



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.8.1

MAY 25, 2023

EFFECTIVE DATE

(05-25-2023)

PURPOSE

- (1) This transmits revised IRM 5.8.1, Offer in Compromise, Overview.

MATERIAL CHANGES

- (1) Updated this IRM to reflect various changes:

IRM Section	Changes
5.8.1.1	Added "IRS Independent Office of Appeals" employees. Also changed the language in (3), bullet 1, to delete the statement regarding collecting the "maximum amount", per Counsel.
5.8.1.2.2	In (1), added a statement about the five year compliance agreement, per Counsel. In (4), "accepted offer amount must exceed RCP amount" - updated to "equal or exceed" RCP amount.
5.8.1.3(4)	Removed extraneous and duplicate language.
5.8.1.5	Added (4): Employees can generally assume that it is convenient to contact the taxpayer after 8:00 a.m. and before 9:00 p.m. local time Monday through Friday at the taxpayer's location, unless there is reason to know otherwise.
5.8.1.6.1(1)(f)	Per Counsel request, added a statement that this section applies even if the DOJ referral was made years ago and the DOJ is still holding the case and waiting to file suit.
5.8.1.6.1(2)	Removed extraneous and duplicate language and added a statement to coordinate with counsel before working DOJ offers.

IRM Section	Changes
5.8.1.6.3	Changed Collection Function to Specialty Collection Offer in Compromise.
5.8.1.6.4	Changed Examination Function to Examination.
5.8.1.6.5	Changed title to Independent Office of Appeals. In (1), removed “deposits” as it no longer applies.
5.8.1.6.6(1)	Added language to clarify requirements for Counsel review of OIC cases.
5.8.1.6.7(4)	Added a sentence explaining that OARs from TAS may involve OIC matters.
5.8.1.6.7(4)(c)	Added that expedite requests must meet IRM 5.8.4.27 expedite requirements.
5.8.1.6.7.(4)(d)	Added a link for TAS SLA business unit liaisons.
5.8.1.6.7(6)	Deleted (6) because link is no longer valid.
5.8.1.7	Added a (5) for time code 120, for CDP OICs.
5.8.1.8.2(2)	Removed reference to deposits.
5.8.1.9	Added (3):The IRS only has the authority to compromise tax liabilities arising under the Internal Revenue Code, Title 26. In some instances, taxpayers will include liabilities on a Form 656 that may not be compromised by IRS as a matter of law. In these instances, any liabilities the IRS has no authority to compromise must be removed from the offer Form 656 before the investigation begins.
5.8.1.10(3)	Removed references to any amounts other than “\$50,000 indexed for inflation” for passport certification purposes; referred to IRM 5.19.25.3 for amounts updated for inflation.

IRM Section	Changes
5.8.1.10	Added (5): A request by a taxpayer for an Equivalent Hearing (EH) based on a notice of intent to levy does not meet the criteria for exclusion.
5.8.1.10.1	Removed (4) - Duplicate information.
5.8.1.11.3(7)	Removed invalid IRM reference. Updated IRM reference to 5.8.2.8.1.
5.8.1.11.5(1)	Per Counsel request, removed statement that a minor child does not have the legal capacity to enter into a binding contracts.
5.8.1.11.6(3)	Updated Offshore Voluntary Disclosure Initiative to Offshore Voluntary Disclosure Program.
5.8.1.12(4)	Specified IRS is allowed to use reported adjusted gross income or reported gross monthly income multiplied by 12, to determine if an individual meets the low-income certification.
5.8.1.13(4)	Added language to define a periodic payment OIC.
5.8.1.14	Added (3) to state that unsolicited offers may not be faxed or e-mailed to IRS.
5.8.1.14(3)	Added explanation that process examiners make the processability determinations and sign the Form 656 waivers of the statutory periods on behalf of the IRS.

IRM Section	Changes
5.8.1.14.1	Deleted (2) due to duplicate information, and included the non duplicate information in (1). Added (3) - will be renumbered to (2) - to explain unsolicited offers may not be faxed or emailed, and a Form 656 secured elsewhere in the Service without an original signature will not be considered a valid contract. In (4) - will be renumbered to (3) - added that FOIC may send additional case documents to COIC via encrypted email with read receipt in lieu of sending paper copies on a Form 3210.
5.8.1.14.2	Deleted shipping information reference in (2) and added a (3) with this information. Also added a cross reference IRM in (2).
5.8.1.15(2)	Added to note that the low income waiver does not apply to deceased taxpayers.
5.8.1.15(3)	Added taxpayers with related businesses that have no outstanding business tax liabilities may submit Forms 433-B with their Forms 433-A(OIC).
5.8.1.15.5(2)	Deleted waiver of refund / refund offset provisions, per IGM SBSE-05-1021-0063.
5.8.1.15.6(2)	Added an exception - OE or OS should not include outstanding liabilities in the offer if the outstanding liabilities may not be legally compromised.
5.8.1.15.8(5)	Clarified example regarding original signature on Form 656 and deleted reference to the e-signature program, which is not applicable to OICs.
5.8.1.15.8(10)	Clarified reminder to say low income waiver does not apply to OICs filed for deceased individuals.

IRM Section	Changes
5.8.1.16(4)	Deleted duplicate information already stated in 5.8.1.16(1).
5.8.1.17	Added additional instruction and clarification in (4), (5), (6), (11) and (13) regarding cases where the taxpayers reside in disaster areas with -O freezes or -S freezes on accounts.
Exhibit 5.8.1-1	Added language to clarify some of the abbreviations listed.
All	Editorial changes were made throughout this IRM to correct references and clarify language.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 5.8.1, dated April 20, 2021. Interim Guidance Memorandum SBSE-05-1021-0063, Interim Guidance on Refund Recoupments, has been incorporated into this section.

AUDIENCE

SB/SE Collection and Campus Compliance employees.

Rocco A. Steco
Acting Director, Collection Policy

5.8.1
Overview

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5.8.1.1
(05-25-2023)
Program Scope and Objectives

- (1) **Purpose:** The government, like other creditors, encounters situations where an account receivable cannot be collected in full or there is a legitimate dispute as to what is owed. It is an accepted business practice to resolve these issues through negotiation and compromise. This IRM provides a brief summary of various functional activities that are key to the offer in compromise (OIC) process.
- (2) **Audience:** These procedures apply to IRS employees who are responsible for investigating and making a decision on offers. It also provides guidance to other collection employees when all other collection alternatives have been exhausted.
 - Offer examiners (OE) in Centralized Offer in Compromise (COIC)
 - Offer specialists (OS) in Field Offer in Compromise (FOIC)
 - Additional IRS employees assigned to the offer program
 - IRS Independent Office of Appeals employees
 - Collection employees, such as revenue officers, who assist taxpayers in resolving delinquent tax liabilities
- (3) **Objectives:**
 - The IRS will accept an offer in compromise when it is unlikely that the tax liability can be collected in full and the offer amount reflects the reasonable collection potential.
 - Achieve a resolution that is in the best interest of both the individual taxpayer and the government.
 - Provide the taxpayer a fresh start toward future voluntary compliance with all filing and payment requirements.
 - Collect revenue that might not be collected otherwise.
- (4) **Policy Owner:** Director, Collection Policy, SBSE
- (5) **Program Owner:** Collection Policy, SBSE, Offer in Compromise (OIC) Program
- (6) **Primary Stakeholders:** Centralized Offer in Compromise (COIC) and Field Offer in Compromise (FOIC) employees
- (7) **Program Goals:** This IRM provides the fundamental knowledge and procedural guidance for employees engaged in the investigation of offers.

5.8.1.1.1
(05-05-2017)
Background

- (1) This section provides a general overview and direction for the Offer in Compromise Program.

5.8.1.1.2
(05-25-2023)
Authority

- (1) Authorities that are related to the offer program are:
 - IRC 7122 – Compromises
 - Treasury Regulation 26 CFR 301.7122-1 - grounds for compromise
 - IRC 6702(b)– civil penalty for specified frivolous submissions
 - Policy Statement P-5-89 - offer may be rejected for public policy reasons
 - Policy Statement P-5-97 - stay of collection - offer in compromise cases
 - Policy Statement P-5-100 - general information on offer in compromise objectives
 - Treasury Regulation 300.3 – offer in compromise fee

- Revenue Procedure 2003-71, 2003-2 CB 517- procedures applicable to the submission and processing of offer tax liabilities
- Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)
- Notice 2006-68, additional guidance for offers.
- IRM 1.2.2.6.1, Delegation Order 5-1 (Rev. 5)- delegates the Commissioner's authority to accept, reject, return, terminate, or acknowledge withdrawals of offers

5.8.1.1.3
(05-05-2017)
Responsibilities

- (1) The director, Collection Policy, is responsible for the all policies and procedures within the offer program.
- (2) The national program manager (OIC) is responsible for development and delivery of policies and procedures within the program.
- (3) The IRM authors are responsible for writing the policies and procedures and clearing documents through all affected offices.

5.8.1.1.4
(12-26-2019)
Program Management Review

- (1) Operational and program reviews are conducted on a yearly basis with the use of data and reports on the Automated Offer in Compromise (AOIC) system and Integrated Collection System (ICS). See IRM 1.4.52, Offer in Compromise Manager's Resource Guide.
- (2) National quality reviews and consistency reviews are routinely conducted.

5.8.1.1.5
(12-26-2019)
Program Controls

- (1) The AOIC program is used to track offers submitted by taxpayers and record case actions and history. Ability to take action on AOIC is limited to specific offer employees. Additional permissions are also provided based on an employee's duties and responsibilities.
- (2) ICS is used by field employees as a method for inventory control and history documentation.
- (3) Managers are required to follow program management procedures and controls addressed in IRM 1.4.52, Offer in Compromise Manager's Resource Guide.

5.8.1.1.6
(05-05-2017)
Terms/Definitions/ Acronyms

- (1) For a list of common abbreviations, definitions and acronyms used throughout this IRM, see Exhibit 5.8.1-1, Common Abbreviations Used in IRM 5.8.1.
- (2) Additional acceptable acronyms and abbreviations are found in the ReferenceNet Acronym Database, which may be viewed at: <https://rnet.web.irs.gov/Resources/AcronymSearch.aspx>.

5.8.1.1.7
(12-26-2019)
Related Resources

- (1) Below are recommended resources, for use when processing an offer.

