

G&S In-House Training: Offers-in-Compromise

Presented by:

Eric L. Green, Esq.

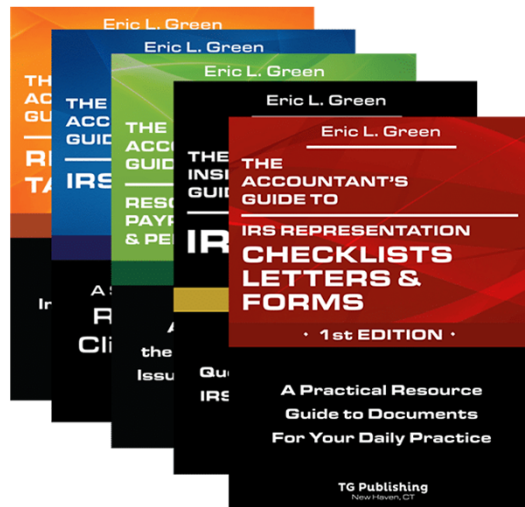


Eric Green, Esq.

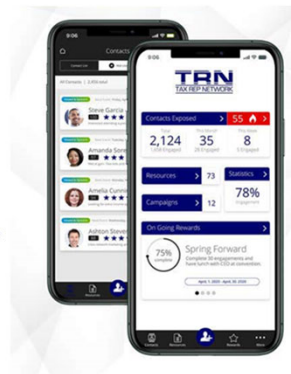
- ▶ Managing partner in Green & Sklarz LLC, a boutique tax firm with offices in Connecticut and New York.
- ▶ Focus is civil and criminal taxpayer representation before the Department of Justice Tax Division, Internal Revenue Service and state Departments of Revenue Services.
- ▶ Eric is a contributing columnist for Bloomberg Tax and has served as a columnist for CCH's Journal of Practice & Procedure.
- ▶ Attorney Green is the past Chair of the Executive Committee of the Connecticut Bar Association's Tax Section.
- ▶ Eric is a Fellow of the American College of Tax Counsel ("ACTC").



Eric Green, Esq.



- Eric is the host of the weekly Tax Rep Network Podcast
- Eric is the founder of Tax Rep Network, an online community designed to help tax professionals build their IRS Representation Practice
- He is the author of the Accountant's Guides in IRS Representation
- Partnered with UConn and creator of the IRS Representation Certificate Program
- Creator of the Tax Rep App



Before we get started....

- ▶ 16 Attendance polls
- ▶ Please do the polls
- ▶ We will take a 10 minute break at the top of each hour

10-Minute BREAK



Why do clients come to us?

- ▶ Because of our ability to fill in forms?
- ▶ Because we can explain the process oh so well?
- ▶ Because of the sleek exterior we have?



They come because...



- ▶ We can end the pain!
- ▶ We can end the sleepless nights, the fighting with the spouse, get rid of liens, compromise away tens of thousands or even millions of dollars!

IRS Representation

- Is about process and formula
- The process – both audit and collection – are linear
- Collections comes down to a formula

$$FI + NE = RCP$$

(Future Income + Net Equity in Assets = Reasonable Collection Potential)

Critical: Line Up Your Process

- How are we finding clients?
- What happens when they call?
- How do we get paid?
- How does the information get into the firm?
- How do we get the work done?
- What happens when the case is over?

So where are clients?

- Everywhere (25 – 35 million of them)
- Biggest challenge is making sure people know you do this
- Get the message out to your existing clients and network



Offer Basics

- ▶ IRC § 7122 authorizes the IRS to accept a compromise on an amount owed
- ▶ IRC § 7122(c) provides that the Service shall set forth guidelines for determining when an offer in compromise (OIC) should be accepted

Offer Basics

- ▶ Congress explained that these guidelines should allow the Service to consider:
 - a. Hardship,
 - b. Public policy, and
 - c. Equity
- ▶ Treasury Regulation § 301.7122-1 authorizes the Service to consider OIC's raising these issues.
- ▶ These Offers are called Effective Tax Administration (ETA) offers. See IRM § 5.8.11.1

Offer in Compromise

Form 656 Booklet Offer in Compromise



CONTENTS

■ What you need to know	1
■ Paying for your offer	3
■ How to apply	4
■ Completing the application package	5
■ Important information	6
■ Removable Forms - Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed; Form 433-B (OIC), Collection Information Statement for Businesses; Form 656, Offer in Compromise	7
■ Application Checklist	29

IRS contact information

If you want to see if you qualify for an offer in compromise before filling out the paperwork, you may use the Offer in Compromise Pre-Qualifier tool. The questionnaire format assists in gathering the information needed and provides instant feedback as to your eligibility based on the information you provided. The tool will also assist you in determining a preliminary offer amount for consideration of an acceptable offer. The Pre-Qualifier tool is located on our website at www.irs.gov.

If you have questions regarding qualifications for an offer in compromise, please call our toll-free number at 1-800-829-1040. You can get forms and publications by calling 1-800-TAX-FORM (1-800-829-3676), by visiting your local IRS office, or at www.irs.gov.

Taxpayer resources

The Taxpayer Advocate Service (TAS) is an independent organization within the Internal Revenue Service that helps taxpayers and protects taxpayer rights. TAS helps taxpayers whose problems with the IRS are causing financial difficulties, who've tried but haven't been able to resolve their problems with the IRS, or believe an IRS system or procedure isn't working as it should. And the service is free. Your local advocate's number is in your local directory and at <https://www.irs.gov/advocate>. You can also call us at 1-877-777-4779. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to <https://www.irs.gov/advocate>. TAS is your voice at the IRS.

Low-income Taxpayer Clinics (LITCs) are independent from the IRS. LITCs serve individuals whose income is below a certain level and who need to resolve a tax problem with the IRS. LITCs provide professional representation before the IRS or in court on audits, appeals, tax collection disputes, and other issues for free or for a small fee. For more information and to find a LTC near you, see the LTC page at <https://www.irs.gov/low-income-taxpayer-clinics> or IRS Publication 4914, Low-income Taxpayer Clinic List. This Publication is also available by calling the IRS toll-free at 1-800-829-3676 or visiting your local IRS office.

Three types of Offers:

- ▶ Doubt as to liability
- ▶ Doubt as to collectability
~ DCSC
- ▶ Effective Tax Administration

The client call....



- So the phone rings
- The potential client wants help
- And then the story starts....

Because of this...

