

# The Offer-in-Compromise Workshop

From Initial Call to Offer Acceptance

Eric L. Green, Esq.



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## Eric Green, Esq.

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- ▶ 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").

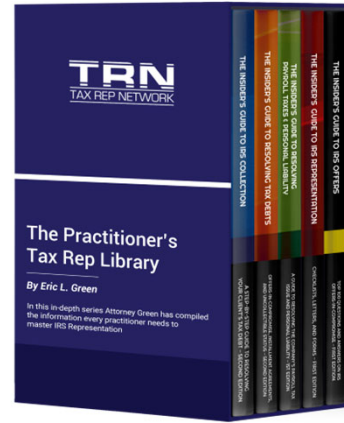


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# Eric Green, Esq.

- 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



# Upcoming Programs

TRN Live: 8 hours of case studies

- ▶ St. Louis (6/29) following Scaling New Heights
- ▶ San Antonio (7/27) Following NATP's Taxposium

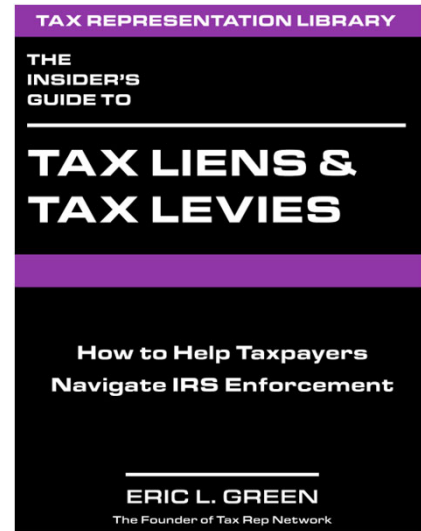
Join us at either, both in-person or via webcast

<https://taxrepllc.com/2023-trn-live/>



# Master Tax Liens

- ▶ Next week on Thursday 6/22
- ▶ Get Rid of Tax Liens: A Step by Step Approach
- ▶ Sample letters, case studies
- ▶ You will know liens after this
- ▶ \$39 early bird
- ▶ <https://taxrepllc.com/2023-series-liens/>



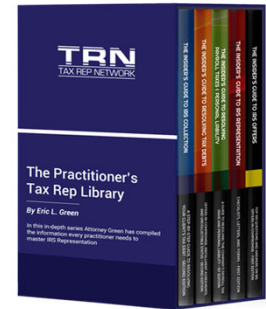
# Get Certified

- ▶ Have the rights back from UConn
- ▶ Twenty-Hours of training
- ▶ Hundreds of forms and exhibits
- ▶ Enhance your Tax Rep visibility and marketing
- ▶ Register before 7/1 and get the complete Tax Rep Library (\$600) as our free gift to help you take your practice to the next level!



## Get Certified

- ▶ <https://taxrepllc.com/ctrc/>
- ▶ Use Code **OIC200** and we will give you back the \$200 you spent today by reducing the price by the \$200, and get the complete library as our gift
- ▶ I will send you signed a copy of How to Build a \$1 Million Tax Rep Practice as my gift



## Before we get started....

- ▶ 16 Attendance polls
- ▶ Please do the polls for ce/cpe
- ▶ We will take 5 minute breaks at the top of each hour



## *5 Minute BREAK*

We will resume  
the program in a  
moment.



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## Agenda

1. The Basics of the Offer-in-Compromise program
2. Doubt-as-to-Liability Offers
3. Doubt-as-to-Collectibility Offers
4. Effective Tax Administration Offers
5. The Offer Process
6. Calculating Reasonable Collection Potential
7. Strategies
8. Offer Documents
9. Sample Offer Correspondence Letters
10. Marketing
11. Case Studies

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## 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.

## Current Landscape

- ▶ More than 10 million non-filers identified
- ▶ More than 15 million taxpayers in collection
- ▶ 8 million CP-14 Balance Due notices started going out to taxpayers the week of June 1<sup>st</sup>

## Current Landscape



- ▶ Enforcement Notices (threat to levy) will start going at the end of August
- ▶ Soft notice to be sent first
- ▶ Tidal wave of work is coming





## 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

## 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

### Lump Sum

- Paid in 5 or fewer payments
- Net Equity plus 12 Months of Future Income

### Deferred

- Paid in more than 5 but less than 24 monthly payments
- Payments must be made starting when the OIC is filed
- Net Equity plus 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

## The Phone Rings

- ▶ The phone call...
- ▶ Checklist Sent
- ▶ Consult agreement sent
- ▶ Link to pay the \$2,500 consult/analysis fee



## Pricing

- ▶ \$2,500 for analysis
- ▶ \$6,000 for Offer, minus the \$2,500 already paid
- ▶ Appeal? \$2,500 retainer and we bill hourly

## Partnership with Anchor

- ▶ Onboard your clients
- ▶ Automate the process and follow-up
- ▶ Its FREE to use (\$5 per financial transaction)
- ▶ Use our templates and letters
- ▶ <https://www.sayanchor.com/taxrep>



## Marketing tip...

- ▶ Unenrolled tax preparers
- ▶ Tell client – its \$6,000. Have preparer help you get your documents together, he/she is cheaper
- ▶ They charge \$1,500, then I only have to charge \$4,000 – you save \$500
- ▶ Have the preparer gather everything and send you a mocked up 433 – saves a ton of time and headache!