IRM Section	Title	Guidance On
IRM 1.2.1	Servicewide Policy Statements	All Active Policy Statements for Collecting Process Activities

IRM Section	Title	Guidance On
IRM 1.2.2	Servicewide Delegations of Authority	Approval and signature authorities
IRM 5.8.2 through IRM 5.8.12	Offer in Compromise (various chapters)	Offer in Compromise program

(2) Employees can find helpful information on these websites:

- SERP – <http://serp.enterprise.irs.gov/>
- IMD site for Interim Guidance Memorandums – *Search Interim Guidance (irs.gov)*

5.8.1.2
(05-05-2017)
Introduction

(1) This IRM provides guidance and basic information on the offer process and is the first of twelve volumes surrounding the offer processes and procedures. This IRM also includes in Exhibit 5.8.1-1, Common Abbreviations Used in the IRM, a list of common abbreviations used throughout all sections of IRM 5.8.

5.8.1.2.1
(09-23-2008)
Definition

(1) An offer in compromise (OIC) is an agreement between a taxpayer and the government that settles a tax liability for payment of less than the full amount owed.

5.8.1.2.2
(05-25-2023)
Policy

(1) Policy Statement 5-100 in IRM 1.2.1.6.17 states:

- The Internal Revenue Service (IRS) will accept an offer in compromise when it is unlikely that the tax liability can be collected in full and the amount offered reasonably reflects collection potential. An offer in compromise is a legitimate alternative to declaring a case currently not collectible or granting a protracted installment agreement. The goal is to achieve collection of what is potentially collectible at the earliest possible time and at the least cost to the Government.
- In cases where an offer in compromise appears to be a viable solution to a tax delinquency, the IRS employee assigned the case will discuss the compromise alternative with the taxpayer and, when necessary, assist in preparing the required forms. The taxpayer will be responsible for initiating the first specific proposal for compromise.
- The success of the OIC program will be assured only if taxpayers make adequate compromise proposals consistent with their ability to pay and the IRS makes prompt and reasonable decisions. Taxpayers are expected to provide reasonable documentation to verify their ability to pay. The ultimate goal is a compromise that is in the best interest of both the taxpayer and the IRS. Acceptance of an adequate offer amount will give the taxpayer a fresh start toward compliance with all future filing and payment requirements (if the taxpayer stays in compliance for five years following the offer acceptance).

(2) A protracted installment agreement is defined as one that extends beyond the Collection Statute Expiration Date (CSED). See IRM 5.14.2.3, Collection Statute Expiration Date (CSED): Law, Policy and Procedures, for additional information.

- (3) Unless special circumstances exist, the IRS will not accept an offer if the total tax liability can be paid in full as a lump sum, by installment payments extending through the remaining statutory period for collection, or by other means of collection.
- (4) Generally, a doubt as to collectibility (DATC) offer amount must equal or exceed a taxpayer's reasonable collection potential (RCP) in order to be acceptable. However, offers may be accepted for less than the RCP amount in cases that involve special circumstances as defined in IRM 5.8.4.2, Effective Tax Administration (ETA) and Doubt as to Collectibility with Special Circumstances (DATCSC), IRM 5.8.11.3.1, Economic Hardship, and IRM 5.8.11.3.2, Public Policy or Equity Grounds.
- (5) Per IRM 5.8.7.7.2, Public Policy Rejections, an offer may be rejected based on public policy considerations if acceptance of the offer may be detrimental to the interests of fair tax administration, even though it is shown conclusively that the amount offered exceeds the reasonable collection potential and is greater than the amount that could be collected by other means.

5.8.1.3
(05-25-2023)
**Timeliness of Offer
Investigations**

- (1) The timeliness of case actions in an offer investigation is important to ensure the efficiency of the process and it is also a key component of taxpayer satisfaction.
- (2) The guidelines for timely case actions defined in this IRM are intended to provide structure for the overall offer process and to ensure investigations are completed in a responsive and efficient manner.
- (3) Managers and employees must make sure communications from taxpayers are addressed in a timely manner. Timeliness of case actions ensures the length of the offer investigation process is appropriate given the taxpayer's specific set of facts and circumstances.
- (4) These guidelines are not intended as absolute measures of performance for individual employees. Performance evaluations of individual employees must be based on reviews of actual work produced by the employees and must take into account any special circumstances that may have impacted the ability of the employees to meet the specified guidelines. Offer managers should establish controls to ensure that cases with unwarranted inactivity gaps are identified and addressed appropriately.
- (5) Generally, cases should be assigned on a first-in-first-out (FIFO) basis. This is determined by the IRS received date unless the case qualifies for expedited processing as discussed in IRM 5.8.3.18, Expedite Handling, IRM 5.8.4.27, Expedite Handling, or IRM 1.4.52.6.3, Assigning Work.

5.8.1.4
(04-20-2021)
**Fairness and Integrity in
Enforcement Selection
(Policy Statement 1-236)**

- (1) Taxpayers have the right to expect the IRS to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Note: See IRM 1.2.1.2.36, Fairness and Integrity in Enforcement Selection, and for additional information, Policy Statement 1-236.

(2) There are three parts to enforcing the tax law with integrity and fairness:

- Ensure fairness to the taxpaying public.
- Ensure an equitable process for all taxpayers.
- Ensure fairness to each taxpayer.

5.8.1.5
(05-25-2023)
**Protecting Taxpayer
Rights**

- (1) Employees working offer cases must make sure taxpayer rights are always observed during interactions with taxpayers and/or their representatives. All cases must be clearly documented to make sure the taxpayer has been afforded all rights in accordance with the Taxpayer Bill of Rights.
- (2) Although many taxpayer rights are included in the Internal Revenue Code, taxpayers are often not aware of their rights and all of the tools available to help them resolve issues.
- (3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see: <https://www.irs.gov/taxpayer-bill-of-rights>.
- (4) Employees can generally assume that it is convenient to contact the taxpayer after 8:00 a.m. and before 9:00 p.m. local time Monday through Friday at the taxpayer's location, unless there is reason to know otherwise.

5.8.1.6
(03-16-2010)
**Functional
Responsibilities**

- (1) The following list, while not all-inclusive, provides a brief summary of various functions' activities related to offer processing.

5.8.1.6.1
(05-25-2023)
**Tax Cases Controlled by
Department of Justice
(DOJ)**

- (1) The IRS may not have the authority to accept an offer when:
- a. The Department of Justice is handling a matter concerning the amount of the taxpayer's liability or the collection of the liability for all or some of the tax periods owed.
 - b. The federal tax liability for all or some of the periods the taxpayer owes has been reduced to a judgment. See IRM 5.8.10, Special Case Processing, for additional information on DOJ and docketed cases.
 - c. The offer includes tax periods for which restitution was ordered. Refer to IRM 5.1.5.18.6, Offers in Compromise (OIC) and Restitution, and IRM 5.8.4.24.1, Offers in Compromise Submitted that Include Restitution. The IRS cannot accept an offer that in any way modifies the terms of a restitution order.
 - d. The IRS may consider an offer for the civil tax liability on periods for which restitution was ordered; however, the restitution assessments (MFT 31) should not be included on the Form 656 or on the acceptance recommendation report.
 - e. If there is a closed Criminal Investigation (CI) indicator on the account, contact should be made with Advisory to verify whether restitution was ordered. If restitution was ordered, the tax period may be under the control of the DOJ. In those cases, request the guidance of Area Counsel before proceeding. These cases may be identified by a TC 971 AC 180 - 189.

- f. The IRS has referred the taxpayer's civil or criminal case to the DOJ for prosecution or defense. This applies even if the DOJ referral was made years ago and the DOJ is still holding the case and waiting to file suit.
 - g. Acceptance of the offer by the IRS is dependent upon the DOJ accepting a related offer or settlement.
- (2) In some instances, DOJ may request the case be forwarded to them for inclusion in pending litigation. However, in DATC offers, DOJ generally requests that a field offer specialist conduct the investigation and make a recommendation to accept or reject the offer. In those cases, the OS should coordinate with Area Counsel before working the offer.
 - (3) If there are any master file transaction codes on tax module(s) or other information that shows DOJ is involved in prior/pending tax assessments or prior/pending litigation, an offer may not be accepted without securing approval from Counsel. Any acceptance recommendation must advise the reviewing Counsel office of the potential for DOJ involvement and ensure Counsel concurs that the IRS has the authority to accept the offer. You may use the OIC IAT tool to identify the DOJ indicator. You may use the OIC IAT tool to assist with identifying the DOJ indicator.

5.8.1.6.2
(04-20-2021)
**Docketed Tax Court
Cases**

- (1) Area Counsel handles Tax Court cases. The IRS has the authority to accept offers where the liability is the subject of a pending Tax Court case. See IRM 5.8.1.11.1, Unassessed Liability When No Other Tax Periods with Liabilities Exist, for information on the consideration of offers relating to unassessed liabilities. Generally, DATC cases will be under the jurisdiction of Collection, unless the case is under Appeals jurisdiction. See IRM 5.8.10, Special Case Processing, for additional information on docketed court cases.
- (2) All cases identified as docketed court cases will be immediately forwarded to a field offer (FOIC) group for investigation.
- (3) Centralized Offer in Compromise (COIC) will be responsible for determining processability on these cases.

5.8.1.6.3
(05-25-2023)
**Specialty Collection
Offer in Compromise**

- (1) Specialty Collection Offer in Compromise (SCOIC) is responsible for processing and investigating the following offers:
 - All offers based on Doubt as to Collectibility (DATC), including proposed liabilities still subject to settlement in Examination or Appeals
 - All offers based on Effective Tax Administration (ETA) economic hardship grounds
 - All offers based on ETA public policy or equity grounds
 - All offers based on Doubt as to Liability (DATL) for either a Trust Fund Recovery Penalty (TFRP) or Personal Liability Excise Tax (PLET) assessment

5.8.1.6.4
(05-25-2023)
Examination

- (1) Examination is responsible for processing and investigating offers submitted based on Doubt as to Liability (excluding offers submitted to compromise a TFRP or PLET). See IRM 4.18.1.2, Exam Offer In Compromise- Understanding an Offer in Compromise (OIC).
- (2) Examination employees must also provide SCOIC with a recommendation on offers based on ETA with public policy/equity issues, when requested by

SCOIC. See IRM 5.8.11, Effective Tax Administration, for public policy or equity grounds and IRM 4.18.1.2.1, Offer in Compromise - Doubt as to Liability (OIC-DATL). Also, see IRM 5.19.24, Doubt as to Liability Offers in Compromise, for more information.

5.8.1.6.5
(05-25-2023)
Independent Office of Appeals

- (1) Offers secured in Appeals offices in conjunction with related casework, such as Collection Due Process (CDP) or Equivalent Hearing (EH), will be forwarded to the COIC sites for processability determination(s), processing of the application fee(s), required TIPRA payment(s), and mailing of processability letters. (Processable offer letters are provided by Appeals.).
- (2) COIC is responsible for the input of necessary transaction codes to IDRS. See IRM 5.8.4.15, Investigation of Offers under Appeals Jurisdiction, for guidelines on determining processability for Appeals CDP offers.
- (3) COIC will investigate CDP and EH offers that meet their criteria or forward the offers to FOIC for investigation.

