The Offer-in-Compromise: A Case Study

Eric L. Green, Esq.

TRN
TAX REP NETWORK

1

Case Study: Joint Liability

- Joe and Mary owe $187,000 in back income taxes from 2014 – 2018
- Owe Connecticut $28,000
- Joe is 45, Mary is 43
- Joe used to be self-employed but is now a W-2 employee
- Joe earns $90,000 a year, Mary earns $60,000 a year
- Lives in New Haven, CT (New Haven County)

TRN
TAX REP NETWORK

2

2

Case Study: *Joe and Mary*

- They have two sons, ages 12 and 10
- Saw the family CPA who did all 6 tax years (14-19) and filed them all – IRS and State – 60 days ago.
- CT already contacted and they set up the agreement of $500/month

TRN
TAX REP NETWORK

3

3

Joe and Mary: *Assets*

- Home worth $480,000, mortgage of $332,000, $50,000 HE line used
- 2018 Cadillac Escalade, no loan, 62,000 miles, worth $12,000
- 2018 Honda Accord, no loan, 35,000 miles, worth $4,500
- Mary has a pension worth $78,000 (defined benefit)
- Checking account has $1,000, savings has $750

TRN
TAX REP NETWORK

4

4

Monthly Expenses

- Mortgage - $3,850
- Home Equity Line - $175
- Utility Bills - $675
- Auto Expense - $1,000
- Health Insurance - $695
- Union Dues
  - Mary $50, Joe $80

TRN TAX REP NETWORK

5

5

Monthly Expenses

- Disney Time share - $375/mo
- Credit Cards - $200/mo min pmt
- Summer day camp for kids - $4,500 for both for the summer
- Donations to the church - $2,000 year

TRN TAX REP NETWORK

6

6

Monthly Expenses

- Joe's blood pressure medicine costs $200/mo
- Current Taxes
  - Joe $1,875/mo, Mary $1,250/mo
- Borrowing $4,500 from Mary's mom to pay for us to do the Offer

TRN TAX REP NETWORK

7

7

Monthly Expenses

Income	Actual
Wages (yourself)	$ 7,500
Wages (spouse)	$ 5,000
Interest - Dividends	$ -
Net Business Income	$ -
Net Rental Income	$ -
Distributions	$ -
Pension/Soc Sec (taxpayer)	$ -
Pension/Soc Sec (spouse)	$ -
Social Security (taxpayer)	$ -
Social Security (spouse)	$ -
Child Support	$ -
Alimony	$ -
Other Income	$ -
	$ -
	$ -
Total	$ 12,500

Expenses	Actual
Food, Clothing and Misc	$ 1,500
Housing & utilities	$ 4,525
Vehicle Ownership	$ -
Vehicle Operating Costs	$ 1,000
Public Transportation	$ -
Health Insurance	$ 695
Out of Pocket HealthCare	$ 200
Court ordered pmts	$ -
Child/Dep Care	$ 375
Life Insurance	$ -
Current Year Taxes	$ 3,125
Secured Debts	$ 175
Delinquent State Taxes	$ 500
Other - Union Dues	$ 130
Total Living Expenses	$ 12,225
Net Difference	$ 275

TRN TAX REP NETWORK

8

8

Financial Guidelines: Cheat Sheet

Expense	Actual/Allowable
Food, Clothing and Misc	National Standard
Housing & 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	Greater of National Standard or Actual
Court Ordered Payments	Actual
Child/Dependent Care Expenses	Actual and Necessary
Life Insurance	Actual (and Term Insurance)
Current Year Income Taxes	FIT, FICA or SE, SIT, Local
Secured Debts	Actual
Student Loans	Actual and Federally Guaranteed
Delinquent State Taxes	Percentage of State Debt vs IRS debt

TRN TAX REP NETWORK

9

9

Actual

- Monthly income of $12,500
- Expenses of $12,225
- Available Monthly Income
  - $275
- So what does the IRS think?