## 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 (the tale of Ron)
- 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 CLAUD

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (FOA/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								





# Tax Compliance

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## 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

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## Inside Secret

- ▶ 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)

## Analysis

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

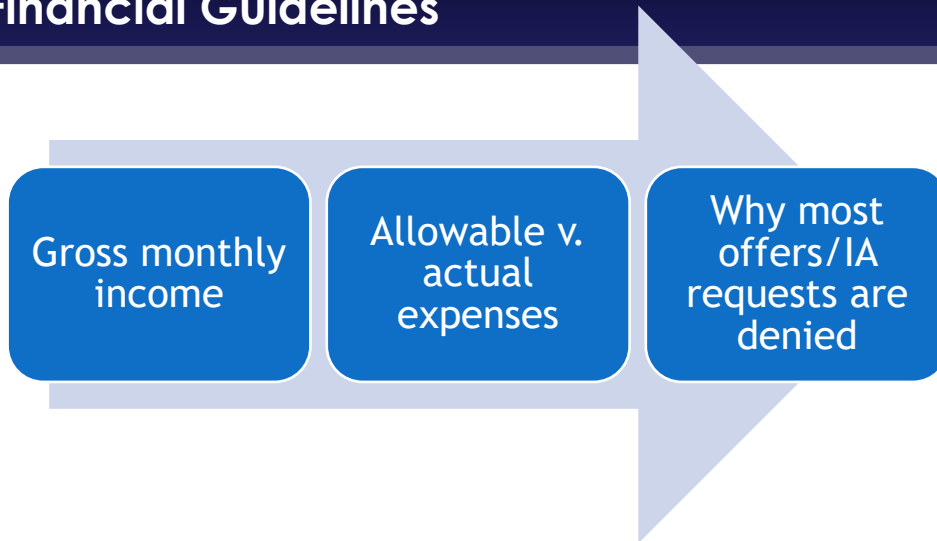


## Reasonable Collection Potential

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



## Financial Guidelines



<https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards>

## Food, Clothing & Misc. (national std)

### 2023 Allowable Living Expenses National Standards

Expense	One Person	Two Persons	Three Persons	Four Persons
Food	\$466	\$777	\$936	\$1,123
Housekeeping supplies	\$47	\$80	\$85	\$90
Apparel & services	\$96	\$145	\$207	\$252
Personal care products & services	\$43	\$78	\$91	\$97
Miscellaneous	\$189	\$309	\$381	\$431
<b>Total</b>	<b>\$841</b>	<b>\$1,389</b>	<b>\$1,700</b>	<b>\$1,993</b>

More than four persons	Additional Persons Amount
For each additional person, add to four-person total allowance:	\$356

# Housing (local by county)

2023 Allowable Living Expenses Housing Standards

County	State Name	2023 Published ALE Housing Expense for a Family of 1	2023 Published ALE Housing Expense for a Family of 2	2023 Published ALE Housing Expense for a Family of 3	2023 Published ALE Housing Expense for a Family of 4	2023 Published ALE Housing Expense for a Family of 5
Autauga County	Alabama	\$1,483	\$1,741	\$1,835	\$2,046	\$2,079
Baldwin County	Alabama	\$1,617	\$1,899	\$2,001	\$2,231	\$2,267
Barbour County	Alabama	\$1,278	\$1,501	\$1,582	\$1,764	\$1,792
Bibb County	Alabama	\$1,323	\$1,554	\$1,637	\$1,825	\$1,855
Blount County	Alabama	\$1,405	\$1,650	\$1,739	\$1,939	\$1,970
Bullock County	Alabama	\$1,494	\$1,755	\$1,849	\$2,062	\$2,095
Butler County	Alabama	\$1,268	\$1,489	\$1,569	\$1,749	\$1,778
Calhoun County	Alabama	\$1,339	\$1,572	\$1,657	\$1,848	\$1,877

# Transportation

2023 Allowable Living Expenses Transportation Standards

## MSA Definitions by Census Region

**Northeast Census Region:** Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New York, New Jersey

MSA	Counties
Boston	<ul style="list-style-type: none"> <li>MA: Essex, Middlesex, Norfolk, Plymouth, Suffolk</li> <li>NH: Rockingham, Strafford</li> </ul>
New York	<ul style="list-style-type: none"> <li>NY: Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Westchester</li> <li>NJ: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union</li> <li>PA: Pike</li> </ul>

<i>Allowable Transportation Expenses</i>		
<i>Public Transportation</i>		
National	\$218	
<i>Ownership Costs</i>		
	<b>One Car</b>	<b>Two Cars</b>
National	\$629	\$1,258
<i>Operating Costs</i>		
	<b>One Car</b>	<b>Two Cars</b>
<b>Northeast Region</b>	\$298	\$596
Boston	\$294	\$588
New York	\$379	\$758
Philadelphia	\$318	\$636
<b>Midwest Region</b>	\$225	\$450
Chicago	\$265	\$530
Cleveland	\$225	\$450
Detroit	\$315	\$630
Minneapolis-St. Paul	\$214	\$428
St. Louis	\$244	\$488

