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At the time, the Ohio region was intended as the western border. And it was here that the University of Miami was founded by an ordinance of President George Washington, incorporated in 1809. The first students enrolled in 1824. The university of Miami's progression spans five distinct historical eras, ranging from the institution's marked growth beginning, to the development of professionalism, expansion, image identification, and more recently, the transition to a corporate university. Today, the University of Miami is a four-year nonprofit public institution with a main campus in Oxford, Ohio. In addition, the campus maintains campus locations in Middletown, Ohio; Hamilton, Ohio; Westchester, Ohio; and abroad in Luxembourg.Students can look for a wide range of academic opportunities at the University of Miami. Students can enroll in bachelor's programs and master's programs. The University of Miami also awards doctoral degrees and students can enroll in partner undergraduate programs on regional campuses. Students can also participate in a number of online and/or hybrid opportunities through the University of Miami's regional campuses. September 24, 2020 Purpose (1) This transmits the revised Internal Revenue Manual (IRM) 5.8.4, Offer in Commitment, Investigation. Material Changes (1) The following table describes changes made to IRM 5.8.4: (2) Revised and updated website addresses, legal references, and MRI references, as needed. Effect on other documents This IRM replaces IRM 5.8.4 of 08/28/2018. The Provisional Guidance Memorandum SBSE-05-0919-0035, entitled Provisional Guidance Memorandum on the Calculation of Low Income Certification, has been incorporated into this section. The Provisional Guidance Memorandum SBSE-05-0320-0026 has incorporated into this section the Provisional Guidance on Commitment Offers involving Internal Revenue Code (IRC) No 965 (Repatriation Tax or Transitional Tax). SB/SE Hearing Collection Of Examiners, Offer Specialists, and other IRS employees conducting investigations of a taxpayer's offering in engagement. Effective Date (09-24-2020) Ronald Takakjy Acting Director Purpose of Collection Policy: This chapter provides: Instructions for conducting the different types of bid investigations. Definitions to consider each possible basis under which an offer may be submitted. Instructions for coordinating activities with other service functions. Hearing: These procedures apply to Internal Revenue Service (IRS) employees who are investigate and consider offers: Bid Examiners (OE) in Centralized Engagement Offer Specialists (COIC) in irS Additional Employee Field Offering Territories assigned to the bidding program and employees who bid on commitment investigations and consider the offer in committed appeals Policy Owner: Director, Collection Policy, SBSE Program Owner : Collection Policy, SBSE SBSE Commitment Program (IIC): The main stakeholders are coIC and Field offer employees. Program Objectives: Policy Statement P-5-100 explains the IPO's objective as a collection tool. This section of the Internal Revenue Manual (MRI) provides fundamental knowledge and procedural guidance for bid examiners and provides specialists involved in bid research. The procedures in this MRI include guidance so that employees can complete bid investigations and initiate contact with the taxpayer, where appropriate. A commitment offer (called an offer or IAS) is a way for the IRS to recover some of the money owed by taxpayers unable to pay their taxes in full. Revenue Procedure 2003-71 explains the procedures applicable to the submission and processing of tenders to compromise a tax obligation under Article 7122 of the Internal Revenue Code. The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) also provided additional requirements for submitting an offer. Offers are sent to one of the IRS locations for consideration and evaluated based on their processing, the taxpayer's ability to pay, and the taxpayer's foreseeable future earnings. 26 CFR 300.3, Offer to compromise the rate, and Notice 2006-68 also provide information on the submission of payments and fees associated with a submission of an offer. During the bid investigation, the individual circumstances of the taxpayer are evaluated and the IRS will make a determination for the willingness to Return, Reject, Withdraw, Terminate, or Accept the offer. This section of the MRI provides guidance on how an offer research should be completed and the impact that other functions or activities may have on bid research. Authorities related to this section include: Internal Revenue Code (IRC) 7122 - Treasury Regulations of Commitments No 301.7122-1 - IRC Commitments 6702(b) - Civil sanction for specified frivolous presentations Policy Statement P-5-100 Policy Statement P-5-89 26 CFR to 300.3, Commitment Commitment Offer Income Procedure 2003-71 Tax Prevention and Reconciliation Act 2005 (TIPRA) Notice 2006-68 MRI 1.2.1 , IRM Service Policy Statements 1.2.2, Service Authority Delegations , The Collection Policy is responsible for all policies and procedures within the Offer in Commitment program. The National Program Manager, Commitment Offer is responsible for the development and delivery of policies and procedures within the program. The employees investigating offers are responsible for ensuring that these procedures are followed and employee actions are timely and accurate. Bid examiners, bid specialists, and other employees investigating offers are responsible for following the procedures of this MRI. Operational and program reviews are conducted annually by the Director's Specialty Collection Offer in (SCOIC) and collection policy, with the use of data and reports from the Automated Offer In Compromise (AOIC) system and the ENTITY case management system. In addition, ad hoc reports are also provided, providing information on inventory levels, hours per case, and the age of offers in inventory or at closing time. See IRM 1.4.52, Resource Guide for Administrators, Offer Resource Guide in Compromise Manager. Management case reviews are also completed as defined in IRM 1.4.52, Offer in Compromise Manager's Resource Guide. These revisions are a method of determining whether the amount of the offer accurately reflects the reasonable collection potential (CPR) as defined in Policy Statement P-5-100. National quality and coherence reviews are routinely carried out to ensure the coherence and effectiveness of the programme in case processing. As a result of these reviews, procedural changes may be needed to improve the quality and effectiveness of the program. AOIC is used to track offers submitted by taxpayers and record case actions and history. The ability to take action at AOIC is limited to offer-specific employees. Additional permissions are provided based on an employee's tasks and responsibilities. ICS is used by field employees as a method for inventory control and history documentation. Managers should follow the program management procedures and controls addressed in IRM 1.4.52, Manager Resource Guide. The management requirements for case approval are defined in the Order of. 5-1. The review by the Office of Chief Councillors on certain offers is in accordance with Treasury Regulations No 301.7122-1 - Commitments. The following table is a list of common abbreviations, definitions, and acronyms used throughout this IRM. Additional resources can be found in IRM 5.8, Offer in Compromise. Employees may find useful information on these websites: internal management document site When investigating any commitment offer (IIC), the following issues should be considered when present, whether identified by the taxpayer or not: Economic difficulties – when a taxpayer is unable to afford reasonable basic living expenses. More defined in IRM 5.8.11.3.1, Economic difficulties. Public Policy or Equity – where, due to exceptional circumstances, collection in its entirety would undermine public confidence that tax laws are being administered fairly and equitably. More defined in IRM 5.8.11.3.2, Public Policies or Reasons for Equity. The OE/OS Offers should review the comments contained in Form 656 Section 3 and/or any annex to Form 656 to determine whether specific special circumstances or Matters of Effective Tax Administration (ETA) are discussed, which should be considered. Statements such as I cannot pay will be addressed with the determination of the taxpayer's reasonable collection potential (CPR). Offers can be under ETA criteria when: There is no doubt that the tax is due and there is no doubt that the total amount owed can be collected from the taxpayer. The taxpayer has a proven economic difficulty or has presented facts that would support acceptance under the basis of public policy/equity, and Commitment would not undermine compliance with tax laws. Offers can be considered under DATCSC criteria when: The taxpayer cannot fully pay the tax due, and the taxpayer has demonstrated special circumstances that justify acceptance for less than the calculated PCR amount. The factors establishing special circumstances under the DATCSC are the same as those considered under the ETA. IRM 5.8.11, Effective