TRN TAX REP NETWORK

10

10

Monthly Expenses

Income	Actual
Wages (yourself)	$ 7,500
Wages (spouse)	$ 5,000
Interest - Dividends	$ -
Net Business Income	$ -
Net Rental Income	$ -
Distributions	$ -
Pension/Soc Sec (taxpayer)	$ -
Pension/Soc Sec (spouse)	$ -
Social Security (taxpayer)	$ -
Social Security (spouse)	$ -
Child Support	$ -
Alimony	$ -
Other Income	$ -
	$ -
	$ -
Total	$ 12,500

Expenses	Actual	Allowable
Food, Clothing and Misc	$ 1,500	$ 1,993
Housing & utilities	$ 4,525	$ 3,097
Vehicle Ownership	$ -	$ -
Vehicle Operating Costs	$ 1,000	$ 596
Public Transportation	$ -	$ -
Health Insurance	$ 695	$ 695
Out of Pocket HealthCare	$ 200	$ 437
Court ordered pmts	$ -	$ -
Child/Dep Care	$ 375	$ 375
Life Insurance	$ -	$ -
Current Year Taxes	$ 3,125	$ 3,125
Secured Debts	$ 175	$ 175
Delinquent State Taxes	$ 500	$ 65
Other - Union Dues	$ 130	$ 130
Total Living Expenses	$ 12,225	$ 10,688
Net Difference	$ 275	$ 1,812

TAX REP NETWORK

IRS Analysis

- Monthly income of $12,500
- Allowable expenses of $10,688 – why?
- Housing is above the local standard ($4,525 v. $3,097)
- Auto Operating is above the local standard ($1,000 v. $596)
- Out of Pocket expense is higher than Joe claimed ($200 v. $437)
- State Tax payment is apportioned based upon liability ($500 v. $65)

TAX REP NETWORK

Also

- IRS does not allow the timeshare payment - unnecessary
- IRS does not allow the credit card payment – unsecured debt behind their claim, and minimums are included in the "Miscellaneous" category
- IRS does not allow charitable giving unless it's required for their jobs – like a minister required to tithe 10%

TRN TAX REP NETWORK

13

13

Analysis

- Future income: $21,744 ($12,500 - $10,688 = $1,062 x 12)
- House: $2,000 equity ($480,000 x 80%=$384,000 - $332,000 - $50,000)
- Escalade equity: $6,150 ($12,000 x 80% - $3,450 exemption)
- Honda equity: $150 ($4,500 x 80% - $3,450 exemption)
- Cash: Zero ($1,000 exemption but if necessary for living expenses) – IRM 5.8.5.7
- **Total Offer would be: $30,044**
- **NO OFFER BECAUSE CAN FULL PAY!**

TRN TAX REP NETWORK

14

14

Why can they full-pay?

- Assets of $8,300 ($2,000 + $6,150 + $150)
- Future Income of $217,440 ($1,812 x 120 months)
- They only owe $187,000 - $8,300 = $178,700, and can be full paid through an IA in about 99 months (a bit longer due to interest but still full-pay)

TRN
TAX REP NETWORK

15

15

Analysis

- Can we do better than a full-pay IA?
- Family CPA blew this by just knee-jerk filing (had he filed CT first and filed MFS CT allowed in full and her assets off the table)
- Strategy: What are Joe and Mary not spending?

TRN
TAX REP NETWORK

16

16

Changes

- Joe & Mary Need Life Insurance
- Joe Needs Disability Insurance
- They each term life policies of $500,000
- Joe’s is $60 per month, Mary’s is $40 per month
- Joe’s disability income insurance is $200 a month

TRN TAX REP NETWORK

17

17

Changes

- Joe trades in his escalade and buys a new Ford Pickup Truck
- He now has a $400 a month truck payment
- New truck is $42,000, $10,000 for trade, note of $32,000
- No Equity ($42,000 x 80% = $33,600 – note of $32,000 = $1,600 - $3,450 exemption)

TRN TAX REP NETWORK

18

18

Our fees….

- Other expense – IRM 5.15.1.11
- Accounting and legal fees are for "representation before the Service (i.e. to resolve current balances due, delinquent returns, examinations, etc)
- Fees need to be reasonable given the complexity of the case
- **MUST BE A FUTURE EXPENSE!**
- How do we become a future expense?