# Out of Pocket Health Care Costs

## 2023 Allowable Living Expenses Health Care Standards

	Out of Pocket Costs
Under 65	\$79
65 and Older	\$154

# 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
- ▶ IRM 5.15.1.31(3) –Exception: Taxpayers will not be required to pursue the equity in real property if doing so would cause an economic hardship

## 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)
- ▶ **Exception:** Taxpayers will not be required to pursue the equity in real property if doing so would cause an economic hardship (DCSC)

## 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



- ▶ \$10,810 is exempt under Rev Proc 2022-38 (.49)
- ▶ IRS is looking for assets that can be sold – jewelry, artwork, collectibles
- ▶ Check the Homeowner's insurance riders!
- ▶ Tools of the Trade exempt up to \$5,400 (Rev. Proc. 2022-38)

## Offer Analysis

- ▶ No OIC if can be full paid via an installment agreement
- ▶ Income averaging
- ▶ Dissipated assets



## Older Vehicle

**Additional \$200 a month for operating an older vehicle**

**More than 10 years old or 100,000 miles**

**IRM 5.8.5.20.3.5**



## Issues to be addressed

- ▶ Future income collateral agreement
- ▶ Ping-ponging income?
- ▶ Qualified investments

## Low-Income Certification (656 Page 2)

### 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 or the application fee upon submission or during the consideration of your offer. If your business is other than a sole proprietor or disregarded single member LLC taxed as a sole proprietor and you owe employment taxes on or after January 1, 2009, you cannot qualify for the waiver. IRS will determine whether the household income (at the time of the offer submission or at the time the offer is processed, whichever is lower) and family size support the decision not to pay the application fee.

Check this box if your household's gross monthly income is equal to or less than the monthly income shown in the table below.

**Note: By checking this box you are certifying that your total household income and size of your family qualify you for the Low-Income Certification.**

**IF YOU QUALIFY FOR THE LOW-INCOME CERTIFICATION DO NOT INCLUDE ANY PAYMENTS WITH YOUR OFFER. However, if you elect to send in money and the Low-Income Certification box is checked, you MUST check ONE of the options listed below.**

**Payment** - By checking this box I am requesting all money to be applied to my tax debt.

**Deposit** - By checking this box I am requesting all money to be treated as a deposit and returned if my offer is not accepted.

**Please note that failure to check either box or checking both boxes above will result in all payments being applied to your tax debt and not returned to you.**

Size of family unit	48 contiguous states and D.C.	Hawaii	Alaska
1	\$2,529	\$2,908	\$3,163
2	\$3,429	\$3,944	\$4,288
3	\$4,329	\$4,979	\$5,413
4	\$5,229	\$6,015	\$6,538
5	\$6,129	\$7,050	\$7,663
6	\$7,029	\$8,085	\$8,788
7	\$7,929	\$9,121	\$9,913
8	\$8,829	\$10,156	\$11,038
For each additional person, add	\$900	\$1,035	\$1,125

## 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 – 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 \$6,000 we charge for Offers
- ▶ 99.9% closing rate

## 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.



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## Allocation Example

### Joe & Mary Future Income Analysis

Income	Actual	Expenses	57%		
			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



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## 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

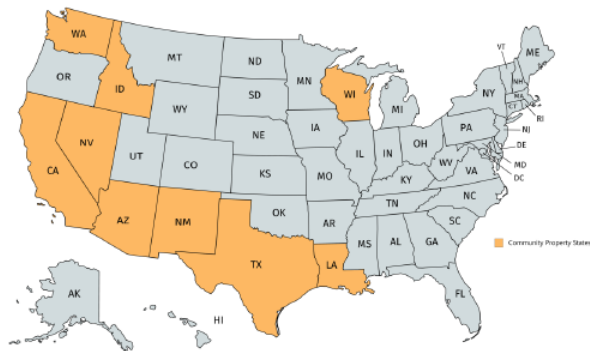
## Community Property

- ▶ **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 States

The nine states that are "community property" jurisdictions include:

1. Arizona
2. California
3. Idaho
4. Louisiana
5. Nevada
6. New Mexico
7. Texas
8. Washington
9. Wisconsin



## Community Property

- ▶ 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.

## What's "Community" vs "Separate"

- ▶ Property obtained prior to marriage or inherited/gifted during marriage is separate property
- ▶ Property obtained during the marriage in a separate property state is separate property (ex. the vacation home in Florida)
- ▶ Property obtained during the marriage in the community property state is community property (ex. the home they buy in Dallas while married, regardless of whose name the title is in)

## 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% of non-debtor spouse)
- ▶ Real estate of a non-liable spouse in a separate property jurisdiction is not available for collection



## Community Property: Income & Assets

	Available
Earned Income of the Debtor Spouse	100%
Earned Income of the Non-Debtor Spouse	0%
Income from the Debtor Spouse's Separate Property	100%
Income from the Community Property	50%
Debtor Spouse's Assets - Separate Property	100%
Community Property Assets	100%*
Non-Debtor Spouse's Separate Property	0%

\* - Texas is the exception, where its 75% of the community property assets (100% of the debtor-Spouse's half and 50-% of the non-debtor spouse's half)

## 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

## Reason I love Representation Work

- ▶ Beyond the obvious (lots of money, never boring, niche that few play in, etc)
- ▶ There is strategy
- ▶ Every case is a little different

