household Income and Expense Information (Continued)

Other secured debts (e.g., any loan where you pledged an asset as collateral not previously listed, government guaranteed Student Loan).	(40) \$	
Delinquent State and Local Taxes	(50) \$	
Round to the nearest whole dollar. Do not enter a negative number. If any line item is a negative, enter "0". Add lines (38) through (50) and enter the amount in Box E =		Box E Total Household Expenses \$
Round to the nearest whole dollar. Do not enter a negative number. If any line item is a negative, enter "0". Subtract Box E from Box D and enter the amount in Box F =		Box F Remaining Monthly Income \$

Section 8 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.

Round to the nearest whole dollar.

If you will pay your offer in 5 months or less, multiply "Remaining Monthly Income" (Box F) by 12 to get "Future Remaining Income" (Box G). Do not enter a number less than \$0.

Enter the total from Box F \$	X 12 =	Box G Future Remaining Income \$
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If you will pay your offer in more than 5 months, multiply "Remaining Monthly Income" (Box F) by 24 to get "Future Remaining Income" (Box H). Do not enter a number less than \$0.

Enter the total from Box F \$	X 24 =	Box H Future Remaining Income \$
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Determine your minimum offer amount by adding the total available assets from Box A and Box B (if applicable) to the amount in either Box G or Box H.

Enter the amount from Box A plus Box B (if applicable) \$	+	Enter the amount from either Box G or Box H \$	=	Offer Amount Your offer must be more than zero (\$0). Do not leave blank. Use whole dollars only. \$
--	---	---	---	---

If you cannot pay the Offer Amount shown above due to special circumstances, explain on the Form 656, Offer in Compromise, Section 3. You must offer an amount more than \$0.

Section 9 Other Information

Additional information IRS needs to consider settlement of your tax debt. If you or your business are currently in a bankruptcy proceeding, you are not eligible to apply for an offer.

Are you the beneficiary of a trust, estate, or life insurance policy? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Are you currently in bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No	Have you filed bankruptcy in the past 10 years? <input type="checkbox"/> Yes <input type="checkbox"/> No
Discharge/Dismissal Date (mm/dd/yyyy)	Location Filed
Are you or have you been party to a lawsuit? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, date the lawsuit was resolved: (mm/dd/yyyy)	
In the past 10 years, have you transferred any assets for less than their full value? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, date the asset was transferred: (mm/dd/yyyy)	
Have you lived outside the U.S. for 6 months or longer in the past 10 years? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you have any funds being held in trust by a third party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how much \$ _____ Where: _____	

Section 10**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.

Signature of Taxpayer	Date (mm/dd/yyyy)
Signature of Taxpayer	Date (mm/dd/yyyy)

Remember to include all applicable attachments listed below.

- Copies of the most recent pay stub, earnings statement, etc., from each employer
- Copies of the most recent statement for each investment and retirement account
- Copies of the most recent statement, etc., from all other sources of income such as pensions, Social Security, rental income, interest and dividends (including any received from a related partnership, corporation, LLC, LLP, etc.), court order for child support, alimony, and rent subsidies
- Copies of bank statements for the three most recent months
- Copies of the most recent statement from lender(s) on loans such as mortgages, second mortgages, vehicles, etc., showing monthly payments, loan payoffs, and balances
- List of Notes Receivable, if applicable
- Verification of State/Local Tax Liability, if applicable
- Documentation to support any special circumstances described in the "Explanation of Circumstances" on 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.

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, D, E, F, etc.), 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 (street, city, state, zip code)		County of Business Location
		Description of Business and dba or "Trade Name"
Primary Phone () -	Secondary Phone () -	Mailing Address (if different from above or Post Office Box number)
Business website address		
Fax Number () -	Total Number of Employees	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 (Street, City, State, ZIP Code)
Federal Contractor <input type="checkbox"/> Yes <input type="checkbox"/> No	Average Gross Monthly Payroll \$	
Frequency of Tax Deposits		

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 (Street, City, State, ZIP Code)
Primary Phone () -	Secondary Phone () -	
Last Name	First Name	Title
Percent of Ownership and Annual Salary	Social Security Number	Home Address (Street, City, State, ZIP Code)
Primary Phone () -	Secondary Phone () -	
Last Name	First Name	Title
Percent of Ownership and Annual Salary	Social Security Number	Home Address (Street, City, State, ZIP Code)
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), NADA (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).

Round to the nearest dollar. Do not enter a negative number. If any line item is a negative number, enter "0".

<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) \$
Add lines (1a) through (1d) =		(1) \$
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) \$
Add lines (2a) through (2c) =		(2) \$
Notes Receivable Do you have notes receivable? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach current listing which includes name, age, and amount of note(s) receivable.		
Accounts Receivable Do you have accounts receivable, including e-payment, factoring companies, and any bartering or online auction accounts? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, you may be asked to provide a list of name, age, 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.)

Property Address (Street Address, City, State, ZIP Code)	Property Description	Date Purchased	
	Name of Creditor	Date of Final Payment	
	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	
	Name of Creditor	Date of Final Payment	
	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) \$ _____			
Add lines (3a) through (3c) = (3) \$ _____			

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 \$ _____	Name of Creditor	Date of Final Payment	
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 \$ _____	Name of Creditor	Date of Final Payment	
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 \$ _____	Name of Creditor	Date of Final Payment	
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) \$ _____				
Add lines (4a) through (4d) = (4) \$ _____				

Section 2 (Continued)**Business Asset Information****Other Business Equipment**

[If you have more than one piece of equipment, please list on a separate attachment and put the total of all equipment in box (5b)]

Type of equipment	
Current Market Value	Less Loan Balance
\$ _____ X .8 = \$ _____	– \$ _____
Total value of equipment (If leased or used in the production of income 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) \$ _____	
IRS allowed exemption for professional books and tools of trade -	
(5c) \$ [4,470]	
Total value of all business equipment =	
Add lines (5a) and (5b) minus line (5c), if number is less than zero, enter zero =	
(5) \$ _____	
Do not include amount on the lines with a letter beside the number. Round to the nearest dollar. Do not enter a negative number. If any line item is a negative number, enter "0".	
Add lines (1) through (5) and enter the amount in Box A =	
	Box A Available Equity in Assets \$ _____

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 the 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 B below. Do not complete lines (6) - (10).

Gross receipts	(6) \$ _____
Gross rental income	(7) \$ _____
Interest income	(8) \$ _____
Dividends	(9) \$ _____
Other income (Specify on attachment)	(10) \$ _____
Round to the nearest dollar. Do not enter a negative number. If any line item is a negative number, enter "0".	
Add lines (6) through (10) and enter the amount in Box B =	
	Box B Total Business Income \$ _____

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 C below. Do not complete lines (11) - (20).

Materials purchased (e.g., items directly related to the production of a product or service)	(11) \$ _____
Inventory purchased (e.g., goods bought for resale)	(12) \$ _____
Gross wages and salaries	(13) \$ _____
Rent	(14) \$ _____
Supplies (items used to conduct business and used up within one year, e.g., books, office supplies, professional equipment, etc.)	(15) \$ _____
Utilities/telephones	(16) \$ _____
Vehicle costs (gas, oil, repairs, maintenance)	(17) \$ _____
Insurance (other than life)	(18) \$ _____
Current taxes (e.g., real estate, state, and local income tax, excise franchise, occupational, personal property, sales and employer's portion of employment taxes, etc.)	(19) \$ _____
Other expenses (e.g., secured debt payments. Specify on attachment. Do not include credit card payments)	(20) \$ _____
Round to the nearest dollar. Do not enter a negative number. If any line item is a negative number, enter "0".	
Add lines (11) through (20) and enter the amount in Box C =	
	Box C Total Business Expenses \$ _____
Round to the nearest dollar. Do not enter a negative number. If any line item is a negative number, enter "0".	
Subtract Box C from Box B and enter the amount in Box D =	
	Box D Remaining Monthly Income \$ _____

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 D) by 12 to get "Future Remaining Income." Do not enter a number less than zero.

Round to the nearest whole dollar.

Enter the amount from Box D \$ _____	X 12 =	Box E Future Remaining Income \$ _____
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If you will pay your offer in more than 5 months, multiply "Remaining Monthly Income" (from Box D) by 24 to get "Future Remaining Income." Do not enter a number less than zero.

Enter the amount from Box D \$ _____	X 24 =	Box F Future Remaining Income \$ _____
---	--------	---

Determine your minimum offer amount by adding the total available assets from Box A to amount in either Box E or Box F. Your offer amount must be more than zero.

Enter the amount from Box A* \$ _____	+	Enter the amount from either Box E or Box F \$ _____	=	Offer Amount Your offer must be more than zero (\$0). Do not leave blank. Use whole dollars only. \$ _____
--	---	---	---	---

If you cannot pay the offer amount due to special circumstances, explain on the Form 656, Offer in Compromise, Section 3. You must offer something.

*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 yes, 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 yes, 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.

Signature of Taxpayer	Title	Date (mm/dd/yyyy)

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 three most recent statements 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 "Explanation of Circumstances" on 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.

APPLICATION CHECKLIST

Review the entire application and verify that it is complete.

Forms 433-A (OIC),
433-B (OIC), and 656

- Did you complete all fields and sign all forms?
- Did you make an offer amount that is equal to the offer amount calculated on the Form 433-A (OIC) or Form 433-B (OIC)? If not, did you describe the special circumstances that are leading you to offer less than the minimum in the "Explanation of Circumstances" Section 3 of Form 656, and did you provide supporting documentation of the special circumstances?
- Did you select a payment option on Form 656?
- 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?
- If someone other than you completed the Form 656, did they sign it?
- Did you sign and attach the Form 433-A (OIC) if applicable?
- Did you sign and attach the Form 433-B (OIC) if applicable?
- Did you sign and attach the Form 656?

Supporting documentation
and additional forms

- Did you include photocopies of all required supporting documentation?
- 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?

Payment

- Did you include a check or money order made payable to the "United States Treasury" for the initial payment? (Waived if you meet Low Income Certification guidelines—see Form 656.)
- Did you include a separate check or money order made payable to the "United States Treasury" for the \$186 application fee? (Waived if you meet Low Income Certification guidelines—see Form 656.)

Mail your application package to
the appropriate IRS facility

Mail the Form 656, 433-A (OIC) and/or 433-B (OIC), and related financial document(s) to the appropriate IRS processing office for your state. You may wish to send it by Certified Mail so you have a record of the date it was mailed.

If you reside in:

AK, AL, AR, AZ, CO, FL, GA, HI, ID, KY, LA, MS, MT, NC,
NM, NV, OK, OR, SC, TN, TX, UT, WA, WI, WY

Mail your application to:

Memphis IRS Center COIC Unit P.
O. Box 30803, AMC Memphis, TN
38130-0803 1-866-790-7117

CA, CT, DE, IA, IL, IN, KS, MA, MD, ME, MI, MN, MO, ND,
NE, NH, NJ, NY, OH, PA, RI, SD, VT, VA, WV; DC, PR, or
a foreign address

Brookhaven IRS Center COIC Unit
P.O. Box 9007 Holtsville, NY
11742-9007 1-866-611-6191

Chapter 10 Review Questions

1. _____ is the official compromise agreement form that prepares a complete and accurate offer in compromise (OIC).

- A. Form 656.
- B. Form 433-A.
- C. Form 433-B.
- D. Form 656-A.

2. With Form 656, the application does NOT require

- A. The taxpayer's name and address.
- B. The social security number or employee identification number.
- C. An application fee without exception
- D. An offer amount and signature.

3. If you have a legitimate doubt that you owe part or all of the tax debt, you will need to complete a

- A. Form 656-B.
- B. Form 656-L.
- C. Notice of Federal Tax Lien.
- D. Form 656-PPV.

Chapter 11:

Innocent Spouse Defense

Learning Objective

After completing this section, you should be able to:

- Identify factors in the innocent spouse defense.
-

Taxpayers may find themselves in trouble with the IRS because of their spouses or Ex-spouse's actions. The IRS realizes that these situations do in fact occur.

In order to help taxpayers who are being subjected to IRS problems because of their spouse's actions, the IRS has come up with guidelines where a person may qualify as an innocent spouse. This means that if a taxpayer can prove they fit in those guidelines, then they may not be subject to the taxes caused by their spouses or ex-spouses. The innocent spouse rules continue to evolve. This is an area which requires ongoing research of current law and tax policy.

Innocent spouse claims are usually factual in nature. It is up to the practitioner to prove to the IRS that the taxpayer is entitled to innocent spouse treatment. Assuming a taxpayer can meet the basic requirements, the most difficult hurdle to overcome with the IRS is proving a lack of knowledge or reason to know.

Innocent Spouse Rules

- A married couple may elect to file a joint tax return even if one spouse has no income. One consequence of filing a joint return is that each spouse is jointly and severally liable for the tax due.
- Congress recognized it can be inequitable to impose a tax liability on a spouse who lacks knowledge of the activity on the joint return which has caused the understatement of tax.
- Spouses can always file married separate tax returns- this is something that should be considered in cases where the taxes cannot be paid.

Whenever possible, the IRS is required to send a notice regarding a joint return to each spouse who filed the return. There are three sources of relief to spouses and former spouses facing joint and several liability tax problems:

- A “general” relief rule available to all joint filers, including those who are still married to each other.
- Additional relief to joint filers who at the time an election is filed (1) are divorced or legally separated from the other party to the joint return in question or (2) have lived apart from the other party for the preceding 12 months.
- If neither applies, an innocent spouse may gain relief under the equitable relief provisions.

An innocent spouse is relieved of liability for the couple’s joint tax, penalties, and interest, if the following conditions are met. Failure to prove all of these conditions or make the proper election will result in the denial of the innocent spouse defense. The conditions are:

- The innocent spouse filed a joint tax return.
- There is an understatement of tax on the joint return that is attributable to the other spouse.
- The innocent spouse establishes that when he or she signed the return he or she did not know and had no reason to know of the understatement of tax.
- Taking into consideration all of the facts and circumstances, it is inequitable to hold the innocent spouse liable for the joint tax owed
- The spouse claiming relief elects the benefits of innocent spouse relief not later than two years after the date the IRS begins collection activities with respect to the spouse claiming relief.

