Cash

5.8.5.7 (03-23-2018)

Cash

1. When determining the taxpayer's RCP, use the amount listed on the Form 433-A (OIC) for the amount of cash in the taxpayer's bank accounts, reduced by $1,000.

Note:

The $1,000 reduction should not be taken into consideration when making a determination whether the taxpayer can fully pay from equity in assets, via an installment agreement, or combination of both.

Exception:

If the total amount listed on the Form 433-A (OIC) is over $1,000 and you have reason to believe the money will be used to pay for the taxpayer's monthly allowable living expenses, do not include it on the AET.

2. Use the amount listed on the Form 433-B(OIC) for the amount of cash in the taxpayer's bank account.

Note:

The $1,000 reduction only applies to individual bank accounts.

3. Review checking account statements over a reasonable period of time, generally three months for wage earners and six months for taxpayers who are non wage earners. Look for any unusual activity, such as deposits in excess of reported income, withdrawals, transfers, or checks for expenses not reflected on the CIS. Discuss any inconsistencies with the taxpayer.

Example:

(1) The taxpayer lists $10,000 in a checking account on Form 433-A (OIC) The taxpayer's allowable living expenses are $3,000. Include $6,000 ($10,000 less $1,000 less $3,000) as an asset value on the AET.

Example:

(2) The taxpayer lists $3,000 in a checking account on the Form 433-A (OIC) and his allowable living expenses are $2,700. Do not include any amount on the AET since the $300 difference is less than $1000.

4. If the review of the taxpayer's account shows a substantial difference between the Form 433-A(OIC) and/or Form 433-B (OIC) and the bank statement value, adjust the amount shown on the AET after discussion with the taxpayer, if applicable.

5. Review savings account statements over a reasonable period of time, generally three months.

- If the account has little withdrawal activity, use the ending balance on the latest statement, less $1,000 if not previously applied to another account, 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) and (2) above to determine its value.

6. If analysis of the bank statement reveals large amounts of recently expended funds, see *IRM 5.8.5.18*, *Dissipation of Assets*, for a full discussion of the treatment of dissipated assets.

7. If the taxpayer offers the balances of accounts (for example, certificate of deposit, savings bonds, etc.) to fund the offer, allow for any penalty for early withdrawal and the expected current year tax consequence.

8. Include any deposits made with the offer as an asset on the AET. Deposits are refundable, and must be considered an asset.

9. For funds on deposit with the OIC, allow as an encumbrance any amount borrowed if the monies must be repaid. Appropriate documentation must be provided.

10. Document AOIC or ICS with how the value of cash listed on the Asset/Equity Table was determined.

Motor Vehicles

5.8.5.12 (03-23-2018)

Motor Vehicles, Airplanes, and Boats

1. Equity in motor vehicles, airplanes, and boats must be determined and included in the RCP. The general rule for determining NRE, as discussed in *IRM 5.8.5.4.1*, *Net Realizable Equity*, applies when determining equity in these assets. Unusual assets such as airplanes and boats may require an appraisal to determine FMV, unless the items can be located in a trade association guide. The case file should document how the values were determined.

2. It is not necessary to personally inspect automobiles used for personal transportation. When it appears reasonable, accept the taxpayer's stated value. If the taxpayer failed to provide the value or the value appears to be unreasonable, consult a trade association guide. Generally, the Private Party or equivalent value should be used. In most cases, the vehicle will be discounted at 80% of FMV to arrive at the QSV.

3. Exclude $3,450 per car from the QSV of vehicles owned by the taxpayer(s) and used for work, the production of income, and/or the welfare of the taxpayer's family (two cars for joint taxpayers and one vehicle for a single taxpayer).

Note: Thank you Eric!

The $3,450 reduction is only allowable after a determination is made whether the taxpayer can fully pay from equity in assets, via an installment agreement, or combination of both.

4. When these assets are used for business purposes, they may be considered income producing assets. See also, *IRM 5.8.5.15*, *Income Producing Assets*, for a full discussion on the treatment of income producing assets.

5.8.5.22.3 (03-23-2018)

Transportation Expenses

1. Transportation expenses are considered necessary when they are used by taxpayers and their families to provide for their health and welfare and/or the production of income. Employees investigating OICs are expected to exercise appropriate judgment in determining whether claimed transportation expenses

meet these standards. Expenses that appear excessive should be questioned and, in appropriate situations, disallowed.

2. The transportation standards consist of nationwide figures for loan or lease payments referred to as ownership costs and additional amounts for operating costs broken down by Census Region and Metropolitan Statistical Area. Operating costs include maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking and tolls.

3. Ownership Expenses – Expenses are allowed for purchase or lease of a vehicle. Taxpayers will be allowed the local standard or the amount actually paid, whichever is less, unless the taxpayer provides documentation to verify and substantiate that the higher expenses are necessary. *IRM 5.8.5.19*, *Retired Debt*, for a discussion on situations when the vehicle loan or lease will be paid off during the period of time future income is calculated. Consideration may be made for a taxpayer whose lease will expire before the number of months in which future income is calculated. The allowance for a loan payment may also be considered if the taxpayer provides evidence the vehicle will require immediate replacement due to age or condition of the vehicle.

