

Inside Secrets to IRS Offers

What Every Practitioner Needs to Know

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TRN
TAX REP NETWORK

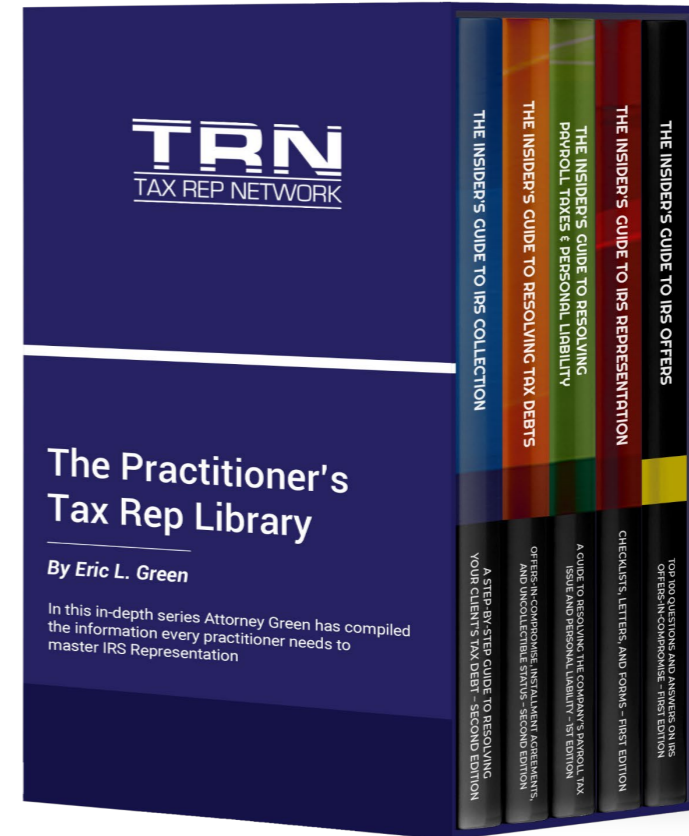
Eric Green, Esq.

- ▶ 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



Offers-in-Compromise

- ▶ Types of Offers: Lump Sum, Periodic (deferred), ETA
- ▶ Offers are driven by RCP – Reasonable Collection Potential

Its about the 433, and its NOT that complicated!

- ▶ MUST make sure the client cannot full-pay! If they can – no OIC



Types

- ▶ ETA – Yes, but
- ▶ DATL – Hey wait a minute!
- ▶ DATC – Sorry but I can't



Common Question

- ▶ How much do you charge for an Offer-in-Compromise?
- ▶ DATL - \$3,500 if they provide all the documents, otherwise that is billed at hourly
- ▶ DATC - \$3,500 for the analysis, \$6,500 for the Offer **MINUS** the \$3,500 they already paid



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!

So a Tax Rep member asks

*“How do you know
which Offer to use?”*

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 \$3,500 Consult?

- ▶ I need to do the RCP calculation
- ▶ We may have clean-up to do (Empty LLCs, extra vehicles, etc)
- ▶ Credited towards the \$6,500 we charge for Offers
- ▶ 99.9% closing rate
- ▶ Client's prefer dealing with someone local



- ▶ 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.

Also consider the \$\$\$ up front

- ▶ \$10,000 RCP from assets Deferred: \$50/month x 12 months to work the Offer = \$600 down if rejected
- ▶ \$10,000 RCP Lump Sum: 20% is paid in (ie. \$2,000)
- ▶ Be strategic when you walk the client through the options
- ▶ Its WHY you get to charge \$6,500 for an Offer!

Word on Assets

- ▶ IRS utilizes 80% quicksale for analysis
- ▶ Consider MFS vs MFJ before you file and create huge liabilities
- ▶ Non-Liable Spouse: separate property vs community property states
- ▶ Exemptions:
 - Auto: \$3,450 per spouse (thank you Eric)
 - Cash: \$1,000 or one-month's expenses per IRM 5.8.5.7

Exemptions

- ▶ Car is worth \$7,000. For OIC purposes, it is really \$2,150:

$$\$7,000 \times 80\% = \$5,600, - \$3,450 \text{ exemption} = \$2,150$$

- ▶ Cash in the bank is \$8,500. The taxpayer's allowable monthly expenses are \$6,500. Cash would be \$2,000 (cash less the larger of the \$1,000 exemption or one-month of allowable expenses).
- ▶ Only one exemption, not by account, and no exemption for cash in the business accounts!

Tax Return Balances

- ▶ If you prepare a return with balances due
- ▶ Can client pay?
- ▶ If not, step back and work the offer RCP calculation and then walk the case backwards
- ▶ MFS vs MFJ?
- ▶ State vs Federal filed first?
- ▶ Go shopping?

MFS v MFJ

- ▶ If in a separate property state, or if the non-liable spouse owns property in a separate property state, the MFS return works great

Couple lives in CA but non-liable spouse owns a summer home on Cape Cod

- ▶ If it's a community property state this will not work – the spouse's assets are generally included

State Return First

- ▶ If IRS is assessed first it will only allow a percentage of the state payment plan

Example: e-file both federal and state returns, owe IRS \$50,000 and owe NY \$10,000, and NY comes after client, who gets into a \$500/month payment plan as it was their available future income, IRS will allow 1/6 of that because NY is 1/6 of the total tax debt!

- ▶ If state filed first, and once assessed and billed then IRS is filed. Set up state and IRS must allow it in full!
- ▶ State can be used as leverage to compromise away the IRS

Go Shopping

- ▶ Household income - allowable expenses = future income
- ▶ Are there expenses we are not spending but could?

Example: husband and wife file the last 4 years and owe the IRS \$200,000. Show future income of \$2,000 a month. Can fill-pay so no Offer available (120 months x \$2,000/month = \$240,000). What if they get health insurance (\$500/mo) and self-employed husband gets disability income insurance (\$300/mo). Now future income is \$1,200, and so in 10-years cannot full pay (120 months x \$1,200 = \$144,000). Offer amount now is twelve months of future income, or \$12,000!

Takeaways:

- ▶ Understand the RCP calculation so you can determine:
 1. Can the client full-pay?
 2. Whether the Lump-Sum or Periodic Offers is the better option
 3. Can we adjust the RCP – legitimately – to make the taxpayer unable to full-pay?

Remember: Its all about the 433 Analysis (“RCP”)!

Want to Build a revenue stream and bring the Tax Rep Hero?

- ▶ Want to have coffee and chat about what you can do to add this lucrative area to your practice?
- ▶ Want to launch a whole new practice?
- ▶ Want to just solve that client's issue?
- ▶ Book a call (zoom) with me and we can have coffee and chat:

<https://calendly.com/taxrep/future-member>



Questions?