- All calls are directed to Nicole (my admin)
- Nicole completes the intake form
- Does the Intake form



Questions

- Intake circulated
- Do we want this client?
 - a. Do we handle this?
 - b. Does it make economic sense?
 - c. Is this client crazy?

NEW CLIENT INTAKE FORM

|

Name: _____

Telephone Number: _____

Email: _____

Who referred you to us? _____

Who is your tax preparer? _____

I need tax help with:

Internal Revenue Service (IRS)

State (which one) _____

Define tax matter:

Personal Income Tax

Corporate, Partnership or other entity

Trusts and Estates

Foreign

Cryptocurrency

Tax planning

Have you received any written communications from the taxing authority? Yes ___/ No ___

Please attach the most recent correspondence from the taxing agency. [Completion of the form or submission of correspondence does not establish an attorney/client relationship.]

The Consult

► What type is it?

- Transcript Analysis? \$1,500
- Collection Analysis? \$2,500
- Strategy Consult? \$750

Why the Consult...and why the fee?

- If we do not charge a fee, guess what we will spend our day doing?
- It confirms they are serious
- Also, what are we doing?



What are we doing?



- CNC?
- Installment Agreement?
- Offer-in-Compromise...and if so, periodic or lump-sum?

I don't know why I owe this?

- ▶ I have bills from the IRS
- ▶ I was only the manager
- ▶ No, never spoke to anyone at the IRS



Case Study

See attached exhibit: DATL Case Study Handout

Doubt-as-to-Liability Offer

Challenging the
underlying liability
(Form 656-L)

Not about ability to
pay but if the
taxpayer can prove
they do not owe
the money

Doubt-as-to-Liability Offer

- ▶ Similar to Audit Reconsideration
- ▶ Need to effectively do the audit the way it should have been done and submit the package with the 656-L
- ▶ Package should include the return, and if needed, the amended return showing the correct numbers

Doubt-as-to-Liability Offer

- ▶ The package includes the supporting documents
- ▶ Make it dummy proof
- ▶ Feel free to use table of contents, exhibit lists, cross references, etc



Pros and Cons of a DATL

Pros

- ▶ Collection Stops
- ▶ Forces an audit reconsideration
- ▶ Can reopen TFRP assessments

Cons

- ▶ Must Offer something (\$)
- ▶ Compromises future liability (i.e. no refunds)
- ▶ Taxpayer must be in and maintain compliance

Most Calls Are About Collectibility

- ▶ Cant pay this
- ▶ Heard a commercial on TV last night
- ▶ Pennies on the dollar....



Doubt as to Collectability



- ▶ Most common Offer
- ▶ Based upon the taxpayers inability to full pay the liability
- ▶ It's a request for the government to accept less than the full amount owed because of the taxpayer's financial situation

Offer in Compromise: Collectibility

Lump Sum

- Paid in 5 or fewer payments
- Net Equity In Assets
- 12 Months of future income

Periodic/ Deferred

- Paid in more than 5 but less than 24 monthly payments
- Payments start when the OIC is filed
- Net equity in assets
- 24 months of Future Income

Offer in Compromise



- ▶ \$205 application fee
- ▶ 20% deposit with a lump sum offered
- ▶ Monthly payments with deferred offers start when the offer is filed and continue until accepted or rejected

The OIC Process

1. Consultation
2. Pull and Review Transcripts for CSED Issues
3. Perform RCP Calculation
4. Deal with Compliance Issues
5. Implement Strategies
6. Prepare CIS
7. Submit Offer
8. Appeal if denied

Back to the phone call

- ▶ The phone call...
- ▶ Sign the retainer agreement
- ▶ Upload the documents
- ▶ Pay the \$2,500 analysis



Example: “I want an Offer-in-Compromise.”

- Phone rings
- He owes \$100,000
- He makes \$70,000
- Can he do an Offer-in-Compromise?



Example: “I want an Offer-in-Compromise.”

- Honestly, I have no idea: equivalent of “Hey, can you get me a refund on my 2022 tax return?”
- Is he single or married with 4 kids?
- Is the debt all from 2021 or from 2015?
- Is he in great health or have major medical expenses?



We charge \$2,500 for the analysis

- ▶ Don't know if you are an Offer candidate or not
- ▶ Need to do the complete analysis
- ▶ We don't file offers that are a waste of our time and your money.
- ▶ We charge \$6,000 for an Offer minus the analysis fee of \$2,500
- ▶ If an Offer candidate just pay the difference of \$3,500.
- ▶ Its better than paying \$6,000 and then just filing and praying it works.

Closing rate

- ▶ 99.9% pay for the consult
- ▶ They like we are a real firm, in a place they can see, and people they can talk to
- ▶ Do not fear scaring away potential clients – if they wont pay for the consult then you don't want them anyway
- ▶ We do not take long-term payment plans, we do not barter, and we cannot charge a content fee (Circular 230 violation, Section 10.27)

Contingent Fees – Circular 230, Section 10.27

§ 10.27 Fees.

(b)Contingent fees — (1) Except as provided in paragraphs (b)(2), (3), and (4) of this section, a practitioner may not charge a contingent fee for services rendered in connection with any matter before the Internal Revenue Service. (2) A practitioner may charge a contingent fee for services rendered in connection with the Service's examination of, or challenge to —

- (i) An original tax return; or
- (ii) An amended return or claim for refund or credit where the amended return or claim for refund or credit was filed within 120 days of the taxpayer receiving a written notice of the examination of, or a written challenge to the original tax return.
- (iii) A practitioner may charge a contingent fee for services rendered in connection with a claim for credit or refund filed solely in connection with the determination of statutory interest or penalties assessed by the Internal Revenue Service.
- (iv) A practitioner may charge a contingent fee for services rendered in connection with any judicial proceeding arising under the Internal Revenue Code

The Process

- ▶ Complete the 433 with actual expenses
- ▶ Apply the allowable standards
- ▶ Look at where the taxpayer is
- ▶ Can we apply any of our strategies...?