## 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)

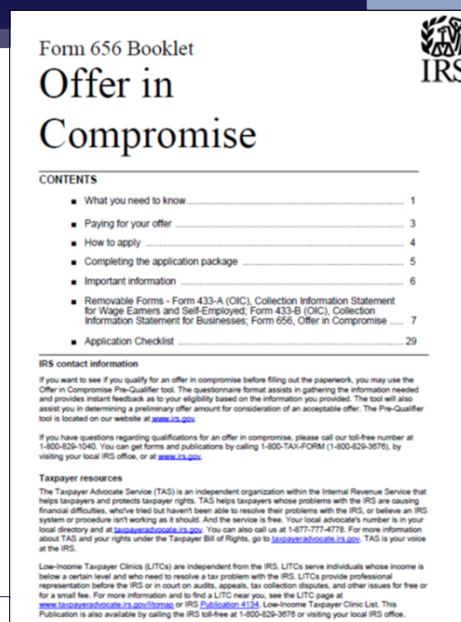
## The Offer Package

- 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



## 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



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## 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.



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# IRS Response - Reject or Increase

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

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

Taxpayer Name  
Taxpayer address  
City, CT xxxxx

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.

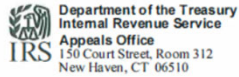


# IRS Response – Offer Addendum

Form <b>14640</b> (January 2016)	Department of the Treasury-Internal Revenue Service <b>Addendum to Form 656</b>
<b>Part 1</b>	
Taxpayer Name TAXPAYER NAME	Offer Number 1001XXXXXX
Primary Taxpayer SSN/EIN (last 4 digits) xxxx	Secondary Taxpayer SSN/EIN (last 4 digits)
I/We submitted an offer dated 12/03/2014 in the amount of \$ 12,864 to compromise unpaid income tax plus statutory additions for the tax periods 2007, 2008, 2009, 2010, 2011. The purpose of this addendum is to amend the above offer amount I/we are offering to pay and/or to specify the payment terms if the offer is accepted.	
<b>Part 2. Revised Offer in Compromise Amount</b>	
Accordingly, I/we offer to pay \$ 44,600, which includes the following amounts already paid or included with this addendum:	
A. \$ 2,573	paid with original offer dated 12/03/2014
B. \$	paid with an amended/revised Form 656 dated
C. \$ 6,347	additional payment, if any, to be included with this addendum
D. \$	periodic payments, if any, made since original offer was submitted
<b>Part 3. Revised Offer in Compromise Payment Amount</b>	
E. \$ 35,680	payable within 5 months after acceptance
F. \$	payable within months after acceptance
G. \$	payable within months after acceptance
H. \$	payable within months after acceptance
I. \$	payable within months after acceptance



## IRS Response – Offer Accepted



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.



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## Client is happy?

- ▶ Get a 5 star review!
- ▶ Use NiceJob - Automates the follow-up
- ▶ Auto-Post 5-star reviews
- ▶ First month for \$1.00!
- ▶ TRN went from 80 five-star google reviews to 170!
- ▶ <https://start.nicejob.com/tax-rep-network>



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## 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.



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## 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



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## Marketing Ideas

- ▶ Clients are everywhere
- ▶ Get the word out you handle these matters
- ▶ Simple and cheap ideas you can do/start tonight:
  1. Blog – see sample
  2. Newsletter to existing clients and local biz: “What to do if you cannot pay the taxes?”
  3. Newsletter to Divorce Attorneys, Bankruptcy Attorneys, etc
  4. Fix your website to include this service

## Anthony D., CPA

“After sitting through your test class I wrote a letter to my clients about what to do if they or someone they know could not pay the taxes. I had \$20,000 in retainers within a week. At the end of that year I added \$149,000 to my practice from representation. My only annoyance with this is why I did not do this sooner.”

Anthony sold his 1040 practice 4 years later, today runs his real estate and consults on rep matters

## Marketing

- ▶ Do lien lists, radio ads, etc work?
- ▶ Yes, but VERY expensive
- ▶ You do not need to do that – it just takes consistent effort.
- ▶ I ask Tax Rep Members to commit to 2 hours a week to add a \$100,000 practice

## Focus Your Marketing Message

- ▶ Why are they hiring you? Because we're cool? Because we're sleek and good looking?
- ▶ Same reason you buy a drill – you don't want the drill, you want a hole (i.e. what the drill can do for you)
- ▶ So why are they hiring us?