Chapter 11 Review Questions

1. Assuming a taxpayer cannot meet the basic requirements for an innocent spouse defense, the most difficult hurdle to overcome with the IRS is

- A. Having to prove a lack of knowledge or reason to know.
- B. Claiming relief no later than one year after the date the IRS begins collection.
- C. Proving that you have signed the joint return.
- D. Proving the cause of the understatement of the tax payment.

Chapter 12:

Other Options

Learning Objective

After completing this section, you should be able to:

- State how to use the bankruptcy laws.
 - Describe how the bankruptcy laws relate to your tax problems.
 - Demonstrate how to deal you payroll tax problems.
 - Differentiate between audits and appeals.
-

BANKRUPTCY

The IRS doesn't like to talk about the use of bankruptcy to reduce tax liabilities, but the reality is that many IRS taxes, penalties and interest do qualify for complete discharge in Bankruptcy.

In order for a taxpayer to use the bankruptcy laws to avoid paying income taxes, the taxpayer's income tax liabilities must qualify. Many taxpayers file bankruptcy without first understanding the rules to qualify their own income tax liabilities. This often results in not discharging income taxes that could have been discharged if the taxpayer had understood the Bankruptcy laws.

The most common types of taxes eligible for discharge in bankruptcy are old individual income taxes. Taxes, which are not eligible for discharge in bankruptcy, are civil penalties for payroll taxes.

Will Bankruptcy End Your Tax Worries?

If you have significant creditors other than the IRS or if the IRS is being totally uncooperative, bankruptcy may be your best option. The effect of bankruptcy on your tax obligations depends upon both the type of bankruptcy and the type of tax you owe.

Note: Bankruptcy can discharge your federal income taxes if certain requirements are met.

First, let's consider the different types of bankruptcy. Chapter 7 is the chapter that provides for the liquidation of non-exempt assets and the discharge of dischargeable debts. Chapter 11 and Chapter 13 provide for repayment of debt in whole or in part.

Now, you may be liable for either personal income taxes or for withholding taxes (usually due from a business that you owned or managed). Withholding taxes are not dischargeable through any type of bankruptcy. Personal income taxes may be dischargeable in Chapter 7 bankruptcy, but only if the tax has been due for over 3 years and other requirements are met.

A Chapter 7 bankruptcy can effectively rid you of old income tax claims, but you must move carefully. Under the Bankruptcy Code Sections 523(a)(1) and, by reference, Section 507(a)(7), individual income tax liabilities are generally dischargeable if:

- The bankruptcy petition is filed more than 3 years after the due date of the tax return involved. Use the extended date rather than the due date if you filed an extension;

- The tax return involved has been filed more than 2 years prior to the petition; and
- The taxes you want discharged have been assessed as an audit deficiency for more than 240 days. However, if you filed an *Offer In Compromise* within the 240 day window after assessment, the 240 day assessment time period is suspended while the offer is being considered, plus 30 days.

Tax penalties for nonfiling, late payment, and negligence penalties are generally dischargeable if the underlying tax to which the penalties relate is dischargeable.

Bankruptcy won't discharge taxes if you filed a fraudulent return or otherwise tried to willfully evade payment of tax. The IRS can still come after you for any deficiency discovered through audit, so make certain your taxes for these are accurate.

Filing bankruptcy does not affect liens presently against your property. The IRS can, with bankruptcy court approval, still sell and seize the property. Your remaining tax obligation will be discharged.

A Chapter 7 bankruptcy will not discharge withholding tax liabilities, but the fact that you are bankrupt may influence the IRS to consider you "uncollectible." A Chapter 11 or Chapter 13 bankruptcy may work well for you if you can fully pay your taxes over time. A Chapter 13 gives you 3 to 5 years to pay your taxes, and the IRS cannot bother you during this time. In a business or profession? You can elect a Chapter 11 reorganization which generally gives you up to 6 years from the date of assessment to fully pay the IRS. A Chapter 13 or Chapter 11 bankruptcy is recommended only if you have assets you do not want to lose. If you have relatively few assets and a substantial personal income tax liability, then a Chapter 7 bankruptcy may be your best choice.

Bankruptcy may be your right remedy if you have many other creditors also pressing for payment and your taxes are dischargeable under bankruptcy.

As powerful as the IRS may be, the federal bankruptcy laws are considerably stronger. Once you file bankruptcy, the IRS must stop all further collection action. So, bankruptcy can be an effective way to save your assets and stretch out your payments to the IRS. But don't wait too long before you file for bankruptcy.

For example, if you are in business, the IRS may have levied your cash and your accounts receivable. Perhaps the IRS seized and closed your business as well. Under Chapter 11 or Chapter 13 you can compel the IRS to return these assets. That, however, can take time to enforce. Your attorney must first file a complaint against the IRS for turnover. The bankruptcy court may take weeks or even months to act. Meanwhile, your business

remains closed, employees find new jobs and customers flock to competitors. Customers who owe you money will find the IRS levy a convenient excuse not to pay. Few businesses can survive so serious a disruption.

Bankruptcy is probably not your best alternative if the IRS is your only significant creditor. If you have few assets, you will do as well with an *Offer In Compromise* (and probably resolve your claim for very little).

Finally, do not file bankruptcy unless you first review your situation with an experienced bankruptcy lawyer and a tax professional who can counsel you on whether another alternative may be preferable.

Payroll Tax Problems

The IRS is very aggressive in their collection attempts for past due payroll taxes. The penalties assessed on delinquent payroll tax deposits or filings can dramatically increase the total amount owed in a matter of months. In these situations, it is critical to have an expert quickly take the lead. How the taxpayer answers the first five questions asked by the IRS may determine whether they stay in business or the business is shut down and liquidated by the IRS. You should avoid meeting with any IRS representatives regarding payroll taxes until you have met with a professional to discuss your options.

IRS Audits

The IRS can audit you by mail, in their offices, or in your office or home. The location of your audit is a good indication of the severity of the audit. Typically, correspondence audits are for missing documents in your tax return that IRS computers have attempted to find. These usually include W-2's and 1099 income items or interest expense items. This type of audit can be handled through the mail with the correct documentation. The IRS office audit is usually with a Tax Examiner who will request numerous documents and explanations of various deductions. This type of audit may also require you to produce all bank records for a period of time so that the IRS can check for unreported income. The IRS audit schedule for your home or office should be taken more seriously due to the fact that the IRS Auditor is a Revenue Agent. Revenue Agents receive more training

and auditing techniques than a typical Tax Examiner. All IRS audits should be taken seriously because they often lead to other tax years and other tax deductions not originally stated in the audit letter.

Penalty Abatement

The IRS issued over \$26,900,000,000.00 (that's nearly 27 Billion Dollars) in penalties during 2012. This is a gargantuan number.

If you're one of these taxpayers, there is hope. Taxpayers who are hit with IRS penalties can request the penalties to be abated. Abated means to completely or partially remove. In many cases where a taxpayer requests abatement, the IRS removes 100% of the penalty.

The IRS requires that you have a good reason to request penalty abatement. What qualifies as a good reason? It depends on the circumstances involved with your particular situation.

The IRS procedures for deciding who qualifies for penalty abatement and for what reason differ in each case. The best thing you can do is to request that the IRS abate your penalties by providing the circumstances surrounding your situation.

How to abate your penalties or interest

Under an abatement, the IRS cancels all or part of the accrued penalties and/or interest, but not the underlying tax liability. The OIC, in contrast, compromises the total tax plus interest and penalties for an amount that coincides with your assets, income and general ability to pay.

Apply for an abatement if you can pay the tax liability but believe you should be excused from penalties or interest for good cause. Most abatements extend to penalties (about 40 percent are granted). Interest abatements are far less common.

You have good reason for an abatement if your tax problems were at least partly due to:

- illness

- destruction of your records
- family problems, such as divorce or death in the family
- incarceration or other significant disruption to your life
- improper advice from a tax professional
- erroneous advice from the IRS

An abatement may be granted if you were victimized by factors beyond your control which caused your tax delinquency and the penalties.

The IRS has also abated penalties for taxpayers for such reasons as war, dishonest bookkeepers, alcoholism, drug addiction, bad business decisions, forgetting the file, etc.

There are abatements for acts of noncompliance, including civil fraud penalties, negligence penalties, penalty for failure to pay estimated tax, failure to file penalties, late filing penalties and dishonored check penalties.

How do you file for an abatement of penalties? If you believe you have an acceptable reason, you may send the IRS a signed statement explaining your reason and they will review your statement and let you know whether they accept your explanation as “reasonable cause” to remove or reduce your penalty. The procedure does to apply to interest and, in some cases, the IRS may ask you to pay the tax in full before they reduce or remove the penalty. You can file the request for penalty abatement through the IRS service center, through a revenue officer or through the local district taxpayers’ service department.

Having the IRS abate interest is harder. The IRS will waive interest that is the result of certain errors or delays caused by IRS employees. Complete and submit Form 843, *Claim for Refund and Request for Abatement*. This form can also be used to request an abatement of a penalty or addition to tax as a result of erroneous written advice from the IRS. Include, with your request, copies of all documents that support your case. You will need strong and convincing documentation. Send this form to the IRS Center where you filed your return.

Note: Don’t consider an abatement if you can’t pay the amount owed less penalty. In most cases, this is about 75 percent of the present tax bill.

The IRS should reply to your abatement request in about 60 days. Call or write the IRS to follow up and then send a copy of your original letter or form and documentation. The IRS may continue collection activity until the abatement is granted and the abated amount is fully paid.

You may appeal a rejected abatement request. This appeal must be in writing and made within 30 days of the rejection. IRS brochures are available on how to appeal an abatement.

Collection Appeals

The Collection Appeal is an Appeal by a taxpayer who has been threatened with an IRS Levy or Seizure. This threat could have been received either verbally or in writing.

The IRS allows you to file a Collection Appeal in these situations before they follow through on their levy or seizure. The Collection Appeal is filed on a one page form where the taxpayer is given the opportunity to explain how they think the situation could be solved without the IRS levy or seizure.

Your Appeal is assigned to an Appeals Officer who is required to make a decision on your Appeal within five days.

IRS Appeals

What is an Appeal? An Appeal is a request by a taxpayer who does not agree with an IRS decision. The action of filing an appeal puts the IRS on notice that the taxpayer doesn't agree with the IRS and is seeking a meeting to change the IRS decision.

The goal of the IRS Appeal Division is to "settle" disputes between the IRS and taxpayers. The most common IRS decision which is appealed is that of an IRS Audit where the IRS has increased the taxpayer's tax liability. Often this increase includes additional penalties and interest.

The taxpayer must file an Appeals request within a certain time frame and follow the IRS guidelines for a valid Appeal's request. If a taxpayer doesn't file their Appeal request correctly and on time, they may lose their opportunity to have an Appeals officer listen to their side of the story.

Chapter 12 Review Questions

1. If you have relatively few assets and a substantial personal income tax liability, then a good option may be
 - A. Chapter 11 bankruptcy.
 - B. Chapter 7 bankruptcy.
 - C. Offer in Compromise.
 - D. Chapter 13 bankruptcy.

2. Under an abatement, the IRS cancels all or part of accrued penalties and interest but not the underlying tax liability if you have a good reason such as
 - A. Misplacing your records.
 - B. Job transfer.
 - C. Advice from a tax professional.
 - D. Erroneous advice from the IRS.

3. An appeal is the result of
 - A. A taxpayer who has been threatened with an IRS levy.
 - B. A taxpayer who has been threatened with seizure of his property by the IRS.
 - C. A request by a taxpayer that does not agree with the IRS.
 - D. A granted abatement.

Chapter 13:

Frequently Asked Questions (FAQs)

Learning Objective

After completing this section, you should be able to:

- Answer a variety of frequently asked questions (FAQs) regarding tax-related matters.
-

Q: What rights do I have a taxpayer?

A: As a taxpayer, you have the right to be treated fairly, the right to privacy and confidentiality, the right to professional and courteous service, the right to be represented by someone when dealing with the IRS, the right to disagree with your tax bill, the right to meet with an IRS manager if you disagree with the IRS employee who handles your tax case, the right to appeals and judicial reviews of most IRS collection actions, the right to transfer your case to a different IRS office, and the right to receive a receipt for any payment you make.

IRS attitudes toward OICs have improved significantly since the program started and have become more widely used and encouraged by top IRS officials.

Q: You have received a notice (CP-504) from the IRS?

A: If you have received this notice, it means you have ignored previous notices. The IRS intends to levy on certain assets. If you owe for more than one tax period, you will receive one of these notices for each year. This is one of the statutory notices. You may receive this notice even if you have made arrangements to make installment payments or you have been placed in a "hardship" status. If this is the case, call the number on the notice immediately and advise them. Be sure to write down the name and badge number of the person you speak to as well as the date and time of the call. CP-523 (Notice of Intent to Levy) means that you have defaulted on your installment agreement. This can occur because you failed to make a scheduled payment, filed your most recent tax return late, filed a return and did not pay the balance due or failed to make estimated tax payments as required. If you owe for more than one tax period, you will receive one of these notices for each year.

Q: I filed my tax return late and was shocked when I saw my tax bill. How does the IRS compute penalties?

A: If you do not file your taxes and pay on time, the IRS will charge you a combined penalty. The monthly penalty is 4.5% for filing late and 0.5% for paying late. The combined penalty, therefore, is 5% of your unpaid tax for each month or part of a month your return is late, but not for more than five months, totaling 25% (22.5% late filing and 2.5% late paying).