Example

- He owes money from 2019-2021, and it is \$100,000
- His net equity in assets is \$10,000
- His future income is \$1,000 a month, so:

Balance	\$100,000
Assets	(\$10,000)
Balance after assets	\$90,000
\$1,000/mo x CSED of 96 mos	(\$96,000)
FULL-PAY, No OIC	\$0 – unpaid balance

Example

- Full-pay installment agreement...Can we do better?
- We realize he does not have disability insurance or life insurance
- We get him term life insurance of \$100/month
- Get him Disability Income Insurance for \$325/month
- Now his future income is $\$1,000 - \$425 = \$575$

Example

- He can compromise the tax debt
- His net equity in assets is \$10,000
- His future income is $\$575 \times 12 = \$6,900$

Balance	\$100,000
Assets	(\$10,000)
Balance after assets	\$90,000
\$575/mo x CSED of 96 mos	(\$55,200)
OIC – cannot full pay!	\$34,800 unpaid balance

The OIC Lingo

- ▶ DATL: Doubt-as-to-Liability Offer
- ▶ DATC: Doubt-as-to-Collectability Offer
- ▶ ETA: Effective Tax Administration Offer
- ▶ DCSC: Doubt-as-to-Collectability with Special Circumstances Offer
- ▶ RCP: Reasonable Collection Potential
- ▶ CSED: Collection Statute Expiration Date

Initial Considerations

- Statute of Limitations
- Compliance
- Financial Analysis
 - RCP
- Easier Solution? CNC or Bankruptcy?



Collection Statute Expiration Date (“CSED”)

- How much time is left on the statute?
- Pull Transcripts
- Can we CNC and run out the clock?
- Is there real estate?



Pull Transcripts



This Product Contains Sensitive Taxpayer Data

Account Transcript

Request Date: 04-08-2014
Response Date: 04-08-2014
Tracking Number: 200191107146

FORM NUMBER: 1040
TAX PERIOD: Dec. 31, 2011

TAXPAYER IDENTIFICATION NUMBER: 999-99-9999
SPOUSE TAXPAYER IDENTIFICATION NUMBER: 888-88-8888

SANTA & JESSICA CLAUS

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE:	0.00	
ACCRUED INTEREST:	0.00	AS OF: Jul. 01, 2013
ACCRUED PENALTY:	0.00	AS OF: Jul. 01, 2013

Calculate the CSED Dates

CSED CALCULATIONS

YEAR	CODE	ASSESSMENT	DATE	AMOUNT	ESTIMATED TOTAL TOLLING DAYS	ESTIMATED CSED	ESTIMATED 3 YEAR LOOK BACK*	ESTIMATED 2 YEAR FILING RULE*	ESTIMATED 240 DAY ASSESSMENT*	ESTIMATED ELIGIBLE BANKRUPTCY DISCHARGE DATE*
2012										
	170	Penalty for not pre-paying tax 01-28-2024	11/18/2013	\$388.00	65	01/22/24	10/15/16	10/14/15	07/16/14	10/15/16
	150	Tax return filed	11/18/2013	\$21,657.00	65	01/22/24	10/15/16	10/14/15	07/16/14	10/15/16
2013										
	170	Penalty for not pre-paying tax 12-28-2024	11/17/2014	\$407.00	35	12/22/24	10/15/17	10/14/16	07/15/15	10/15/17
	150	Tax return filed	11/17/2014	\$22,677.00	35	12/22/24	10/15/17	10/14/16	07/15/15	10/15/17
2014										
	170	Penalty for not pre-paying tax 12-23-2025	11/23/2015	\$399.00	30	12/23/25	10/15/18	10/14/17	07/20/16	10/15/18
	150	Tax return filed	11/23/2015	\$22,232.00	30	12/23/25	10/15/18	10/14/17	07/20/16	10/15/18
2015										
	170	Penalty for not pre-paying tax 11-07-2026	11/7/2016	\$354.00		11/07/26	10/15/19	10/12/18	07/05/17	10/15/19
	150	Tax return filed	11/7/2016	\$26,400.00		11/07/26	10/15/19	10/12/18	07/05/17	10/15/19
2016										
		No Assessments Present								
2017										
		No Assessments Present								

Step #1: Tax Compliance

- All returns filed that are due as of this date
- Current tax period payments being made
 - a) Proper withholding
 - b) Estimated tax payments
 - c) Payroll tax deposits

- ▶ What is compliance for tax returns?
- ▶ Last 6 years – IRM 1.2.14.1.18
- ▶ No OIC or IA without it!



Prior Years? Substitute for Returns?

- ▶ Prior years do not need to do
- ▶ Can if you want to (NOLs, Cap Losses, etc)
- ▶ SFR is a return and actual return does not need to be filed (unless you want to)

If the client cannot get into compliance?

- ▶ No OIC
- ▶ Submit 433 with docs to ACS or RO – buy time
- ▶ If CNC argue for CNC (no compliance necessary)
- ▶ If not CNC then propose an IA/PPIA
- ▶ Roll the current year into the IA

Analysis

- Are they an Offer candidate or not?
- This is why we charge for consultations
- Taxpayer will get benefit just from the meeting



Reasonable Collection Potential

- Gross monthly income
- Allowable expenses
- Determine future income
- Net equity in assets (QSV)
- $FI + NE = RCP$



Food, Clothing & Misc. (national std)

2022 Allowable Living Expenses National Standards

Expense	One Person	Two Persons	Three Persons	Four Persons
Food	\$431	\$779	903	\$1,028
Housekeeping supplies	\$40	\$82	74	\$85
Apparel & services	\$99	\$161	206	\$279
Personal care products & services	\$45	\$82	78	\$96
Miscellaneous	\$170	\$306	349	\$412
Total	\$785	\$1,410	1,610	\$1,900

More than four persons	Additional Persons Amount
For each additional person, add to four-person total allowance:	\$344

Housing (local by county)

2022 Allowable Living Expenses Housing Standards

County	State Name	2022 Published ALE Housing Expense for	2022 Published ALE Housing Expense for	2022 Published ALE Housing Expense for a Family of 3	2022 Published ALE Housing Expense for	2022 Published ALE Housing Expense for
San Juan County	Colorado	1665	1956	2,061	2298	2335
San Miguel County	Colorado	2267	2663	2,806	3129	3179
Sedgwick County	Colorado	1084	1273	1,341	1495	1519
Summit County	Colorado	2017	2369	2,496	2783	2828
Teller County	Colorado	1707	2005	2,113	2356	2394
Washington County	Colorado	1470	1726	1,819	2028	2061
Weld County	Colorado	1808	2124	2,238	2495	2536
Yuma County	Colorado	1501	1763	1,858	2072	2105
Fairfield County	Connecticut	2822	3315	3,493	3895	3958
Hartford County	Connecticut	2047	2405	2,534	2825	2871
Litchfield County	Connecticut	2035	2391	2,519	2809	2854
Middlesex County	Connecticut	2193	2576	2,714	3026	3075
New Haven County	Connecticut	2124	2495	2,629	2931	2979
New London County	Connecticut	1976	2320	2,445	2726	2770
Tolland County	Connecticut	2056	2414	2,544	2837	2882
Windham County	Connecticut	1815	2131	2,246	2504	2545
Kent County	Delaware	1640	1926	2,030	2263	2300
New Castle County	Delaware	1798	2112	2,225	2481	2521
Sussex County	Delaware	1643	1929	2,033	2267	2303
District of Columbia	District of Columbia	2596	3049	3,213	3582	3640
Alachua County	Florida	1597	1875	1,976	2203	2239