## They want the pain to end!

- ▶ No more fighting with their spouse
- ▶ No more threats to levy or garnish
- ▶ Get rid of the tax liens
- ▶ End the sleepless nights



# Case Studies

## Case Studies

- Simple Joe
- Tom and Mary: Payroll Tax Debt – Part 1
- Tom and Mary: Payroll Tax Debt – Part 2
- The Disabled Wall Street Executive

# Simple Joe



## Case Study 1: Simple Joe

- Joe has not filed his tax returns since 2012
- If Joe files 2013 – 2022 he will owe \$225,000 to the IRS and \$85,000 to Connecticut
- Joe is 47, single and gave up being a contractor and is now a manager at Home Depot
- Joe earns \$78,000 a year



## Case Study 1: Simple Joe

- Joe lives in New Haven, CT (New Haven County)
- He leases a Ford 150 for \$575 a month, owns a Ford Fusion (2012, no payments, worth \$4,000) and a Harley Motorcycle (worth \$8,000)
- He rents an apartment in New Haven and spends \$2,050 plus \$450 on utilities
- He pays, through his employer:
  - a. \$525 for health insurance
  - b. \$45 for life insurance and LTD disability insurance

## Case Study 1: Simple Joe

- Joe has no significant out of pocket health care costs
- He pays \$1,200 a month in taxes (federal, state, FICA)
- He saves \$500 per month in his employer's 401K
- He has \$2,000 in his checking account
- He donates \$1,000 per year to his church

## Case Study 1: Simple Joe

### Observations:

- ▶ Joe is in compliance with withholding
- ▶ He will file only the last 6 years of federal tax returns (17-22), so balance is now \$145,000 for IRS
- ▶ Voluntary disclosure with CT reduces it to just the three past-due years (19-21) and waiver of penalties, so Joe now owes just \$20,000 to CT

## Future Income: Actual Expenses

### Joe the Mess Future Income Analysis

<b>Income</b>	<b>Actual</b>	<b>Expenses</b>	<b>Actual</b>
Wages (yourself)	\$ 6,500	Food, Clothing and Misc	\$ 1,100
Wages (spouse)	\$ -	Housing & utilities	\$ 2,500
Interest - Dividends	\$ -	Vehicle Ownership	\$ 575
Net Business Income	\$ -	Vehicle Operating Costs	\$ 400
Net Rental Income	\$ -	Public Transportation	\$ -
Distributions	\$ -	Health Insurance	\$ 525
Pension/Soc Sec (taxpayer)	\$ -	Out of Pocket HealthCare	\$ 10
Pension/Soc Sec (spouse)	\$ -	Court ordered pmts	\$ -
Social Security (taxpayer)	\$ -	Child/Dep Care	\$ -
Social Security (spouse)	\$ -	Life Insurance	\$ 45
Child Support	\$ -	Current Year Taxes	\$ 1,200
Alimony	\$ -	Secured Debts	\$ -
Other Income	\$ -	Delinquent State Taxes	\$ -
	\$ -	Student Loans	\$ -
	\$ -	Total Living Expenses	\$ 6,355
Total	\$ 6,500	Net Difference	\$ 145

## Actual

- Monthly income of \$6,500
- Expenses of \$6,355
- Available Monthly Income
  - \$145
- So what does the IRS think?

## Monthly Expenses

### Joe Future Income Analysis

<b>Income</b>		<b>Expenses</b>		
	Actual		Actual	Allowable
Wages (yourself)	\$ 6,500	Food, Clothing and Misc	\$ 1,100	\$ 841 National Standard
Wages (spouse)	\$ -	Housing & utilities	\$ 2,500	\$ 2,245 Limited due to IRS Local Standard
Interest - Dividends	\$ -	Vehicle Ownership	\$ 575	\$ - Other Vehicle available, unnecessary
Net Business Income	\$ -	Vehicle Operating Costs	\$ 400	\$ 298 Local Standard
Net Rental Income	\$ -	Public Transportation	\$ -	\$ -
Distributions	\$ -	Health Insurance	\$ 525	\$ 525 Actual and necessary
Pension/Soc Sec (taxpayer)	\$ -	Out of Pocket		
Pension/Soc Sec (spouse)	\$ -	HealthCare	\$ 10	\$ 79 National standard
Social Security (taxpayer)	\$ -	Court ordered pmts	\$ -	\$ - Actual and Court Ordered
Social Security (spouse)	\$ -	Child/Dep Care	\$ -	\$ -
Child Support	\$ -	Life Insurance	\$ 45	\$ 45 Actual and necessary
Alimony	\$ -	Current Year Taxes	\$ 1,200	\$ 1,200 Actual and allowed
Other Income	\$ -	Secured Debts	\$ -	\$ -
	\$ -	Delinquent State Taxes	\$ -	\$ -
	\$ -	Student Loans	\$ -	\$ -
	\$ -	Total Living Expenses	\$ 6,355	\$ 5,233
Total	\$ 6,500	Net Difference	\$ 145	\$ 1,267
<b>Analysis - Future Income</b>				
Income	\$ 6,500	\$1,267/month x 120 months		\$ 152,040
Expense	\$ 5,233			
Monthly Available	\$ 1,267			



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## Issues

- IRS does not allow the car payment (Truck) when Joe has a paid off vehicle (Fusion) available - unnecessary
- IRS does not allow the 401k
- IRS does not allow charitable giving unless its required for their job (it's not)



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## Analysis

- Future income: \$15,204 ( $\$1,267 \times 12$ )
- Ford Fusion: \$0 ( $\$4,000 \times 80\% = \$3,200 - \$3,450$  exemption)
- Harley Motorcycle: \$6,400 ( $\$8,000 \times 80\%$ )
- Cash: Zero ( $\$1,000$  exemption but 1 month of allowable expenses)
- **Total Offer would be: \$21,604**
- **NO OFFER BECAUSE CAN FULL PAY! ( $\$1,267 \times 120$  months = \$152,040)**