In addition to the 22.5% late filing penalty, the IRS will continue to charge the 0.5% late paying penalty for each month or part of a month as long as the tax is unpaid, but not to exceed 25%. Therefore, the maximum penalty the IRS will charge for late filing and paying is 47.5% (22.5% late filing and 25% late paying).

If you did not file your return within 60 days of the due date, the minimum penalty is \$100 or 100% of the balance of the tax due on the return, whichever is smaller.

If you do not pay your taxes when they are due, the IRS will charge you a failure-to-pay penalty. Initially, the penalty is 0.5% of the unpaid tax for each month or part of a month you didn't pay your tax. If you file your return on time, this penalty will be reduced to 0.25% for any month beginning after 1999 in which you have an Installment Agreement in effect with the IRS.

If the IRS issues you a Notice of Intent to Levy and you do not pay the balance due within 10 days from the date of the Notice, the penalty will increase to 1% a month.

But, again, the late paying penalty cannot be more than 25% of the tax paid late.

If you think the IRS should remove or reduce the above penalties, consider requesting from the IRS an abatement of penalties.

Q: What should a business owner do who owes delinquent payroll taxes?

A: The first step is to stay current from this point forward. The IRS will close your business immediately rather than let you fall further behind.

If you are still in business, the IRS officer's actions will depend on:

- 1) whether you pay your current taxes
- 2) your prospects for paying the tax in arrears
- 3) the difficulty and time involved in liquidating your business
- 4) the money the IRS would get from a liquidation. That's why a heavily encumbered business can more confidently deal with the IRS than can a business with a large equity exposed to the IRS.

As a business owner, you have the same rights as an individual taxpayer to negotiate an Installment Agreement. Twelve-month agreements are routine, and longer installment plans are possible. Finally, you can submit an OIC to settle the back taxes. Business OICs are far less common than personal OICs, but when your business has fewer assets than tax liabilities, it can be a viable alternative.

Q: Can the IRS go after me personally if I owe payroll taxes?

A: Yes. To encourage the prompt payment of withheld income and employment taxes, Congress passed a law that provides for the Trust Fund Recovery Penalty. The IRS may assess this penalty against anyone who is responsible for collecting or paying withheld income and employment taxes, or for paying collected excise taxes, and who willfully fails to collect or pay them. For willfulness to exist, the responsible person must have known about the unpaid taxes and have used the funds to keep the business going or allowed available funds to be paid

to other creditors. This penalty may be applied whether or not the business is out of business. Once this penalty is assessed against the individual responsible person or persons, the IRS will proceed with collection efforts against the individual.

Q: Can I settle state taxes as I do federal taxes?

A: Possibly. Taxpayers commonly owe both IRS and state taxes and do negotiate simultaneous settlements. Most states have tax compromise programs similar to the IRS program. Other states compromise with delinquent taxpayers as a matter of practice if not official policy.

You should prorate your offers to the IRS and the state, paying each their proportionate share. Parity is important. Payment dates and other terms of your offer should also coincide, as should your financial disclosures. Finally, make certain each agency knows you owe the other and that settlement with each is conditional upon settlement with both.

Q: You owe the IRS. What if you cannot pay it all right now?

A: If you owe more than you can pay right now, there are three options, short of bankruptcy, available to you. If you can't pay anything on a monthly basis, then the account needs to be declared "currently not collectible". If you cannot pay all of it now, but you can pay some each month, then you are a candidate for an installment agreement. If the amount you can

pay each month is not enough to pay off the amount owed over the next five years, then you are a possible candidate for an Offer In Compromise (OIC).

Q: What Is "Currently Not Collectible" ?

A: If you are unable to pay anything monthly on your tax liability, one option is to have the account declared "currently not collectible". The IRS often refers to this as a "hardship" status or Status Code 530 or "53" for short. Note that your definition of inability to pay may be different than the IRS's definition. Therefore, it will be

necessary to provide income and expense information to the IRS. This may be done over the phone to Automated Collections or Customer Service or you may be required to submit a Form 433-A.

Q: What is Installment Agreements (IAs)?

A: Installment agreements (IA's) are a widely used tool for tax collection. They are generally used when you are unable to pay the tax but you can pay enough each month to pay off the tax in a reasonable amount of time — generally no more than five years. Frequently, the amount paid monthly does not even cover the accruing interest. If this is true in your case, you should consider an Offer In Compromise. If you do not meet the requirements for an automatic installment agreement , the IRS will likely require you to provide some information regarding your monthly income and expenses. In most cases they will require you to complete Form 433-A.

Q: What is the Taxpayer Advocate Service?

A: The Taxpayer Advocate Service is an IRS program that provides an independent system to assure that the tax problems that have not been resolved through normal channels are promptly and fairly handled. Each state and service center has at least one local taxpayer advocate who is independent of the local IRS office and reports directly to the National Taxpayer Advocate. Use Form 911, *Application for Taxpayer Assistance Order*, which you can get from the IRS. A Taxpayer Advocate will review your application and may issue a Taxpayers Assistance Order (TA) directing the IRS-involved employees to correct their actions. IRS employees are available to help you complete the application. Filing Form 911 will extend the statute of limitations by the amount of time the IRS spends considering the taxpayer's application.

Q: Who can file an Offer In Compromise?

A: Any "taxpayer" may file: individuals, married couples, trusts corporations, limited partnerships, limited liability companies, foundations, associations and other non-profit organizations and estates. In each instance, a duly authorized individual must sign the OIC.

Q: Are you a candidate for an offer in compromise (OIC)

A: The objective of the Offer in Compromise (OIC) program is to accept an OIC when it is in the best interest of both the taxpayer and the government and promotes voluntary compliance with all future payment and filing requirements. If you are unable to pay your tax liability in a lump sum or through an installment agreement and you have exhausted your search for other payment arrangements, you may be a candidate for an OIC.

In order for your OIC to be considered, you must meet the following requirements:

- You are not a debtor in an open bankruptcy proceeding
- Include the \$186 application fee
- Submit one of the following payments with the offer:
 - Payment Option 1 - 20 percent payment of the offer amount
 - Payment Option 2 - The first monthly payment

EXCEPTION: If you are submitting an individual offer and meet the Low Income Certification guidelines (see page 2 of Form 656, Offer in Compromise), you will not be required to send the \$186 application fee, the initial payment, or make any periodic payments during the evaluation of your offer.

Q: What are low income exemption and guidelines?

A: The application fee and any payment required with the offer is waived if an individual (not a corporation, partnership or other entity) taxpayer's income falls at or below IRS Low Income Guidelines. The Form 656, Offer in Compromise (page 2 Section 4) contains a Low Income Certification chart to assist you in determining whether you are eligible for the low income exemption. Qualifying taxpayers are also exempt from making any OIC payments while the offer is being investigated. Once you have determined that you are eligible for the low income exemption, you must check the appropriate box on the Form 656, Section 4 and mail it to the IRS for consideration.

Q: What are the requirements for an OIC?

The Form 656-B, *Offer in Compromise Booklet (PDF)* contains information about filing an offer in compromise, worksheets, and all forms necessary to file an offer in compromise.

www.irs.gov/pub/irs-pdf/f656b.pdf

In order to be considered for an OIC, a taxpayer must meet all of the following requirements:

- Use the most current version of Form 656, "Offer in Compromise," dated March 2011 and Forms 433-A and 433-B, "Collection Information Statements," dated March 2011. Taxpayers should file Form 656 when there is doubt that the liability could be collected in full through a lump sum or an installment agreement and file Form 656-L when it is believed that the tax liability is incorrect. Taxpayers may not file offers concurrently claiming both that the tax liability is incorrect along with an inability to pay the liability. In most cases, taxpayers must submit Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, and/or Form 433-B, *Collection Information Statement for Businesses*. Neither the Form 433-A nor Form 433-B is required when a taxpayer submits an OIC based solely as to doubt as to liability.
- You are not a debtor in an open bankruptcy case.
- Include the \$186 application fee
- Submit one of the following payments with the offer:
 - Lump Sum Offer- 20 percent payment
 - Periodic Payment Offer- The first installment.

Note: In addition to accessing the Form 656 and Form 656-L online, you may obtain it by calling the IRS toll free number 1-800-829-3676 or by visiting your local IRS office.

Q: How many forms 656 and application fees are required?

A: The general rule when determining how many offers and application fees are necessary is "one fee and form per entity". The Form 656-B contains an Offer in Compromise Application Fee and Payments matrix to assist you in determining the number of Forms 656 and application fees required.

Examples:

A married couple owing the same joint income tax liability may file only one Form 656 listing the joint liability. One fee of \$186 should be attached to the Form 656. A married couple opting to file separate offers to compromise the same joint liability may do so, but two \$186 application fees will be required.

When a married couple owes a joint liability and one spouse also owes an individual (non-joint) liability, two OICs and two application fees are needed.

A divorced, separated or married couple living apart may still file one Form 656 listing their joint liability and pay only one \$186 fee as long as all the taxes owed are joint liabilities. Taxpayers in these situations that opt to file separate offers must pay a \$186 application fee for each offer that is submitted for consideration.

Note: These examples assume that the taxpayers do not meet one of the exceptions for paying the application fee: the OIC is filed under doubt as to liability

Q: What are the keys to success in the OIC program?

A:

1. Explore all collection options before submitting an offer in compromise
2. Complete the "Is Your Offer in Compromise Processable?" checklist located in the Form 656-B, Offer in Compromise Booklet.
3. Submit all required documentation
4. Complete all items on Form 656, Offer in Compromise
5. Include all required fees and payments

6. Be current with all filing and paying requirements (estimated taxes and federal tax deposits) and remain current
7. Respond promptly to all requests for additional information
8. Complete all items on Form 433-A or Form 433-B

Q: What is the most common reason for the large tax liabilities that force taxpayers to file Offers in Compromise?

A: Large tax liabilities are generally caused by unpaid withholding taxes. Owners and other responsible parties within a business are personally assessed the unpaid trust portion, or taxes actually deducted from the employees. This is called the *100 percent penalty assessment*.

If business owners cannot pay the full withholding tax, they should at least pay the trust portion-that amount withheld from employees-and designate that the payment be applied only to the trust portion liability. The business will owe its share of the payroll taxes due, but its officers and other responsible parties will have no personal liability. Other common reasons for filing an *Offer In Compromise* include extensive audits, not filing for a number of years or tax shelter investments that are disallowed.

Q: Can penalties and interest be compromised under an OIC?

A: Yes. Penalties and interest can both be compromised in the same way as the underlying tax liability. In fact, in submitting an offer, you must include all owed taxes, plus penalties and interest, for your offer to be considered. However, if penalties are your major concern, then consider an abatement, particularly if you have reasonable grounds for the IRS to waive the penalty. The abatement process is far simpler than an OIC, and it is your proper remedy when you can pay the tax, but believe you have justification for being excused from the penalties.

Q: How likely is it that the IRS will accept an Offer in Compromise?

A: In the past, the chances of acceptance were poor-only about one in four. The odds of settling with the IRS are now far better because the IRS has liberalized its OIC policies. Taxpayers and their advisors, in turn, have also become more realistic in their offers to the IRS. A realistic OIC now stands an excellent chance of acceptance. If you closely follow the instructions in this product, you should have no trouble reaching a fair and workable settlement with the IRS.

Q: How long does it take for an Offer in Compromise to be approved by the IRS?

A: Generally, you must allow 6-12 months. If your case gets rejected and we take it to Appeals, it could take longer. But, no matter how long it takes, we can often suspend all collection activities.

Q: How does the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2005 affect the OIC program?

A: This Act only applies to offers received on July 16, 2006 to the present. This Act caused changes in how the OIC program operates, and impacts the OIC role in the IRS collection process. In the case of a periodic payment OIC, the taxpayer may have to make a nonrefundable up-front payment. Another noteworthy change, resulting from TIPRA, is that normally if the IRS does not act within two years of a submitted OIC, then the IRS must accept the OIC.

Q: Will an Offer in Compromise show up on my Credit Report?

A: No. Unlike a bankruptcy or credit card charge off, an Offer in Compromise does not get reported to the credit reporting agencies. An offer in compromise will not negatively affect your credit score. However, ignoring the problem will cause the IRS to file a notice of federal Tax Lien, with your county recorder, which WILL show up on your credit report.

Q: How difficult is it to get the IRS to classify me as “temporarily uncollectible?”

A: The IRS must determine that you have no assets worth chasing and your present and foreseeable income does not exceed what you need to sustain a basic lifestyle. If the IRS decides, however, that you have even \$50 in surplus income each month, it will expect that \$50 to be applied to your tax liability. There are many more “temporarily uncollectible” determinations made each year than there are approved OICs. Keep in mind that “uncollectible” is only temporary. The IRS can always resume collection.

Q: Can property and wages of a spouse without a tax liability be factored in by the IRS to determine the “ability to pay” of the tax-liable spouse in an Offer in Compromise?

A: Yes. Although the IRS cannot legally claim a nonliable spouse’s assets or income, the IRS, when negotiating settlements, nevertheless considers spousal assets and will make every effort to have you borrow from your spouse so you can increase your offer. Most spouses cooperate, whether from misunderstanding their rights of hoping their cooperation will facilitate settlement with the IRS.

Q: Are there any other solutions to tax problems other than an Offer in Compromise?

A: There are numerous other solutions. For example, Installment Agreements, Bankruptcy, Innocent Spouse Relief, Penalty Abatement, Currently Uncollectible Status, and Statute of Limitations review. Although some changes in lifestyle may be appropriate, there is always a way to resolve a tax problem.

Q: Are offers in compromise open to public inspection?

A: Yes, accepted OICs are public record for one year. And you can inspect OICs that have been approved in your district within the past year for an idea of what the IRS may accept in your case.

Q: What taxes are dischargeable in bankruptcy ?

A: Only personal income taxes are dischargeable in bankruptcy. Payroll and federal excise taxes are not dischargeable. In order to be dischargeable, personal income taxes must be:

(1) More than 3 years old. This is based on the due date of the return, including extensions.