Tax Administration, provides a list of factors to consider when determining whether special circumstances exist and also includes a full discussion on how to investigate and determine the acceptability of an offer on ETA or DATCSC grounds. The cases of Codedica can be worked on the COIC site by an OE or in the area offices by an operating system. Cases assigned to an OE in COIC can be referred to a Commitment Field Offerings (FOIC) group, for assignment to an operating system if complex problems that meet the field transfer criteria are identified in IRM 5.8.4.5.1, Complex problems identified during an investigation (COIC only). In the case of DATC offers, the decision to accept or reject is usually based on whether the amount offered reflects cpR. The exception to this rule would be for offers not accepted based on public policy reasons, as defined in IRM 5.8.7.7.2, Public Policy Rejection. CPR is defined as the amount that can be collected from all available media, including administrative and judicial collection resources. Generally, the collectibility components described in IRM 5.8.4.3.1 will then be included in the total CPR calculation. In addition, the taxpayer may be required to include the value of the assets transferred or disposed of prior to the submission of the offer in an acceptable amount of the offer. See IRM 5.8.5, Financial Analysis, for more details on how to analyze the financial condition of taxpayers to reach the value of each component. In determining the taxpayer's future ability to pay, the general situation of the taxpayer, including factors such as age, health, marital status, number and age of dependents, occupational education or training, work experience and present and future working status, should be fully considered. The fact that the government decides not to deal with an asset through tax does not require that the value of the asset be removed from the PCR calculation. Offers should not be accepted where the tax can be paid in full as a lump sum or may be paid under current Installment Agreement (AI) guidelines, unless special circumstances justify consideration of a smaller amount are identified. The offer should be recommended for rejection based on the taxpayer's ability to under current AI guidelines. See IRM 5.8.5.2, Payment capacity. A commitment offer is a legitimate alternative to a long-term installment agreement. A long-term payment agreement is defined as an agreement that extends beyond the collection statute (CSED) due date. In addition, if the taxpayer has the ability to make installment payments, the investigating employee must determine the amount that can be chargeable from a partial installment agreement (PPIA). In some cases, although the taxpayer cannot fully pay through an installment agreement, due to a high monthly payment capacity, the amount chargeable through CSED is substantially greater than the amount of CPR calculated as defined in IRM 5.8.5, Financial Analysis. In these situations, when the disparity between the amount offered and the amount chargeable through a PPIA is substantial, acceptance of an offer may not be in the best interest of the government. Based on this calculation, if the taxpayer is unwilling or cannot increase their offer to an amount that is closer to the PPIA collectable amount, they should be given the opportunity to withdraw the offer and enter a PPIA before rejection. Ensure that the case determination is consistent with the program's objectives to conduct the collection of what can reasonably be collected. See IRM 5.8.1.2.2, Policy. Although a PPIA may generate more funds than the amount offered, acceptance may be appropriate based on the taxpayer's reasonable collection potential and/or specific circumstances. Substantial consideration should be given to the benefit to the government of receiving payment at an earlier time, the compliance aspect of the IPO, the monitoring and non-compliance issues associated with a PPIA, the difference between the potential amount received from a PPIA and fiscal responsibility, the difference between the potential amount received from a PPIA and the amount of the offer, the taxpayer's gross income and household size, and advance changes in the taxpayer's income or expenses. The outstanding tax obligation is \$50,000 and the taxpayer submitted an offer in the amount of \$15,000. The taxpayer cannot fully pay through an AI within the CSED, however, a PPIA has the potential to charge \$25,000. Although the amount potentially collected through the PPIA would exceed the amount of the offer, the requirement for the taxpayer to remain in compliance for five years, the benefit of the government receiving the funds at an earlier date, and consideration of the additional costs incurred in monitoring the PPIA states that the taxpayer's offer must be accepted unless other circumstances, i.e. public policy, weigh acceptance. The outstanding tax obligation is \$200,000 and the taxpayer submitted an offer in the amount of \$36,000. The taxpayer cannot fully pay tax liability through an AI within the CSED. Taxpayer CPR is \$36,000 \$36,000 is based solely on your future income of \$1,500 per month. Based on the PCR's calculation, the taxpayer's offer may be acceptable, however, there are more than 9 years left in the CSED, so the government would potentially receive more than \$162,000 from a PPIA, if the taxpayer held the payments during the remaining months of the CSED. If the taxpayer submits payments over a period of 48 months, the amount received would be double the CPR. In this case, the fact that the government has the potential to receive substantially more than the PCR and the associated monitoring costs incurred, states that acceptance of the taxpayer's offer is not in the interest of the government. The offer must be rejected on this basis, unless special circumstances are presented that allow acceptance under ETA or DATCSC. The calculation of whether the taxpayer can pay in full should be based on the balance owed for all outstanding liabilities, including penalties and interest, at the time the offer is received. Because the balance owed at the time of bid submission is used to determine the ability to fully pay the liability, the taxpayer's income and capital in assets should normally match the bid filing date. The liability owed at the time of submission of the offer should not be reduced by periodic payments received during the bid investigation to determine the full ability to pay, although the reduction of the liability based on repayment compensation or other payment, i.e. tax revenue, is appropriate. The initial

calculation of a taxpayer's ability to pay the full liability is based on the share capital of the assets and income at the time of submission of the offer. However, if the taxpayer acquires an asset, or there is a substantial increase in income/decrease in expenses during bid investigation, the calculation of the taxpayer's ability to pay in full can be reviewed and provide an appropriate basis for rejection of the taxpayer's offer. The following four collectibility components will normally be included in the CPR calculation for bid purposes: Prior to the issuance of bid cases to FOIC, COIC will have made all processing determinations and completed the initial actions in accordance with current procedures. In some cases, no additional taxpayer information will be needed to complete the investigation. In these situations, the following appropriate measures should be programmed in such a way as to ensure timely resolution of the case. Generally, the AOIC allocation date will be the posting assignment date. If the contact with the taxpayer/representative does not have or will not take place before the date the taxpayer expects contact based on prior correspondence or discussion, the operating system must: Contact the taxpayer by phone or in writing and report on the status of the case and the expected contact date. If the taxpayer is verbally notified, document the contact on AOIC. If he a copy of the letter with the offer file must be kept in writing, unless the letter has been sent through correspondex and documented in IDRS, and documents the case history. Option D of the AOIC transfer letter can be used to meet notification requirements. FOIC can use the provisional letter process by updating the tracking screen in AOIC with the date a provisional letter will be required when the offer is received. This will allow a provisional letter to be sent before the expiration of the intended contact period. The tracking screen should also be updated after mailing any provisional letter, so an additional 90-day letter will be sent if the contact does not take place within the timeframe in any previous letter sent. The location of the case 90 days after mailing the initial transfer letter of 120 days AOIC or 75 days after the provisional letter of 90 days will determine who will contact the taxpayer. The date on which COIC transferred the case to AOIC will be used as the start date for the 90-day calculation. Prior to assignment to the OE/OS, the manager must determine on the tracking screen whether a provisional letter should be expired within 30 days and, if