## Analysis

- Can we do better than a full-pay IA?
- Easiest fix – get the car payment allowed
  - a. Sell the Harley to a friend (\$4,800)
  - b. Sell the Fusion (\$500)
- Use the proceeds for the Offer

## Adjusted Monthly Expenses: Truck

### Joe the Mess Future Income Analysis

<b>Income</b>		<u>Actual</u>	<b>Expenses</b>		<u>Actual</u>	<u>Allowable</u>
Wages (yourself)	\$	6,500	Food, Clothing and Misc	\$	1,100	\$ 841
Wages (spouse)	\$	-	Housing & utilities	\$	2,500	\$ 2,245
Interest - Dividends	\$	-	Vehicle Ownership	\$	575	\$ 575
Net Business Income	\$	-	Vehicle Operating Costs	\$	400	\$ 298
Net Rental Income	\$	-	Public Transportation	\$	-	\$ -
Distributions	\$	-	Health Insurance	\$	525	\$ 525
Pension/Soc Sec (taxpayer)	\$	-	Out of Pocket HealthCare	\$	10	\$ 79
Pension/Soc Sec (spouse)	\$	-	Court ordered pmts	\$	-	\$ -
Social Security (taxpayer)	\$	-	Child/Dep Care	\$	-	\$ -
Social Security (spouse)	\$	-	Life Insurance	\$	45	\$ 45
Child Support	\$	-	Current Year Taxes	\$	1,200	\$ 1,200
Alimony	\$	-	Secured Debts	\$	-	\$ -
Other Income	\$	-	Delinquent State Taxes	\$	-	\$ -
	\$	-	Student Loans	\$	-	\$ -
	\$	-	Total Living Expenses	\$	6,355	\$ 5,808
Total	\$	6,500	Net Difference	\$	145	\$ 692
<b>Analysis - Future Income</b>						
Income	\$	6,500	\$692/month x 120 months			\$ 83,040
Expense	\$	5,808				
Monthly Available	\$	692				



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## Simple Joe - Updated Analysis

- Income: \$6,500
- Allowable Expenses: \$5,808
- Future Income: \$692
- Assets: \$0 (\$5,200 for Fusion and Harley + \$2,000 in cash – our fees of \$6,000 – Exemption of one month of expenses of \$5,808)
- **RCP: \$692 x 12 months = \$8,304**
- **We just saved Joe \$136,700! – Cannot full-pay so OIC!**



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# Tom & Mary: Part 1

## Meet Tom & Mary

- ▶ Live in New Haven, CT
- ▶ 2 Children, 17 and 14 years old
- ▶ Tom is 42 years old, Mary is 41
- ▶ Tom's business fails because of the pandemic and he has started a new W-2 Job as a manager earning \$60,000/year
- ▶ Mary works at Yale University as a Tenured Full Professor earning \$130,000/year

## Meet Tom & Mary

- ▶ Tom's Olde LLC owes the IRS \$309,000 for 2020 - 2022:

941 Taxes: \$167,000

940 Taxes: \$12,000

Penalty: \$80,000

Interest: \$30,000

- ▶ Connecticut seized assets and cash for the withholding and sales tax it was owed, got full paid and forced it out of business

## Meet Tom & Mary

- ▶ Tom has been assessed for \$80,000 in Trust Fund Liability personally under IRC § 6672
- ▶ The home is in Mary's name, bought during the marriage and transferred to Mary in 2010, in Orange CT (New Haven County) worth \$600,000 with a \$300,000 mortgage
- ▶ There is a \$50,000 HELOC that is fully utilized and has an outstanding balance of \$51,237 with interest. Minimum monthly payments are \$495
- ▶ Mortgage payment and utilities each month is \$3,750



## Meet Tom & Mary

- ▶ Tom owns a Jeep Grand Cherokee that is 8 years old with \$127,800 miles on it
- ▶ Mary drives a leased Lexis E300 which costs \$525 a month
- ▶ Mary has life insurance on her and Tom and disability insurance on herself through Yale of \$200 per month deducted from her wages
- ▶ Mary has health insurance covering the entire family through Yale of \$1,600 per month deducted from her wages

## Tom & Mary Assets

- ▶ Tom's Jeep is worth \$7,000
- ▶ Mary's 401(k) has \$450,000, and she can take up to \$50,000 as a loan
- ▶ They have \$11,000 in cash in the bank

## Tom & Mary Assets

- ▶ Tom's Jeep:  $\$7,000 \times 80\% = \$5,600 - \$3,450 \text{ exempt} = \$2,150$
- ▶ Cash:  $\$11,000/2 = \$5,500 - \$4,180 \text{ (1 mos exp)} = \$1,320$
- ▶ Mary's 401(k): Excluded
- ▶ Home: Excluded