(2) If the returns were filed late, they must have been filed for 2 years.

(3) Assessed for more than 240 days. The assessment date is the date the return is due or filed, whichever is later. If you have not filed a return, the taxes are not dischargeable even though the IRS may have assessed tax based on a "substitute for return", which is a return they filed for you based on W-2 and 1099 data.

Q: What property can the IRS get after bankruptcy?

A: Generally, any property you have that is either exempt property during the bankruptcy or property abandoned by the trustee will be available to the IRS, if they filed a notice of federal tax lien "prior" to the filing of bankruptcy. A notice of federal tax lien puts the IRS in a position of a secured creditor, so although your home will be safe during bankruptcy, afterward it will be vulnerable to IRS seizure. If, you have little to no equity, this will not be a problem. However, if you do have equity in your home, bankruptcy may only forestall the inevitable.

Q: Can you file an OIC if your bankruptcy does not discharge your taxes?

A: Yes. Bankruptcy does not always discharge your taxes. Payroll taxes and income taxes not meeting certain rules (see above Q & A) are not dischargeable in bankruptcy. You can file an OIC to compromise these or any other taxes not dischargeable in bankruptcy.

Taxpayers emerging from bankruptcy with undischarged taxes can also try to be classified "temporarily uncollectible" because the bankruptcy should convince the IRS that the taxpayer presently has no assets.

The time you were in bankruptcy plus six months is added to the IRS statute of limitations to collect from you.

Q: What types of payment plans can you offer the IRS in a Chapter 13 bankruptcy?

A: There are four possible plans that usually extend payments over three to five years:

- A standard or uniform installment plan that calls for constant payments over the term of the plan;
- A step-up plan that increases your payments as your income increases;
- Variable or seasonal plans that allow your payments to vary to coincide with cash flow or cyclical income; or
- Balloon plans that obligate you to pay any remaining tax balance with your final payment and may be used with any of the others plans.

Q: What should I do if I discover an error in the supporting information I provided the IRS as part of my OIC?

A: For material errors, amend your incorrect information on the proper form (i.e., Form 433-A or 433-B) or explain the error in a letter to the IRS. Always put it in writing. Ignore small, immaterial inaccuracies. Notifying the IRS will needlessly delay the process and prompt the IRS to reconsider your application. If you are uncertain whether the error is significant, then correct the information.

Q: What can do if a tax lien was erroneously filed against you?

A: You may appeal an erroneous tax lien by filing an administrative appeal with the IRS Office of Appeals, although you cannot use an administrative appeal to decide the underlying tax liability.

Erroneous tax liens commonly occur when:

- 1) a tax lien filed after the tax liability was paid,
- 2) the taxpayer was in bankruptcy,
- 3) an examination assessment was improperly made
- 4) the statute of limitations for IRS collections has expired

Q: Can the IRS seize or levy a taxpayer's property without advance notice?

A: Yes, but it unusual. For it to occur, the IRS must believe it would be in jeopardy if it did not act quickly and without notice. Jeopardy assessment taxpayers automatically have the right to IRS administrative review and judicial appeal. However, the lien or levy will remain in force pending its income.

A jeopardy assessment would occur, for instance, if the IRS suspects you of transferring assets or of planning to take your money out of the country.

Q: What property is exempt from IRS seizure?

A: By law, some property cannot be levied or seized. The IRS may not seize taxpayer property when the expense of selling the property would be more than the tax debt. Also, the IRS may not seize or levy property on the day a taxpayer is attending a collection interview because of a summons. The IRS also may not levy school books and certain clothing; fuel, provisions, furniture, and personal effects for a household, totaling \$6,560; books and tools a taxpayer uses in his or her trade, business, or profession, totaling \$3,280; unemployment benefits; undelivered mail; certain annuity and pension benefits; certain service connected disability payments; worker's compensation; salary, wages, or income included in a judgment for court-ordered child support payments; certain public assistance payments; and a minimum weekly exemption for wages, salary and other income.

Q: When will the IRS release a levy?

- A: 1) when the tax, penalties, and interest are fully paid
- 2) when the statute of limitations has expired
 - 3) when you reach an installment agreement or OIC with the IRS
 - 4) when the release will facilitate collection
 - 5) when the levy is causing extreme hardship

6) when the taxpayer has other assets to satisfy the tax

Q: How do I know if I am legally obliged to give information to the IRS?

A: The Privacy Act of 1974 and Paperwork Reduction Act of 1995 require that the IRS tell you when you are asked a question whether your response is voluntary, required to obtain a benefit, or mandatory. As a strict legal matter, you can always refuse to answer IRS questions or refuse to turn over documents, unless court ordered.

Under these laws, the IRS must also tell you:

- 1) why it wants the information
- 2) its legal authority in asking for it
- 3) what could happen if the IRS does not receive it

Of course, without full disclosure of information and an attitude of complete cooperation, you have virtually no chance of having your OIC accepted. However, if you believe the IRS is asking improper questions, then decline to answer until you seek professional advice.

Q: Can politicians influence the IRS?

A: Many politicians intercede on behalf of their taxpayer constituents, particularly when they believe their constituents have been unfairly treated by the IRS. Contact your congressman only after you have tried and failed to get satisfaction through normal IRS channels.

Your congressman will need your complete file, a letter stating your grievance and how you tried to resolve it, and the results you want. Your congressman will also need a signed *Power of Attorney* (Form 2848) or *Tax Information Authorization and Declaration of Representative* (Form 2848D), both available at your local IRS office.

Q: What is the difference between a revenue officer and a special agent?

A: A revenue officer is a regular IRS employee responsible for the collection of taxes through standard procedures. A special agent investigates possible criminal violations of the IRS code. If you are contacted by a special agent (who must disclose his or her status), then immediately terminate the interview and hire a lawyer.

Q: What will happen if I fail to file a delinquent tax return after repeated demands to do so by the IRS?

A: One possibility is that you will receive a federal summons compelling you to bring either the completed tax return or your books and record to the IRS office. This summons is backed by the power of the federal courts which can hold you in contempt if you fail to do so.

The IRS can prepare your delinquent tax return for you. This is guaranteed to result in a much greater tax than had you prepared your own return.

Q: What if my tax return is due but I don't have the money to pay the tax?

A: Submit your tax return by the date due (or extension date), even if you can't pay the tax. You will be charged interest and penalty on your late payment but avoid a hefty late-filing penalty. Whether or not you expect to eventually pay the tax, do file on time.

It is also important to file one time because the IRS has only 10 years from the date of assessment to collect your delinquent taxes, and taxes are not assessed until after you file or after the IRS files for you. If you have not filed a tax return, you have not started the statute of limitations for that particular tax year. This means that there is no limit to the amount of time that the IRS can pursue you. In addition, if you have any delinquent tax returns, the IRS will not negotiate with you. You must be current with your filing for the IRS to consider an *Offer In Compromise* or even an Installment Agreement.

Q: Does the IRS share tax information with state taxing agencies?

A: Yes. In fact, this is standard practice but it must follow strict guidelines. The IRS also shares information with the Department of Justice, other federal agencies and even certain foreign jurisdictions.

Q: Is conversation with my accountant privileged?

A: No. The IRS, the courts and others can compel your accountant to testify about your conversations and turn over letters and other correspondence between you. A solution is to have your attorney hire your accountant to handle your tax matters. Your accountant, working for your lawyer, would then come under the attorney-client privilege. Since confidential documents with your accountant can be subpoenaed, you should have these copies and all copies immediately returned to you.

Only communication with your lawyer is privileged and protected. That's one advantage to having a lawyer represent you rather than an accountant.

Q: What is meant by an "innocent spouse"?

A: When you and your spouse file a joint tax return, both you and your spouse are "jointly and severally" liable for any taxes due. Many married taxpayers do this because of certain benefits this filing status allows. If you did so, you may be held responsible for monies due, even if your spouse earned all of the income. And this is true even if a divorce decree states that your spouse will be responsible for any amounts due on previously filed joint returns.

However, if you qualify for Innocent Spouse Relief, you may not have to pay the tax, interest, and penalties related to your spouse (or former spouse).

For example, if it is later shown that one spouse had unreported income, the other spouse may try to escape civil and/or criminal liability for the tax on that unreported income under the "innocent spouse" rule. To claim this protection, the innocent spouse must neither have known about the understated income (or other tax) nor could have reasonably known about it.

The "innocent" spouse not only avoids tax liability but also provides a safe harbor for the family assets.

Q: When a bank account is levied by the IRS, when must the bank turn over the money to the IRS?

A: Since June 30, 1989, banks have 21 days from date of levy to turn over funds to the IRS. This gives the taxpayer time to resolve the tax problem or settle disputes concerning ownership funds in these accounts. The “21 day rule” applies only to banks. Their parties holding your funds must turn them over within the time provided for in the levy. Accounts receivable are paid to the IRS in accordance with their original credit terms.

Q: Will I get a warning before the IRS seizes my property?

A: Yes. The IRS will usually levy (seize) only after the following three requirements are met:

- The IRS assessed the tax and sent you a *Notice and Demand for Payment*;
- You neglected or refused to pay the tax; and
- The IRS sent you a *Final Notice of Intent to Levy* and a *Notice of Right to Hearing* (levy notice) at least 30 days before the levy.

Q: Can the IRS seize and sell my home or car? What about my bank accounts? What about social security?

A: Yes. Through a levy, the IRS can seize and sell property such as your home or car. They could also seize your bank accounts and social security. Other items the IRS could seize include wages, retirement accounts, dividends, licenses, rental income, accounts receivable, the cash value of your life insurance, or commissions—almost anything of value.

Q: Does the IRS offer free forms and publications?

A: Yes. And most of their publications are worth reading. Forms and publications are available from the IRS at (800) 829-FORM [3676], or from the newly updated IRS web site at www.irs.gov.

Q: What is an “Automated Collection System”?

A: Several years ago, the IRS set up an automated collection system (ACS) to improve efficiency. This systematized process helps IRS collectors contact delinquent taxpayers by mail and phone. It has enormously increased IRS productivity.

Q: Will I receive a refund if I currently owe federal taxes?

A: No. You may not get all of your refund if you owe certain past-due amounts, such as federal tax, state tax, a student loan, or child support. The IRS will automatically apply the refund to the taxes owed.

Q: How can taxpayers claim a tax refund?

A: Taxpayers who believe they overpaid their taxes may file a claim for refund directly with the IRS. If the claim is denied, the taxpayer can file a lawsuit for the refund in either the U.S. Court of Claims or Federal District Court.

Q: Can a taxpayer demand to see his or her tax files?

A: Yes. In most instances the IRS will show you your own file. If it refuses, the taxpayer can demand access to his or her files under the Freedom of Information Act.

Q: How does the IRS keep track of each taxpayer?

A: The IRS maintains a taxpayer account for each taxpayer. This IRS computer record contains your tax history, tax assessments, penalties, interest and credits for payment.

To help manage the system, the IRS also issues to each taxpayer a taxpayer identification number (TIN). This is usually the taxpayer's social security number, but for corporations and trusts, it is a separate 13-digit number.

Q: How does the IRS determine the "minimum bid price," or what the IRS will sell seized property for at public auction or private bid?

A: The IRS starts with an estimated fair market value. This is then reduced by 25 percent. The minimum bid price is 80 percent of that amount. Of course, the IRS must pay all prior encumbrances and expenses of the sale from the sale proceeds received.

Taxpayers can object to the minimum price bid on their property and request the IRS obtain a new professional appraisal.

Q: What can the IRS do if I fraudulently transfer my assets?

A: The IRS may:

- 1) sue in Federal District Court to set aside the transfer
- 2) sue the transferee for the value of the transferred property
- 3) file an administrative claim against the transferee for the value of the transferred asset

Q: What can a business owner do to protect business assets from IRS seizure?

A: The business, to the extent practical, should be divided into separate corporations so if one corporation has a tax problem, the IRS has no recourse to the remaining corporations. The business should also be heavily mortgaged or encumbered, leaving little or no equity for the IRS to seize.

Q: Do incorporated businesses commonly file Offers in Compromise?

A: Few businesses file OICs. Most OICs are filed by individuals. Businesses with severe tax troubles usually also owe other creditors and file Chapter 11 so they can compromise all their liabilities under one comprehensive reorganization plan.

Q: How does the IRS value property held between husband and wife as tenants by the entirety?

A: This type of tenancy presents complex legal problems to the IRS, so it evaluates the interest of each spouse to be less than half the total value of the property. Twenty percent of the total value is generally considered each spouse's net worth in the property.

Property held as tenants in common or joint tenancy are fully valued based upon the taxpayer's percentage of interest.

Q: How does the IRS compute the value of a taxpayer's ownership in a family business?

A: It is always difficult to appraise a small business. However, the IRS will attempt to value it as a "going concern" rather than as assets to liquidated. If the IRS and the taxpayer cannot agree on this value, the IRS and taxpayer each can have the business professionally appraised.

Q: Can a taxpayer compromise some taxes and not others?

A: No. Your *Offer In Compromise* must include all owed taxes, plus penalties and interest.

Q: Can you delete or modify preprinted provisions on Form 656 *Offer In Compromise*?

A: No. Deletions or revisions on the preprinted sections of Form 656 are not allowed. You may, however, attach items that modify or clarify your offer.

Q: Will the IRS accept an OIC from a taxpayer with recent criminal record?

A: That depends on the crime, its notoriety, the taxpayer's reputation in the community and the taxpayer's compliance with the tax laws before and since the crime. If the IRS suspects that the crimes are ongoing, it will obviously deny the OIC for public policy reasons.

Q: How does the IRS determine whether a "collateral" to share in the taxpayer's future income is needed as a part of the OIC?

A: The IRS considers the taxpayer's age, earning capacity, education, health, profession and experience. Taxpayers should underplay these factors when presenting an offer. However, these agreements are rarely requested by the IRS as newer provisions in the Internal Revenue Manual seem to discourage collateral agreements.