Transportation

2022 Allowable Living Expenses Transportation Standards

<i>Public Transportation</i>		
National	\$242	
<i>Ownership Costs</i>		
	One Car	Two Cars
National	\$588	\$1,176
<i>Operating Costs</i>		
	One Car	Two Cars
Northeast Region	\$315	\$630
Boston	\$304	\$608
New York	\$406	\$812
Philadelphia	\$321	\$642
Midwest Region	\$240	\$480
Chicago	\$267	\$534
Cleveland	\$240	\$480
Detroit	\$349	\$698
Minneapolis-St. Paul	\$237	\$474
St. Louis	\$263	\$526

Out of Pocket Health Care Costs

2022 Allowable Living Expenses Health Care Standards

	Out of Pocket Costs
Under 65	\$75
65 and Older	\$153

Financial Guidelines

Expense	Actual or Allowable
Food, Clothing and Misc	National Standard
Housing and Utilities	Lesser of Actual or Local Standard
Automobile - Ownership	Lesser of Actual or National Standard
Automobile - Operating	Local Standard
Public Transportation	National Standard
Health Insurance	Actual
Out of Pocket Health Care Costs	Higher of Actual or National Standard
Court Ordered Payments	Actual
Child/Dependent care expenses	Actual (must be necessary)
Life Insurance	Actual (must be reasonable)
Current Year Taxes	FIT, FICA or SE, SIT, Local
Secured Debts	Actual
Delinquent State Taxes	Percentage of State v. Federal Debt

Cash

- ▶ Cash includes cash in the bank and on-hand. List the cash that ties to the bank balance at the end of the last bank statement
- ▶ IRM 5.8.5.7(1) – allows cash to be treated as not available if it is needed to pay current expenses, usually 1 month
- ▶ Argue for an amount equal to one month of allowable expenses to be treated as not available for collection
- ▶ Example, TP has \$10,000 in the bank and allowable monthly expenses of \$7,200. We explain that per IRM 5.8.5.7 that \$7,200 is needed by the TP and only \$2,800 should be required to be paid in to the IRS

Investments

- ▶ Investments are valued at their current market value available per public listing
- ▶ Consider if the investment is something that either (a) has no value or (b) is not marketable (like a SMLLC without assets)
- ▶ IRM 5.15.1.28 (4) – Contributions to retirement plans are not an allowable expense

Investments

- ▶ For qualified investments, the IRS steps into the shoes of the TP: if client can liquidate and get it so can the IRS
- ▶ Allow for current taxes on gains/income and any 10% early withdrawal penalty
- ▶ IRS will want loans taken if allowed and needs to allow for the future expense repaying the loan

Virtual Currency



- ▶ Considered an asset
- ▶ IRS is utilizing data to compare to 433s submitted by taxpayers in the last few years
- ▶ Fraud referrals are up 42% from Collections

Life Insurance

- ▶ Cash value life insurance is considered an asset
- ▶ Cash value will be considered available
- ▶ Find out limit on borrowing to avoid collapsing the policy
- ▶ **If used to pay taxes loan repayment should be allowed**
- ▶ Term is allowed as an expense
- ▶ **Negotiate for a portion of permanent policies to be allowed as an expense!**

Real Estate – the Asset



- ▶ 80% quicksale value
- ▶ IRS uses Zillow as a default check, so check
- ▶ If like Zillow, use it
- ▶ If not, then consider an appraisal plus a separate statement of value plus town valuation

Real Estate - Expense

- ▶ The housing and utilities standards are derived from U.S. Census Bureau, American Community Survey and BLS 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. Housing and utilities standards are also provided for Puerto Rico.
- ▶ 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.

Real Estate - Expense

- ▶ TP gets lesser of the standard or their actual
- ▶ Does NOT include HELOC/Home Equity Line - this expense goes on the secured debts line
- ▶ Benefits the taxpayer because otherwise usually just ignored because of the limitation
- ▶ IRM 5.15.1.31 – establishing FMV, reduced by loans. Make three attempts online to tap equity (online because of the rejections)

Personal Vehicles

- ▶ Each spouse is entitled to 1 vehicle
- ▶ IRS will not allow a payment if the person has another vehicle (Pick-up truck with payment, and a motorcycle with none)
- ▶ This is an area where we often have to do clean-up before submitting



Personal Assets



- ▶ \$10,090 is exempt under Rev Proc 2021-45 (.49)
- ▶ IRS is looking for assets that can be sold – jewelry, artwork, collectibles
- ▶ Check the Homeowner's insurance riders!

Offer Analysis

- ▶ No OIC if can be full paid via an installment agreement
- ▶ Income averaging – review last 3 years of tax returns
- ▶ Dissipated assets – review last three years of tax returns (Schedule D, Form 4797, Gift Tax Returns)

Older Vehicle

Additional \$200 a month for operating an older vehicle (10 years and/or 100,000 miles)

IRM 5.8.5.20.3.5



Future Income Collateral Agreements

- ▶ IRS Can do but hates them
- ▶ If income crosses thresholds govt gets more
- ▶ DOJ requires
- ▶ Protects the government

FICA

The purpose of this collateral agreement (hereinafter referred to as this agreement) is to provide additional consideration for acceptance of the offer referred to above. It is understood and agreed as follows:

1. In addition to any payments and other consideration under the settlement offer referred to above, the taxpayer will pay out of annual income for the years 2016 to 2022, inclusive:

- (a) Nothing on the first \$150,000.00 of annual income;
- (b) 20 percent of annual income in excess of \$150,000.00 and not in excess of \$200,000.00;
- (c) 25 percent of annual income in excess of \$200,000.00 and not in excess of \$250,000.00;
- (d) 30 percent of annual income in excess of \$250,000.00.

Low-Income Certification (656 Page 2)

Page 2

Low-Income Certification (Individuals and Sole Proprietors Only)

Do you qualify for Low-Income Certification? You qualify if your adjusted gross income, as determined by your most recently filed Individual Income Tax return (Form 1040) or your household's gross monthly income from Form 433-A(OIC) x 12, is equal to or less than 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 or the application fee upon submission or during the consideration of your offer. If your business is other than a sole proprietor you cannot qualify for Low-Income Certification. The IRS will verify whether you qualify for Low-Income Certification.