4. Operating Expenses – Allow the full operating costs portion of the local transportation standard, or the amount actually claimed by the taxpayer, whichever is less. Substantiation for this allowance is not required unless the amount claimed is more than the total allowed by any of the transportation standards.

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

6. In situations where the taxpayer has a vehicle that is currently over eight years old or has reported mileage of 100,000 miles or more, an additional monthly operating expense of $200 will generally be allowed per vehicle (up to two vehicles when a joint offer is submitted). If the vehicle(s) meets the age and/or mileage threshold, written documentation would not be required to determine the exact additional operating costs, unless additional allowance exceeds the $200 provided.

Example:

(1) The taxpayer who has a 2009 vehicle with 90,000 miles, will be allowed the standard of $231 per month plus up to $200 per month operating expense

(because of the age of the vehicle), for a total operating expense allowance of $431 per month.

7. Except as noted in paragraph (6) above, deviations from the transportation standards must be verified, reasonable and documented in the case history.

BUSINESS ASSETS

5.8.5.15 (03-23-2018)

Income-Producing Assets

1. When investigating the 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 has been identified that an asset or a portion of an asset is necessary for the production of income, it is 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 may be appropriate.
A taxpayer borrows against an asset that is necessary for the production of income, and devotes the proceeds to the payment of the offer	Allow the loan payment as an expense and consider the effect that loan will have on the future income stream.

3. As a general rule, equity in income producing assets will not be added to the RCP of a viable, ongoing business; unless it is determined the assets are not critical to business operations.

Exception:

Include equity in real property in the calculation of RCP.

Note:

Even though rental property, owned by the taxpayer, may produce income, the equity should be included in RCP. An adjustment to the taxpayer's future income value may be appropriate, if the taxpayer will be borrowing against or selling the property to fund the offer.

LOCAL STANDARD – HOUSING

The housing and utilities standards are derived from U.S. Census Bureau, American Community Survey and Bureau of Labor Statistics data, and are provided by state down to the county level. The standard for a particular county and family size includes both housing and utilities allowed for a taxpayer's primary place of residence. Generally, the total number of persons allowed for determining family size should be the same as those allowed as exemptions on the taxpayer's most recent year income tax return.

Housing and utilities standards include mortgage or rent, property taxes, interest, insurance, maintenance, repairs, gas, electric, water, heating oil, garbage collection, residential telephone service, cell phone service, cable television, and Internet service. The tables include five categories for one, two, three, four, and five or more persons in a household.

The taxpayer is allowed the standard amount, or the amount actually spent on housing and utilities, whichever is less. If the amount claimed is more than the total allowed by the housing and utilities standards, the taxpayer must provide documentation to substantiate those expenses are necessary living expenses.

NOTE: It does not include secured debts against the property, like HELOC/Home Equity Lines of Credit

EFFECTIVE TAX ADMINISTRATION OFFERS

5.8.11.2 (10-04-2019)

Overview

1. Section 7122(d)(1) directs the Secretary of the Treasury to prescribe guidelines for the IRS to determine whether an OIC is adequate and should be accepted. Congress explained that these guidelines should allow the Service to consider:

   - Hardship,
   - Public policy, and
   - Equity

   26 CFR § 301.7122-1(b)(3) authorizes the Service to consider OIC's raising these issues. These offers are called Effective Tax Administration (ETA) offers.

2. The availability of an ETA offer encourages taxpayers to comply with the tax laws because taxpayers will believe the tax laws are fair and equitable. The ETA offer allows for situations where tax liabilities should not be collected even though:

   - The tax is legally owed, and
   - The taxpayer has the ability to pay it in full

3. No compromise to promote ETA may be entered into if compromise of the liability would undermine compliance by taxpayers with the tax laws.

4. If a taxpayer submits an ETA offer, first investigate the offer for:

   - Doubt as to Liability (DATL), and/or
   - Doubt as to Collectibility (DATC)

5. An ETA offer can only be considered when the Service has determined that the taxpayer does not qualify for consideration under DATL and/or DATC.

6. The taxpayer must include the Collection Information Statement (CIS) (Form 433-A (OIC) and/or Form 433-B (OIC)) when submitting an offer requesting consideration under ETA.

Exception:

Refer to *IRM 5.8.11.5.2*, *Financial Statement Analysis*, relative to when complete financial information may not be required on certain offers involving the fraudulent acts of a Payroll Service Provider (PSP).

7. Economic hardship standard of CFR § 301.6343-1 specifically applies only to individuals. Refer to *IRM 5.8.11.3.1*, *Economic Hardship*.

Financial Support

5.15.1.7 (07-24-2019)

External Sources

1. Request appropriate documentation from the chart below to verify the CIS. Do not make a blanket request for information. Tailor your request to each taxpayer's specific situation. Do not require the taxpayer to provide information that is available from internal or online sources.