5.8.1.6.6
(05-25-2023)
Counsel

- (1) Counsel must review offers that are recommended for acceptance when the aggregate tax liability is \$50,000 or greater at the time the offer is submitted for approval (including penalty and interest). The aggregate tax liability is the total of all liabilities listed on the Form 7249 and related Form(s) 7249.
- (2) Counsel attorneys, when requested, may also provide legal opinions for matters related to investigation and processing of offers.

5.8.1.6.7
(05-25-2023)
Taxpayer Advocate Service

- (1) The Taxpayer Advocate Service (TAS) is an **independent** organization within the Internal Revenue Service (IRS), led by the National Taxpayer Advocate. Its job is to protect taxpayers' rights by striving to ensure that every taxpayer is treated fairly and understands their rights under the Taxpayer Bill of Rights (TBOR).
- (2) TAS offers free help to taxpayers, including those who face financial difficulties due to an IRS problem, when they are unable to resolve tax problems on their own, or when they need assistance to address an IRS system, process, or procedure that is not functioning as it should. TAS has at least one taxpayer advocate office located in every state, the District of Columbia, and Puerto Rico.
- (3) The National Taxpayer Advocate and the Commissioner, SB/SE reached an agreement (effective May 30, 2011) outlining the procedures and responsibilities for processing TAS casework when either the statutory or delegated authority to complete a case transaction rests with the SB/SE. The agreement is known as a Service Level Agreement (SLA).
- (4) In preparation for a case being referred to a SB/SE function, the TAS employee is responsible for:
 - a. Preparing Form 12412, Operations Assistance Request (OAR). The form should include a requested completion date. These OARs may refer to matters involving OIC cases.
 - b. Securing all necessary supporting documentation.

- c. Identifying cases that require expedite processing. No case will automatically receive expedite processing; requests for expedite processing will be made on a case-by-case basis, and they must meet the criteria in IRM 5.8.4.27.
- d. Forwarding Form 12412 and documentation to the SB/SE business unit liaison. *Taxpayer Advocate Service - SLA (irs.gov)*

(5) SB/SE must:

- a. Assign a liaison in each office or Campus where a Taxpayer Advocate is located.
- b. Acknowledge receipt of the case within one workday for cases requiring expedite processing or within three workdays for all other cases.
- c. Respond to TAS within three (3) workdays in writing, via facsimile, secure messaging E-mail, or hand delivery of resolution.
- d. Provide TAS with the name and telephone number of the SB/SE group manager or employee assigned the case.
- e. If the requested completion date cannot be met, refer to the SLA for how to proceed.
- f. Complete Section VI of Form 12412, Operations Assistance Request, upon closing the OAR, and return it to the TAS employee assigned the case. The Form 12412 must be returned within three workdays from the date that all actions have been completed and transactions input.

5.8.1.7

(05-25-2023)

**Time Reporting for OIC
Field Offer Specialists**

- (1) OSs are responsible for proper time reporting using ICS. OSs are responsible for the accuracy of the case information in their assigned inventory, accurately reporting time, and performing a timely End of Day process.
- (2) OSs report non-case direct time under **ICS Code 106**. Time Code 106 has Non-Case Direct and Direct-Case time designations that are captured and reported separately.

Caution: OSs must not charge any time to **ICS Code 809** because time reported to Code 809 rolls into 101 TDA Direct and 201 TDI Direct time.

- (3) Direct case time (Sub-Code 106) covers all actions relating to the time spent working an assigned OIC case. This includes receiving and analyzing forms and all required documentation, conducting required interviews, determining reasonable collection potential, making disposition recommendations, reviewing requests for Appeals consideration, time of more than 15 minutes spent discussing a case during inventory management reviews, etc.
- (4) OSs must report any clerical or administrative duties such as mailing or scanning cases not as case time, but under **ICS Code 611**.
- (5) OSs must report time spent working offers with open CDP cases to **ICS Code 120**. This includes receiving and analyzing forms and all required documentation, conducting required interviews, determining reasonable collection potential, making disposition recommendations etc.

5.8.1.7.1

(12-26-2019)

**Time Reporting for
Paraprofessionals (Field
OIC Tax Examiners)**

- (1) OIC support work that is performed by paraprofessionals (tax examiners, etc.) must be reported under **ICS Code 106 — Non-Case Direct**.
- (2) The TE must report any clerical or administrative duties under **ICS Code 611**.

5.8.1.8

(12-26-2019)

Time Reporting for COIC

- (1) Utilize SETR bi-weekly to ensure accurate case time reporting.

5.8.1.8.1

(12-26-2019)

Clerical Time Reporting in the COIC Program

- (1) Organization Function Program (OFP) time code 790–0000X covers time spent by clerical employees related to time spent in support of COIC including, but not limited to, the following:
 - Maintaining filing systems
 - Filing documents or cases
 - Processing closed files
 - Typing or inputting hardcopy or electronic information
 - Processing and routing mail
 - Conducting research
 - Processing remittances

5.8.1.8.2

(05-25-2023)

Process Examiner Time Reporting in the COIC Program

- (1) OFP time code 700-60000 covers all actions related to the time spent by Process Examiners (PEs) on telephone contact, including requests received on Form 4442.
- (2) OFP time code 810–6603X covers all actions related to the time spent by PEs working on a newly receipted Form 656, Offer in Compromise. This includes the following below:
 - Loading offers to AOIC
 - Researching to make a processability determination
 - Processing application fees
- (3) OFP time code 810–66025 covers all actions related to the time spent by PEs correcting input problems that show up on the IDRS transaction error listings.
- (4) OFP time code 810–6602X covers the following below:
 - Case building for additional financial documentation
 - Generating the appropriate correspondence
 - Reviewing the taxpayer's response to the request for additional financial verification
 - Documenting alternative resolutions
 - Requesting liens and credit transfers
- (5) OFP time code 810-66040 covers all actions related to the time spent by PEs processing subsequent payments.

5.8.1.8.3

(12-26-2019)

Tax Examiner Time Reporting in the COIC DATL Program

- (1) OFP time code 810–61970 covers most actions related to the time spent by the tax examiners in the DATL COIC program.

5.8.1.8.4

(04-20-2021)

Offer Examiner Time Reporting in the COIC Program

- (1) OFP time code 810–6601X covers all actions related to the time spent by OEs working on an assigned OIC submitted on Form 656, Offer in Compromise. This list includes, but is not limited to the following below:
 - Receiving and analyzing the **Form 656**, Offer in Compromise, and all required documentation

- Determining reasonable collection potential (RCP)
- Making disposition recommendations and reviewing requests for Appeals consideration
- Working CDP offers
- Working on modifications of accepted compromises

5.8.1.9

(05-25-2023)

Liabilities to be Compromised

- (1) Accepted offers based on DATC or ETA should include all unpaid tax liabilities and periods, including MFT 35 modules or the mirrored MFT 65 modules — IRC 5000A individual shared responsibility payment (SRP) liabilities, as well as **MFT 74**, the penalty for late filing of **Form 5500**, Annual Return/Report of Employee Benefit Plan, and **MFT 76**, excise tax based on noncompliance with various statutes relating to employee benefit plans. See IRM 5.8.10.16 regarding assessments related to employee benefit plans - MFT 74 and 76.
- (2) Offers accepted based on DATL should only include the tax years or periods for which the taxpayer disagreed with the liabilities. Liabilities for other tax periods should not be included in the offer.
- (3) The IRS only has the authority to compromise tax liabilities arising under the Internal Revenue Code, Title 26. In some instances, taxpayers will include liabilities that may not be compromised by IRS as a matter of law on a Form 656. In these instances, any liabilities the IRS has no authority to compromise must be removed from the offer Form 656 before the investigation begins. IRM 5.8.4.24 identifies some of the more common liabilities. Any liability the IRS has no authority to compromise should never be included on the Form 656 or addendum.

5.8.1.9.1

(04-20-2021)

Definition of a Compromised Liability

- (1) An OIC is effective for the entire assessed liability of tax, penalties, and interest for all tax periods covered by the offer. All questions of tax liability for the tax periods covered by the agreement are conclusively settled. Neither the taxpayer nor the government can reopen a compromised tax period unless there was falsification of information or documents supplied in conjunction with the offer, concealment of ability to pay and/or assets, or a mutual mistake of a material fact that would be sufficient to cause the agreement to be set aside or reformed, even if the offer is subsequently defaulted.
- (2) The liability is not compromised until all terms of the Form 656, Offer in Compromise, including any collateral agreements or addendums, are met. This includes the five-year compliance requirement. See IRM 5.8.6.2, Collateral Agreements, and IRM 5.19.7.2.2, OIC Determinations.

5.8.1.10

(05-25-2023)

Passport Certification Under the Fixing America's Surface Transportation (FAST) Act

- (1) The Fixing America's Surface Transportation (FAST) Act, signed into law December 4, 2015, includes a provision requiring the IRS to notify the U.S. Department of State (DOS) if a certification is made that an individual has a seriously delinquent tax debt, per IRC 7345. Upon certification, the U.S. Department of State is responsible for taking action to deny, revoke or limit a passport.
- (2) Passport certification is a process by which a taxpayer's account is systemically identified by the IRS as having a seriously delinquent tax debt and notification is systemically sent to the taxpayer and the DOS. When this notification is received from the IRS, the DOS is generally required to deny the certified individual a U.S. passport (or renewal of a U.S. passport) or may

revoke any U.S. passport previously issued to that individual. Revocation is a possible consequence of certification. The DOS retains sole authority to revoke a passport.