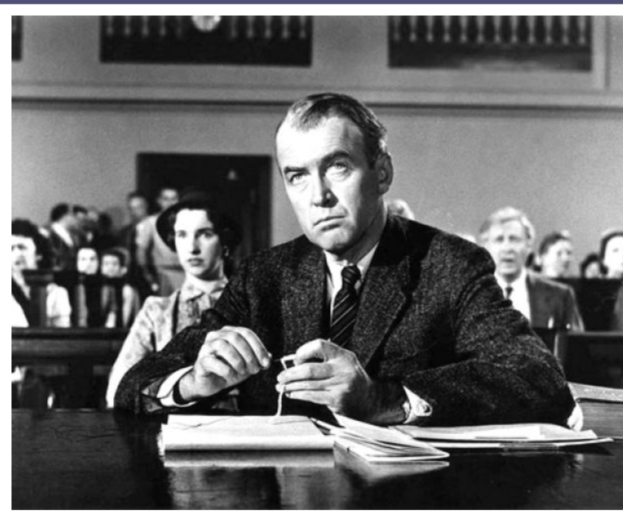
TRN TAX REP NETWORK

19

19

Thank Jimmy Stewart

- Mom loans Joe and Mary the money
- Repayment cannot begin until after Offer is resolved
- If resolved within 24 months chance the IRS wont allow as a future expense
- Joe and Mary should sign a note that it is a loan and will be repaid over 24 months, payment is $188



TRN TAX REP NETWORK

20

20

Note with Mom

Dear Joe and Mary,

Enclosed is a check made out to your attorney to cover the $4,500 for the IRS issue. As we agreed, your father and I need this repaid to us after you have settled and paid the IRS.

Please sign below acknowledging this, and lets us know how things are going.

Love Mary's Mom

21

Lets unpack all of this

- Insurance – allowed but…
- Must be term (cash value life insurance is viewed as an investment)
- Coverage must be reasonable
- Disability Insurance allowed but need track record of paying (IRM 5.15.1.7)

22

Monthly Expenses

Income	Actual
Wages (yourself)	$ 7,500
Wages (spouse)	$ 5,000
Interest - Dividends	$ -
Net Business Income	$ -
Net Rental Income	$ -
Distributions	$ -
Pension/Soc Sec (taxpayer)	$ -
Pension/Soc Sec (spouse)	$ -
Social Security (taxpayer)	$ -
Social Security (spouse)	$ -
Child Support	$ -
Alimony	$ -
Other Income	$ -
	$ -
	$ -
Total	$ 12,500

Expenses	Actual	Allowable
Food, Clothing and Misc	$ 1,500	$ 1,993
Housing & utilities	$ 4,525	$ 3,097
Vehicle Ownership	$ -	$ 400
Vehicle Operating Costs	$ 1,000	$ 596
Public Transportation	$ -	$ -
Health Insurance	$ 695	$ 695
Out of Pocket HealthCare	$ 200	$ 437
Court ordered pmts	$ -	$ -
Child/Dep Care	$ 375	$ 375
Life Insurance	$ -	$ 300
Current Year Taxes	$ 3,125	$ 3,125
Secured Debts	$ 175	$ 175
Delinquent State Taxes	$ 500	$ 65
Other - Union Dues	$ 130	$ 318
Total Living Expenses	$ 12,225	$ 11,576
Net Difference	$ 275	$ 924

$130 Union Dues and $188 loan repayment for rep fees

TRN
TAX REP NETWORK

Updated Analysis

- No Full Pay - $2,150 of assets and future income of only $110,880
- OIC:
- Income: $12,500
- Allowable Expenses: $11,576
- Future Income: $924 x 12 = $11,088
- Assets: $2,150 (House and Accord)
- **RCP: $13,238!**
- **We just saved them $170,000! – Can now do an OIC and avoid a full-pay IA**
- They need to dump the time share, and depending on their credit card balances, may want to consider bankruptcy

TRN
TAX REP NETWORK

Need to show 3 months of payments

What if the IRS is breathing down the client's neck now?

Send the 433-A to Collection

3 months of payments – IRM 5.15.1.7 – Bank Statements for last 3 months!

25

IRS COIC Confirmation

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

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.

26

COIC Response

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

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 $13,238.00.

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.