necessary, have another provisional letter mailed to the taxpayer. Within five business days of receipt of the offer case file from the COIC site, FOIC: You will confirm receipt of the offer file(s) by signing and returning the acknowledgement copy of Form 3210, Document Transmission. Accept the transfer of the bid record to AOIC. Assign the offer to the appropriate operating system. If the assignment to an OE does not take place or will not take place within 90 days of assignment to the 60XX retention file, the COIC site: Contact the taxpayer (verbally or in writing) and will inform you of the status of the case and the expected assignment date. If the taxpayer is verbally notified, the contact must be documented in the AOIC history. If the taxpayer is notified in writing, a copy of the letter must be kept with the offer file, unless the letter was sent through reciproc and is documented in IDRS. The date the case is assigned to 60XX in AOIC will be used as the start date for the 90-day calculation. When the case is assigned to an OE, the manager must determine whether the taxpayer is waiting for contact within 30 days of the assignment. If the expected contact is within 30 days of assignment, inform the taxpayer of the case transfer and the expected contact date. Below is a list of possible problems that, when identified during a COIC investigation, indicate that a case could be transferred to the field. The Entity consists of a municipality and/or educational institution, which requires a more specialized knowledge of tax laws. The complexity of the issues includes, but is not limited to, the valuation of working companies; determination of income when excessive accumulation of retained earnings withheld identified; specialized assets. The taxpayer's case has been classified as an Abusive Tax Evasion Transaction (ATAT) case in ICS or ATAT matters have been identified and the offer field investigation is determined to be appropriate. IIC filed by individuals and business contributors (e.g. associations, corporations) involved in complex activities or transactions designed or structured to hide or hide income, such as offshore activities, or multiple related entities, that require in-depth knowledge of the different fraud indicators, as well as working knowledge about a wide range of financial and research skills. Need for complete reviews to determine that other required returns, such as excise taxes, or specialty returns, must be filed. Presence of tools used to hide and/or cloud the taxpayer's true financial condition. Examples, not all inclusive include nominee, alter ego, and assignee situations. Complete and complex financial statements requiring knowledge of accounting and commercial principles in order to determine the taxpayer's actual income and expenses and thus determine the true potential for reasonable collection. Need to collect, investigate, inspect and validate data from a variety of sources through personal contacts. Data may, in some cases, be unique to a particular trade or industry. Cases involving high-profile taxpayers with potential for media scrutiny. Tax Court Cases With IRM File 5.8.10.12, Domos Tax Court Cases. International Taxpayers. Offers in which there is participation of the Department of Justice IRM 5.8.2, Centralized Offer in Commitment Initial Processing and Processability. Offers in which any evaluation participated in the Offshore Voluntary Disclosure Program (OVDP) or the National Voluntary Disclosure Program (DVDP). When these issues are identified, consult the site RO to determine if the transfer is appropriate. Managers should consult IRM 1.4.52.6.4, COIC Liability for Cases Transferred to the IIC Field, in relation to appropriate actions prior to transfer. If a case has not been identified as a field IIC transfer within 12 months of the IRS Receive Date, the site must withhold and work on the case. If the site believes that there are complex problems that cannot be resolved on the site, the case should be elevated to the OIC's national program administrator for a transfer determination. Before starting a CPR or a full payment calculation, the OE/OS must determine if there are any problems with i.e. unfiled returns, missing payments from the Tax Increase Prevention and Reconciliation Act (TIPRA), lack of estimated tax payments (ES), and/or not being up to date on federal tax deposits (FTDs). See IRM 5.8.7.2.2.2. Return for Inadequately Estimated or Insufficient Withholding Tax Payments, for additional information on calculating and determining appropriate ES payments. See IRM 5.8.7.2.2.3, Return for to make appropriate federal tax deposits, in connection with a return for not making timely federal tax deposits. If the taxpayer does not provide the current acknowledgment numbers, verify FTDs in IDRS using the offices in the EFTPS CC area can establish procedures for conducting this compliance review on offers awaiting assignment to an operating system. This initial assessment before the assignment can be completed by a Tax Examiner. The OE/OS must also determine if there are any collection delay criteria, as described in IRM 5.8.4.20, Offer Submitted Only to delay collection. If the taxpayer has unfiled returns (due after the submission of the offer), TIPRA payments, missing ES and/or FTD payments are missing and/or there are problems of late collection, the taxpayer/representative must be contacted by phone to discuss. Where applicable, the taxpayer must be provided with a reasonable period of time, usually 15 days, to comply with the filing of any return or make any required TIPRA, ES or FTD payment. If the taxpayer or his representative requests an extension of time to comply, a reasonable amount of time must be granted for filing ES returns or payments. An extension request to make the required TIPRA or FTD payment should only be granted if the taxpayer has a special circumstance. If the taxpayer/representative indicates that the ES payment requirement is lower than that determined by the OE/OS, the OE/OS will accept the taxpayer's return unless there is an indication to the contrary, i.e. the financial statements submitted for the current year indicate that net income and potential tax liability are substantially greater than the current and expected amounts of ES and/or withholding. If the taxpayer or their representative is contacted, the OE/OS must document the discussion of Publication 1/Publication 594 and the potential filing or filing of NFTL, including the ability to file a PAC application prior to the NFTL filing. If delinquent returns were due prior to the submission of the offer and a return request had previously been made, the offer can be returned without any additional contact. If the taxpayer/representative previously received the opportunity to pay a deficit in ES REQUERIDOS payments or federal tax deposits and warned that not making these required payments would cause the offer to be returned, the OE/OS is not required to provide the taxpayer with additional time to file the payment. If the taxpayer was advised to file an ES or FTD deficit, before returning the offer, the OE/OS should ensure that the you have not reported a change in circumstances that reduces or eliminates the payment due. If it is unclear whether the taxpayer's circumstances may have changed, then the taxpayer/representative should be contacted to check if the taxpayer's situation has changed and/or the payment(s) is not due. Taxpayer was advised information on the 2019 tax return ES payments were required for fiscal year 2020. The information was included in an additional application letter sent during perfection, which included an ES payment request. Form 433-A(OIC) shows wage income. Although the taxpayer was advised to become the stream on estimated tax payments, it is unclear whether the taxpayer remains self-employed. Attempts should be made to determine whether ES payments are required. Since this is a compliance issue, an attempt is required to contact the taxpayer/representative. If the taxpayer files a tax return with a balance due, the OE/OS will treat the liability(s) as a period or periods lost and process the return(s). If applicable, add the missing periods on the AOIC MFT screen, include the periods in the original Form 656, and continue working with the offer. See IRM 5.8.3.12, Tax Return Processing, which include procedures to speed up return processing, where applicable. If the tax return is for a tax period in which estimated tax payments were requested during the bid investigation, determine whether an offer return is the appropriate resolution. See IRM Return 5.8.7.2.2.2 for insufficient or estimated withholding tax payments. Form 656 allows the Service to include any assessed liabilities not listed on Form 656. Therefore, a modified Form 656 is not required to add the missing periods only. If the taxpayer indicates that he or she is no longer required to file a tax return, it will be the responsibility of the OE/OS to close the filing requirements or not to indicate any liability to file; that is, the entry or request for entry of Transaction Code 590 or 591, as appropriate. Refer to Document 6209, sections 8 and 11 for appropriate transaction