Note: By checking one of the boxes below you are certifying that your adjusted gross income or your household's gross monthly income x 12 and size of your family qualify you for the Low-Income Certification.

- ☐ I qualify for the low-income certification because my adjusted gross income for my household's size is equal to or less than the amount shown in the table below.
- ☐ I qualify for the low-income certification because my household's size and gross monthly income x 12 is equal to or less than the income shown in the table below.

IF YOU QUALIFY FOR THE LOW-INCOME CERTIFICATION DO NOT INCLUDE ANY PAYMENTS WITH YOUR OFFER. Generally these payments will not be returned and will be applied to the tax liability in the best interest of the government.

Size of family unit	48 contiguous states, D.C., and U.S. Territories	Alaska	Hawaii
1	\$32,200	\$40,225	\$37,050
2	\$43,550	\$54,425	\$50,100
3	\$54,900	\$68,625	\$63,150
4	\$66,250	\$82,825	\$76,200
5	\$77,600	\$97,025	\$89,250
6	\$88,950	\$111,225	\$102,300
7	\$100,300	\$125,425	\$115,350
8	\$111,650	\$139,625	\$128,400
For each additional person, add	\$11,350	\$14,200	\$13,050

Why RCP is so important

- ▶ What is the point of working on an OIC the taxpayer cannot pay?
- ▶ Are there strategies we can utilize to reduce the RCP?
- ▶ Is another alternative more attractive (like CNC)

Why CSED is so Important

- ▶ Can they full pay?
- ▶ Example: Taxpayer owes \$100,000
- ▶ Equity in assets = \$10,000
- ▶ Future Income is \$1,000/month

Why CSED is so Important

- ▶ Just filed so 10-year CSED (120 months):
- ▶ \$100,000 – Equity of \$10,000 = \$90,000
- ▶ Future Income pays off in 90 months
- ▶ NO OFFER

Why CSED is so Important

- ▶ Debt is 6 years old, so 4 years left (48 months):
- ▶ $\$100,000 - \text{Equity of } \$10,000 = \$90,000$
- ▶ Future Income is only \$48,000
- ▶ Offer is \$10,000 of equity + \$12,000 of future income!

Offer Type: Lump Sum

- ▶ Net equity in assets + 12 months of future income
- ▶ 20% paid when filed
- ▶ Balance paid within 5 months of acceptance

Offer Type: Periodic (Deferred)

- ▶ Net equity in assets + 24 months of future income
- ▶ Monthly payments submitted when filed and ongoing until rejected or if accepted, until done

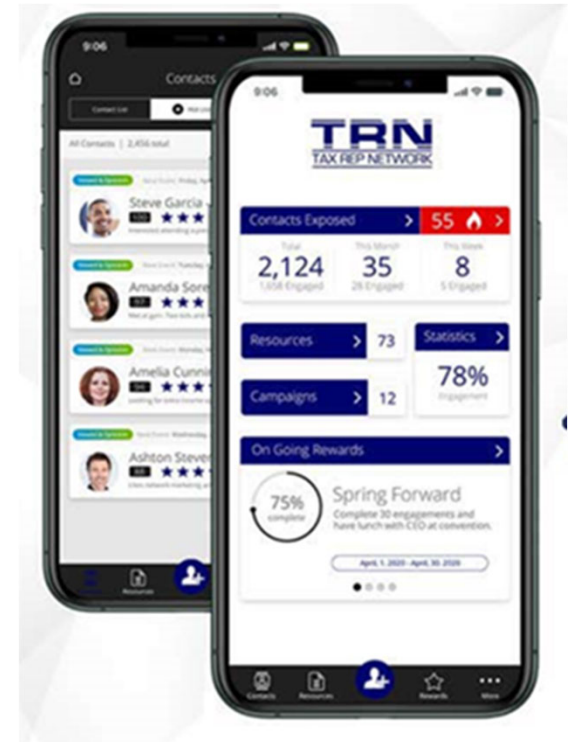
If rejected and appeal, you do NOT need to keep making payments!

Lump-Sum vs Periodic?

- ▶ Its all about the 433 RCP calculation:
 - a. If most is from future income, lump-sum is cheaper
 - b. If most is from assets, take the extra time with periodic
- ▶ Example 1: Client has RCP of \$1,500 in assets (car) and future income of \$1,000/month. Lump Sum Offer is \$13,500. Periodic is \$25,500. Go with Lump Sum!
- ▶ Example 2: Client now has equity of \$10,000 in assets and no future income. Lump Sum and Periodic are both \$10,000. TP choice, but periodic gives them 24 months to pay!

The reason for the \$2,500 Consult?

- ▶ I need to do the RCP calculation
- ▶ We may have clean-up to do (Empty LLCs, extra vehicles, etc)
- ▶ Credited towards the \$5,000 we charge for Offers
- ▶ 99.9% closing rate (the Tax Rep App does this too)



SECRET!

- ▶ Periodic payments do not need to be paid evenly!
- ▶ So in Example 2, I would Offer this:

Periodic Payment

☒ Check here if you will pay your offer in full in 6 to 24 months

Enter the amount of your offer \$ 10,000.00

Note: The total months may not exceed a total of 24. For example, if you are requesting your payments extend for 24 months then your first payment is considered to be month 1 and your last payment is considered month 24. There will be 22 payments between the first and last month.

Enclose a check for the first month's payment *(waived if you met the requirements for the Low-Income Certification)*.

The first monthly payment of \$ 50 is included with this offer then \$ 50 will be received on the 28th day of each month thereafter for 22 months with a final payment of \$ 8,850 to be paid on the 28th day of the 24th month.

Up until now

- ▶ We have covered the Offer process and RCP calculation
- ▶ Are there exceptions to the RCP number?
- ▶ When do these special forms of Offers apply?