Q: What is the statute of limitation on IRS collections?

A: The IRS only has 10 years from the date of assessment to collect your delinquent taxes. Once the statute of limitations expires, your liability expires. However, this 10-year statute of limitations for collection can be extended by waiver, an *Offer In Compromise*, bankruptcy, application for taxpayer assistance order, collection due process hearing, absence from the country, or an IS lawsuit to enforce collection.

Q: When can a taxpayer sue the IRS for damages and what can a taxpayer receive in damages?

A: It's difficult, but not impossible to sue the IRS. The taxpayer must show the IRS action to have been frivolous, malicious or wantonly groundless. This means something more than that the IRS "guessed wrong" in determining the correct action.

However, now that the Taxpayer Bill of Rights 2 has been enacted into law, the IRS may be more willing to settle cases for the following reasons:

- 1) the cap on damages for "reckless" collections has been raised from \$100,000 to \$1 million;

- 2) to collect legal fees from the IRS, the taxpayer no longer needs to show that the IRS position wasn't "substantially justified," but now the burden is on the IRS to show that its position was substantially justified; and
- 3) the hourly rate for fee awards for recoverable actions has been increased from \$75 to \$110. The law also contains many other provisions benefiting the taxpayer.

Chapter 13 Review Questions

1. If you do not file your taxes and pay on time the IRS will charge you a combined penalty consisting of
 - A. A monthly penalty of 4.5% for the late filing and 4.5% for paying late.
 - B. A monthly penalty of 5.0% for late filing and 2.5% for paying late.
 - C. A monthly penalty of 4.5% and for late filing and 0.5% for paying late.
 - D. A monthly penalty of 0.5% for late filing and 3.0% for paying late.

2. If a business person fails to pay payroll taxes the IRS can
 - A. Not go after the person individually.
 - B. Only go after the company or corporation.
 - C. Assess penalties against anyone who is responsible for paying withholding taxes.
 - D. Not apply the penalties against businesses that are out of business.

3. If you cannot pay what you owe the IRS, your options will NOT include
 - A. Bankruptcy under chapter 11 or 13.
 - B. Currently not collectible.
 - C. Installment agreement.
 - D. Offer in compromise.

4. Taxes that are discharged in bankruptcy include
 - A. Payroll taxes.
 - B. Federal excise taxes.
 - C. 3-year old personal income taxes.

D. Personal income taxes assessed for less than 240 days.

5. You can file an administrative appeal with the IRS Office of Appeals for an erroneous tax lien EXCEPT for

- A. A tax lien filed after the tax liability was paid.
- B. An examination assessment.
- C. Being in bankruptcy.
- D. The statute of limitations for the IRS collection having expired.

6. The IRS may seize or levy taxpayer's property, without advance notice, such as

- A. Bank accounts.
- B. School books.
- C. Tools used for a taxpayer's trade.
- D. Worker's compensation.

7. Politicians cannot intercede on the behalf of their taxpayer's constituents if

- A. You completed a letter and submitted your file stating your grievance and how you tried to resolve your grievance.
- B. You signed power of attorney form 2848.
- C. You signed the tax information authorization and declaration of representative form.
- D. You did not try to get satisfaction through normal channels of the IRS.

8. A taxpayer can sue the IRS for damages

- A. But the taxpayer must show the IRS action to be malicious.
- B. But needs to show the IRS's position wasn't substantially justified.
- C. But must show the IRS guessed wrong in determining the correct action.

D. As the Taxpayer's Bill of Rights 2 (TBOR2) prohibits the IRS from setting claims over \$50,000.

9. Under the Declaration of Taxpayer's Rights you have the right to all the following information EXCEPT

- A. To know why the IRS is asking you for information.
- B. To prevent the IRS from disclosing information to authorized agencies
- C. To ask how the IRS will use your information.
- D. To ask what happens if you do not provide the information requested.

10. You may have a representative in your place to represent you before the IRS EXCEPT for

- A. An attorney.
- B. A CPA.
- C. A financial planner.
- D. An enrolled agent.

11. If you do not agree with the amount of tax liability you owe or agree with certain collection activities you

- A. Cannot ask the court to review your case.
- B. Have the right to ask the appeals office to review your case.
- C. Can show you acted in good faith on incorrect advice from the IRS. However, you cannot have the IRS penalties waived.
- D. Endured errors and delays caused by an IRS employee which are never grounds for the waiver of penalties.

Appendices

Appendix A – IRS – Your Rights as a Taxpayer

Declaration of Taxpayer Rights

I. Protection of Your Rights

IRS employees will explain and protect your rights as a taxpayer throughout your contact with us.

II. Privacy and Confidentiality

The IRS will not disclose to anyone the information you give us, except as authorized by law. You have the right to know why we are asking you for information, how we will use it, and what happens if you do not provide requested information.

III. Professional and Courteous Service

If you believe that an IRS employee has not treated you in a professional, fair, and courteous manner, you should tell that employee's supervisor. If the supervisor's response is not satisfactory, you should write to your IRS District Director or Service Center Director.

IV. Representation

You may either represent yourself or, with proper written authorization, have someone else represent you in your place. Your representative must be a person allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent. If you are in an interview and ask to consult with such a person, then we must stop and reschedule the interview in most cases.

You can have someone accompany you at an interview. You may make sound recordings of any meetings with our examination, appeal, or collection personnel, provided you tell us in writing 10 days before the meeting.

V. Payment of Only the Correct Amount of Tax

You are responsible for paying only the correct amount of tax due under the law—no more, no less. If you cannot pay all of your tax when it is due, you may be able to make monthly installment payments.

VI. Help With Unresolved Tax Problems

The National Taxpayer Advocate's Problem Resolution Program can help you if you have tried unsuccessfully to resolve a problem with the IRS. Your local Taxpayer Advocate can offer you special help if you have a significant hardship as a result of a tax problem. For more information, call toll-free 1-877-777-4778 (1-800-829-4059 for TTY/TDD users) or write to the Taxpayer Advocate at the IRS office that last contacted you.

VII. Appeals and Judicial Review

If you disagree with us about the amount of your tax liability or certain collection actions, you have the right to ask the Appeals Office to review your case. You may also ask a court to review your case.

VIII. Relief From Certain Penalties and Interest

The IRS will waive penalties when allowed by law if you can show you acted reasonably and in good faith or relied on the incorrect advice of an IRS employee. We will waive interest that is the result of certain errors or delays caused by an IRS employee.

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

We accept most taxpayer's returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change; or, you may receive a refund.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by

compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

By Mail

We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. You can respond by mail or you can request a personal interview with an examiner. If you mail us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write to us about anything you do not understand.

By Interview

If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Repeat Examinations

If we examined your return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so we can see if we should discontinue the examination.

Appeals

If you do not agree with the examiner's proposed changes, you can appeal them to the Appeals Office of IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are

explained in detail in both Publication 5, *Appeal Rights and Preparation of Protests for Unagreed Cases*, and Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. If the court agrees with you on most issues in your case, and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through the appeals system, and you gave us the information necessary to resolve the case.

Collections

Publication 594, *The IRS Collection Process*, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.

Publication 1660, *Collection Appeal Rights for Liens, Levies, Seizures and Installment Agreement Terminations*, explains your collection appeal rights.

Innocent Spouse Relief

Generally, both you and your spouse are responsible, jointly and individually, for paying the full amount of any tax, interest, or penalties due on your joint return. However, you may not have to pay the tax, interest, and penalties related to your spouse (or former spouse).

New tax law changes make it easier to qualify for innocent spouse relief and add two other ways for you to get relief. For more information, see Publication 971, *Innocent Spouse Relief*, and Form 8857, *Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief)*.

Refunds

You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, has more information on refunds.

Tax Information

The IRS provides a great deal of free information. The following are sources for forms, publications, and additional information.

- Tax Questions: 1-800-829-1040 (1-800-829-4059 for TTY/TDD users)
- Forms and Publications: 1-800-829-3676 (1-800-829-4059 for TTY/TDD users)
- Internet: www.irs.ustreas.gov
- TaxFax Service: From your fax machine, dial 703-368-9694.
- Small Business Ombudsman: If you are a small business entity, you can participate in the regulatory process and comment on enforcement actions of IRS by calling 1-888-REG-FAIR.
- Treasury Inspector General for Tax Administration: If you want to confidentially report misconduct, waste, fraud, or abuse by an IRS employee, you can call 1-800-366-4484 (1-800-877-8339 for TTY/TDD users). You can remain anonymous.

Appendix B - Useful Websites

Taxes.com

Taxes.com have lots of useful tax-related links.

www.taxes.com

Tax Resolution Services Company

www.taxresolution.com

Personal Bankruptcy Tips

www.personal-bankruptcy-chapters-7-13-filing-laws.com

Official IRS website

www.irs.gov

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Appendix C - Recent IRS tax cases

Tax Lien Filed Against Actor Nicholas Cage for \$6 Million Tax Debt Owed to the IRS

Academy Award-winning actor Nicolas Cage owes the IRS more than \$6.6 million in income taxes.

According to a tax lien filed against him, Cage owes \$70,190 for the tax year 2002, \$179,738 for 2003, \$110,617 for 2004 and more than \$6.2 million for 2007.

Cage blames his financial and tax problems on his business manager, Samuel Levin, according to a lawsuit the actor filed against the man in California.

The nephew of director Francis Ford Coppola and actress Talia Shire, Cage has long been among Hollywood's royalty and highest-paid actors. He won the Academy Award for Best Acting for his lead role in *Leaving Las Vegas* and has earned box-office successes in various summer action films as well as the *National Treasure* series.

The federal government has not filed criminal charges related to the actor's \$6.6 million tax debt.

An Illinois woman faces up to 16 years for Evasion and Embezzlement

An Illinois woman faces up to 16 years in prison after pleading guilty to four counts of tax evasion, willful failure to file federal income tax returns, embezzlement from an employee benefit plan and failure to pay employment taxes.

The convictions are the result of the conduct of Mary R. Storer, 40, formerly of Wood River, Ill., after she was hired by Elk Heating and Cooling as their office manager in 2006. Storer's responsibilities included answering the telephones, setting up customer appointments and handling accounts receivable and accounts payable. She was also in charge of payroll and filing and paying Elk Heating's payroll taxes. Storer immediately began embezzling money from Elk Heating and gambled away almost all of the money. In all, she lost over \$103,000 at the Alton Belle Casino in 2006. As part of the plea, she admitted she committed tax evasion, embezzled money from Elk

Heating's employee benefit plans and failed to pay over employment taxes of Elk Heating. She has agreed to pay restitution in the amount of \$266,056 to Elk Heating.

Louisiana Doctor Guilty of Not Filing Return

New Orleans doctor was sentenced to five years of probation for failing to pay taxes.

Blainey J. Nicholas, 43, was also ordered to pay \$84,898 in restitution and pay a \$20,000 fine as well as perform 300 hours of community service. According to court documents, during the 2002 tax year, Nicholas received more than \$200,000 in gross income and failed to file a tax return.

Michael J. De Palma, Special Agent in Charge of Internal Revenue Service, Criminal Investigation, said in a statement: "Failure to file your income tax return is not a victimless crime. Honest, hardworking Americans pay the price when others choose to violate this basic requirement of citizenship."

Mayor Guilty of Tax Evasion and Corruption

The mayor of Mandeville, La., pleaded guilty to honest services mail fraud and tax evasion.

According to court records, Edward "Eddie" J. Price III, as the elected Mayor of Mandeville, was a public official who was prohibited by state law from receiving gifts and gratuities from professional service contractors for the city of Mandeville and developers with business interests with the city. From 2003 to 2007, Price accepted numerous trips from the city's engineer and a developer in the Mandeville, La., area to participate in expensive golf tournaments in Pebble Beach, Calif. These trips had a value in excess of \$45,000. Price's plea of guilty to honest services mail fraud included admissions that he illegally utilized money from his campaign fund account to pay various personal expenses.

In addition, Price failed to file a tax return for the 2007 tax year, evading taxes on his income as mayor as well as the value of the gifts and gratuities he received and funds he had taken from his campaign account.

The politician faces up to 25 years in prison and a fine of up to \$500,000.

“This investigation is another example where the teamwork between the IRS, FBI and the United State Attorney’s Office has brought justice to our community,” said IRS Special Agent in Charge Michael DePalma in a statement.

Mass. Businessman Receives 15 Months

A Franklin, Mass., business owner who did not pay more than \$175,000 in taxes withheld from employee paychecks from 1997 to 1999 has been sentenced to 15 months in prison.

Michael Schlevenick, 51, who had pleaded guilty to the charges, will serve two years of supervised release. Additionally, Schlevenick admitted that he received \$500,000 in income that he did not report.

Computech President Receives 15 Months

The president of Rockville, Md.-based Computech Inc. has been sentenced to 15 months in prison for tax evasion.

Leon Chen, 42, had pleaded guilty to income tax evasion for the year 1997. According to the plea, Chen stated his 1997 income was \$61,485 when, in fact, it was much higher. Indeed, from 1994 to 1997, according to the government, Chen’s underreporting resulted in a tax loss of \$335,982.

Chen will make full restitution to the IRS, applying \$694,712 in U.S. currency, gold ingots, and jewelry seized during a civil forfeiture in 1998.

N.H. Man Sentenced To Probation For \$57,000 In Tax Evasion

A Meredith, N.H., man received one year of probation after pleading guilty in February to failing to file income tax returns.

The federal government had determined that Edward Shaughnessy, 49, failed to pay approximately \$57,000 in federal income taxes over a four-year period.

In commenting on the sentence, United States Attorney Tom Colantuono said: "It is every citizen's civic duty to pay their taxes. Failing to do so can result in a federal criminal prosecution as in this case."

Glossary

Abatement A partial or complete cancellation of taxes, penalties or interest owed by a taxpayer.