## Analysis

### Tom & Mary

<i>Income</i>	<u>Actual</u>	<i>Expenses</i>	32%		
			<u>Actual</u>	<u>Allowable</u>	<u>Allocated</u>
Wages (yourself)	\$ 5,000	Food, Clothing and Misc	\$ 1,993	\$ 1,993	\$ 629
Wages (spouse)	\$ 10,833	Housing & utilities	\$ 3,750	\$ 3,097	\$ 978
Interest - Dividends	\$ -	Vehicle Ownership	\$ 629	\$ 525	\$ -
Net Business Income	\$ -	Vehicle Operating Costs	\$ 796	\$ 796	\$ 498
Net Rental Income	\$ -	Public Transportation	\$ -	\$ -	\$ -
Distributions	\$ -	Health Insurance	\$ 1,600	\$ 1,600	\$ 505
Pension/Soc Sec (taxpayer)	\$ -	Out of Pocket HealthCare	\$ 100	\$ 316	\$ 100
Pension/Soc Sec (spouse)	\$ -	Court ordered pmts	\$ -	\$ -	\$ -
Social Security (taxpayer)	\$ -	Child/Dep Care	\$ -	\$ -	\$ -
Social Security (spouse)	\$ -	Life Insurance	\$ 200	\$ 200	\$ 63
Child Support	\$ -	Current Year Taxes	\$ 3,958	\$ 3,958	\$ 1,250
Alimony	\$ -	Secured Debts	\$ 495	\$ 495	\$ 156
Other Income	\$ -	Delinquent State Taxes	\$ -	\$ -	\$ -
	\$ -	Student Loans	\$ -	\$ -	\$ -
	\$ -	Total Living Expenses	\$ 13,521	\$ 12,980	\$ 4,180
Total	\$ 15,833	Net Difference	\$ 2,312	\$ 2,853	\$ 820

## Analysis

<i>Analysis - Future Income</i>		
Income	\$ 5,000	
Expense	\$ 4,180	
Monthly Available	\$ 820	
Future Income	\$ 98,413	\$820 x 120 months on CSED
Assets	\$ 3,470	Car + cash
RCP	\$ 101,883	
Ability to Pay (RCP)	\$ 101,883	
Tax Debt	\$ 80,000	
<b>No OIC Available</b>		

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## Options for Tom

- ▶ We need to move the expense number up so the future income drops below \$637  
$$\$80,000 - \text{assets of } \$3,470 = \$76,530 / 120 \text{ months}$$
- ▶ Disability Insurance for Tom?
- ▶ New Car Payment of more than \$400 (new payment but lose older car \$200/mo)

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# Tom & Mary: Part 2

## Everything is the same but...

- ▶ They don't live in Connecticut but in California just outside of Sacramento (Sacramento County)
- ▶ Housing allowance goes up slightly
- ▶ Biggest change though: CA is a community property state – community assets are now included in the RCP

## Community Property

- ▶ Civil penalties on Tom are considered a community debt because pursued to make money for the family
- ▶ Community property assets include now the house acquired during marriage and the 401K accumulated during marriage
- ▶ No OIC – the asset alone will full-pay
- ▶ No allocation of expenses – debt belongs to both of them

## Updated RCP – Future Income

Tom & Mary					
					32%
<b>Income</b>	Actual	<b>Expenses</b>	Actual	Allowable	Allocated
Wages (yourself)	\$ 5,000	Food, Clothing and Misc	\$ 1,993	\$ 1,993	\$ 629
Wages (spouse)	\$ 10,833	Housing & utilities	\$ 3,750	\$ 3,129	\$ 988
Interest - Dividends	\$ -	Vehicle Ownership	\$ 629	\$ 525	\$ -
Net Business Income	\$ -	Vehicle Operating Costs	\$ 796	\$ 796	\$ 498
Net Rental Income	\$ -	Public Transportation	\$ -	\$ -	\$ -
Distributions	\$ -	Health Insurance	\$ 1,600	\$ 1,600	\$ 505
Pension/Soc Sec (taxpayer)	\$ -	Out of Pocket HealthCare	\$ 100	\$ 316	\$ 100
Pension/Soc Sec (spouse)	\$ -	Court ordered pmts	\$ -	\$ -	\$ -
Social Security (taxpayer)	\$ -	Child/Dep Care	\$ -	\$ -	\$ -
Social Security (spouse)	\$ -	Life Insurance	\$ 200	\$ 200	\$ 63
Child Support	\$ -	Current Year Taxes	\$ 3,958	\$ 3,958	\$ 1,250
Alimony	\$ -	Secured Debts	\$ 495	\$ 495	\$ 156
Other Income	\$ -	Delinquent State Taxes	\$ -	\$ -	\$ -
	\$ -	Student Loans	\$ -	\$ -	\$ -
	\$ -	Total Living Expenses	\$ 13,521	\$ 13,012	\$ 4,190
Total	\$ 15,833	Net Difference	\$ 2,312	\$ 2,821	\$ 810

## Assets

- ▶ Tom's Jeep:  $\$7,000 \times 80\% = \$5,600 - \$3,450 \text{ exempt} = \$2,150$
- ▶ Cash:  $\$11,000 - \$13,012 \text{ (1 mos exp)} = \$0$
- ▶ Mary's 401(k):  $\$50,000$  loan available, future expense for repayment allowed
- ▶ Home:  $\$600,000 \times 80\% = \$480,000 - \$300,000 \text{ mortgage} - \$51,237 \text{ HELOC} = \$128,763$

## Outcome for Tom

- ▶ Because of the TFRP his case will be with the field
- ▶ I would borrow  $\$31,000$  from the 401K and pay down below  $\$50,000$
- ▶ Set-up a streamlined IA of around  $\$700/\text{month}$  (beats the  $\$810$  and the assets listed on the 433!)