Effective Tax Administration Offers

An ETA offer is an Offer where the taxpayer could full-pay the liability but where, for public policy reasons, the IRS should agree to accept less than the full-amount

Very rarely given

All ETA Offers are reviewed in Washington, DC

ETA vs. DCSC

- ▶ ETA is where RCP exceeds liability but hardship/public policy exists
- ▶ Doubt-as-to-Collectability with Special Circumstances is when they cannot fully pay the tax due but have proven special circumstances that warrant acceptance for less than RCP

RCP If Only One Taxpayer is Liable

- ▶ Situation comes up when only one taxpayer is responsible for a debt
- ▶ Comes up Frequently:
 - a. Spouse incurred debts before marriage
 - b. Spouse is deemed responsible for TFRP
 - c. Couple live together but are not married

Treatment

- ▶ Treat the couple as married and then allocate joint expenses
- ▶ Allocation is generally done based upon the percentage of household income

Allocation of Joint Expenses

► IRM § 5.15, Exhibit 5.15.1-1, Questions and Answers to Assist in Financial Analysis, Example 14

14. A taxpayer lives with his fiancé. Both of them are wage earners. The home is owned by the fiancé but the taxpayer claims he pays all the household bills, including the mortgage. They have a joint checking account and all wages are electronically deposited to that account. The taxpayer's proportionate share of household income is 64%. How is the excess income determined when making a determination of payment ability?

The total allowable and conditional expenses would be determined for the entire household the same as a married couple. The taxpayer would then be allocated 64% of those expenses when determining the monthly installment agreement amount.

Allocation Example

Joe & Mary Future Income Analysis

		57%			
Income	Actual	Expenses	Actual	Allowable	Allocated
Wages (yourself)	\$ 6,500	Food, Clothing and Misc	\$ 2,100	\$ 1,900	\$ 1,074
Wages (spouse)	\$ 5,000	Housing & utilities	\$ 3,200	\$ 2,931	\$ 1,657
Interest - Dividends	\$ -	Vehicle Ownership	\$ 450	\$ 450	\$ 450
Net Business Income	\$ -	Vehicle Operating Costs	\$ 800	\$ 630	\$ 315
Net Rental Income	\$ -	Public Transportation	\$ -	\$ -	
Distributions	\$ -	Health Insurance	\$ 1,200	\$ 1,200	\$ 678
Pension/Soc Sec (taxpayer)	\$ -	Out of Pocket HealthCare	\$ 200	\$ 425	\$ 240
Pension/Soc Sec (spouse)	\$ -	Court ordered pmts	\$ -	\$ -	
Social Security (taxpayer)	\$ -	Child/Dep Care	\$ -	\$ -	
Social Security (spouse)	\$ -	Life Insurance	\$ 100	\$ 100	\$ 50
Child Support	\$ -	Current Year Taxes	\$ 2,875	\$ 2,875	\$ 1,625
Alimony	\$ -	Secured Debts	\$ -	\$ -	
Other Income	\$ -	Delinquent State Taxes	\$ -	\$ -	
	\$ -	Student Loans	\$ -	\$ -	
	\$ -	Total Living Expenses	\$ 10,925	\$10,511	\$ 6,089
Total	\$ 11,500	Net Difference	\$ 575	\$ 989	\$ 411

So what is allocated and what is not

- ▶ Joint expenses that cover more than the couple
- ▶ Food & Clothing, housing, health insurance and out-of-pocket healthcare costs are numbers that cover all 4 family members, so they are allocated
- ▶ The auto payments, life insurance and taxes we can just use the debtor spouse for a single individual

Community Property

- ▶ **5.15.1.5 (11-17-2014), Shared Expenses**
- ▶ Although the assets and income of a non-liable person may be reviewed to determine the taxpayer's portion of the shared household income and expenses, they are generally not included when calculating the amount the taxpayer can pay.
- ▶ One notable exception is community property states.

Community Property

- ▶ Community Property States: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.
- ▶ In addition, Alaska is an opt-in community property state; property is separate property unless both parties agree to make it community property through a community property agreement or a community property trust.
- ▶ The territories of Puerto Rico, Guam and the Commonwealth of the Northern Mariana Islands also allow property to be owned as community property.

Community Property State: Collection

- ▶ The income of a couple will be determined as follows:
 - a. 100% of the income earned by the debtor spouse or from separate property owned by the debtor spouse
 - b. 50% of the income from community property and all sources regardless of who owns it or earned it
- ▶ All property of the marriage will be available for collection in the community property state (Texas 50%)
- ▶ Real estate of a non-liable spouse in a separate property jurisdiction is not available for collection

So conclusion for one spouse...

- ▶ If the client comes in before filing, consider the impact of a MFS return
- ▶ Can we keep the other spouse (and their assets) out of the tax issue
- ▶ Are they in a separate property state or community property state

Strategies

- Spend assets to get into compliance
- Non-Filer: File MFS?
- Non-Filer: File State First
- Adjust the RCP Calculation: Go Shopping



Strategy 1: Spend the Assets

- ▶ Taxpayer needs to get into compliance
- ▶ Has assets they will otherwise be including in their Offer
- ▶ Compliance is an issue
- ▶ Spend the assets to get into compliance

Strategy 1: Spend the Assets

- ▶ Example: Joe has an IRA with \$25,000 and a Pick-up Truck worth \$5,000. His future income is \$200 a month. RCP is $(\$17,500 + \$550 + \$2,400)$ \$20,450.
- ▶ Joe needs to be making quarterly estimated payments of \$3,500 and it's the third quarter.
- ▶ Joe cashes the IRA (receives \$17,500) and sends in his first three quarterly estimates (\$10,500).
- ▶ Reduces his RCP to \$9,950, has the \$1,990 for the 20% deposit, IRA is not dissipated (paid it to the IRS)

Strategy #2: MFS instead of MFJ

- ▶ CAVEAT: This works in Separate Property States, not so much in Community Property States
- ▶ Consider filing Married filing separate to keep the other spouse out of the debt (and RCP)
- ▶ See the client story after #3

Strategy #3: File the State First

- ▶ Delinquent state tax debts are 100% allowed as an RCP expense IF THE STATE IS IN PRIORITY POSITION OVER FEDS!
- ▶ If file together IRC 6321 puts IRS in first position (according to IRS)
- ▶ Only allowed a portion of the payment

Case Study for Strategies 2 and 3

- ▶ Husband and Wife are non-filers for last 8 years
- ▶ Major issues have occurred
- ▶ He is self-employed, she is a stay at home mom
- ▶ He has a pick-up truck and small IRA, earns \$180,000/yr
- ▶ She left a corporate job in NYC, has an IRA with \$500,000 and inherited their home worth \$1.2 million, no mortgage

Case Study for Strategies 2 and 3

- ▶ Go to CPA who does the last 6 years of tax returns MFJ
- ▶ Owe IRS \$300,000 and CT \$120,000
- ▶ He has future available income of \$3,800 a month