ACS See *Automated Collection System*.

Automated collection System (ACS) A computerized collection process for IRS collectors to contact delinquent taxpayers by telephone and mail.

Collateral Agreement An agreement sometimes secured by the IRS prior to acceptance of an Offer in Compromise when the IRS wants to cover a future, reasonably possible event, such as a significant increase in income.

Collection Division Tax collectors who work out of the IRS Service Center, Automated Collection or District Office.

Collection Information Statement (IRS Forms 433-A, 433-B, and 433-F) IRS financial statements which require disclosure of personal information, particularly assets, income and expenses.

Correspondence Audit A correspondence audit is done by mail. The IRS sends you a letter either alleging you forgot some item of income or requests to see the documentation to substantiate a deduction you have taken on your tax return. The most common type is the CP2000 notice, a computer generated notice that you failed to report an item of income. These must be checked closely since the reporting agency, often time the Social Security Administration for W2's, can make typographical errors. If you fail to properly dispute these errors the IRS is free to assess and collect the tax they believe is owed. And if ignored long enough, your only recourse is to pay the tax, penalty, and interest and then sue the IRS in court, an expensive proposition.

Current Market Value The amount you could reasonably expect to be paid for the asset if you sold it today. You can find out the value from realtors, used car dealers, publications, furniture dealers, or other experts on specific types of assets. You are advised to include a copy of any written estimate with your Collection Information Statement.

Delinquent Return A tax return not filed by the due date (April 15) or by the dates allowed through the IRS

extension periods (August 15 and October 15).

Examination Official IRS term for an audit.

Expenses Not Generally Allowed Expenses not allowed such as claim tuition for private schools, public or private college expenses, charitable contributions, voluntary retirement contributions, payments on unsecured debts such as credit card bills, cable television charges and other similar expenses as necessary living expenses. These expenses can be allowed when you can prove that they are necessary for the health and welfare of you or your family or for the production of income.

Fair Market Value The price a willing buyer and seller of property would agree on as fair; neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

Federally Authorized Only Enrolled Agents, CPA's and Attorneys are allowed to represent taxpayers before the IRS. An unenrolled tax preparer can defend a client for whom he prepared a tax return during audit but cannot take it to appeals or represent the taxpayer before the collections division. Our members are all federally authorized to represent all taxpayers. We are not affiliated with nor are employees of the IRS. We work exclusively to provide you with the best representation possible in your controversies with the IRS.

Field & Office Audits Audits are an examination of the tax return you filed with the IRS. The examiner, typically a Revenue Agent, looks for undocumented income and unsubstantiated expenses or deductions. If the audit is performed in the IRS office, it is considered an office audit. These are common for wage earners. If the audit is conducted at the taxpayer's home or place of business, these are field audits. For our clients, field audits are typically conducted in our offices. It is generally too disruptive to have an IRS auditor or examiner hanging around your office for several days.

Freedom of Information Act A federal law giving citizens the right to see governmental documents, including their IRS files.

Future Income The amount the IRS could collect from your future income by subtracting necessary living expenses from your monthly income over a set number of months. For a cash offer, you must offer what you could pay in monthly payments over forty-eight months (*or the remainder of the ten-year statutory period for collection, whichever is less*). For a short-term deferred offer, you must offer what you could pay in monthly payments over sixty months (*or the remainder of the statutory period for collection, whichever is less*). For a

deferred payment offer, you must offer what you could pay in monthly payments during the remaining time we could legally receive payments.

Garnishment Garnishments are ongoing levies. Most common is the wage garnishment in which the IRS takes all but a pittance of your take home pay. The IRS would serve its garnishment on your employer. The employer is required to leave you a preset amount to live on (although you couldn't live on the amount the IRS authorizes) and send the balance to the IRS toward your tax debt. The garnishment is one of the most effective tools the IRS has to get you to the bargaining table. And most employers hate garnishments since it creates a lot of extra work for their payroll department. Some employers have policies against having unresolved tax debts. We have a strong track record of getting the IRS to release the garnishment.

Installment Agreement The installment agreement is a payment plan between you and the IRS. The IRS has some flexibility regarding the payment amount as long as the debt will be paid off before the statute of limitations expire. If the amount due is small and you are offering large payments, it can be quite simple to get an installment agreement. The agreement comes with some strings attached, such as staying current on the filing and paying of future tax returns for as long as the agreement is in place. Penalties and interest will continue to be charged although the penalty rate is currently reduced during the installment agreement. The IRS charges a nominal fee to setup an installment agreement. For larger debts or those debts involving payroll tax issues the IRS may elect to assign a Revenue Officer (debt collector) to determine the maximum payment they can get from you.

Jeopardy Assessment An expedited procedure by which the IRS imposes a tax liability without notifying you first. A jeopardy assessment is rare and used when the IRS believes the taxpayer is about to leave the country or hide assets.

Levies A levy is the taking of an asset. Most common is the bank levy. The IRS serves a levy notice on your bank for money held in your account. The account is frozen for an amount of money up to the amount owed to the IRS. If there is less in the account than you owe, the whole account is frozen for 21 days. During that time the original amount in the account is locked up. Any new money added is not part of the original levy. At the end of the 21 days the money is transferred to the IRS unless you have obtained a release from the IRS. Most levies are one-shot deals but the IRS can continue to get new levies on a daily basis. They generally don't. Part of resolving tax debts is to obtain from the IRS a release of the levy.

Lien A lien is merely a statement alleging that you owe a tax debt. It is legally created anytime you owe taxes. It can show up on your credit report, and if the IRS locates property you own, it can be filed against the property. The most common example is a lien filed against your home. Once filed, you cannot sell the asset until the lien is paid off. For houses, the payoff is part of closing. And if you don't have sufficient equity to payoff the mortgage(s) and lien, you can only sell your home by bringing your own money to closing.

Liquidation Value The amount the IRS can get from a distress sale of a taxpayer's assets, usually a public auction (typically 70% of fair market value).

National Standards Allowances for food, clothing and other items, known as the National Standards, apply nationwide except for Alaska and Hawaii, which have their own tables. Taxpayers are allowed the total National Standards amount for their family size and income level, without questioning amounts actually spent.

Necessary Expenses The allowable payments you make to support you and your family's health and welfare and/or the production of income. This expense allowance does not apply to business entities. Publication 1854, *How to Prepare a Collection Information Statement (Form 433-A)*, explains the National Standard Expenses and gives the allowable amounts. We derive these amounts from the Bureau of Labor Statistics (*BLS*) Consumer Expenditure Survey. We also use information from the Bureau of the Census to determine local expenses for housing, utilities, and transportation. *Note: If the IRS determines that the facts and circumstances of your situation indicate that using the scheduled allowance of necessary expenses is inadequate, we will allow you an adequate means for providing basic living expenses. However, you must provide documentation that supports a determination that using national and local expense standards leaves you an inadequate means of providing for basic living expenses.*

Notice of Deficiency An IRS notice informing a taxpayer who he or she owes the IRS the amount listed, which is the excess of the taxpayer's correct tax liability for the taxable year over the amount of taxes already paid for such year.

Offer In Compromise (OIC) The "pennies on the dollar" program allows taxpayers to settle their tax debt for something less than full payment. The criteria are fairly rigid and were designed by Congress, not the IRS. It is a pure business decision. The IRS determines what it could liquidate you for and adds to that what it could collect over the next 48 months and arrives at a minimum amount it might accept. The OIC program is a great program for who qualify. But don't use it lightly since it stops the running of the statute of limitations on collections.

Proper preparation of IRS financial statements is the key to a good OIC. And since the IRS is back-logged with Offers, patience is a virtue. But for who qualify, this is a great program. Offers can be made with a lump sum payment or payments over time (much like an installment agreement). Acceptance by the IRS of an offer does come with strings attached, such as staying current with filing and paying for five years after the offer is accepted.

Penalties The IRS assesses two types of penalties on late filed income tax returns. The first and most expensive is the failure to file. Any tax return filed after the due date, including extensions, is considered late. The penalty is based upon the balance due with the tax return. The second penalty is the failure to pay. This is also based upon the amount due with the tax return and is calculated from the due date of the return, without regard to extensions. Some people erroneously believe that since they have a refund they don't need to worry about filing on time. However, if the return is ever audited and the result is a balance due, the penalties will be based upon the due date of the return, even if the audit occurs 2 years later.

Pending offer An offer pending starting with the date an authorized IRS official signs Form 656 and accepts your waiver of the statutory period of limitation, and remains pending until an authorized IRS official accepts, rejects or acknowledges withdrawal of the offer in writing.

Petition A form filed with the US. Tax Court requesting a hearing to contest a proposed IRS tax assessment.

Power of Attorney (IRS Form 2848) A form appointing a tax representative to deal with the IRS on your behalf

Protracted Installment Agreement An installment agreement that extends beyond the period allowed under IRS issued guidelines.

Quick Sale Value The amount that can be realized from the sale of a taxpayer's assets when financial and other pressures force the taxpayer to sell quickly—typically in ninety days or less. This amount generally is less than current value, but may be equal to or higher, based on local circumstances—typically 80% of fair market value.

Realizable Value The quick sale value amount minus what you owe to a secured creditor. The creditor must have priority over a filed Notice of Federal Tax Lien before we allow a subtraction from the asset's value.

Reasonable Cause There are a variety of reasons why taxpayers don't file or pay. Divorce, job loss, death of family members, mental or physical diseases, drug and alcohol problems, dog ate the homework, etc. are many

of the reasons why taxpayers fail to file or pay. The law allows for the abatement (removal) of penalties for reasonable cause. Obviously, it is very subjective.

Reasonable Collection Potential (RCP) The total realizable value of your assets plus your future income. The total is generally your minimum offer amount.

Reconsideration Audit reconsiderations are discretionary on the part of the IRS. However, we have been successful in convincing the IRS to reopen an audit where the taxpayers were poorly represented or new information is now available that was not available at the original audit.

Local Standards Maximum allowances for housing and utilities known as Local Standards, vary by location. Unlike the National Standards, taxpayers are allowed the amount actually spent, or the standard, whichever is less. There are separate allowance amounts for transportation expenses.

Running Out The IRS has 10 years to collect on back taxes unless the time period has been extended, either by consent of the taxpayer or by certain actions of the taxpayer. The most common reason for the statute of limitations to collect to have been extended is when the IRS has no ability to collect on the debt. Typically, this is because the taxpayer was out of the country, had made an Offer in Compromise, or was under the bankruptcy court. During the time the IRS could not legally collect the running of the 10-year statute of limitations is stopped (tolled). Knowing what has happened during the 10 years is critical to knowing when the IRS can no longer dun you for the debt. It is not uncommon for a tax debt to be removed because the time to collect has expired. The IRS is allowed to accept payments from you but they can't dun you for any debt that is outside the statute of limitations for collections.

Statute of Limitation Legal limits imposed on the IRS for assessing and collecting taxes, and on the Justice Department for charging taxpayers with tax crimes. The current statute of limitation for collection is 10 years from the date of assessment. However, the statute can be extended by certain actions of the taxpayer.

Substitute for Return (SFR) The law allows the IRS to take the income reported to it under your social security number and file a tax return for you. If you were single the prior year, they will file you as single. If you were married the prior year, they will file a return for you as married filing separate. They will not take any itemized deductions you might be eligible for nor will they deduct for any dependents you might be entitled for. It will be a very basic return designed to produce the highest amount of tax allowed to the IRS. It is rarely in your best

interest. And since you didn't file the return yourself, the year remains open (subject to assessment and collection) forever.

Tax Increase Prevention and Reconciliation Act of 2005 (T1PRA) Section 509 the Act that applies to taxpayers who submit an offer in compromise (OIC) on or after July 16, 2006, will face new rules and processing procedures. For example, under the Act, taxpayers will need to begin making payments with their offer in compromise.

Taxpayer Advocate Service An IRS program that provides an independent system to assure that unresolved problems are promptly and fairly handled.

Trust Fund Recovery Penalty (formerly called 100-percent Penalty) A penalty incurred by the responsible person(s) of a business for failure to pay Withholding and Federal Insurance Contributions Act Taxes (Social Security taxes)

Uncollectible A temporary designation by the IRS meaning a taxpayer does not have significant assets or available income, at the present time, from which to satisfy an IRS debt in part or in full. This designation takes a case out of collection, until a taxpayer has an ability to pay.

Waiver Voluntarily surrendering a legal right, such as the right to have the IRS collection period on a delinquent tax debt expire at the end of the statutory time period. The IRS may require waivers in exchange for granting installment agreements.

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Review Question Answers

Chapter 1 Review Questions

1. The 1990 IRS Restructuring and Reform Act helped create

- A. Incorrect. The Act increased the personnel dedicated to support tax compliance and collection efforts.
- B. Incorrect. Potentially third party collection agencies significantly increased.
- C. **Correct.** The protections helped create a more level playing field for the taxpayer including the addition of an active taxpayer advocate.
- D. Incorrect. The Reform Act created a more robust and independent advocate with broad powers to more effectively resolve tax payers disputes with the IRS.

2. The IRS has four operating divisions with specific responsibilities that include all the following EXCEPT

- A. Incorrect. One of the IRS operating divisions includes Criminal Investigation which is responsible for investigating potential violations of the Internal Revenue Code.
- B. Incorrect. The appeals and taxpayer advocate offers a fast track mediation and other early resolution and alternate dispute resolution options.
- C. Incorrect. The Office of Chief Counsel is divided into groups which are aligned with the operating divisions, providing all legal support, interpretation of Internal Revenue Laws and representation for IRS litigation.
- D. **Correct.** The management is included within the four operating divisions and is not a separate division.

3. Confidentiality privileges are extended to the taxpayer when

- A. Incorrect. The confidentiality privileges apply only to non-criminal tax matters.