and closing codes and to request entry of TC 590/591. Additional information can be found in IRM 5.1.11.8.3, without Insured Return the taxpayer is not required to file for this period only. While it is the Service's policy, not enforcing delinquency procedures beyond the age of six, open TOIs must be closed if you accept the offer. To close a TDI for modules prior to this time period, request TC 590 CC 52 and reference to the Policy Statement, P-5-133. Address approval is required for this closing code. See IRM 5.1.11.7.1, Determination of Execution, and IRM 5.1.11.8.3, No taxpayer insured return is not required to file for this period. The taxpayer is out of business and is no longer required to file. In the case of a company, if the taxpayer provides information that they are no longer required to file a return (for example, forms 941 or 940), close the filing requirements and work the offer. An individual taxpayer has no income and no filing requirements for the 12/31/2017 fiscal year, TC 590 cc 50's contribution for fiscal year 2017 is appropriate. IRM 5.8.3.6, Improvement of COIC cases, does not require a request for declaration if a return substitute (SFR) is on file, however, the OE/OS must verify with the taxpayer/representative that the SFR assessment is approaching the correct tax responsibility and/or provide the taxpayer with the opportunity to file an original return. If an original return is not guaranteed during any tax period(s) included in the offer, the taxpayer/representative must be informed that if the offer is accepted, tax liability can never be adjusted, even if the offer fails to comply with non-payment. The OE/OS is not required to contact the taxpayer/representative if the only problem identified during the initial compliance review is the SFR assessment. If contact is being made with the taxpayer or representative involving compliance or delay of collection problems, the OE/OS must also inform the taxpayer/representative of the related offers required due to separate responsibilities included in the original offer that must be submitted before the financial assessment of the offer can begin. The initial compliance review should include a determination of the date the taxpayer expects contact regarding the bid investigation. If the most recent provisional contact letter will expire before early contact, the OE/OS must inform the taxpayer by phone or letter when contacting to discuss the taxpayer's offer. Correspondence (paragraph D) of the AOIC transfer letter can be used if the OE/OS sends the letter only to inform of the expected contact date. Completion of the initial compliance assessment must be carried out within 15 calendar days of the bid allocation date. In situations where the field operating system is not in the same location as the group administrator, an additional 5 calendar days from the allocation date is an appropriate time period to complete the initial compliance scan. The following table provides guidance on the appropriate actions to take based on the required information: These initial bid actions must be completed within 30 calendar days of the compliance review, but no later than 45 calendar days from the date an offer is assigned to an OE/OS. In situations where the field operating system is not in the same location as the group administrator, an additional 5 calendar days will be allowed from the allocation date to complete the initial case actions. Conducting an initial compliance review within 15 days of receipt of the offer allows to address any breach of the before completing any additional initial analysis action. Lack of timely compliance may require the completion of unnecessary financial analysis if the offer is returned for compliance issues. The assigned employee must complete the following additional actions: If the taxpayer verified low-income certification, verify the low-income rating by checking ENMOD, using the primary taxpayer's TIN if the joint offer, for a Low Income Indicator (LII) of 1. If LII is another 1, a taxpayer may also qualify for low-income certification based on their most recent return, even if the return has not been published, providing a copy of the return with Form 656. An IMF taxpayer (or exclusive property) may qualify for the low-income exemption if their current adjusted gross household income (AGI) does not exceed 250 percent of the applicable poverty level found in the Section 1 table on Form 656. An AGI-based non-qualifying taxpayer may apply for an exemption based on the monthly income of their current home on Form 433-A(OIC) x 12. Household income (at the time of submission of the current offer or income, whichever is smaller) and family size may support the decision not to pay the application fee and the required TIPRA payment. For the purpose of allowing exemption, the size of the family is determined by the dependents allowed on the taxpayer's return. If a calculation based on monthly income and the number of dependents is used to determine the low-income exemption rating, any income listed on Form 433-A used in this determination should only include the people listed in the family size. If a dependent's expenses are not allowed, that dependent's income must also be excluded from the calculation. All household income should be included in the RSP determination based on current guidance in IRM 5.8.5, Financial Analysis. A taxpayer applies for low-income exemption based on a family size of four including the taxpayer, spouse, and two children, age 10 and 18. A review of the taxpayer's most recent tax return includes only one dependent. The other child submits a Form 1040. The calculation of the low-income exemption should not include the income of the household member who is not being included in the family size, however, when calculating cPr, follow the IRM provisions to determine which income should be included in the income/expense table. If the OE/OS concludes that the taxpayer does not qualify based on AGI and the income from the family size exceeds the levels for which an exemption is allowed (i.e., the taxpayer should have paid the application fee and the required TIPRA payment), contact the taxpayer by phone and request the required initial payment fee and TIPRA application. If the taxpayer cannot be contacted by phone, after two attempts, issue a letter of additional information requesting the required TIPRA payment and application fee. If the taxpayer is not made up-to-date with the required TIPRA payment and the before the deadline provided, the offer must be returned. The application fee will not be refunded if the taxpayer paid the application fee and their income subsequently decreases so it now qualifies for the waiver. Please refer to IRM application fee 5.19.7.2.1.1 for situations where a refund of the application fee may be appropriate. If the taxpayer filed the application fee and TIPRA TIPRA in addition to checking the Low Income Certification box requesting payment will apply to the liability and the taxpayer is found not to qualify for the waiver, the bid investigator will request the Designated Payment Code (DPC) on the amount of the application fee will be updated to DPC 33 and the DPC on the TIPRA payment amount will be updated to DPC 34. Update the AOIC payment screen or request that the payment screen be updated, in accordance with the group's procedures, and continue to investigate the offer. If the taxpayer filed the APPLICATION Fee and TIPRA Payment, in addition to verifying the Low Income Certification box in which they requested that the payment be applied as a deposit and the taxpayer is found not qualifying for the waiver, the bid investigator will contact the taxpayer as discussed in (a) above, to give the taxpayer the opportunity to file the application fee and TIPRA payment. If the taxpayer requests that the deposit amount be applied as an application fee and TIPRA payment, unless authorized by the taxpayer on Form 656, the OE/OS must secure a Form 3040, Authorization to Apply Commitment Deposit Offer to Liability, Document receipt of Form 3040 in AOIC comments, and notify MOIC by email to apply the deposit to the taxpayer's account as tipRA's application fee and payment. Form 3040 must be retained in the offer file. If the taxpayer did not pass the appropriate amount of the required lump sum cash payment (20% of the amount offered) or payments due under a recurring payment plan, they must also request the remainder of the total cash sum or periodic payments required when requesting additional information. Refer to IRM 5.8.4.25 on appropriate action if the taxpayer does not make the required periodic payments from TIPRA. Secure any related offers, along with the applicable application fee and TIPRA payment before starting the offer investigation. If the taxpayer does not provide the requested related offer, the offer will be returned without any other consideration. See IRM 5.8.3.5, Form 656 Processing, and Initial Offer Payments for information on the required number of Form(s) 656. The original exemption date must be maintained during the tax periods of the related offer if the tax periods were included in the original Form 656 or added prior to the submission