TRN TAX REP NETWORK

27

27

COIC Asset Analysis

Joe and Mary

INCOME/EXPENSE TABLE					
Income	Actual		Expenses	Claimed	Allowed
Wages (yourself)	$ 7,500		Food, Clothing and Misc	$ 1,993	$ 1,993
Wages (spouse)	$ 5,000		Housing & utilities	$ 3,097	$ 3,097
Interest - Dividends	$ -		Vehicle Ownership	$ 400	$ 400
Net Business Income	$ -		Vehicle Operating Costs	$ 596	$ 596
Net Rental Income	$ -		Public Transportation	$ -	$ -
Distributions	$ -		Health Insurance	$ 695	$ 695
Pension/Soc Sec (taxpayer)	$ -		Out of Pocket HealthCare	$ 437	$ 437
Pension/Soc Sec (spouse)	$ -		Court ordered pmts	$ -	$ -
Social Security (taxpayer)	$ -		Child/Dep Care	$ 375	$ -
Social Security (spouse)	$ -		Life Insurance	$ 300	$ 300
Child Support	$ -		Current Year Taxes	$ 3,125	$ 3,125
Alimony	$ -		Secured Debts	$ 175	$ 175
Other Income	$ -		Delinquent State Taxes	$ 500	$ -
	$ -		Other - Union Dues	$ 318	$ -
	$ -		Total Living Expenses	$12,011	$ 10,818
Total	$ 12,500		Net Difference	$ 489	$ 1,682
Net difference = $1,682	Months 120		Amount that could be paid = $201,840		

TRN TAX REP NETWORK

28

28

COIC Asset Analysis

TAXPAYER'S NAME EIN/TIN XXX-XX-XXXX

ASSET/EQUITY TABLE (AET)

ASSETS	Fair market Value	Quick Sale Reduction Percentage	Quick Sale Value	Encumbrances or Exemptions	Net Realizable Equity
1. Cash/Bank Accounts	$ 1,750			$ 1,750	$ -
2. Offer Deposit					
3. Loan Value Life Insurance					
4. Pensions / IRA/401(k)					
5. Real Estate	$ 480,000	20%	$ 384,000	$ 382,000	$ 2,000
6. Furniture/Personal Effects					
7. Vehicles	$ 12,000	20%	$ 9,600	$ 3,450	$ 6,150
8. Accounts Receivable					
9. Tools and/or Equipment					
Other					
Honda	$ 4,500	20%	$ 3,600	$ 3,450	$ 150
Asset/Equity					$ 8,300
Future Income					$ 201,840
TOTAL MINIMUM VALUE					$ 210,140

TRN TAX REP NETWORK

29

29

The Appeal

We send a letter disagreeing with the items we believe the COIC got wrong:

- Dependent care
- The delinquent state taxes
- The union dues
- The loan from mom for rep fees

TRN TAX REP NETWORK

30

30

The Appeal - IRM 5.15.1.11(3)

- Child Care (Summer Day Camp): must be necessary to allow both parents to work and the amount paid must be reasonable
- Delinquent State Taxes: allowed when the taxpayer provides financial information that they cannot full-pay the state, provides verification of the state debt and payment plan. Allocated if IRS is in priority position.
- Loan from Mom: For a necessary expense - Accounting and Legal Fees. Must be for representation before the IRS, are necessary and are reasonable.
- Union Dues (Involuntary Deductions): Allowed if it's a requirement of the job (e.g., union dues, uniforms, work shoes, etc)

TRN TAX REP NETWORK

31

31

The Appeal

- They have reviewed our Appeal
- The "hearing" is a phone call
- Appeals Officer concludes the following:
    1. Agree to dependent/child care
    2. Agree with delinquent state taxes
    3. Agree the union dues are necessary
    4. Loan to mom – will agree to 48 month repayment, not 24

TRN TAX REP NETWORK

32

32

Adjusted RCP Analysis from Appeals

Expenses	Actual	Allowable
Food, Clothing and Misc	$ 1,500	$ 1,993
Housing & utilities	$ 4,525	$ 3,097
Vehicle Ownership	$ -	$ 400
Vehicle Operating Costs	$ 1,000	$ 596
Public Transportation	$ -	$ -
Health Insurance	$ 695	$ 695
Out of Pocket HealthCare	$ 200	$ 437
Court ordered pmts	$ -	$ -
Child/Dep Care	$ 375	$ 375
Life Insurance	$ -	$ 300
Current Year Taxes	$ 3,125	$ 3,125
Secured Debts	$ 175	$ 175
Delinquent State Taxes	$ 500	$ 65
Other - Union Dues	$ 318	$ 224
Total Living Expenses	$ 12,413	$ 11,482
Net Difference	$ 87	$ 1,018

TAX REP NETWORK

Adjusted RCP Analysis from Appeals

- OIC:
- Income: $12,500
- Allowable Expenses: $11,482
- Future Income: $1,018 x 12 = $12,216
- Assets: $2,150 (House and Accord)
- **RCP: is now $14,366, not $13,238!**

TAX REP NETWORK

So what happens now?