- (3) For the purpose of passport certification, seriously delinquent tax debt is the unpaid, legally enforceable and assessed Federal tax liabilities of an individual totaling more than \$50,000 (including interest and penalties) for which a Notice of Federal Tax Lien has been filed and all administrative remedies under IRC 6320 have lapsed, or a levy has been made pursuant to IRC 6331. This amount is indexed for inflation each year per IRC 7345(f). Refer to IRM 5.19.25.3, Seriously Delinquent Tax Debt, for the current dollar amount indexed for inflation. Paying the account below \$50,000 will not result in decertification unless all certified modules have been resolved or meet the exclusions.
- (4) Exclusions include:
 - Taxpayers with liabilities being timely paid under approved installment agreements
 - Taxpayers with liabilities being timely paid under accepted offers in compromise or under the terms of settlement agreements with the Department of Justice
 - Taxpayers with open timely requests for CDP levy hearings (TC 520, code 77)
 - Taxpayers who made elections or requests for innocent spouse relief under IRC 6015
 - Certification is postponed under IRC 7508(a) for taxpayers serving in a combat zone or participating in a contingency operation.
- (5) A request by a taxpayer for an Equivalent Hearing (EH) based on a notice of intent to levy does not meet the criteria for exclusion.
- (6) When a taxpayer meets the criteria for owing a seriously delinquent tax debt, a TC 971 AC 641 will systemically upload to identify certified cases. The TC 971 AC 641 will be added to Command Code (CC) ENMOD or CC IMFOLE, identifying the certified individual by their Social Security Number (SSN) and date of their certification notice (CP 508C).
- (7) In addition, the following categories of tax debt are currently excluded from certification based on IRS discretion, even if the debt otherwise meets the criteria. The exceptions include:
 - Debt that is currently not collectible (CNC) due to hardship
 - Debt that resulted from identity theft
 - Debt of a taxpayer in bankruptcy
 - Debt of a deceased taxpayer
 - Debt that is included in a pending OIC
 - Debt that is included in a pending installment agreement
 - Debt where there is an IRS accepted adjustment that will satisfy the liability in full
 - Debt of a taxpayer located in a federally declared disaster area
- (8) Offer cases that involve a taxpayer who has already been certified will not receive expedited OIC consideration solely because the taxpayer is traveling in or out of the country in a short period of time. The exception is if the offer also meets the criteria in IRM 5.8.4.27, Expedite Handling. Once an offer is received and it is noted that a TC 971 AC 641 is on the module(s), ensure the

TC 480 is on all modules being compromised. Some modules may require manual input of the TC 480. In those cases, notate AOIC Remarks that the 480 was input manually and will require manual release.

5.8.1.10.1
(05-25-2023)

Reversal of Certification

- (1) The IRS will systemically notify the U.S. Department of State within 30 days if the previously certified tax debt:

- Is *fully* satisfied (Status 12)
- Becomes legally unenforceable
- Ceases to be seriously delinquent tax debt

Exception: Certification will **not** be reversed because the taxpayer pays the debt to below the threshold amount indexed for inflation effective at the time of certification. **All** certified modules must be fully satisfied (e.g., Status 12), become legally unenforceable, or meet the criteria for an exclusion for certification to be reversed.

- (2) If the certification is found to be erroneous, the IRS will notify the State Department as soon as practical. The IRS will also notify the taxpayer once the certification is reversed.

Note: See IRM 5.19.25.10, Reversal of Certification.

- (3) The IRS will not reverse certification where a taxpayer requests a collection due process hearing or innocent spouse relief on a debt that is not the basis of the certification.

5.8.1.10.2
(04-20-2021)

Passport Expedited Decertification of Seriously Delinquent Tax Debt for OIC

- (1) Taxpayers with seriously delinquent tax debt certified to the DOS will generally not be able to renew a passport or receive a new passport, and they may have their current passport revoked. Debt that is included in a pending OIC is one of the discretionary categories of debt that will be excluded from the determination of seriously delinquent tax debt, and for which a previously certified debt will be decertified (IRM 5.19.25.5, Discretionary Exclusions from Certification).

- (2) If a taxpayer with a processable offer requests assistance due to an expedited need to travel, please review IRM 5.19.25.10.1, Expedited Decertification. The DOS receives systemic notification approximately two cycles from the posting of the TC 480. The TC 480 automatically removes the passport restrictions. Form 14794, Expedited Passport Decertification, is only necessary when imminent travel is scheduled and the systemic notification timeframe is not sufficient.

- (3) If the taxpayer meets the criteria, prepare Form 14794, Expedited Passport Decertification and check the SCOIC box. You may refer to IRM 5.19.25.10.1 for more information about expedited passport decertification requests.

- (4) The IRS will generally reverse the certification of seriously delinquent tax debt and notify the U.S. Department of State within 30 days when the taxpayer meets a condition listed in IRM 5.19.25.10, Reversal of Certification. A certified taxpayer may request Expedited Decertification if they identify an imminent need for a passport. Expedited Decertification will **generally** shorten the 30-day processing time by 14 to 21 days.

- (5) Request expedited decertification when you verify that **all three** of the following conditions exist:

- a. The certified taxpayer is eligible for decertification as described in IRM 5.19.25.10, Reversal of Certification.

Note: Confirm taxpayer eligibility in IDRS. For example, if the taxpayer entered into an installment agreement, a TC 971 AC 063 should appear in IDRS.

Exception: If a TC 971 AC 644 appears on the account indicating the taxpayer's passport was previously revoked, the taxpayer will not qualify for an expedited decertification. See IRM 5.19.25.11.1, Making a Recommendation for Revocation.

- b. The taxpayer states their foreign travel is scheduled within 45 days or less and can provide proof of travel, **or** the taxpayer lives outside the United States.

Note: Proof of travel can be a flight itinerary, hotel reservation, cruise ticket, international car insurance, or other document showing location and date of travel or time-sensitive need for a passport. If the taxpayer resides outside of the United States, determine the location where the taxpayer applied for and was denied a passport (city, country).

- c. The taxpayer has a pending application for a passport or renewal, has received notification that their passport application was denied or revoked by the U.S. Department of State, and provides a copy of the passport denial letter issued by the U.S. Department of State issued within the past 90 days.

Note: The letter issued by the U.S. Department of State that advised the taxpayer their passport application was denied or revoked *is not referring to the CP 508C , which is a notice mailed by the IRS.*

Exception: Taxpayers residing outside of the United States may have an urgent need for a passport *without* having imminent travel plans. When a taxpayer residing outside of the United States meets conditions in IRM 5.19.25.4, Statutory Exclusions from Certification, or IRM 5.19.25.5, Discretionary Exclusions from Certification, and self-identifies as having an urgent need for decertification, request expedited decertification.

- (6) After you complete Form 14794, Expedited Passport Decertification, check the OIC box, and e-mail the form to your manager. The manager should sign with an electronic signature, save the document on their computer and then attach the signed document to an e-mail to: **SBSE Passport Group* .

Reminder: The taxpayer **must** provide their Passport application number that is located on the Department of State denial letter. This number must be entered when completing Form 14794, Expedited Passport Decertification, or the decertification request is not processable. **Caution: Do not** offer expedited decertification. Explain that the decertification will generally occur systemically, and the DOS notified within 30 days. If the taxpayer indicates a problem with planned travel that meets the criteria in IRM 5.19.25.10.1, Expedited Decertification, follow expedited decertification procedures.

Note: If the offer meets **solely to delay** criteria, the taxpayer's passport should not be decertified. E-mail the OIC number to **SBSE Coll Policy OIC* . OIC Policy will notify the passport analysts of the pending TC 480 / TC 481.

5.8.1.11
(06-24-2013)
**Exceptions to Liabilities
to be Compromised**

- (1) An offer may not be appropriate in the following situations. As always, each offer must be evaluated on its own merit before it is returned under the identified basis. If appropriate, the offer may be returned without further consideration or investigation. See IRM 5.8.4.23, Other Cases, for additional information on liabilities that may be considered during an offer investigation.

5.8.1.11.1
(04-20-2021)
**Unassessed Liability
When No Other Tax
Periods With Liabilities
Exist**

- (1) The IRS will not consider an offer that is **solely** for a tax period or tax year that has not been assessed, unless IDRS indicates a return has been received or an assessment is pending. See paragraph (3) below.

Note: The IRS may consider an offer with an open, unassessed liability(ies) under Examination or Automated Underreporter (AUR). See IRM 5.8.4.17, Pending Assessments, for additional instruction.

- (2) Taxpayers may submit, and the IRS will consider, an offer to compromise taxes due on tax returns that have been filed but have not yet been assessed when unpaid liabilities already exist on IDRS. However, before the offer can be accepted, unassessed taxes should be assessed. See paragraph (3) below.
- (3) OE/OS should continue to investigate, and may accept, an offer when the taxpayer has submitted a tax return for which there may be a refund or an assessment. If the offer is accepted, document the AOIC remarks to alert MOIC of the possible assessment or refund.

If...	Then the OE/OS must...
The taxpayer filed the return and wants the liability added to the offer.	Wait for the liability to become pending or posts to IDRS.
The taxpayer does not want the liability added to the offer, but the return is required for compliance.	<p>Process the return. Do not wait for the return to be processed or assessment to post but move forward with acceptance of the offer. Clearly document the AOIC Remarks for MOIC.</p> <p>Note: The OE/OS may accept the offer but must warn the taxpayer that when the assessment is made, the liability must be paid in full or the offer will be defaulted.</p>

- (4) If IDRS indicates that there are unfiled returns, no assessments are pending, and there are no outstanding liabilities, the offer should be returned to the taxpayer. See IRM 5.8.2.4.1, Determining Processability, for more information.

5.8.1.11.2
(04-20-2021)
Expired Liability

- (1) An offer will not be accepted on any tax liability that has become unenforceable due to the expiration of the statutory period for collecting the debt.
- (2) If a taxpayer makes a voluntary payment to a liability barred by statute, and no other liabilities exist, inform the taxpayer that the payment is not required. The taxpayer must be advised that the payment is purely voluntary and it can be refunded.
- (3) If the taxpayer's intentions cannot be determined, and no other liability exists, return the payment to the taxpayer. If other tax liabilities are outstanding, advise the taxpayer that the payment will be applied to the other liabilities.
- (4) Document the case history remarks.

5.8.1.11.3
(05-25-2023)
**Erroneous Refund
(Category D)**

- (1) IRM 21.4.5.2, Erroneous Refunds Overview, defines an erroneous refund as "the receipt of any money from the IRS to which the recipient is not entitled." Definitions of the categories of an erroneous refund may be found in IRM 21.4.5.5.5, Overview of Category D Erroneous Refunds, and IRM 21.4.5.5, Erroneous Refund Categories and Procedures. These cases may be identified by the following transaction codes:
 - Transaction code 844 (generates the -U freeze)
 - Transaction code 700 with a document code 58 and blocking series 850-899 or 950 – 999
 - Transaction code 470 closing code 93
- (2) If an erroneous refund is discovered and there are less than two years remaining on the collection statute, COIC or FOIC should prepare a Form 4844 or Form 4442 to forward to A/ER (Accounting Erroneous Refund Unit) function. Refer to IRM 21.4.5.6.3, Routing Category D Erroneous Refund Packages.
- (3) If an offer is submitted and an erroneous refund is discovered, the offer will be returned to the taxpayer and closed as a processable return. See IRM 5.8.7, Return, Terminate, Withdraw, and Reject Processing, for additional information on closing a case as a processable return.
- (4) Category D refunds included as erroneous refunds that do not fall under any other category where the Assessment Statute Expiration Date (ASED) has expired but the Erroneous Refund Statute Expiration Date (ERSED) remains open. See IRM 21.4.5.15.1.1, Statutes of Limitations Category D Erroneous Refunds IRC 6532(b) ERSED, for more information.
- (5) The following are examples and causes of Category D erroneous refunds. This list is not all-inclusive:
 - a. A payment is misapplied to the wrong TIN, overpays the account and generates an erroneous refund.
 - b. A taxpayer receives both a manual refund (TC 840) and a systemically generated refund (TC 846).