of the related offer. If a tax period is included in the related offer, which was not included or added to the original Form 656, the date of exemption will be the date on which the new Form 656 will be considered if the exemption date for any tax period in the related offer is based on the exemption date of the original offer, then the receipt date must also reflect the date of receipt of the original offer. Review Form 433-A(OIC), Form 433-B(OIC) and the financial information submitted by the taxpayer. If you determine that Form 433-A/B(OIC) has missing pages/sections are materials for research, you can ask the taxpayer to complete and initially the missing sections of the form. In some cases, it may be sufficient to verbally confirm that they did not have entries, however, if the missing sections/pages of the CIS are critical or the taxpayer did not include specific account numbers or other identifying information, requesting the taxpayer to submit a revised CIS that includes only the missing sections/pages may be appropriate. Prepare a preliminary table of assets/equity and income expenses (AET/ET) with available information, even if the information has not been verified, to make a projected resolution to the case or to determine exactly what additional information is needed. Research available internal sources to verify and supplement taxpayer information. Information should not be requested from the taxpayer that is available through internal sources or online research. If the taxpayer has related entities, complete a compliance review of any related entity. If the taxpayer is the principal party responsible, i.e. the corporation, company, etc. or the owner, general partner or significant shareholder, see IRM 5.8.7.7.1, Not in the best interest of government rejection, if the related entity does not comply. If the taxpayer submits a Form 656 to compromise the responsibility of the related entity by referring to COIC for processing, enter the offer number of the open offer that you are currently investigating with the related entity wording. If the initial analysis reflects the need for additional information, and the information is not available through internal sources or online research, please contact the taxpayer/representative by phone to discuss any additional information necessary to continue the bid investigation. Correspondence should generally not be sent until the OE/OS makes two attempts to contact the taxpayer over the phone, unless for compliance issues discussed in IRM 5.8.4.6, Initial Compliance Screening. Phone contact or contact attempt must be documented in AOIC or ICS history. If the information was up-to-date at the time of submission, it may not be necessary to require the taxpayer to update the information. For example, the information became obsolete due to processing delays caused by the Service and without the taxpayer's fault. In such cases, it should be based on outdated information if there is no indication that the taxpayer's overall situation has changed significantly. It must be judged to determine whether any information may be needed or to what extent. In certain situations, it may be appropriate to phone-track the contact with a written request to the taxpayer/representative. If no additional information is needed, proceed with the appropriate provision of the offer. Lien Federal Prosecutor's Initial Notice (NFTL) must be done and documented. While an initial NFTL determination is required, it may not be necessary to immediately file the NFTL unless government interests are at risk, such as the taxpayer liquidating assets or threatening imminent bankruptcy. The OE/OS should follow standard procedures to provide taxpayers with appeal rights, including documentation of any NFTL discussions and discussion of the taxpayer's appeal rights. See IRM 5.1.9.2, Informing Taxpayers of Their Appeal Rights and IRM 5.12.6, Appeals Processes in Livelihoods, regarding taxpayer appeal rights in the NFTL levies filing process. If a taxpayer is in an area of the Combat Zone, NFT should not be filed unless there are mitigating circumstances. Document the case history. Since any individual shared responsibility (SRP) payment assessed under Section 5000A is not subject to sanctions or actions for the application of NFTL and lien, if an NFTL is requested, you must NOT include any individual SRP/MFT 35 modules or SRP/MFT 65 modules. In addition, when the taxpayer is informed of the NFTL filing, if the taxpayer has any individual SRP responsibility pending, it must also be notified the NFTL will not include any SRP assessment. The AOIC Decision Point (DP) tool is accessed through the AOIC system. This tool is used to complete cPr calculations and help make a final case decision. It is the user's responsibility to ensure that a final decision in the case is based on the facts and circumstances of the case. DP should be used in conjunction with IRM 5.8, Offer in Compromise and IRM 5.15, Financial Analysis to ensure that the correct case decision has been made. There will be some cases that cannot be loaded into the DP; therefore, it may be necessary for the OE/OS to manually calculate CPR. If Form 433-A(OIC) clearly shows that the taxpayer has no available assets or income, financial information showing all zeros is not required to be insurmounted to the DP. The OE/OS must still verify financial information through internal sources, COIC will generate TC 480 and Status 71 through the AOIC system. However, there may be situations where Status 71 does not generate (for example, MFT 31 modules created before January 2005, imminent status, etc.). It is the responsibility of the OE/OS to ensure that the 480 is introduced and reflects the correct date. Any corrective action should be taken immediately, if a TC 480 is entered manually, it must be reversed manually. Document the AOIC history that the 480 must be manually rolled back. Taxpayers who owe separated forms are required to file two Forms 656. If a Form 656 was filed, including joint and separate liabilities or separate liabilities identified during the initial bid evaluation, the OE/OS must refine the offer before proceeding with case processing. In these cases, a modified Form 656 and a Form Form it will be necessary. An additional application fee and TIPRA down payment must be ensured for the related offer, unless the taxpayer qualifies for low-income certification. There must be a modified Form 656 for a taxpayer, including their joint and separate liabilities and a related Form 656 for the remaining taxpayer, which includes their joint and separate liabilities. See IRM 5.8.3.7, Case Building Offers, for additional information. In circumstances where the balance of the separate liability is less than the total CPR, the OE/OS should discuss with the taxpayer/representative the option of securing full payment of the separate liability and reducing the amount of the offer to potentially compromise the remaining joint liabilities. If separate liability will be paid in full, no additional Form 656, a related application fee, and TIPRA payment will be required. The scenario may also be present if the joint liability is less than the total CPR and only one taxpayer must separate liabilities. In order to avoid disclosure issues when taxpayers are not represented by an POA, applications for modified and revised 656 forms must be made over the phone. Please refer to the review date of the original Form 656 filed to determine whether taxpayers have authorized discussion of separate tax obligations with their spouse. Make two phone attempts to contact taxpayers. If telephone contact is made, the discussion with both taxpayers should be maintained. When discussing the requirement of two separate offers, a discussion should be maintained about how taxpayers want to deal with TIPRA's down payment; for example, split the original payment between the two offers or send a new payment. Inform taxpayers that a separate Form 656 is required and that two separate Forms 656 will be sent; one to the primary spouse and the other to the secondary spouse. If phone attempts are unsuccessful, use the letter 2844 with paragraph D to request a callback. If you contact a single taxpayer, provide them with the requirement for two Forms 656 and you will mail separate offer forms addressed to each taxpayer. If the taxpayer is contacted and completed Forms 656 is sent to the taxpayer, the OE/OS must provide additional information in open paragraph 2844 which includes: If none of the taxpayers returns the new offer or does not respond to the callback request, the original offer will be returned without further consideration. In most cases, the use of the AF paragraph of the return letter is appropriate. If additional documents are requested (it is return letter may include additional paragraphs to provide the taxpayer with all the reasons for the return. If only one taxpayer responds, continue to work on the one-time offer and return the original offer to the without further consideration. When modified and related Forms 656 are mailed to taxpayers after discussing the requirement, two separate submissions will be needed if you cannot obtain permission from each