- If TP does not agree, OIC is rejected. IF at CDP have tax court rights. If not OIC is over
- If TP agrees, then we need to do an addendum
- New OIC is $14,366
- 20% should have been $2,874
- Was $2,648
- Sign Addendum agreeing to higher amount and pay in the difference of $226 ($2,874 - $2,648)

TRN
TAX REP NETWORK

35

35

The Addendum – Form 14640

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

Lump sum cash offer of $ 14,366 with $ 2,648 paid with the offer and $ 226 paid with any amended Form 656 and/or this addendum. The remaining balance of $ 11,492 to be paid as follows:

A. $ 11,492 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

TRN
TAX REP NETWORK

36

36

Note

- The Offer is not yet accepted
- Its being submitted for management approval
- Management could still deny it, so make the client aware of this
- In practice, I have only had one get kicked back and we negotiated around the denial

TRN TAX REP NETWORK

37

37

Offer Acceptance

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.

If you submitted a joint offer with your spouse or former spouse and you personally are meeting or have met all the conditions of your offer agreement, but your spouse or former spouse fails to adhere to the conditions of the offer agreement, your offer agreement will not be defaulted.

If you fail to meet any of the terms and conditions of the offer, the IRS will issue a notice to default the agreement. If the offer defaults, the original tax including all penalties and interest will be due. After issuance of the notice the IRS may:

TRN TAX REP NETWORK

38

38

COIC Monitoring Letter (Sample)

Offer Number:100XXXXXXX

TAXPAYER NAME
Street Address
City, State Zip

Your accepted Offer in Compromise is now assigned to the Collection Operation in the Monitoring Offer in Compromise Department (MOIC). As a tax examiner in MOIC, I have been designated to monitor the compliance provisions of your accepted Offer in Compromise.

The payment terms for your offer are:
Lump sum cash offer of $6,371.00 with $0.00 paid with the offer. The remaining balance of $6,371.00 to be paid as follows: $0.00 payable within 1 month after acceptance, $0.00 payable within 2 months after acceptance, $0.00 payable within 3 months after acceptance, $0.00 payable within 4 months after acceptance and $6,371.00 payable within 5 months after acceptance. After making all the payments, you must still comply with all of the other contract provisions contained in Section 7, Terms, Conditions, and Legal Agreement of Form 656.

Make your check or money order payable to the United States Treasury and send it to:
INTERNAL REVENUE SERVICE
ATTN: OIC

TRN
TAX REP NETWORK

39

39

Terms Met after Final Payment

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.

TRN
TAX REP NETWORK

40

40

Lien Discharge

Form **669-B** (September 2008)

Department of the Treasury — Internal Revenue Service

Certificate of Discharge of Property From Federal Tax Lien

(Sec. 6325(b)(2)(A) of the Internal Revenue Code)

____

Of ______________________________, City of ______________________,

County of ______________________________, State of ______________________,

is indebted to the United States for unpaid internal revenue tax in the sum of ______________________

______________________________ Dollars ($ ______________)

as evidenced by:

Notice of Federal Tax Lien Serial Number (a)	Recording Information (b)	Date Recorded (c)	Taxpayer Identification Number (d)	Amount Shown on Lien (e)

TRN TAX REP NETWORK

41

41

If the client Defaults…

NAME
STREET
CITY,STATE,ZIP

Dear Mr. Client,

NOTICE OF INTENT TO DEFAULT OFFER

When we accepted your Offer in Compromise, you agreed to file all tax returns and pay all taxes on time for the five years following the date we accepted your offer or until you pay the offered amount in full, whichever is later.

Our records show that there is an outstanding balance due for the period(s) listed below. You need to pay $2,216.79 within 30 days from the date of this letter to prevent termination of your Offer In Compromise. If you cannot full pay within 30 days, please call the number shown at the top of this letter to determine if you qualify for extension to pay. If eligible, you may request an extension to pay up to 120 days.

Form 1040 for tax year 2018

It is important that you comply with the terms of the agreement. If you don't comply with the above request, we will terminate your offer and will reinstate the original amount of your liability, less any offer payments you made.

TRN TAX REP NETWORK

42

42

Questions?

TRN
TAX REP NETWORK

43

43