# Disabled Executive: The ETA Offer

## Facts

- ▶ Client is 55 years old and falls from a horse, breaking his neck
- ▶ Quadriplegic (wheelchair bound)
- ▶ They have to outfit their home for his disability: ramp, remodel the downstairs for a bedroom, bathroom
- ▶ Their home is valued at \$1 million, mortgage of \$600,000

## Facts

- ▶ He has an IRA with \$300,000
- ▶ He owes the IRS \$275,000 from not paying his 2019 taxes when the injury occurred and he pulled money from his IRA to remodel the home
- ▶ He has disability income and social security of \$7,000
- ▶ Their allowable expenses are \$10,000
- ▶ She stays home to care for him

## The ETA Offer

- ▶ An ETA Offer is an Offer where the IRS can get full-paid on paper but for public policy reasons should not
- ▶ Tough sell
- ▶ Taxpayer owes \$275,000
- ▶ His assets are \$200,000 from the home ( $\$1,000,000 \times 80\% = \$800,000 - \text{Mortgage of } \$600,000$ ) and \$240,000 from the IRA ( $\$300,000 \times 80\%$ )



## The ETA

- ▶ He is short \$3,000 a month
- ▶ Life Expectancy is 31.6 years
- ▶ Shortfall is:

$$\$36,000/\text{year} \times 31.3 \text{ years} = \$1,126,800$$

$$\text{Assets} = \$200,000 + \$240,000$$

## Publication 590-B

Appendix B. Life Expectancy Tables

Table I (Single Life Expectancy) (For Use by Beneficiaries)			
Age	Life Expectancy	Age	Life Expectancy
0	84.6	30	55.3
1	83.7	31	54.4
2	82.8	32	53.4
3	81.8	33	52.5
4	80.8	34	51.5
5	79.8	35	50.5
6	78.8	36	49.6
7	77.9	37	48.6
8	76.9	38	47.7
9	75.9	39	46.7
10	74.9	40	45.7
11	73.9	41	44.8
12	72.9	42	43.8
13	71.9	43	42.9
14	70.9	44	41.9
15	69.9	45	41.0
16	69.0	46	40.0
17	68.0	47	39.0
18	67.0	48	38.1
19	66.0	49	37.1
20	65.0	50	36.2
21	64.1	51	35.3
22	63.1	52	34.3
23	62.1	53	33.4
24	61.1	54	32.5
25	60.2	55	31.6
26	59.2	56	30.6
27	58.2	57	29.8
28	57.3	58	28.9
29	56.3	59	28.0

## The ETA

- ▶ Also, house should not be factored in given it is now outfitted for him and cannot be easily replicated
- ▶ No investment appreciation – conservative investment (bank) and interest eaten up by inflation
- ▶ IRS Offer: \$1,000
- ▶ IRS COIC rejected it. Appeals accepted it!

## The ETA

- ▶ Take away:
- ▶ Need to have good facts
- ▶ If you can show the assets will be needed then can argue
- ▶ Had taxpayer had an extra \$2,000 a month over expenses this would not have been accepted

## Upcoming Programs

TRN Live: 8 hours of case studies

- ▶ St. Louis (6/29) following Scaling New Heights
- ▶ San Antonio (7/27) Following NATP's Taxposium

Join us at either, both in-person or via webcast

<https://taxrepllc.com/2023-trn-live/>

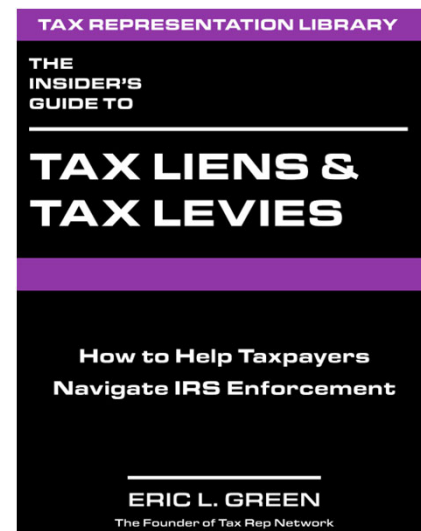


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## Master Tax Liens

- ▶ Next week on Thursday 6/22
- ▶ Get Rid of Tax Liens: A Step by Step Approach
- ▶ Sample letters, case studies
- ▶ You will know liens after this
- ▶ \$39 early bird
- ▶ <https://taxrepllc.com/2023-series-liens/>



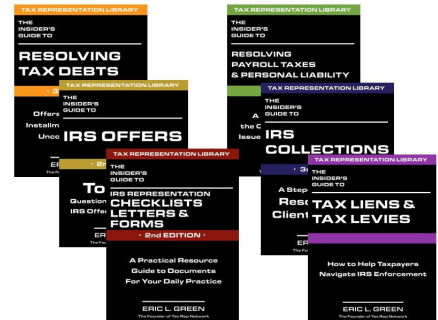
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# Get Certified

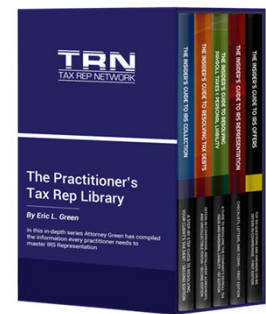


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# Questions?