Documentation	Review
Wage statements for the prior three months if the taxpayer is a wage earner. A statement with current year to date figures is also acceptable.	• 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, retirement accounts, savings bonds and loans.
Proof of gross income (invoices, accounts receivable, commission statements, etc.) for the prior three months if the taxpayer is self-employed.	• Compare average earnings to the income declared on the CIS. • Identify deductions to ensure the expense is necessary and only claimed once on the CIS (for personal or business, not both.)
Bank statements for the last three months.	• Compare deposit amounts to income reported on tax return and CIS. • Identify source of deposits.
Cancelled checks and credit card statements for the last three months.	• Verify amount and frequency of declared expenses. • Identify unnecessary expenses. • Look for unusual activity. • Reconcile with other sources, e.g., tax returns and statements,

Documentation	Review
	invoices/bills, and taxpayer statements.
Retirement account statements, brokerage account statements, securities or other investments, annuity accounts, lottery winnings, trust information, inheritance and insurance proceeds.	Identify the type, conditions for withdrawal, sale or borrowing, and current market value.
Life Insurance Policies	• Identify the type, conditions for borrowing or cancellation and the current loan and cash values. • Verify the amount of required premiums and whether they are being paid. • Identify source of funds used to pay.
Motor vehicle (vessel or craft) purchase or lease contracts, the pay off amount from the lender.	• Verify equity, monthly payment expense, date of final payment and term of contract. • Check loan applications.
Real estate, warranty or mortgage deeds, HUD closing statements, quit claims, the pay off amount from the lender.	• Identify the type of ownership, amount of equity, monthly payment expense, and date of final payment. • Evaluate potential sale value.
Homeowner or renter 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 works of art.
Financial statement recently provided to lending institutions or others.	• Compare the financial information submitted to others with that declared on the CIS. • Check mortgage companies. • Check other lenders or creditors.

Documentation	Review
Divorce Court Orders	• Verify disposition of assets in the property settlement. • Secure copy of interlocutory agreement.
Court orders for child support and proof of payment.	• Verify responsibility for child support and that the payments are actually being made. • Check dependents claimed on Form 1040.
Bankruptcy Court Documents	• If appropriate consult with a Field Insolvency caseworker to review Schedules, Statement of Financial Affairs, Statement of Monthly Income and Means Test Calculation, and Other Court Documents such as motions, pleadings or filings from third parties. • Verify income and expenses. • Look for exempt, excluded or abandoned assets. • Review conversations of meetings with the taxpayer, the representative and possible third parties. • Review any statements made by the taxpayer to the bankruptcy trustee and creditors at the meeting of creditors and equity security holders, held pursuant to Bankruptcy Code section 341.
United States Passport Office	Passport checks may provide the following information: • The last known mailing and/or permanent address of the applicant • Applicant's occupation • Applicant's employer • Applicant's phone number • Emergency contact's name, address and phone number

Documentation	**Review**
	• Spouse's name and birthplace See IRM 5.1.18.12 , *United States Passport Office*.
Treasury Enforcement Communications System (TECS)	TECS is a database maintained by the Department of Homeland Security (DHS), and is used extensively by the law enforcement community. It contains information about individuals and businesses suspected of, or involved in, violations of federal law. For IRS Field Collection, TECS provides two sources to help make contact with taxpayers or locate assets. See IRM 5.1.18.13, *Treasury Enforcement Communications System*.
Utility Companies	Utility company information can: • Determine who occupies a certain building when there is an indication that the taxpayer resides at an address • Provide a taxpayer's new address if the taxpayer transferred services from an old address to a new one

Representation Fees

5.15.1.11 (08-29-2018)

Other Expenses

1. Other expenses may be necessary or conditional. Other necessary expenses meet the necessary expense test and normally are allowed. The amount allowed must be reasonable considering the taxpayer's individual facts and circumstances. Other Conditional Expenses **may not** meet the necessary expense test, but may be allowable based on the circumstances of an individual case.

2. There may be circumstances where expenses may be allowed even if they do not meet the necessary expense test. If the IRS tax liability including accruals can be paid within six years and within the CSED, all expenses may be allowed if they are reasonable. If the taxpayer cannot pay within six years, it may be appropriate to allow the taxpayer up to one year in order to modify or eliminate one or more expenses. See *IRM 5.15.1.3*, *Analyzing Financial Information*.

3. If other conditional expenses are determined to be necessary and, therefore allowable, document the reasons for the decision in your history.

Expense Item	Expense is Necessary:	Notes/Tips
Accounting and legal fees	• The fees are for representation before the Service (i.e., to resolve current balances due, delinquent returns, examinations, etc.), or • The fees meet the necessary expense test. • The amount should not be excessive and must be reasonable given the complexity of the case.	• Fees related to business operations (i.e., reported on Schedule C) should not be claimed as personal expenses. • Fees may vary; an accountant will charge less for a wage earner with all returns filed that just needs a CIS completed, than he/she would charge for a self-employed individual that needs several returns prepared along with a CIS. Fees vary across the country so allowable amounts may also differ depending on where the taxpayer lives.