October 23, 2019

Internal Revenue Service

Attn: \_\_\_\_\_\_, Offer Specialist

550 West Ford St

Suite 300

Boise, ID 83724-0041

**Re: TAXPAYER, SSN x2521**

**Offer Number: \_\_\_\_\_\_\_\_**

Dear Mr. \_\_\_\_\_\_:

Enclosed please find the taxpayer’s Form 13711, Request for Appeal of Offer in Compromise. We disagree with the following items:

1. **Asset/Equity Table**
2. **Real Estate, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, MA**
3. **County FMV**

The county valuation used by the IRS does not take into consideration the current condition of the home. The home is outdated and poorly maintained. The taxpayer submitted a Comparative Market Analysis that outlined all of the issues with the home, including an unfinished master bath, damaged flooring, exterior painting that was in disrepair and mice and water damage. Per the CMA, the property was valued at $941,433. The taxpayer recently obtained an appraisal by Cullen Real Estate & Appraisal Company, a copy of which is enclosed herewith. The appraiser personally inspected the property, studied pertinent factors and prepared a formal appraisal. The appraisal report concludes the property has a fair market value of $900,000. Therefore, we submit that the value of the house is $900,000 based the report of the certified residential appraiser.

1. **Mortgage Loan Balance**

The IRS failed to account for the reinstatement amount owed on the first mortgage of $124,049 and the principal balance owed of $284,227 as well as the second mortgage of $28,516. Therefore, the total mortgage balances owed are $436,792.

1. **House, Generally**

The amount of equity proposed under the taxpayer’s offer is more than the IRS would likely receive by any other way. Given the pending foreclosure, mortgage arrearages and the taxpayer’s struggles to get the modification agreement approved, the taxpayer would clearly not be able to refinance the property to tap any equity to pay over to the IRS. If the house goes to foreclosure, the IRS will very likely get significantly less equity out of the house than as proposed under the taxpayer’s offer in compromise. If the property goes to foreclosure, the mortgage debt will continue to accrue during the foreclosure process (as well as new debt such as attorney’s fees, foreclosure committee fees, taxes, etc.) and there is no guarantee the foreclosure sale would generate 80% of the appraised value. Therefore, it is in the IRS’ best interest to accept the offer as contemplated.

1. **Income/Expense Table**
2. **Wages**

The IRS failed to account for the irregular wage income of the taxpayer. Enclosed please find a letter from the company’s accountant, confirming there are no anticipated funds remaining for 2019 to pay the taxpayer. He is presently receiving no paycheck. The taxpayer is the President/CEO of the company. When the company’s finances are strained, his salary is the first to be cut. Therefore, the taxpayer believes it is appropriate to use a three-year average of his income. Pursuant to IRM 5.8.5.20, if a taxpayer has an irregular employment history or fluctuating income, then the IRS should average earnings over the three prior years.

Accordingly, the taxpayer submits his future monthly income is $8,590.39, calculated pursuant to IRM .8.5.20 as follows:

|  |  |
| --- | --- |
| **Year** | **W2 Income** |
| 2017 | $80,793.00 |
| 2018 | $96,923.00 |
| 2019 | $131,538.00 |
| Annual Average | $103,084.67 |
| **Monthly Income** | **$8,590.39** |

1. **Vehicle Operating Costs, Aged Vehicle Allowance**

The IRS failed to include the additional $200 of operating expense. Pursuant to IRM 5.8.5.22.3, “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. Enclosed please find a photograph of the taxpayer’s vehicle’s odometer and a recent car service invoice as verification as to the car’s mileage.

1. **Out of Pocket Healthcare**

The taxpayer has several ongoing health concerns including respiratory troubles/sleep apnea and he has extensive dental issues. He requires special equipment for his respiratory issues. He needs crowns from his dentist on several teeth; enclosed is the treatment plan he will be undergoing which totals $8,400. Additionally, he is scheduled for oral surgery for implants which will total at least $5,000 (he meets with the oral surgeon next week and will receive a written estimate at that time). Enclosed is verification of these medical payments of approx. $256/month, plus the dental work of at least $13,400, if at best, spread out over 12 months would be another $1,117/month of expense for a total of $1,373/month in out of pocket healthcare expense.

1. **Life Insurance**

Enclosed please find verification of the taxpayer’s term life insurance of $833.35/month.

1. **Current Year Taxes**

Based on the IRS’s assertion that the taxpayer has wage income of $13,846, which the taxpayer explicitly denies, the IRS only allowed $2,021/month in current year taxes which is absurd. Based on the IRS income, the taxes would be roughly $3,300/month between the IRS and the state. However, the taxpayer believes his current year taxes are approximately $2,021/month based on his 2018 income or based on a 3-year average as defined above, $2,160/month.

1. **Other Factors**
2. **Taxpayer’s Age and Health**

The taxpayer is almost 59 years old, is overweight and fighting respiratory issues, has 2 dependent children, and has virtually no savings for retirement. His house is pending foreclosure (if the modification is not approved by the bank) and his marriage has fallen apart due to his ongoing financial issues. The stress of his tax issues is weighing heavily on him. The taxpayer foresees no way of ever repaying his total tax liability, and even the proposed settlement will cause significant financial distress. He prays the IRS will consider his offer as contemplated in the original submission.

After your reconsideration of the taxpayer’s offer, we respectfully request the case be sent to the Office of Appeals. I can be reached at (203) 285-8545 if there are any questions.

Very truly yours,

Eric L. Green

Enclosures