spouse to mail the forms in an envelope. When modified and related offers are received, follow the procedures in place to upload cases to AOIC. Once the offer is charged to AOIC, check the exemption dates (TC 480). Exemption dates will depend on whether the original offer included all periods or whether related periods were discovered during the bid investigation and were not included in the original offer. The following table provides guidance on when AOIC should reflect the original exemption date versus a new exemption date. The TIPRA Statute is established when the original Form 656 was received and is not affected when related/modified Forms 656 is secured. For offers that include the responsibilities of a single member who owns an LLC or a single LLC member reporting only in an Annex C, since any employment tax obligation accrued after January 1, 2009 is incurred by the commercial entity of a single LLC member and not by the individual, if an offer is submitted by the individual and includes the LLC's employment tax obligations incurred after January 1, 2009, a related offer from the LLC will be required regardless of how the taxpayer reports their income. You must also request any related TIPRA payment and application fee. If the original offer was submitted with the low-income exemption box checked and the taxpayer qualifies, the exemption would apply only to the original offer as the exemption cannot be applied to a corporation. The taxpayer is a single LLC member who reports only in an Annex C. A Form 656 was filed that included liabilities for Form 941 for 2007-03, 2007-06, 2008-03, 2009-06 and 2011-03. A related offer from the LLC considered will have to compromise the employment tax obligations of 2009 and 2011 because they were accrued as of January 1, 2009, and were therefore incurred by the commercial entity of a single LLC member instead of the individual. Any application fees and payments related to TIPRA would also have to be charged, even if the original offer was submitted under (and the qualified taxpayer for) the low-income exemption. After January 1, 2009, the LLC is responsible for employment taxes and is treated as a corporation for tax purposes, so they do not qualify for the exemption. The original offer would not require any payment if the taxpayer qualifies for the exemption in the presentation. Related offers protected by the field operating system must be sent to the dedicated email in Memphis COIC or Brookhaven COIC, as shown on the cover of the related offer. This will result in the offer loading faster and more correctly associated with AOIC with the original offer. To upload a related offer, COIC will need all the information would have been presented with the originals on paper (including remittance information). Field processing only: Use the latest version of the related offer cover sheet, which can be found in the OIC SharePoint library. Complete all fields on the Related Offer Cover Sheet. Process any payment received with the modified and related Form 656. Provide copies of the checks and Form 3244, Payment Registration Bonus. Make sure payments are processed at the cashier on time. Refer to IRM 5.1.2.1, Remittance Processing Summary. If TIPRA payments apply to the original offer they must apply to TIPRA of the new offer, clearly note the information in the AOIC Comments as well as in the related offer fax package. If the funds currently in account 4710 must apply to TIPRA, please email a request to Monitoring OIC (*SBSE EEF BSC MOIC DEPOSIT or *SBSE EEF MSC MOIC DEPOSIT) (subject line: MoIC Deposit Disposition Request) and AOIC Remarks document regarding the application. Include in the email, offer number, identification of the payment to be moved, instructions regarding the payment request that includes the tax period(s) and DPC, and the type of authorization (Form 3040 or other written authorization). See IRM 5.8.4.7, Additional Initial Bid Actions, para. (c) for Obtaining Form 3040. Electronic fax the documents (coverage sheet, form 656, copies of checks, and posting receipts) to the location of the COIC that processed the original offer. Do not mail paper documents and do not include copies of the original IQ in the fax request. Although COIC will send an email notification when the offer is uploaded, tracking is recommended for 10 calendar days. Once loaded, accept the case transfer promptly and make sure the assignment. If the offer is not accepted and assigned immediately, it will appear in the Transfer Not Accepted reports, which must be reconciled. Upload the new offer and post applicable payments within two business days of receipt. Actions required when uploading the new offer include entering the appropriate codes in IDRS and AOIC to ensure that the correct exemption dates (TC 480) and the law expiration code (B, P, or S) are reflected in the master file tax module for each tax period included in both the related and original offerings. If the PE cannot correct any exemption date in AOIC, the information must be entered in the observations that the OS needs to update the AOIC with the correct information. Once the it is uploaded to AOIC, the pe administrator: Verify all OIC periods are on the correct MFT screen and the appropriate codes (TC 480 and law expiration) are entries for both offers. If you cannot enter a tax period on the AOIC MFT screen or you do not enter the appropriate codes in IDRS for both offers, the comments screen must be documented with information about any additional actions required by the operating system. Operating, appropriate Zone Office. By email, provide the operating system and group manager with the offer number. The FOIC group will accept the transfer and complete the investigation. The original exemption date applies to periods that were in the original offer. If the initial analysis reveals additional information required, contact the taxpayer or representative by phone. Generally, two attempts to contact the taxpayer/representative over the phone must be made before correspondence is sent requesting a return phone call. Contacts or contact attempts must be documented in history. In certain situations, it may be beneficial to schedule a phone appointment with the taxpayer or representative. Refer to IRM 25.4, Employee Protection, for a discussion on Potentially Dangerous Taxpayers (PDTs) and Contact Caution Indicators (CAU) when displayed in integrated data recovery system (IDRS) and/or Integrated Collection System (ICS). If the request for information is in person (for example, by phone, office, or field visit), the initial contact must include the following information: Verify the receipt and discussion of Pub 1 documents, Your Rights as a Taxpayer, and Pub 594, The IRS Collection Process. If the first conversation is with the Judiciary (POA), verify that the taxpayer has received these publications. If the taxpayer or POA verifies the receipt, ask if there are any questions and answer any questions you may have to ensure that there is a clear understanding of your rights. If the taxpayer has not received the publications, please offer to explain their rights before proceeding or mailing the posts back to the taxpayer and postpone the conversation until they have been received and read. Direct and document any possible special circumstances (e.g. ETA or DATCSC) identified during initial contact or initial review of documents submitted with the offer. If the initial financial analysis determines that the taxpayer has the ability to fully pay the liability or pay through an installment agreement, then alternative rulings should be discussed. If a determination has been made that an NFTL will be filed, the taxpayer should be informed of the NFTL filing. See IRM 5.8.4.13, Notice of Filing of Federal Tax Taxes for Filing Criteria. Explain the possible effects of NFTL presentation on normal business operations. The OE/OS must follow standard procedures to provide the taxpayer's appeal rights. See IRM 5.1.9.2, Informing Taxpayers of Their Appeal Rights and IRM 5.12.6, Processes Involving Liens, in relation to taxpayers' appeal rights in the tax filing process. Also explain to the taxpayer your right to request a Due Collection Process (CDP) hearing under IRC 6320 once the NFTL has been filed in accordance with IRM 5.12, Lien Federal Tax Notice and IRM 5.1.9.3, Collection Process. Since any individual shared responsibility payment individually assessed under Section 5000A is not subject to sanctions or actions for compliance with NFTL and levy, if an NFTL is requested, it must NOT include any individual SRP/MFT 35 module or SRP/MFT 65 modules. In addition, when the taxpayer is informed of the NFTL filing, if the taxpayer has any individual SRP responsibility pending, it must also be notified the NFTL will not include any SRP assessment. If the OE/OS requested a callback using AOIC letter 2844 (paragraph D) and the taxpayer or representative does not respond within the allotted timeframe, the offer will be returned without further consideration. If the written request is for anything other than (3) above, correspondence should include: A list of the specific elements/information required, a specific time limit for