- B. **Correct.** Communication between client and authorized tax professionals are privileged as long as the communication relates to tax matters.
- C. Incorrect. Investment strategies not related to tax matters fail to meet the privileged requirements.
- D. Incorrect. The privileges of confidentiality apply only to non-criminal matters and not tax avoidance schemes or criminal activity.

4. The Freedom of Information Act can be used to disclose information used by the IRS EXCEPT for

- A. Incorrect. The IRS is required to disclose tax information when requested that relates to how a taxpayer was assessed.
- B. Incorrect. The IRS is required to disclose when requested by a taxpayer how penalties have been determined against a taxpayer.
- C. Incorrect. This information is helpful as it discloses the IRS information used to assess and determine interest against a taxpayer.
- D. **Correct.** This is a violation of the 1998 IRS Restructuring and Reform Act for which an IRS employee can be fired.

Chapter 2 Review Questions

1. The least popular option to resolve a tax collection matter from the taxpayer's point is

- A. Incorrect. The offer in compromise program provides the taxpayer that owes more than they could ever afford to pay, the opportunity to pay a small amount as a full and final settlement.
- B. **Correct.** Taxpayers sometimes have the ability to borrow against existing assets, refinance a home mortgage or take out a home equity loan to pay the tax liability in full. Any equity in assets usually disqualifies the taxpayer from options which grant debt forgiveness.
- C. Incorrect. If there is a technical basis to dispute the amount of tax owed, the taxpayer may file an offer in compromise or file an amended return.

D. Incorrect. The taxpayer does not owe tax after 10-year date has passed. The taxpayer must inform the IRS in writing that the statute of limitation has expired.

2. If a taxpayer does not have a positive cash flow above the level to pay their necessary living expenses or equity in assets to liquidate, they may qualify for

A. **Correct.** The most common circumstances are when a tax payer is unemployed or underemployed and has no liquid assets.

B. Incorrect. Failure to file tax returns may be construed as a criminal act by the IRS and punishable by one year in jail for each year not filed.

C. Incorrect. If over a long period of time the taxpayers situation does not improve, the taxpayer may become eligible as a viable offer in compromise candidate.

D. Incorrect. There must be a technical basis to dispute the amount of tax owed before a tax payer can cite for a technical status such as the expiration of the statute of limitations.

3. The Offer in Compromise (OIC) program provides taxpayers to

A. Incorrect. To discharge in bankruptcy depends upon both the type of tax owed and type of bankruptcy filed. Chapter 7 provides for liquidation of non-exempt assets and discharge of debts. Chapters 11 and 13 provide for repayment of all debts.

B. Incorrect. This is an option commonly seen when a taxpayer is unemployed or underemployed and lacks liquid assets.

C. **Correct.** The OIC allows the taxpayer a fresh start and settles all back tax liabilities.

D. Incorrect. An OIC must be included in the initial package or it will be rejected. Abatement is not an option when filing an offer in compromise.

4. To discharge federal income tax in bankruptcy the following must be met

A. Incorrect. 36 months must have expired from the tax return due date.

B. Incorrect. 24 months must have expired from the date the tax was assessed.

C. **Correct.** All tax returns must have been filed prior to being discharged

- D. Incorrect. 240 days must have passed since the tax was assessed and filing the bankruptcy.

Chapter 3 Review Questions

CHAPTER 3

1. The taxpayers who decides to represent themselves before the IRS should
 - A. Incorrect. Taxpayers take valuable time away from their businesses and families and often lack the necessary and professional expertise to negotiate the best settlement.
 - B. **Correct.** Few taxpayers are truly qualified to provide the knowledge and negotiating skills needed to successfully represent themselves before the IRS.
 - C. Incorrect. Taxpayers do not have the professional expertise or track record or know what their options are to successfully represent themselves before the IRS.
 - D. Incorrect. Many taxpayers find that dealing with the IRS is frustrating, time-consuming, and intimidating. Slip-ups can make problems worse perhaps triggering an audit or even criminal prosecution.

2. The best person to represent you before the IRS in a tax dispute is
 - A. Incorrect. CPA's and accountants may provide valuable assistance with traditional tax accounting work but usually do not have the expertise and negotiating skills to solve IRS disputes.
 - B. Incorrect. Attorneys may represent clients before the IRS but often lack the know-how to manage the maze of IRS protocols as well as top notch negotiating skills.
 - C. **Correct.** CTRS is a designation awarded to CPAs, attorneys or EAs by the American Society of Tax Problem Solvers (ASTPS) to individuals with expertise in tax resolution problems,. Note: it is always advisable to evaluate any firm's record before choosing a tax resolution professional.
 - D. Incorrect. Enrolled agents may represent clients before the IRS but few are truly qualified to provide the knowledge, experience and negotiating skills to achieve the best results for the client.

3. A tax professional that should be least considered to represent you in an Offer in Compromise (OIC) is a(n)
- A. Incorrect. An attorney in good standing in a state bar may represent taxpayers on IRS matters. Only select an experienced lawyer with an exceptional track record with OIC.
 - B. Incorrect. Enrolled Agents are permitted to represent taxpayers before the IRS. However, they often lack the competence to negotiate a settlement that requires knowledge of tax laws, IRS procedures and expert negotiating skills.
 - C. Incorrect. Any CPA is qualified to practice before the IRS. However, only 1% of all CPA's have exposure to dealing an OIC.
 - D. **Correct.** Accountants have little or no exposure to OIC's and often lack competence and experience in this area. Inexperienced accountants provide little value because they are not qualified to deal with OICs and lack knowledge of OIC procedure. A firm's track record is the best indicator of how the taxpayer's case will be settled.

Chapter 4 Review Questions

1. From the government's perspective the statute of limitations restricts the taxpayer's rights from
- A. **Correct.** The statute of limitation restricts the taxpayer's rights from claiming a refund of overpaid tax and from initiating action to obtain a refund.
 - B. Incorrect. The restriction from collecting a deficiency in tax is from a taxpayer's perspective.
 - C. Incorrect. The restriction of assessing a civil or criminal case is from a taxpayer's perspective.
 - D. Incorrect. The general rule for the statute of limitations is within three years after the return has been filed that the IRS must assess the tax return. This three year period also applies to the penalties.
2. A valid Form 1040 for assessment purposes must include all the following EXCEPT

- A. Incorrect. The courts typically apply the substantial compliance standard to the facts of ascertaining each form is valid and contains adequate information to calculate the tax liability.
- B. Incorrect. A valid form must indicate that it is a tax return.
- C. Incorrect. A valid form must contain an honest and reasonable attempt to satisfy the tax law.
- D. **Correct.** The taxpayer must execute the return under penalties of perjury. A tax return that lacks a required form is still sufficient to begin the statute of limitations for assessment purposes.

3. The IRS can assess taxes or bring a law suit to collect un-assessed taxes at any time if the tax payer

- A. Incorrect. Bankruptcy is a legal reason for extending the statute of limitations on the collection period.
- B. **Correct.** The Revenue Code states that the IRS can assess tax or bring a suit to collect unassessed tax when the taxpayer attempts to defeat or evade the tax.
- C. Incorrect. The OIC is a legal reason to extend the statute of limitations on the collection period and settle all back tax liabilities.
- D. Incorrect. If a taxpayer can prove they meet the guidelines, then the innocent taxpayer may use this defense and may not have to pay some or all of the taxes caused by their spouse or ex-spouse.

4. Reasons for extending the statute of limitations on the collection period do NOT include

- A. Incorrect. Litigation is an acceptable reason to extend the statute of limitations on the collection period.
- B. Incorrect. Military deferment is an acceptable reason to extend the statute of limitations on the collection period.
- C. **Correct.** No statute of limitations apply nor is it an acceptable reason to extend the statute of limitations on the collection period for failing to file a return.
- D. Incorrect. Pending installment agreements are acceptable reasons for extending the statute of limitations on the collection period.

Chapter 5 Review Questions

1. A federal tax lien is an encumbrance and

- A. Incorrect. A federal lien does not result in the physical transfer of a taxpayer's property to the IRS.
- B. Incorrect. A levy allows the IRS to seize the taxpayer's property including tangible, real and personal property owned by the tax payer.
- C. **Correct.** A federal lien is an encumbrance that establishes a legal claim by the government.
- D. Incorrect. Only a second category levy includes third parties who hold property belonging to the taxpayer, these include bank deposits and wages.

2. The IRS's levy power is very broad, including

- A. Incorrect. The IRS must first file a notice and demand payment.
- B. Incorrect. The taxpayer must neglect or refuse to pay the tax within ten days of the notice and demand.
- C. **Correct.** The IRS must provide at least 30 days' notice of its intent to levy on the taxpayer's property.
- D. Incorrect. The IRS's levy power is very broad and does not require going to court to exercise a levy.

3. Seizures of a taxpayer's residence has become

- A. Incorrect. Seizures of homes and business have become relatively infrequent in part due to the adverse publicity the IRS has received in the past.
- B. **Correct.** Legislation Taxpayer Bill of Rights 3 (TBOR3) only permits a levy on a principal residence if a judge approves the levy in writing.
- C. Incorrect. TBOR3 prohibits the IRS from seizing real property that is used as a residence by the taxpayers for tax amounts of \$5,000 or less. This includes penalties and interest.
- D. Incorrect. Home seizures by the IRS are relatively infrequent due to TBOR3 legislation as the emotional and financial impact on the taxpayer is too great.

4. The Fair Debt Collection Practices Act

- A. Incorrect. TBOR3 restricts communication with the taxpayer to reasonable periods of time.
- B. Incorrect. Unless prior consent of the taxpayer is given directly to the IRS, the IRS may not communicate with a taxpayer in connection with the collection of taxes owed.
- C. **Correct.** Telephone calls outside the hours of 8:00 AM to 9:00PM are restricted and prohibited by TBOR3 legislation.
- D. Incorrect. TBOR3 prohibits harassing or abusing the debtor by the IRS for collection purposes.

5. An analysis of a taxpayer's financial conditions includes three categories: National Standards, Local Standards, and

- A. Incorrect. Housing is a standard not a category established by geographic region.
- B. Incorrect. Utilities are a standard covered and established by geographical region.
- C. Incorrect. Transportation expenses are covered by standards established by geographical region.
- D. **Correct.** Other necessary expenses may include child care, dependent care, for the elderly or disabled, health care, term life insurance, union dues and secured debts.

6. National standards are set for five necessary expenses. Four of these are set by the Bureau of Labor Statistics (BLS). The fifth standard of expenses is set by the IRS which includes

- A. Incorrect. The Bureau of Labor Statistics set the standard for food expenses.
- B. **Correct.** The IRS sets the fifth standard entitled "miscellaneous expenses" that include secured debts, union dues, health care, child care, dependent care for the elderly and disabled.
- C. Incorrect. Housekeeping supplies are included in one of the four standards provided by the Bureau of Labor Statistics.
- D. Incorrect. Apparel and personal care products and services are among the standards set by the BLS.

Chapter 6 Review Questions

1. If you fail to file a tax return, the IRS may file a Substitute For Return (SFR) tax return for you. This is the IRS's version of an unfilled tax return that allows standard deductions for

- A. **Correct.** Because SFR returns are filed in the best interest of the government, the only deductions you will see are standard deductions and one personal exemption.
- B. Incorrect. You will not get credit for deductions that you may be entitled to with SFR.
- C. Incorrect. An SFR return filed by the government will not give you credit for interest and taxes on your home.
- D. Incorrect. Tax returns filed on your behalf by the government will not give you credit for the cost of any stock or real estate sales.

2. Taxpayers who failed to file their tax return

- A. Incorrect. Filing unfilled returns to replace Substitute for Return by the government may lower the tax liability owed and associated interest and penalties.
- B. Incorrect. The IRS version of a SFR is considered to be an unfilled tax return and may not be construed as a criminal act by the IRS.
- C. **Correct.** A settlement cannot be negotiated with the IRS until the taxpayer becomes current with all tax liabilities.
- D. Incorrect. Regardless of what you have heard, you have the right to file your original tax return, no matter how late it is filed.

Chapter 7 Review Questions

1. The IRS will accept some type of payment arrangement for past due taxes if you have

- A. Incorrect. You must file all prior tax returns not filed and be current before the IRS will negotiate with you.
- B. Incorrect. You must not have cash available in money markets, brokerage accounts, savings or checking accounts to arrange a negotiation for unpaid taxes with the IRS.
- C. Incorrect. You must not have the capacity to borrow the amount owed to the IRS from other sources such as second mortgage on your house.
- D. **Correct.** In most cases the IRS will accept some type of payment arrangement if you owe money but have no means to obtain payment in full and are current with all your tax returns.

2. For those individuals or businesses unable to resolve a tax debt immediately, a reasonable option is

- A. Incorrect. Bankruptcy depending on the type does not always eliminate your taxes but may eliminate your source of income.
- B. **Correct.** An installment agreement can be a reasonable payment option. Installment agreements allow for the full payment of the tax debt to be made in smaller more manageable amounts.
- C. Incorrect. Offers in compromise should only be considered where the amount paid in monthly on an installment agreement does not cover the accrued interest.
- D. Incorrect. SFR's filed by the government are considered to be an unfiled tax return subject to punishment, fines, or jail time.

3. As a condition of an installment agreement, which of the following statement is true?

- A. Incorrect. Tax payers may not get their refund if past due amounts are owed on student loans.
- B. Incorrect. Refunds will not be made to taxpayers who have past due child support liabilities.
- C. **Correct.** The IRS will automatically apply the refund to federal or state tax owed.
- D. Incorrect. If taxpayers owe certain past due amounts such as federal or state tax, student loans, or child support they may not get all or any of their tax refund.

Chapter 8 Review Questions

1. Once the IRS temporary closes your case as uncollectible
 - A. Incorrect. Only further collection activity will be temporarily suspended and your debt will increase.
 - B. Incorrect. Interest and penalties will be charged until you pay the debt in full or until the statute of limitations for collection expires.
 - C. **Correct.** Once the IRS has earmarked you as uncollectible, they will suspend further collection activity but interest and penalties will continue to accrue.
 - D. Incorrect. The statute of limitations will not end if you have filed a tax return. Only in cases of fraud, tax avoidance or criminal activity will the statute not apply.