- c. A taxpayer files a non-receipt claim on a refund check and receives a replacement check. The taxpayer cashes both checks.
- d. A direct deposit is applied to the wrong taxpayer's bank account (unintended recipient) due to IRS error.
- e. A refund of court ordered restitution.
- f. An AUR or BUR reply is received with a payment, and the payment is processed and refunded before AUR or BUR has input the proposed tax assessment.

Refer to IRM 21.4.5.5.5, Overview of Category D Erroneous Refunds.

- (6) These refunds can only be recovered by an erroneous refund lawsuit, refund offset or voluntary repayment. Administrative collection actions such as the issuance of a lien or a levy cannot be taken to recover Category D erroneous refunds.
- (7) All fees and payments received should be applied to the liability(s) in accordance to current TIPRA procedures. See IRM 5.8.2.8.1, Processable Offers - Payment Processing, for additional information.
- (8) If the erroneous refund was due to identity theft or practitioner fraud or misconduct, refer to IRM 5.8.4.23.5, Identity Theft, and IRM 5.8.4.23.6, Return Preparer Fraud or Misconduct, for additional information.

5.8.1.11.4
(04-20-2021)
**Child Support
Obligations**

- (1) While the IRS is charged with collecting certain child support obligations, we do not have the authority to compromise non-tax liabilities. Child support obligation accounts are identified on the Non-Master-File with a Master File Tax (MFT) code 59.
- (2) IRC 6305 requires the Secretary of the Treasury to assess and collect certain child support obligations certified by the Secretary of Health and Human Services. The Secretary of the Treasury is not authorized to compromise these liabilities. The individual may seek to pursue any available equitable, or administrative action in a state court or before a state agency to determine the correct liability or to recover an amount collected under this section.
- (3) If a taxpayer proposes a compromise that includes a child support liability, the IRS employee should request that the offer be amended to remove the child support obligation.
- (4) If the offer is to be accepted, the liabilities may be compromised without including the child support debt. If the taxpayer refuses to remove the child support liability, the offer should be returned using the open paragraph stating, "We do not have authority to compromise child support obligations", and close the case as a processable return following procedures defined in IRM 5.8.7, Return, Terminate, Withdraw, and Reject Processing.

Note: Consideration of the offer may continue if the taxpayer agrees to remove the non-tax liability.

5.8.1.11.5
(05-25-2023)
**Offers from a Minor
Child**

- (1) IRC 7122 and the regulations govern the formation and legal effect of offers. The courts also apply general principles of contract law. Under these principles, a minor child has the power to repudiate or disaffirm most contractual obligations. A minor child would also have the ability to repudiate or disaffirm a compromise signed on behalf of the minor child by a parent or power of attorney.
- (2) If designated, a parent or guardian can receive information about the child's return but can't legally bind the child to a tax liability unless authorized to do so by the law of the state in which the child lives. See Pub 929.
- (3) Because a compromise under IRC 7122 may not legally bind a minor, it is recommended that the IRS not enter into compromises with minors or with a parent on behalf of a minor. In these cases, the offer will be returned as a processable return as defined in IRM 5.8.7, Return, Terminate, Withdraw, and Reject Processing.

5.8.1.11.6
(05-25-2023)
**Report of Foreign Bank
and Financial Accounts
Civil Penalties (FBAR)**

- (1) As of April 8, 2003, the IRS has the authority to assess and collect Report of Foreign Bank and Financial Accounts (FBAR) civil penalties under Title 31 C.F.R. 103.56(g). The delegation includes the authority to investigate possible FBAR civil violations, provided in Treasury Directive No. 15-41 (Dec. 1, 1992), and the authority to assess and collect the penalties for violations of the reporting and record keeping requirements. See IRM 4.26.16.5.1, FBAR Penalty Authority, for more information.
- (2) FBAR assessments cannot be compromised under IRC 7122 because the assessment is based on Title 31 violations and IRC 7122 allows the IRS to compromise only Title 26 liabilities.
- (3) Title 31 penalties do not post to IDRS. If the taxpayer lists any non-IDRS FBAR penalties on Form 656 and refuses to remove them, the offer must be returned without further consideration. See IRM 5.8.10.15, Offers Submitted on Offshore Voluntary Disclosure Program, for additional information.
- (4) FBAR penalties are separate from penalties applicable to Form 8938, Statement of Specified Foreign Financial Assets. See IRM 5.21.6.8, Foreign Account Tax Compliance Act (FATCA), for information on the differences between FBAR and Form 8938. See IRM 20.1.9.22, IRC 6038 D – Information with Respect to Specified Foreign Financial Assets, for the obligations to file Form 8938 applicable to individual taxpayers and certain entities and the penalties for non-compliance.

Note: If a taxpayer or their representatives have questions regarding the payment of a FBAR penalty, per IRM 5.21.6.7, Collection of FBAR Penalties, they should write to:

Internal Revenue Service Detroit Federal Building
P.O. Box 33115
Detroit, MI 48232

5.8.1.11.7
(04-20-2021)
**Transition Tax (IRC 965)
Liabilities**

- (1) There are unique issues involving IRC 965 liabilities, including the ability of the taxpayer to pay in installments or defer the assessment under certain circumstances, which may affect the processing and investigation of offers. Additionally, consideration of a taxpayer's ability to repatriate the foreign earnings that are the basis for the IRC 965 liabilities may require the assis-

tance of an Abusive Tax Avoidance Transaction (ATAT) revenue officer (RO) to evaluate financial information and assist in conducting research relative to income and assets.

- (2) In general, beginning with the tax year ended 12/31/2017 or 12/31/2018, taxpayers may be liable for taxes under IRC 965. This IRC section provides that certain taxpayers must pay a transition tax on the untaxed foreign earnings of certain specified foreign corporations as if those earnings were repatriated to the United States.
- (3) Provisions of IRC 965 allow a taxpayer to elect to pay the net tax liability in installments over eight years (IRC 965(h)) or, if the taxpayer is a shareholder in an S corporation, to elect to defer the assessment until a triggering event occurs under (IRC 965(i)), at which point the taxpayer can elect to pay the net tax liability in installments over eight years.
- (4) If Form 656 includes any modules in the liability section that involve IRC 965, follow guidance regarding the processability of the offer and the impact IRC 965 may have on the resolution of the offer investigation. See IRM 5.8.4.23.7, IRC 965 (Transition Tax) Liabilities.

5.8.1.12
(05-25-2023)
Application Fee

- (1) Effective November 1, 2003, the IRS began charging an application fee for offers submitted after that date.
- (2) Offer applications must be received on the Form 656 with the most current revision date. See <https://www.irs.gov/payments/offer-in-compromise> for the current Form 656. The updated offer form includes low-income certification guidelines and instructions, which may waive the application fee.
- (3) The application fee applies only to certain offers processed under IRC 7122. It does not apply to offers in settlement under the jurisdiction of the DOJ, offers submitted for DATL, or offers made by low income taxpayers.
- (4) For offer in compromise purposes, effective July 2, 2019, the Taxpayer First Act added a new section (3) to IRC 7122(c), which allows the IRS to use reported adjusted gross income or reported gross monthly income multiplied by 12, to determine if an individual meets the low-income certification.
- (5) The low-income certification now also applies to any individual taxpayer who files an offer whose AGI does not exceed 250% of the poverty level listed on Form 656. Low income waiver qualification may be determined by reviewing the AGI on the most recent filed tax return, reviewing for an LII indicator of "1" on ENMOD, or using reported gross monthly income multiplied by 12. Deceased taxpayers and business taxpayers (other than sole proprietors) do not qualify for the low-income certification.

5.8.1.13
(05-25-2023)
**The Tax Increase
Prevention and
Reconciliation Act of
2005**

- (1) The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) was enacted on May 17, 2006. TIPRA made major changes to the offer program effective for all offers received by the IRS on or after July 16, 2006.
- (2) Taxpayers submitting requests for lump sum cash offers must include with the offer a payment equal to 20% of the offer amount, unless they qualify for the low income certification or are filing a DATL offer.
- (3) A lump sum cash offer is any offer payable in five or fewer installments within five months of offer acceptance, unless an exception as noted in IRM

5.8.1.15.4(3), Payments, exists. The TIPRA payment is treated as a payment of tax and is nonrefundable, meaning it will not be returned even if the offer is later returned, withdrawn, terminated, or rejected. If the offer is deemed to be not processable and meets certain criteria defined in IRM 5.8.2.4.1, Determining Processability, the payment will be returned.

- (4) A periodic payment offer is payable in 6 to 24 months. Taxpayers submitting requests for periodic payment offers must include the first proposed installment payment with their offer, unless they qualify for the low income certification or are filing a DATL offer.
- (5) The taxpayer is required to pay additional installment payments while the periodic payment offer is being evaluated by the IRS. The payments are treated as a payment of tax and are nonrefundable, meaning they will not be returned if the offer is later returned, withdrawn, terminated, or rejected. In certain circumstances, the payment will be returned if the offer is deemed to be not processable. See IRM 5.8.2.4.1, Determining Processability, for additional information.
- (6) Under TIPRA, taxpayers who qualify as low-income based on current criteria, and check one of the Low Income Certification boxes on Form 656, are not required to submit the application fee or any TIPRA payment(s) while the offer is being investigated.

Note: No TIPRA payment or application fee is required with a DATL offer.

- (7) If the IRS does not make a determination on an offer within 24 months, the offer will be deemed accepted. If a liability included in the offer amount is disputed in any court proceeding, that time period is omitted from the calculation of the two year period.
- (8) Once a determination (rejection, return, withdrawal, termination or acceptance) letter is issued by the IRS, the 24 month time frame will be considered stopped.

5.8.1.14
(05-25-2023)

Initial Receipt of Offers

- (1) All initial offer receipts must be processed by the appropriate COIC site, based on the taxpayer's state of residence.
 - All offer in compromise original submissions are mailed to Brookhaven or Memphis based on the type of offer and state of the taxpayer's residence. Please refer to <http://serp.enterprise.irs.gov/databases/who-where.dr/oic-standup.html> for a complete state listing.
- (2) If a taxpayer mails an offer via overnight mail, based on the location of the taxpayer (see paragraph 1 above), the package should be mailed to:

Memphis Internal Revenue Service Center
COIC Unit
5333 Getwell Rd.
Stop 880
Memphis, TN 38118

or

Brookhaven Internal Revenue Service Center
 COIC Unit
 5000 Corporate Court
 Stop 680
 Holtsville, NY 11742

- (3) Original Forms 656 must be submitted to one of the two COIC approved locations above, where process examiners make the processability determinations and sign the Form 656 waivers of the statutory periods on behalf of the IRS. Unsolicited offers may not be faxed, e-mailed or sent by other electronic methods to IRS. See IRM 5.8.1.14.1 below.