Case Study for Strategies 2 and 3

- ▶ They can easily full-pay from assets
- ▶ He can also full pay from future income (\$3,800 x 120 months on collection statute is more than the liability)
- ▶ Have him redo them MFS: He now owes \$380,000 to IRS and \$150,000 to CT. She owes nothing
- ▶ File CT returns. Once the bills arrive negotiate for \$3,800 a month payment plan.
- ▶ His Future Income is \$0, and his assets are \$4,100 for truck and net IRA

Strategy #4

- ▶ Figure out the RCP
- ▶ Change the future income calculation by spending it:
 - a. New Car (up to \$588/month)
 - b. Health Insurance
 - c. Term Life Insurance
 - d. Disability Insurance
 - e. Establish student loan, alimony or child support payments that have been in arrears
 - f. Our fees become a future expense - IRM 5.15.1.11 (3)

The Offer Package

- The Forms
- The Support
- The Cover Letter
- The Payment
- The IRS Responses
- The Appeal



Offer Documents

- ▶ Offer Booklet is Form 656-B
- ▶ Inside is the Form 656 (The Offer)
- ▶ Form 433-A (OIC) – Personal Financial
- ▶ Form 433-B (OIC) – Business Entity Financial

Form 656 Booklet

Offer in Compromise



CONTENTS

■ What you need to know	1
■ Paying for your offer	3
■ How to apply	4
■ Completing the application package	5
■ Important information	6
■ Removable Forms - Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed; Form 433-B (OIC), Collection Information Statement for Businesses; Form 656, Offer in Compromise	7
■ Application Checklist	29

IRS contact information

If you want to see if you qualify for an offer in compromise before filling out the paperwork, you may use the Offer in Compromise Pre-Qualifier tool. The questionnaire format assists in gathering the information needed and provides instant feedback as to your eligibility based on the information you provided. The tool will also assist you in determining a preliminary offer amount for consideration of an acceptable offer. The Pre-Qualifier tool is located on our website at www.irs.gov.

If you have questions regarding qualifications for an offer in compromise, please call our toll-free number at 1-800-829-1040. You can get forms and publications by calling 1-800-TAX-FORM (1-800-829-3676), by visiting your local IRS office, or at www.irs.gov.

Taxpayer resources

The Taxpayer Advocate Service (TAS) is an independent organization within the Internal Revenue Service that helps taxpayers and protects taxpayer rights. TAS helps taxpayers whose problems with the IRS are causing financial difficulties, who've tried but haven't been able to resolve their problems with the IRS, or believe an IRS system or procedure isn't working as it should. And the service is free. Your local advocate's number is in your local directory and at taxpayeradvocate.irs.gov. You can also call us at 1-877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to taxpayeradvocate.irs.gov. TAS is your voice at the IRS.

Low-Income Taxpayer Clinics (LITCs) are independent from the IRS. LITCs serve individuals whose income is below a certain level and who need to resolve a tax problem with the IRS. LITCs provide professional representation before the IRS or in court on audits, appeals, tax collection disputes, and other issues for free or for a small fee. For more information and to find a LTC near you, see the LTC page at www.taxpayeradvocate.irs.gov/litcmap or IRS Publication 4134, Low-Income Taxpayer Clinic List. This Publication is also available by calling the IRS toll-free at 1-800-829-3676 or visiting your local IRS office.

Supporting Documents

- ▶ Cover Letter
- ▶ Checks
- ▶ IRS Form 2848 – Power of Attorney
- ▶ Any Last Minute filings for compliance (2751 waiver forms, estimated tax payments, missing 1040s filed, etc)
- ▶ Back-up documents for any income or expense item claimed that is not a national standard

The Cover Letter

- ▶ Highlight anything you want the IRS to know and consider
- ▶ Disclose anything that you believe requires disclosure
- ▶ You may want to walk the IRS through your RCP argument
- ▶ ETA and DCSC circumstances highlighted

IRS Response – Offer Received

Department of the Treasury

Internal Revenue Service
Centralized OIC
PO Box 9011 Stop 682
Holtsville, NY 11742

Date of this Letter: NOV

Person to Contact:
Mr. Exmployee
Employee #: 0xxxxxxx
Phone #: (866) 611-6191
08:00am-08:00pm Mon-Fri

Taxpayer ID#: ***-**-xxxx
Offer Number: 1001xxxxxx

Taxpayer Name
Taxpayer Address
City, CT xxxxx

Dear Mrs. Taxpayer,

We received your Offer in Compromise. You will be contacted by 03/06/2017.

While investigating your offer, we will determine whether a notice of federal tax lien should be filed in order to protect the government's interests. If we determine to file a notice of federal tax lien we will provide you with notification within five days of the filing. You will have the opportunity to request a hearing with Appeals at which you may propose alternative methods for protecting the government's interest.

If you have any questions, please contact the person whose name and telephone number are shown in the upper right hand corner of this letter.

Since

Process Examiner Manager

IRS Response - Rejection

Department of the Treasury

Internal Revenue Service
Centralized OIC
PO Box 9011 Stop 682
Holtsville, NY 11742

Date of this Letter: JUN -

Person to Contact:
Mr. Employee
Employee #:1000XXXXXX
Phone#: (866)611-6191 EXT.
3366 08:00am-03:30pm Mon-Fri

Taxpayer ID#:-*-*-XXXX
Offer Number:1001XXXXXX

Taxpayer Name
Taxpayer Address
City, CT Zip

Dear Mr. Taxpayer,

We have investigated your offer dated 11/28/2016 in the amount of \$250.00.

We are rejecting the offer for the following reason(s):

The amount offered is less than your reasonable collection potential. Copies of worksheets showing our calculations are enclosed for your review.

Based on the financial information you submitted, we have determined you can pay the amount due in full.

We have considered the special circumstances you raised but they did not warrant a decision to accept your offer.

If you disagree with our findings, please provide any additional information in writing to support your position within 30 days of the date of this letter. If you also want your case considered by the Office of Appeals, you must include a written statement in your response asking that your case be sent to the Office of Appeals after our reconsideration. If you do not send this written statement within 30 days of the date of this letter you will not receive consideration by the Office of Appeals.

IRS Response - Reject or Increase

Department of the Treasury
Internal Revenue Service
2888 Woodcock Blvd. Stop 314
Atlanta, GA 30341

Taxpayer Name
Taxpayer address
City, CT xxxxx

Date of this Letter:

Person to Contact:
EMPLOYEE NAME
Employee #:1000XXXXXX
Phone#: (XXX) XXX-XXXX
EXT. 07:00am-07:00pm Mon-Fri

Taxpayer ID#:***-**-XXXX
Offer Number:1001XXXXXX

Dear Mr. _____,

We have investigated your offer dated 12/03/2014 in the amount of \$12,864.00.