2. The IRS may close your case for the following reasons EXCEPT for
 - A. Incorrect. If collection leaves the taxpayer with no means to meet necessary living expenses the IRS may close your case as uncollectible.
 - B. **Correct.** Only the death of a taxpayer with no significant estate may qualify as uncollectible.
 - C. Incorrect. Taxpayers with no locatable assets qualify as uncollectible.
 - D. Incorrect. The accounts of military personnel in a combat zone are deemed to be special action and qualify as uncollectible.

Chapter 9 Review Questions

1. Offers in Compromise (OIC) allows taxpayers who owe more than they can afford
 - A. **Correct.** OICs promise allows taxpayers to get a fresh start and negotiate a lesser amount than their tax liability.

- B. Incorrect. All back tax liabilities are settled with the Offer in Compromise including penalties and interest.
- C. C is incorrect Taxpayers are allowed to compromise all personal tax liabilities, penalties, and interest.
- D. Incorrect. Even payroll taxes can be compromised by an offer in compromise in some circumstances.

2. Collection Information Statements (CIS) must be submitted with an offer in compromise and should reflect information no older than

- A. **Correct.** A CIS submitted with an offer in compromise should be no older than six months.
- B. B. is incorrect. If the information becomes outdated due to significant processing delays caused by the IRS through no fault of the taxpayer, it may be appropriate to rely on the outdated information, if the taxpayer's situation has not significantly changed.
- C. Incorrect. Information older than twelve months should be updated by the tax payer.
- D. Incorrect. There is no reason to update information unless it is older than six months or significant changes in the taxpayer's situation have occurred.

3. Proper asset valuation is essential to determine reasonable collection potential (RCP). If the IRS chooses not to take enforcement action against an asset the net result will be

- A. Incorrect. Assets will not be eliminated because the IRS may choose not to enforce action against an asset.
- B. **Correct.** The net result of an asset that is eliminated or valued at zero dollars will result in the offer being rejected by the IRS.
- C. Incorrect. Zero dollar evaluation of an asset will result in a rejection of an offer.
- D. Incorrect. The case will be reported as "currently not collectible" if assets are eliminated or valued at zero dollars.

4. Allowable expenses are defined as those expenses that are necessary for the production of income or health and welfare of the taxpayer's family but will NOT include

- A. Incorrect. Allowable expenses include the local standards of rent or mortgage payments.
- B. Incorrect. Utility bills that are verified to meet local standards are allowable costs.
- C. **Correct.** Charitable contributions are not considered allowable expenses.
- D. Incorrect. Maintenance costs that fall within the local standards are allowable costs.

5. An offer is an agreement which is binding and conclusive on both the government and proponent but may be rescinded or set aside if

- A. Incorrect. A mutual mistake is defined as an erroneous belief held by both parties about the facts and does not of itself provide reason for the affected parties to void the contract.
- B. **Correct.** An offer may be rescinded or set aside when material mistakes relates to a false representation that was made by one party.
- C. Incorrect. An offer is binding if it is unrelated to fraud or false representation by one party.
- D. Incorrect. Rescission is only appropriate where a mistake of both parties is such that a material effect on the agreed exchange of performance will upset the very basis of the offer in compromise.

6. Under the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2005, if the IRS does not act within one year of a submitted OIC, then the IRS must accept the OIC. True or False?

True is incorrect. The TIPRA of 2005 caused changes in how the OIC program operates, and impacts the OIC role in the IRS collection process. In the case of a periodic payment OIC, the taxpayer may have to make a nonrefundable up-front payment. Another noteworthy change resulting from TIPRA is that normally if the IRS does not act within two years of a submitted OIC, then the IRS must accept the OIC.

False is correct. Under TIPRA of 2005, it should be within two years of a submitted OIC. In addition, this Act applies to offers received on July 16, 2006 to the present.

Chapter 10 Review Questions

1. _____ is the official compromise agreement form that prepares a complete and accurate offer in compromise (OIC).
 - A. **Correct.** Form 656 is the first form in an application package to process an offer in compromise.
 - B. Incorrect. Form 433A is the Collection Information Statement for wage earners and self-employed individuals.
 - C. Incorrect. Form 433B is the form used for collection information statement for businesses.
 - D. Incorrect. Form 656A is an obsolete form for Income Certification for the Offer in Compromise Application fee and Payment.

2. With Form 656, the application does NOT require
 - A. Incorrect. Common errors to avoid are a taxpayer's name and address missing or incomplete on the application.
 - B. Incorrect. The SSN or EIN incomplete or missing or incorrect is a common mistake to be avoided.
 - C. **Correct.** If you are submitting an individual offer and meet the Low Income Certification guidelines (see page 2 of Form 656, Offer in Compromise), you will not be required to send the application fee.
 - D. Incorrect. An offer amount or payment term and a signature are required to process the application.

3. If you have a legitimate doubt that you owe part or all of the tax debt, you will need to complete a
 - A. Incorrect. Form 656-B is the booklet about OICs and contains forms 433-A, 433-B and 656 for individuals who do have legitimate doubts.
 - B. **Correct.** To file for a legitimate doubt that you owe part or all of the tax debt, you will need to complete a Form 656-L Offer in Compromise (Doubt as to Liability).

- C. Incorrect. A Notice of Federal Tax Lien (lien) gives the IRS a legal claim to your property as security for payment of your tax debt.
- D. Incorrect. The Form 656-PPV, Offer in Compromise Payment Voucher, is the form used to make any periodic payment(s) that becomes due.

Chapter 11 Review Questions

1. Assuming a taxpayer cannot meet the basic requirements for an innocent spouse defense, the most difficult hurdle to overcome with the IRS is
 - A. **Correct.** It is up to the innocent spouse to prove to the IRS that the taxpayer is entitled to the innocent spouse treatment.
 - B. Incorrect. The innocent spouse may claim relief no later than two years after the date IRS begins collection activities.
 - C. Incorrect. Copies of past returns can verify whether the innocent spouse signed the joint tax return.
 - D. Incorrect. The innocent spouse establishes that when he/she signed the return he or she had no reason to know of the understatement of the tax payment.

Chapter 12 Review Questions

1. If you have relatively few assets and a substantial personal income tax liability, then a good option may be
 - A. Incorrect. Chapter 11 gives you six years to reorganize and to pay in full the tax liability to the IRS.
 - B. **Correct.** Chapter 7 provides for liquidation of non-exempt assets and the discharge of all debts.
 - C. Incorrect. An offer of payment toward the tax liability must be made with the application for an offer in compromise to be considered.

D. Incorrect. Chapter 13 provides for repayment of debt in whole or part. Bankruptcy does not affect liens presently against your property.

2. Under an abatement, the IRS cancels all or part of accrued penalties and interest but not the underlying tax liability if you have a good reason such as

- A. Incorrect. Only if your records are verified and destroyed you have a good reason for an abatement.
- B. Incorrect. Incarceration or any other significant disruption in your life is reason for the abatement. Usually job transfers do not qualify as a significant disruption.
- C. Incorrect. Advice from any advisor is not a good enough reason for abatement.
- D. **Correct.** Erroneous advice from the IRS is a good reason to receive the abatement.

3. An appeal is the result of

- A. Incorrect. An appeal by the taxpayer that has been threatened with an IRS levy is a collection appeal.
- B. Incorrect. An appeal by a taxpayer that has been threatened with a seizure by the IRS is a collection appeal.
- C. **Correct.** Taxpayers that do not agree with the IRS's assessment or decision can file an appeal and put the IRS on notice that the taxpayer is seeking a meeting to change the IRS's decision.
- D. Incorrect. There is no reason to make an appeal if the IRS made a decision to grant an abatement.

Chapter 13 Review Questions

1. If you do not file your taxes and pay on time the IRS will charge you a combined penalty consisting of

- A. Incorrect. The combined monthly penalty and paying late penalty is 5.0% for each month late up to five months. Your late filing fee for five months is 25%, which is the maximum that you will be charged.

- B. Incorrect. The maximum penalty for late filing for not more than five months will total 25% (22.5% for late filing and 2.5% for late payment.)
- C. **Correct.** If you do not file your taxes and pay on time, the IRS will charge you a combined penalty. The monthly penalty is 4.5% for filing late and 0.5% for paying late.
- D. Incorrect. If you do not pay your taxes when they are due, the IRS will charge you a failure-to-pay penalty. The late penalty cannot be more than 25% of the tax paid late.

2. If a business person fails to pay payroll taxes the IRS can

- A. Incorrect. The Trust Fund Recovery Penalty allows the IRS to go after anyone who is responsible for collecting withheld income and employment taxes.
- B. Incorrect. The IRS can go after anyone—individuals or corporations.
- C. **Correct.** Once this penalty is assessed against the individual responsible person or persons, the IRS will proceed with collection efforts against the individual or individuals.
- D. Incorrect. The penalties may be applied whether or not the business is still operational or out of business.

3. If you cannot pay what you owe the IRS, your options will NOT include

- A. **Correct.** Bankruptcy is not an option to pay or eliminate a tax liability. Chapters 11 and 13 do not eliminate tax liabilities.
- B. Incorrect. If you cannot pay anything on a monthly basis, then the account needs to be declared “currently not collectible” by the IRS. However, “uncollectible” is only a temporary condition. The IRS can always resume collection activities.
- C. Incorrect. If you can pay some amount each month, then you are a candidate for an installment agreement.
- D. Incorrect. If the amount you can pay each month is not enough to pay off the amount owed over the next five years, then you are a possible candidate for an Offer in Compromise.

4. Taxes that are discharged in bankruptcy include

- A. Incorrect. Payroll taxes are not dischargeable in bankruptcy.
- B. Incorrect. Federal excise taxes are not dischargeable in bankruptcy.
- C. **Correct.** In order to discharge personal income tax, the return filed late must be more than three years old.
- D. Incorrect. In order to be dischargeable, personal income taxes must be assessed for more than 240 days.

5. You can file an administrative appeal with the IRS Office of Appeals for an erroneous tax lien EXCEPT for

- A. Incorrect. Erroneous tax liens commonly occur when a tax lien was filed after the tax liability was paid.
- B. **Correct.** Only when an examination assessment was deemed improperly made it can be used as a defense for an erroneously filed lien against you.
- C. Incorrect. Once the taxpayer is in bankruptcy the lien is erroneous.
- D. Incorrect. Liens cannot be filed against a property once the statute of limitations for IRS collection has expired.

6. The IRS may seize or levy taxpayer's property, without advance notice, such as

- A. **Correct.** A jeopardy assessment would occur if the IRS suspects you of transferring assets or of planning to take your money out of the country.
- B. Incorrect. The IRS may not seize or levy against taxpayers property such as books, certain clothing, and fuel.
- C. Incorrect. Tools used in a taxpayer's trade, business, or profession, totaling \$3,280, cannot be seized or levied by the IRS.
- D. Incorrect. Certain resources such as those connected with disability payments, worker's compensation may not be seized or levied by the IRS.

7. Politicians cannot intercede on the behalf of their taxpayer's constituents if

- A. Incorrect. Having failed the normal IRS channels you may request the congressman in your district to intercede on your behalf.
- B. Incorrect. This is one of the requirements needed to engage the assistance of your congressman to intercede with the IRS on your behalf.
- C. Incorrect. The forms are available at the IRS Office and are required by a congressman in order to have him intercede on your behalf.
- D. **Correct.** You must only contact your congressman after having tried and failed to get satisfaction from the IRS through normal channels.

8. A taxpayer can sue the IRS for damages

- A. **Correct.** The taxpayer must show the IRS action to have been frivolous, malicious, or wantonly groundless.
- B. Incorrect. To collect legal fees from the IRS the taxpayer no longer needs to show that the IRS position wasn't substantially justified. The burden of proof is on the IRS to show its position as substantially justified.
- C. Incorrect. It is difficult but not impossible to sue the IRS, but this means stating facts that are something more than having the IRS guessed wrong in determining the correct action.
- D. Incorrect. The IRS, due to the Taxpayer Bill of Rights 2 (TBOR2) is more willing to settle cases since damages for reckless collection has been raised to one million dollars.

9. Under the Declaration of Taxpayer's Rights you have the right to all the following information EXCEPT

- A. Incorrect. The IRS is obligated to explain and protect your rights as a taxpayer. You have the right to know why they are asking you for information.
- B. **Correct.** (Appendix A) The IRS will not disclose to anyone your information given to them except for those authorized by law.
- C. Incorrect. The Declaration of Taxpayer's Rights obligates the IRS to inform you how they will use your information.

D. Incorrect. The IRS is required by law to inform you what happens if you do not provide the required information requested.

10. You may have a representative in your place to represent you before the IRS EXCEPT for

- A. Incorrect. Attorneys are allowed to practice before the IRS and represent clients. A taxpayer should find an attorney with a proven track record in front of the IRS.
- B. Incorrect. CPA's (certified public accountants) are allowed to practice before the IRS and represent their clients.
- C. **Correct.** (Appendix A) Financial planners are not approved to practice before the IRS or represent clients in disputes with the IRS.
- D. Incorrect. Enrolled agents are licensed by the IRS and are approved to practice and represent clients before the IRS.

11. If you do not agree with the amount of tax liability you owe or agree with certain collection activities you

- A. Incorrect. You may ask the court to review your case if you do not agree with the IRS as to your tax liability.
- B. **Correct.** (VII Appeals, & Judicial Reviews) You are eligible and have the right to ask the appeals office to review your case.
- C. Incorrect. The IRS will waive penalties if you can show you acted in good faith on incorrect advice from an IRS employee.
- D. Incorrect. As a result of certain errors the IRS will waive interest that resulted from delays or errors caused by an IRS employee.