providing the information, a statement indicating that the offer will be returned without further consideration if not provided all information, the name, telephone number and employee number of the investigating employee, a statement on the premises of Publication 1 and 594, if necessary, and a statement addressing any potential special circumstances (e.g. ETA or DATCSC), if applicable. To maintain consistency, any correspondence requesting additional information or supporting documentation must be generated in the AOIC system. It may be appropriate in unique cases, i.e. offers involving public policies or situations of non-economic difficulties, that a document request was composed outside the AOIC system. These requests should be limited to circumstances in which the requested information would be too involved to be included in the open paragraph AOIC letter. If the information is not critical to making a case decision, do not submit a request for additional information. For example, lack of expense documentation, when expenses such as medical care, child support, court-ordered payments, etc., seem reasonable or can be verified through other documents provided or oral testimonials; or if the financial information submitted included sufficient information (such as wage statements, bank statements, or retirement information) even if the information is not the number of documents normally required. The required verification must be consistent with the facts and circumstances of the specific bid investigation. Sometimes the response to a request for information does not include all the requested information. If the taxpayer has responded substantially or adequately responded to the requested information or documents (even if he did not provide the specific documents or information requested in the response), or if he did not include the justification certain monthly expenses claimed or loan balances that are reasonable or can be verified through other sources, the appropriate action may be to continue working the case. The OE/OS should determine whether the are not in place to make an informed decision on the acceptability of the taxpayer's offer. Certain information will be necessary to correct the following situations before continuing the investigation of the offer, including: Missing or zero amount of offer, unless the terms are present. The taxpayer's full name, address, Social Security Number (SSN), Employer Identification Number (EIN), and/or Individual Taxpayer Identification Number (TIN) must be entered on Form 656. If the taxpayer(s) uses a postal address that is different from the street address, the physical address of the house must also be included. If the address line is blank or the taxpayer does not include an address, check with the taxpayer for your specific circumstance that it may be using an address from your representative, a Low Income Tax Clinic (LITC, per surv. Additional form(s) 656 that may be required to involve related offers. See IRM 5.8.3.5, Form Processing 656, and Initial Offer Payments, which discusses when it is appropriate to secure related offers. If a modified offer is guaranteed, the OE/OS must not sign any modified or revised Form 656. Keep the original and modified Forms 656 in the file. TipRA payment or deficit is missing. Unfiled tax returns (usually, this will not exceed a reversal period of 6 years, without managerial approval). Obsolete form 656. Missing or blank Form 433-A (OIC) and/or 433-B (OIC). The following table provides guidance on appropriate measures to be taken based on the required information: If the taxpayer or his representative requests an extension of time to comply with the request for additional information, a reasonable amount of time should be granted. Typically, a minimum of 15 and a maximum of 30 calendar days should be allowed. If the taxpayer or representative requests more than 30 calendar days, additional time should be allowed if the reason for the request is reasonable. However, if it appears that the representative or taxpayer is delaying the progress of the bid investigation or if the taxpayer or representative does not meet the deadline, the offer may be returned. Document the iC or AOIC history by indicating the new deadline for the response. If the requested additional time is not granted, the taxpayer or representative should be informed of the opportunity to discuss the extension with the OE/OS manager. For offers, which include employment tax or corporate income tax liabilities, submitted by an ongoing company, a field call can be made prior to acceptance to validate the existence and value commercial assets and inventory. A field call is a requirement of acceptances that the Territory Manager, Operations Manager, or Director is the approval delegated officer. This may require a further investigation (OI) to a collection field revenue officer (RO). If a field call has been assets and assets have been valued and documented, no field call would be required unless the OE/OS deems it necessary. An OI may be issued to request a field call to other acceptances that include a developing company's tax obligations, if the OE/OS determines that the taxpayer's assets should be viewed to help determine the current market value. Before an operating system makes any field calls to view the assets, the operating system must discuss with its group administrator whether the operating system or a field RO should complete the field call. If after discussion with the RO group manager, it is determined that a field call cannot be made, due to the taxpayer's geographic location, document the ICS history and submit the bid acceptance recommendation for approval. If the offer is recommended for acceptance based on effective public policy/equity tax administration (NEH-ETA) factors, a field call can be requested, but it is not a requirement, although the Territory Manager may be the passing official. If any of the errors were not fixed to refine the offer, return the offer. If the taxpayer does not present the required TIPRA down payment balance (20% for a lump sum cash offer) within a reasonable period of time, return the offer without further contact. The OE/OS must issue the appropriate AOIC return letter and mail it to the taxpayer. For more information about returning an offer for not making recurring payments, see IRM 5.8.4.25, Periodic Payments Required with Offer in Commitment Shipments. If the taxpayer gives an explanation that supports special circumstances as a reason why the funds were unavailable, continue to work on the offer as if the taxpayer had filed the full payment. This should be a rare situation after arguing with your manager. Once cPr is calculated, process the case as follows: To ensure timely processing of cases, all in-process bids must have scheduled follow-up dates for the next appropriate action. Throughout the investigation, the scheduling of appropriate follow-up measures should be reasonable and appropriate, based on the facts of the case. To be deemed appropriate, follow-up actions must be significant actions that can reasonably be expected to move the bid investigation towards resolution. Follow-up actions should usually occur within 15 calendar days of a set time limit for taxpayer action. When the taxpayer provides the requested information before the deadline the OE/OS should attempt to adjust the follow-up date and review the information as soon as possible to provide the taxpayer with quality customer service. Follow-up actions must occur within 30 calendar days in situations where no contact has been established with the taxpayer or no deadline has been given. Follow-up actions may include: Recommend acceptance or rejection if the information received is to make a decision regarding the offer. Recommend the case for closure when the taxpayer has clearly not provided the requested documents or information. Personal contact when the taxpayer has made an attempt to comply with the requested documentation, but the information provided is incomplete, or needs clarification. Once the PCR is calculated, appropriate measures must be taken to terminate the housing. Case Recommendations The EO in the COIC should submit all appropriate recommendation reports (i.e. Forms 1271/7249) as soon as possible, but no later than 10 calendar days from the date of the documented decision of the case. The operating system must submit all appropriate recommendation reports as soon as possible, but no later than 15 calendar days from the date of the documented decision of the case. Closing Actions – The case must be sent for closing actions (i.e. quotes/letter mail, close in AOIC, ICS, etc.) within the 10 calendar or 15 calendar days period defined above. While the time allowed to close the shares is 10/15 days, the OE/OS should always strive to complete the recommendation reports and submit the closing documents as soon as the case decision is made to provide taxpayers with quality customer service. Documentation should include, but is not limited to: The basis of processability determination; Case actions;