5.8.1.14.1
 (05-25-2023)

**Initial Receipts of Offers
 Received Elsewhere in
 the IRS**

- (1) An offer that is received elsewhere by an IRS employee (including a field revenue officer) **must** be immediately date stamped and forwarded to the appropriate COIC site for processing within 24 hours of receipt. The Form 656, Offer in Compromise, the application fee and any applicable TIPRA payments (20% of offer amount for lump sum cash offers or first proposed payment for periodic payment offers), as well as any documents submitted with the offer, must be included. The information should be sent to the appropriate COIC site using Form 3210, Document Transmittal, and must be sent by traceable methods if an application fee and/or payment is attached. Please refer to *SERP - OIC Centralized Service Center Locations - Who/Where (irs.gov)*.

Note: The process examiners in the COIC sites are the only IRS officials that are authorized to determine processability and sign the Form 656.

- (2) Unsolicited offers may not be faxed or sent by other electronic methods to the IRS. Offers may be accepted by fax or by other electronic methods only when solicited by SCOIC personnel, usually in conjunction with a related assigned offer. Occasionally, a Form 656 may not contain an original signature because the contract was faxed to a taxpayer's representative before the Form 656 was printed and mailed to COIC; however, these are clearly original offers being submitted by the taxpayer for processing, with receipt dates that can be verified by the postmarks. In contrast, offers without original signatures submitted to other IRS personnel may be construed as copies of offers already in process. For this reason, offers submitted from internal sources (such as Appeals or Field Collection) must contain original signatures. A Form 656 secured elsewhere in the Service without an original signature will not be considered a valid contract.
- (3) The Form 657, Offer in Compromise Revenue Officer Report, must be completed and attached to the offer package for offers from taxpayers whose collection cases are assigned to revenue officers (ROs). This form is to be signed by the RO. Managerial approval and signature is only required if the RO is recommending the offer be returned as solely to delay collection. The RO should retain all information related to the collection case. All additional information related to the OIC should be sent to the appropriate COIC site using Form 3210, Document Transmittal, or sent to COIC via encrypted email with a read receipt, within four days of receipt of the offer.
- (4) Types of additional information may include, any information gathered during the field investigation that verifies or refutes amounts claimed on the CIS submitted with the offer.

5.8.1.14.2
(05-25-2023)
**Receipt of Doubt as to
Liability Offers (Other
than PLET or TFRP)**

- (1) The Centralized DATL processing unit located at the Brookhaven campus receives all Form 656 -L submitted on the basis of DATL. COIC will receive Trust Fund Recovery Penalty (TFRP) and Personal Liability for Excise Tax (PLET) offers and forward them to field OIC offices for investigation. DATL exam offers should be immediately forwarded using Form 3210, Document Transmittal, to:

Internal Revenue Service - DATL Unit
5000 Corporate Court Stop 681-D
Holtsville, NY 11742

- (2) Offers based on DATL for TFRP or PLET should be sent to:

Brookhaven Internal Revenue Service Center
COIC Unit
5000 Corporate Court
Stop 680
Holtsville, NY 11742

See IRM 5.8.2.3(8) for more information.

- (3) Follow procedures in IRM 10.5.1.6.9.3, Shipping, when shipping through a private delivery carrier such as UPS or FedEx.

5.8.1.15
(05-25-2023)
**Form 656, Offer in
Compromise**

- (1) A request for an offer is submitted on Form 656, Offer in Compromise, which is included in the Form 656 -B, offer in compromise package. All offer applications must be received on the current Form 656.
- (2) The Form 656 -B, Offer in Compromise, provides detailed instructions for completing an offer and includes all of the necessary financial forms. When submitting Form 656, taxpayers must include an application fee and the required TIPRA payment, unless they qualify for a low-income certification (for individual taxpayers only) or the offer is based on DATL.

Note: Taxpayers are considered individuals if they are seeking to compromise liabilities for which they are personally responsible, including any liability incurred as a sole proprietor, or any Form 941 liability incurred prior to January 1, 2009 as a disregarded single member LLC.

Note: Excluded from low income certifications are corporations, partnerships, estates, trusts, all LLCs with a liability after January 1, 2009, non-single member LLCs regardless of year, and any other non-individual entities. Also, low income certifications do not apply to deceased taxpayers, per IRM 5.8.10.4.1, Death of Taxpayer.

- (3) Offers submitted on the basis of DATC or ETA should include a collection information statement, Form 433 -A (OIC) and / or Form 433 -B (OIC). Taxpayers with related businesses that have no outstanding business tax liabilities may submit Forms 433-B with their Forms 433-A(OIC).

Note: See IRM 5.8.11.5.2, Financial Statement Analysis, for information on when complete financial information may or may not be required on certain offers involving fraudulent acts of a Payroll Service Provider (PSP).

- (4) When DATL and DATC offers are received simultaneously and neither offer has been deemed processable, the DATL offer will take precedence and its processability will be determined first. Follow IRM 5.8.10.14, Taxpayer Files both Doubt as to Liability and Doubt as to Collectibility Offers. If funds were submitted with the Form 656 or Form 656 -L, the DATL unit or COIC Process Examiner will make a processability determination of the DATL offer within 24 hours.
- (5) If the DATL offer is processable, the DATC offer will be deemed not processable and any payments received should be posted to the taxpayer's account in accordance with guidance provided on the Form 656 -L. If the DATL offer is not processable, return the DATL offer and determine processability of the DATC offer following current IRM procedures.
- (6) For offers based solely on DATL, taxpayers do not need to submit collection information statements. However, the taxpayer must include a written statement explaining why the liability is incorrect and addressing the validity of the tax assessment(s) or a portion of the assessment(s).
- (7) If a taxpayer does not have a representative and needs assistance with the completion of the Form 656, they may be eligible for assistance from a Low Income Taxpayer Clinic (LITC). For LITC eligibility guidelines see IRS Publication 4134 , Low Income Taxpayer Clinic List.

5.8.1.15.1
(11-08-2018)

Name, Address, Social Security Number and/or Employer Identification Number

- (1) The full name, address, social security number (SSN), employer identification number (EIN), and/or individual taxpayer identification number (ITIN) of the taxpayer must be entered on Form 656. If the taxpayer(s) uses a mailing address that is different from the street address, the physical home address must be included as well.
- (2) A taxpayer not eligible for an SSN must use an ITIN when filing their return. ITIN is governed by rules described in IRC 6109, Identifying Numbers, and the corresponding regulations provide the rules that govern ITINs. ITIN applicants are generally resident aliens (green card or substantial presence test met) or nonresident aliens (not U.S. citizens and green card or substantial presence test not met). While an ITIN does not give the individual the right to work, many employers hire and pay the taxpayer using the ITIN for reporting purposes.
- (3) The OE or OS should not question the appropriate use of an ITIN by the employer. Once ITIN information is verified, normal offer procedures should be followed if the information does not rise to the level of fraud and/or identity theft. If fraud and/or identity theft is present and documented, the offer should be closed as a public policy rejection.

5.8.1.15.2
(11-08-2018)

Basis for Compromise

- (1) When submitting offers in compromise, taxpayers must indicate the basis upon which they propose to compromise: Doubt as to Collectibility (DATC), Doubt as to Liability (DATL) and/or to promote Effective Tax Administration (ETA). See IRM 5.8.8.2.2, Form 14640, Addendum to Form 656, for instruction on securing an Addendum when changing the basis of the offer.
- (2) If the taxpayer submits a Form 656 -L, the basis for compromise will be DATL only.

- (3) If the taxpayer submits a DATL and a DATC offer at the same time, refer to IRM 5.8.10.14, Taxpayer Files both Doubt as to Liability and Doubt as to Collectibility Offers, for further information.

5.8.1.15.3
(03-16-2010)
Amount Offered

- (1) The total amount of money offered must be indicated and must be more than zero. The amount offered may not include money already paid, expected future refunds, funds attached by levy, or anticipated benefits from capital/net operating losses.

5.8.1.15.4
(04-20-2021)
Payments

- (1) Taxpayers are expected to pay the entire amount offered as soon as reasonably possible. Acceptable offer payment terms should be determined by the OE or OS and should not be limited to the proposal of the taxpayer. The required TIPRA payments may be waived if the taxpayer meets low-income certification guidelines.
- (2) The amounts and due dates of payments must be specified.
- (3) There are two types of payment terms offered on the Form 656 that the IRS and the taxpayer may agree to:
- a. **Lump Sum Offer:** A lump sum cash offer (payable in five or fewer installments within five months of offer acceptance) must be accompanied by the payment of 20% of the amount of the offer.

Note: An exception may be allowed to the five month payment requirement in certain instances where flexible payment terms may be warranted. See examples in IRM 5.8.8.2.2.1, Instructions for Completion of Form 14640, Addendum to Form 656. The payment terms may not exceed 24 months. In these cases, while the offers may be submitted and considered as cash offers, the RCP amount should be calculated as a periodic payment offer (24 months).

- b. **Periodic Payment Offer:** A periodic payment offer (payable in six or more installments) must be accompanied by the payment of the amount of the first proposed installment, and additional installments must be paid while the offer is being evaluated by the Internal Revenue Service. The total installments may not exceed 24 months.

Note: The 24-month time frame for periodic payment offers may be revised to include 24 months from the date of acceptance or by using the original 24-month time frame based on the taxpayer's circumstances.

- (4) A taxpayer may designate TIPRA payments (pre-acceptance) to a specific liability including trust fund. The taxpayer must designate each offer payment at the time of the payment submission. Once the offer has been accepted, the funds are applied in the government's best interest and the taxpayer no longer has the right to designate payments.

Note: Pre-acceptance payments designated to the trust fund portion of a liability must be posted using Designated Payment Code (DPC) 02.

- (5) "Accord and satisfaction" does not apply to the IRS, even when written on a TIPRA check. A taxpayer cannot circumvent the section 7122 procedures for compromising a tax liability. The only way to compromise the tax liability is under section 7122, which does not recognize accord and satisfaction.