We are rejecting the offer for the following reason(s):

The amount offered is less than your reasonable collection potential. Copies of worksheets showing our calculations are enclosed for your review.

If you agree to increase your offer to \$81,658.00, we will recommend acceptance. That recommendation is subject to additional review and approval. You will be notified in writing if the amended offer is accepted. If you wish to amend your offer, please contact the person whose name appears at the top of this letter within 30 days of the date of this letter.

The Appeal

- ▶ Most of our Offers go to appeals
- ▶ Draft a letter and state you are appealing
- ▶ Raise any issue that you disagree with
- ▶ Appeals will not raise issues that COIC did not raise

IRS Response – Offer Addendum

Form 14640 (December 2020)	Department of the Treasury—Internal Revenue Service Addendum to Form 656
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Part 1.

The purpose of this addendum is to amend the below offer amount I/we are offering to pay and/or to specify the payment terms if the offer is accepted.

Taxpayer name	Offer number
Primary Taxpayer SSN/EIN (last 4 digits)	Secondary Taxpayer SSN/EIN (last 4 digits)

I/We submitted an offer dated _____ in the amount of \$ _____
for the type of tax _____ for the following tax periods _____

_____, I understand that I
retain the right to pay the offer amount sooner than the terms listed below.

Part 2. Revised Offer in Compromise Payment—Lump Sum Cash Offer Terms

Lump sum cash offer of \$ _____ with \$ _____ paid with the offer and \$ _____
paid with any amended Form 656 and/or this addendum. The remaining balance of \$ _____ to be paid as follows:

A. \$ _____ payable within _____ month after acceptance

B. \$ _____ payable within _____ months after acceptance

C. \$ _____ payable within _____ months after acceptance

D. \$ _____ payable within _____ months after acceptance

E. \$ _____ payable within _____ months after acceptance

Part 3. Revised Offer in Compromise Payment—Periodic Payment Offer Terms

Periodic payment offer of \$ _____ to be paid within _____ months with \$ _____ paid with the
offer. The amount paid with any amended Form 656 and/or this addendum is _____. The amount already
paid in periodic payments is \$ _____. The remaining balance of \$ _____ to be paid as follows:
\$ _____ will be sent beginning on the _____ day of the month _____ (Jan-Dec) _____ (Year) and then
\$ _____ will be sent on the _____ of each month for _____ months with a final payment of \$ _____
to be paid on the _____ day of the _____ month.

Part 4. Reason for the Offer

Addendum – Adjusting the Offer

- ▶ Taxpayer offered \$10,000
- ▶ IRS now says they will accept \$15,000
- ▶ Form 14640 – addendum
- ▶ Check for difference of \$1,000 must go with it
- ▶ No guarantee supervisor agrees

Addendum

Form **14640**
(December 2020)

Department of the Treasury—Internal Revenue Service
Addendum to Form 656

Part 1.

The purpose of this addendum is to amend the below offer amount I/we are offering to pay and/or to specify the payment terms if the offer is accepted.

Taxpayer name Taxpayer	Offer number 1xxxxxxxxx
Primary Taxpayer SSN/EIN (last 4 digits) xxxx	Secondary Taxpayer SSN/EIN (last 4 digits)

I/We submitted an offer dated 1/1/2022 in the amount of \$ 10,000
for the type of tax Income for the following tax periods 2017, 2018, 2019, 2020

I understand that I
retain the right to pay the offer amount sooner than the terms listed below.

Part 2. Revised Offer in Compromise Payment—Lump Sum Cash Offer Terms

Lump sum cash offer of \$ 15,000 with \$ 2,000 paid with the offer and \$ 1,000
paid with any amended Form 656 and/or this addendum. The remaining balance of \$ 12,000 to be paid as follows:

- A. \$ 12,000 payable within 5 month after acceptance
- B. \$ payable within months after acceptance
- C. \$ payable within months after acceptance
- D. \$ payable within months after acceptance
- E. \$ payable within months after acceptance

Part 3. Revised Offer in Compromise Payment—Periodic Payment Offer Terms

IRS Response – Offer Accepted



Department of the Treasury
Internal Revenue Service
Appeals Office
150 Court Street, Room 312
New Haven, CT 06510

Taxpayer name
Taxpayer Address
City, CT, Zip

Date:

MAR 21 2017

Person to contact:

Name: Employee Name
Employee ID number: 100xxxxxx
Telephone: 203-xxx-xxxx
Fax: 855-xxx-xxxx
Hours: 8:00 - 4:30
Tax period(s) ended:
12/2007 12/2008 12/2009 12/2010
12/2011

Re:

Offer in Compromise

Dear Mr. _____:

We accepted your offer in compromise signed and dated by you on 12/03/2014 and as modified by an addendum dated 02/01/2017. The date of acceptance is the date of this letter and our acceptance is subject to the terms and conditions on the enclosed Form 656, *Offer in Compromise*.

Please note that the conditions of the offer require you to file and pay all required taxes for five tax years, beginning from the date of this letter.

If you are required to make payments under this agreement, make your check or money order payable to the United States Treasury and send it to:

IRS - OIC
P.O. Box 24015
Fresno, CA 93779

You must promptly notify the IRS of any change in your address or marital status. That way we'll have the correct address to advise you of your offer status.

IRS Response – Terms Met

Department of the Treasury
Internal Revenue Service
PO Box 9006, Stop 663
Holtsville, NY 11742

Date of this Letter: **MAJ**
Person to Contact:
NAME
Employee #:xxxxxxx
Phone#: (631) 447-4279 EXT.
07:00am-03:30pm Mon-Fri
Taxpayer ID#:***-**-xxxx
Offer Number:1001xxxxxx

Taxpayer Name
Taxpayer Address
_____, CT Zip

Dear Mr. _____,

Thank you for your payment. You have met the payment provisions for your Offer in Compromise contract. Please remember that we will apply any overpayments from the year we accepted your Offer in Compromise to the tax periods specified in your offer contract.

REMINDER: Compliance is an important part of your Offer in Compromise contract. You must file and pay your taxes timely for five years following the date we accepted the offer or during an extended installment offer payment period, whichever is later. If you don't comply, we will terminate your offer and reinstate the original amount of your liability, less payments made.

We are processing your lien release and it should be effective within 30 days.

Questions?