- (6) The application fee may not be designated.
- 5.8.1.15.5
(05-25-2023)
Standard Conditions
- (1) Taxpayers must agree to all the standard conditions of the agreement as they are printed on the Form 656.
- (2) If the taxpayer submitted the Form 656 altering any of the provisions of Form 656, Section 7, the offer should be immediately deemed not processable based on an altered Form 656.
- 5.8.1.15.6
(05-25-2023)
Total Liability
- (1) Each separate tax period and type of tax must be indicated on the Form 656. TFRP assessments will include an assessment for each quarter. Verification on IDRS will be required to determine that the assessment has been made.
- (2) The taxpayer may submit an offer that does not include all outstanding liabilities. Prior to accepting the offer, the OE/OS must include all outstanding liabilities on the Form 656 and make sure they are included on AOIC. No amended Form 656 is required. The exception to this would be if the taxpayer owes any liabilities that may not be compromised. Liabilities that may not be legally compromised will not be included as part of the offer.
- (3) An offer submitted on Form 656 -L, under DATL criteria, will be accepted for only the tax periods that are in question.
- 5.8.1.15.7
(03-16-2010)
Explanation of Circumstances
- (1) Taxpayers may use the designated space on the Form 656, Offer in Compromise or attach a separate statement to explain why they are submitting the offer.
- (2) If a special circumstance exists, the taxpayer should explain the situation and include all supporting documents to assist in verification of the special circumstance that is being claimed.
- 5.8.1.15.8
(04-20-2021)
Signatures
- (1) Each taxpayer that is party to an offer should personally sign the Form 656. When unusual circumstances prevent this (e.g., the taxpayer is incapacitated), an authorized representative or court appointed representative may sign for the taxpayer.
- (2) In the case of joint offers, all parties, or their designated representative as explained above, must sign the Form 656 to ensure the provisions of the agreement bind all parties.
- (3) If the TP or POA has not dated the Form 656, use the Form 433 -A (OIC) signature date or IRS received date, whichever is earliest. The date of the offer is needed when sending out letters.
- (4) The case file should include a copy of the properly executed Form 2848, Power of Attorney and Declaration of Representative, or verified CFINK print as verification of the representative's authority.
- Note:** If the Form 656 is signed by the POA, a copy of the Form 2848 dated the same date as the Form 656, or prior to the offer signature date, must be maintained in the offer file. A statement detailing the basis for allowing the POA's signature in lieu of the taxpayer's signature on the Form 656 must be included in the AOIC remarks.

Note: Geographic distance between the representative and the taxpayer is not an acceptable reason for a representative to sign on the taxpayer's behalf.

- (5) An ink/original signature is required on the Form 656. The only exception is if the Form 656 was faxed or electronically transmitted *before* it was sent to COIC. Confirmation of the fax sender's identity may be verified after receipt of the offer.

Example: The taxpayer signed Form 656 with an ink signature and faxed the OIC forms and supporting documents to a power of attorney. After reviewing the forms, the POA then printed and mailed all documents with the required TIPRA payments to COIC to be processed. The Form 656 clearly had the taxpayer's original signature, as opposed to a typed signature or digital signature. The offer can be processed as usual, and accepted if warranted.

Note: A new offer form may only be received via fax or other electronic methods when a related offer is solicited by the offer employee. See IRM 5.8.1.14, Initial Receipt of Offers and IRM 5.8.1.14.1, Initial Receipts of Offers Received Elsewhere in the Service.

- (6) A Form 656 signed with an "X" must also include signature of a witness.
- (7) Since the CIS requires certification under penalty of perjury, the taxpayer(s) must personally sign the Form 433 -A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals, and/or Form 433 -B (OIC), Collection Information Statement for Businesses.
- (8) Offers submitted for corporations should reflect the corporate name on the first signature line of the Form 656. The signature name and title of the authorized officer should be reflected on the second signature line of the Form 656.
- (9) An offer submitted by the fiduciary of an estate of a deceased taxpayer will be binding on the taxpayer's estate to the extent that it would be binding on a taxpayer who submits an offer on their own behalf. Include a copy of the fiduciary's appointment document in the case file.
- (10) If an offer is submitted on behalf of a deceased taxpayer, the individual who signs the offer must have the authority to do so. This authority can be designated by a will appointing that individual as the executor or by written authorization from the probate court. Refer to IRM 5.8.10.4.1, Death of Taxpayer, for further information.

Reminder: An offer submitted on behalf of a deceased taxpayer does not qualify for low-income certification.

5.8.1.16
(05-25-2023)
Withholding Collection

- (1) Collection by levy on property owned by the offer taxpayer is prohibited while the offer is pending and for 30 days thereafter if the offer is rejected, unless collection is in jeopardy. If the taxpayer appeals the rejection of the offer, levy is also prohibited while the appeal is pending.

Exception: If an offer is returned, withdrawn (either mandatory or voluntary), or terminated, it is no longer considered pending and the IRS may levy to collect the liability(ies) that were included on the Form 656. Per IRC

section 6331(a), the IRS is not prohibited from levying on a non-taxpayer's property or rights to property when the property is encumbered with a federal tax lien for the taxpayer's liability.

- (2) The term jeopardy is defined in Policy Statement P-4-88, which states that jeopardy assessments are to be used sparingly and assessments will be reasonable in amount. Collection is not considered to be in jeopardy because an undisclosed asset was discovered during the investigation. See IRM 1.2.1.5.27, Policy Statement 4-88.
- (3) Upon receiving information that a jeopardy levy has been approved, contact the employee issuing the levy. See IRM 5.11.3, Jeopardy Levy without a Jeopardy Assessment, for additional information. If it is agreed that the offer was filed to hinder or delay collection, follow procedures in IRM 5.8.4.20.2, Procedures for Return of Offers Submitted Solely to Delay Collection, to return the offer.
- (4) The prohibition on levy does not require release of a levy that was served prior to the offer submission. The taxpayer's circumstances should be considered when making a determination to release a levy or keep it in place while the offer is pending.

Note: Collection by levy is not prohibited (and the collection statute is not suspended) if the taxpayer has filed a written notice waiving the restrictions on levy. A taxpayer may not waive restrictions on a levy by altering the terms on Form 656.

- (5) A Federal Payment Levy Program (FPLP) levy on social security is systematically released with the input of the TC 480 and if the TC 480 does not get uploaded, a manual TC 480 will need to be input to start the release process, which begins with a TC 971 061 to release the levy. As long as the TC 971 061 is 6 days before the Social Security Administration (SSA) payment date, it will not apply to next payment. Refer to IRM 5.11.7.3.2.2, Exclusions.
- (6) When a paper levy is issued to the Social Security Administration (SSA) that needs expedited release, print "EXPEDITE IMMEDIATELY" on the top of the release of levy form. Fax the release to the Social Security Administration (SSA) office that issued the taxpayer's social security number. Refer to IRM 5.11.2.3.3, Serving Releases of Levy.
- (7) While an offer is pending, there is no prohibition on filing Notices of Federal Tax Lien (NFTL). See IRM 5.8.4.13, Notice of Federal Tax Lien Filing, for a discussion of filing a NFTL while an offer is pending. Unless a jeopardy situation exists, a request for a NFTL will usually not be made until a final determination has been made on the offer.

Note: If SRP/MFT 35 or the mirrored SRP/MFT 65 liabilities were included in the offer, the related periods will not be included in the NFTL.

- (8) All collection action must be suspended when a taxpayer is identified as being located in a Combat Zone (CZ) area. This action includes filing of a NFTL. See IRM 5.8.3, Centralized Offer in Compromise Transfers, Perfection, and Case Building, for Combat Zone processing and IRM 5.19.10.6.3, Combat Zone Freeze Codes, for additional information.

5.8.1.17

(05-25-2023)

Disaster Procedures (-O freeze and -S freeze)

- (1) When the President authorizes disaster assistance through the Robert T. Stafford Disaster Relief Act, and the Federal Emergency Management identifies counties as qualifying for individual assistance, the Disaster program office will prepare an IRS Declaration Relief memo.
- (2) Exercise a great deal of caution, sensitivity, and good judgment in dealing with -O and -S freeze taxpayers. See IRM 25.16.1.7.1, -S Freeze and IRM 25.16.1.7.2, -O Freeze. Offers may be transferred to FOIC even though there is an -O freeze, if the offer does not require perfection. COIC **should not** issue the soft contact letter Letter 6454 on field transfer cases.
- (3) For acceptance recommendations, determine whether the taxpayer is still able to comply with the offer payment terms and, if so, process accordingly. If not, consider other case options to resolve the investigation. If there is no response from the taxpayer, assign the case to the -O Disaster hold file.
- (4) For rejection recommendations, re-evaluate the offer if it is determined that the taxpayer's financial situation has changed to the point where a rejection is no longer warranted. Process offer rejection letters that were initiated prior to the disaster, unless the taxpayer initiates contact and provides information that would warrant a change in the rejection determination. Taxpayers with -O freezes may be granted extended deadlines to appeal rejected offers. If the taxpayer resides in a declared -O freeze disaster area, Rev. Proc. 2018-58 addresses "time for performing certain acts postponed by reason of service in a combat zone, or a federally declared disaster." If the taxpayer has an -O freeze and files a late appeal within the -O freeze time frame, forward the case to Appeals. If a previously rejected offer should be reopened, follow the guidance in IRM 5.8.7.7.1, Reopening a Previously Rejected and Sustained Offer.
- (5) An -O freeze suspends all enforcement action, unless senior management approval is secured. It allows the IRS to provide special processing related to any filing, payment or interest relief, granted for a geographic area. If an -O freeze is present, attempt phone contact or issue the soft contact Letter 6454 Enclose Notice 1155 , Disaster Relief from the IRS, in all -O freeze "soft contact" correspondence.

If	Then
No response is received from the taxpayer	Assign the offer to the disaster hold file. The case should be removed from the hold file and reassigned to be worked as of the date the -O freeze is reversed, or when the case approaches 22 months from the IRS received date of the offer, whichever date is earlier.
There is a response	Proceed based on the reply.
The taxpayer wishes to proceed	Document the file that the taxpayer wishes to proceed and process as normal.

If	Then
The taxpayer is unable to proceed due to the disaster	Document the case file, then place in the disaster hold file. The case should be removed from the hold file and reassigned to be worked as of the date the -O freeze is reversed, or when the case approaches 22 months from the IRS received date of the offer, whichever date is earlier.

- (6) If the taxpayer is required to make payments during the -O freeze and misses any or all of the required payments, the offer will not be deemed an involuntary withdrawal. The taxpayer will not be required to remit missed payments but will resume making payments when the freeze is lifted until the offer is paid in full. (The offer must still be paid in full within the agreed time frame.) Document the missed payments in the AOIC remarks or ICS history. If the decision is made to continue processing an -O case, research the specific disaster declaration by zip code on the disaster declaration website, *IRS Disaster Assistance Program*. In some instances, the due date of ES, FTDs and tax returns may be extended. SCOIC will accept the extended due date per the disaster declaration.
- (7) When issuing the return letter on a case with an open -O freeze, advise the taxpayer of the return reconsideration procedures and the fact that if they choose to request reconsideration of their offer at a later date, the IRS will not expect them to pay another application fee.
- (8) Advise the taxpayer to adequately identify themselves as a disaster victim when requesting return reconsideration, or by writing "Disaster Reconsideration Request" when submitting their request in writing. Include this information on the AOIC Return Letter, via an open paragraph. This will help ensure the proper processing of the taxpayer's reconsideration request in accordance with IRM 5.8.7.3, Return Reconsideration, provisions.
- (9) Approved reconsiderations should be reloaded by COIC following guidelines in IRM 5.8.7.3.3.3.1, Reloading the Returned Offer, with a new waiver date rather than reopening the original offer.

Note: Offers that are voluntarily withdrawn do not qualify for return reconsideration provisions as outlined in IRM 5.8.7.3 Return Reconsideration.

- (10) A Notice of Federal Tax Lien **should not** be filed against any taxpayer whose account is in -O freeze status, without senior managerial approval. A lien determination will need to be made once the -O freeze is lifted.
- (11) On -O freeze cases where contact is unsuccessful, the TIPRA statute date reaches 22 months, and the -O freeze is still on the account, review and determine if the offer can be accepted with the information in the file.
 - If it is determined that the offer cannot be accepted, return the offer. A returned offer may be reloaded under return reconsideration procedures if the TP/POA contacts OIC and criteria in IRM 5.8.7.3.1, Criteria for

Return Reconsideration, is met. Cases that are returned due to the imminent TIPRA date require territory manager/ operations manager signature.

- If the offer can be accepted with the documents in the case file, process the offer as an acceptance.
- (12) The TIPRA statute is not suspended due to a disaster freeze code, so you must continue to monitor for any imminent statutes.
- (13) An -S freeze does not suspend all enforcement action. It is a systemic disaster indicator that gives the IRS the flexibility to grant filing and payment relief without suspending compliance activities, when the impact and scope of a federally declared disaster does not warrant use of the -O freeze. If a -S freeze is present, attempt phone contact or issue the soft contact Letter 6455.
- If no response is received from the taxpayer, proceed with the offer investigation.
 - If the taxpayer responds, proceed based on the reply. Allow an extension to information requests, if necessary.
 - -S freeze offers are not placed in the disaster hold files.
- (14) A taxpayer does not have to be located in a federally declared disaster area to be an “affected taxpayer”. Taxpayers are also affected if records necessary to meet a filing or payment deadline are located in a covered disaster area. An affected taxpayer can be:
- An individual
 - Any business entity or sole proprietor
 - Any shareholder in an S Corporation
- (15) Disaster relief applies to a tax preparer who is unable to file returns or make payments on behalf of the client because of the disaster. Therefore, if the taxpayer is outside of the disaster area, they may qualify for relief if:
- the preparer is in the disaster area, and
 - the preparer is unable to file or pay on the taxpayer’s behalf
- (16) A taxpayer may self-identify that they have been affected by the disaster. See IRM 25.16.1.7.1, -S Freeze, and IRM 25.16.1.7.2, -O Freeze, for appropriate next steps.
- (17) When the disaster freeze period has expired, continue case processing from the point where the case progression was suspended.

5.8.1.17.1
(04-20-2021)
**Disaster Systemic
Account Indicators**

- (1) The Disaster Assistance program uses IDRS to ensure that systemic relief is provided to affected taxpayers within identified zip codes in a covered disaster area.
- (2) Indicators are posted on IDRS, via IT systemic programming, through the use of computer transaction code (TC) 971. TC 971 AC 087 will post a corresponding -O freeze on the tax account of an affected taxpayer. TC 971 AC 688, will post a corresponding -S freeze on the tax account of an affected taxpayer.
- (3) Generally, the -O freeze will be applied only in the most catastrophic disasters and, only to the areas that suffered the most damage within the area designated by FEMA for Individual Assistance programs. When warranted, DPO

analysts may limit the application of the -O freeze to selected zip codes in a county when other areas receive a -S freeze. Factors to be considered include:

- a. Large numbers of casualties and/or displaced persons
 - b. Extensive housing damage, or environmental damage, that forces long-term or permanent relocation for a significant portion of the population
 - c. Severe infrastructure damage on a scale likely to cause major service and economic impacts
 - d. Severe economic or physical damage to key industries and incapacitated governments
- (4) The disaster victim code will post on the entity portion of IDRS. It is a value indicator that is defined as follows:
- 1 = -S freeze active
 - 2 = -O freeze active
 - 3 = both -S and -O freeze are active
 - 4 = historical indicator reflecting -S or -O freeze were active at some time in the past but is not currently active

5.8.1.18
(12-26-2019)
**Interest on Compromise
Amount**

- (1) Interest on the compromise amount is also compromised.

5.8.1.19
(03-16-2010)
**Effect on Previous
Offers on Collection
Statute**

- (1) Over the years, various changes in the tax law have had an effect on the statutory collection period. See IRM 5.8.10.7, Effect of Previous Offers on Collection Statute, for additional guidance.

Exhibit 5.8.1-1 (05-25-2023)**Common Abbreviations Used in IRM 5.8.1**

Abbreviation	Definition
AET	Asset Equity Table – A table listing all the taxpayer’s assets, encumbrances, and exemptions. It then calculates the equity, which is included in the reasonable collection potential (RCP) calculation.
AOIC	Automated Offer in Compromise – Computer application where offers in compromise are recorded and monitored from receipt to closure. History of the offer investigations conducted by COIC employees and of actions taken by Monitoring OIC (MOIC) units are also maintained on this system.
ARI	Appeals Referral Investigation – A request from Appeals for assistance from the appropriate Collection function on verifying the accuracy of information reported on a CIS or assistance in completing the offers investigation.
ASED	Assessment Statute Expiration Date – The date the statutory period for assessing tax expires.
ATAT	Abusive Tax Avoidance Transactions – Abusive transactions taken by taxpayers to avoid paying, such as creating trusts, using off shore credit cards, etc.
CDP	Collection Due Process - Allows taxpayers a right to a hearing before Appeals regarding proposed collection enforcement actions or filed Notice of Federal Tax Lien.
CIS	Collection Information Statement – A financial statement listing assets, income, liabilities, and expenses submitted by the taxpayer. This financial statement can be submitted on Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals, or Form 433-B (OIC), Collection Information Statement for Businesses.
COIC	Centralized Offer in Compromise – Units located in Brookhaven and Memphis campuses that complete initial processing and work many offers to completion. Do not confuse this with MOIC; COIC units do not monitor or default accepted offers.
CSED	Collection Statute Expiration Date – The date the statutory period for collecting the tax expires.
DATC	Doubt as to Collectibility – Basis for acceptance of an offer where there is doubt that the tax can be paid in full.
DATL	Doubt as to Liability – Basis for acceptance of an offer where there is doubt that the liability is correct.
DCSC	Doubt as to Collectibility with Special Circumstance – Basis for acceptance of an offer where there is doubt that the tax can be paid in full and special circumstances exist that warrants accepting the offer for less than the reasonable collection potential (RCP).
DOS	Department of State - Department of the U.S. federal government that sets forth and maintains the foreign policy of the U.S., especially in negotiations with foreign governments and international organizations.

Exhibit 5.8.1-1 (Cont. 1) (05-25-2023)
Common Abbreviations Used in IRM 5.8.1

Abbreviation	Definition
ERSED	Erroneous Refund Statute Expiration Date - The ERSED is two-years from the date of the erroneous refund check or direct deposit. However, a five-year statute will apply if the IRS can show the erroneous refund was induced by fraud or a misrepresentation of a material fact.
ETA	Effective Tax Administration – Basis for acceptance of an offer where this is no doubt that the liability is correct or can be paid in full. However, requiring the taxpayer to fully pay the tax would either create an economic hardship or be a public policy/equity issue.
FICA	Future Income Collateral Agreement – An agreement secured in connection with an accepted offer that requires a taxpayer to pay a percentage of future income for a set number of years as additional consideration for acceptance of the offer.
FMV	Fair Market Value – The value a taxpayer would receive if an asset was sold to a willing buyer given time to obtain the best and highest possible price.
FOIC	Field Offer in Compromise - Offer specialists are located in Field Office locations nationwide. Offer specialists generally have revenue officer backgrounds and they work more complex offer cases.
FPLP	Federal Payment Levy Program
IA	Installment Agreement – An agreement under IRC § 6159 for a taxpayer to pay a tax liability over an established period of time.
IAR	Independent Administrative Reviewer – An independent third party who reviews a decision to reject an offer, prior to the rejection letter being sent. This person is not in the chain of command of the employees responsible for the rejection of the offer.
IBTF	In Business Trust Fund – A taxpayer who is in business and owes trust fund (e.g. – Form 941) taxes.
ICS	Integrated Collection System – Computer application used by Compliance employees to monitor inventory. Histories of OIC investigations conducted by FOIC area office employees are maintained on this system.
IET	Income/Expense Table – A table that lists the income and expenses both claimed and allowed for purposes of calculating reasonable collection potential (RCP).
MOIC	Monitoring Offer in Compromise Unit – Units located in Brookhaven and Memphis campus that monitor accepted offers for payments and compliance for 5 years.
NFTL	Notice of Federal Tax Lien - The notice of the filed Federal Tax Lien
NRE	Net Realizable Equity – Quick sale value less the amount owed on an asset.
OE	Offer Examiner – A tax examiner appointed as an offer investigator and located in COIC.
OI	Other Investigation – Form 2209, Courtesy Investigation, is used for District investigations in locating taxpayers or to gather information in collecting on assigned cases
OS	Offer Specialist – A revenue officer appointed as an offer investigator, generally located in an FOIC area office.

Exhibit 5.8.1-1 (Cont. 2) (05-25-2023)
Common Abbreviations Used in IRM 5.8.1

Abbreviation	Definition
PE	Process Examiner – A tax examiner who completes initial processability determinations on offers and is located in COIC
PLET	Personal Liability for Excise Tax – Assessments made on individual taxpayers for withheld excise taxes
POD	Post of Duty – Internal Revenue Service local office(s).
QSV	Quick Sale Value – The amount that could be obtained if an asset is sold quickly, usually less than FMV.
RCP	Reasonable Collection Potential – The amount that could reasonably be collected from the taxpayer.
SRP	Shared Responsibility Payment - Beginning in 2014, IRC § 5000A required all individuals to have qualifying health care coverage (called minimum essential coverage or MEC) in each month of the year, qualify for an exemption, or make an individual shared responsibility payment (SRP) when they file their tax return for the year. Pursuant to section 11081 of PL 115-97, for months beginning after December 31, 2018, the amount of the SRP is reduced to zero.
TBOR	Taxpayer Bill of Rights
TFRP	Trust Fund Recovery Penalty – Assessments made on individual taxpayers for the withheld or trust fund portion of delinquent employment taxes.
TIPRA	Tax Increase Prevention and Reconciliation Act of 2005 – Section 509 – Legislation enacted in May 2006, which made major changes to the OIC program.