Requests for information/documentation; Conversations with taxpayers or representatives; Results of internal analysis of information; Special issues or circumstances; Financial analysis, if applicable; Case decisions; and management approval. Do not copy and paste entire documents that are available in the offer case file, AOIC comments, or iCS history. The documentation may include a brief summary of the type of information requested or the completed financial analysis. Documentation should support and define differences and verification of assets and expenses, including the reasons for the disallowing of income and expenses. It should also include a brief statement of assessment of income, allowed expenses, asset values, charges and, if relevant to the case decision, the source of the bid funds. COIC employees will use AOIC to document the actions of the case. FOIC employees will use ICS to document case actions. When iCS is used to record documentation, a closing summary history must be placed in AOIC before closing the case, indicating the basis for closure, special instructions for MOIC, if necessary, and a statement that the is available on ICS. As is the case with all commitment determinations, references and acceptance/rejection decisions, employees must exercise good judgment. This good judgment must be clearly evident and articulated in the documentation of the dossier and must be supported by the known facts of the case, circumstances and supporting documents. There is no clearly defined formula for ultimately, make these decisions, and each case must be evaluated by its own set of facts and circumstances. In particular, with regard to acceptance/rejection decisions, the recommendation report should clearly explain the reasoning behind our actions. The OE/OS should enter information in the AOIC comments to indicate whether the tax periods included in the offer should be reflected at the end of the bid investigation. In addition, AOIC observations should indicate whether the offer requires manual entry of closing codes. Prior to final processing, AOIC must be updated to indicate the correct basis for the offer identified on Form 656 and the dollar amount of the offer considered or accepted. This will ensure that all final closing reports generated from AOIC reflect the correct basis and dollar amount. The approval levels indicated in the closing reports and letters must be consistent with the basis for closing. Documentation must be recorded on the day the action occurs or as soon as it is practical thereafter. It is the employee's responsibility to safeguard the interests of the government and the rights of taxpayers. Employees must judge whether or not to file a Notice of Lien Federal Prosecutor (NFTL) for which it must be filed. See IRM 5.12, Federal Tax Liens, for further discussion on NFTL. If an NFTL is requested, the OE/OS must follow standard procedures to provide the taxpayer's appeal rights, consult IRM 5.1.9.2, Inform taxpayers of their appeal rights, and IRM 5.12.6, Appeals Processes Involving Levies, in relation to the taxpayer's appeal rights in the levy filing process. Since any individual shared responsibility (SRP) payment assessed under Section 5000A is not subject to sanctions or actions for the application of NFTL and lien, if an NFTL is requested, it must NOT include any individual SRP/MFT 35 modules or mirrored SRP/MFT 65 modules. In addition, when the taxpayer is informed of the NFTL filing, if the taxpayer has any individual SRP responsibility pending, it must also be notified the NFTL will not include any SRP assessment. In general, NFTL's application should be processed in accordance with the table in paragraph 3 of this subsection. However, a notice of federal tax lien should be filed immediately if government interests are in danger, such as the taxpayer is trying to sell or tax their real estate and not provide income to the IRS, or the taxpayer has indicated that they will file for bankruptcy. A presentation determination must be made and documented NFTL in all cases assigned as part of the initial bid actions. The following table provides guidance on when the presentation of an NFTL may be appropriate. The initial review of any case should include an analysis of whether an NFTL has been successfully filed in all tax modules with a balance due, is presented in the correct jurisdiction, and whether any NFT NFT be re-archived. If the analysis indicates that an NFTL was wrongly allowed to self-release, appropriate steps must be taken to correct the problem. If it is determined that an NFTL improperly includes any individual SRP/MFT 35 module or mirrored SRP/MFT 65 modules, immediate action must be taken to withdraw the NFTL from the individual SRP tax period. See IRM 5.12.9.3.1, Withdrawal for premature or inadvertent presentations. An NFTL will generally be submitted as long as the total unpaid installment balance (UBA) exceeds \$10,000 and an offer is returned or withdrawn (the NFTL filing request must be submitted 15 calendar days after mailing the return/withdrawal letter). If the offer is being rejected and the unpaid balance of the fees is greater than \$50,000, the NFTL application must be submitted 15 days after the issuance of the rejection letter. If the UBA exceeds \$10,000 and is less than \$50,000, an NFTL application must be submitted at the end of the appeal period, if the denial is not appealed, or if the denial is appealed, at the end of the appeals investigation. Additional information regarding the filing of NFTL: In situations of rejection, return and withdrawal, the NFTL application must be submitted for processing based on procedures established in the group, but not before 15 calendar days after the sending of the letter of decision, unless the taxpayer has been informed by the OE/OS, the NFTL will be presented at the time of issuance of the letter of decision. If significant time has elapsed since the taxpayer/representative (tp/re) was notified of the NFTL filing, the OE/OS should attempt to contact tp/re to remind them of their appeal rights. If NFTL filing is delayed until the conclusion of the appeals investigation, NFTL's application must be updated before submitting the input application to address any changes to the UBA, taxpayer address, or representative. Attempts should be made to contact the taxpayer prior to the filing of the NFTL. During the discussion with the taxpayer of the NFTL filing, and/or alternative resolutions, if applicable, the taxpayer should be advised that he or she may qualify for an installment agreement that does not require the filing of a federal tax lien notice. See IRM 5.14.5, Installment Agreements, Simplified, Guaranteed Installment Agreements, and the Trust Fund's Express Installment Agreement in Business. Since any individual shared responsibility (SRP) payment assessed under Section 5000A is not subject to sanctions or actions for the application of a lien and levy, if the filing of an NFTL is requested, you must NOT no individual SRP/MFT 35 module or reflected SRP/MFT 65 modules. In addition, when the taxpayer is informed of the NFTL filing, if the taxpayer has any outstanding SRP liabilities, it must also be notified the NFTL will not include any SRP assessment. See IRM 5.12.2.3.1.1, Affordable Care (ACA) Shared Responsibility Payment Exception (SRP) and IRM 5.12.2.6.1, ACA Shared Responsibility Considerations when filing NFTL. Circumstances justifying the non-filing of an NFTL in the above situations should be clearly documented in AOIC or ICS. In cases where an offer is being investigated and the taxpayer submits a request for a CDP hearing or equivalent (EH) hearing during the investigation, the case falls under the jurisdiction of Appeals. See IRM 5.8.4.15.3, Actions Required When CRP Is Received while an Offer Is Pending for additional guidance. See IRM 5.1.9.3.3, CDP and HD Application Processing, regarding filing an NFTL during a CDP or HD hearing, if an NFTL is requested during bid investigation. If the OE/OS determines that it is necessary to submit an NFTL during the bid investigation on the same type of tax and tax periods that are the subject of the CDP levy hearing, the bid group manager or designated will contact the Assigned Hearing Officer's Appeals Team Manager (ATM), preferably by email, to inform you that the NFTL filing is planned to determine whether Appeals has new information that may affect the decision, for example, the taxpayer may have provided Appeals with information that raises questions about the validity of the liability. At the conclusion of the bid investigation conducted pursuant to the bid investigation under IRM appeals jurisdiction, an NFTL filing determination must be made in accordance with IRM 5.8.4.13(5). As in any case when filing an NFTL, an attempt to notify TP of the proposed NFTL filing and its appeal rights (by phone, letter or in person) must have been made and documented before requesting the NFTL to be filed. The tax periods that the subject of a CDP levy hearing must not have an NFTL filed while the CDP is open, unless a discussion has taken place with the assigned hearing officer's ATM. If an L3172 is returned that cannot be delivered, see IRM 5.12.6.3.17, Lien Due Process Notice Processing Returned by THE USPS, and IRM 5.12.6.3.18, Introduction of Transaction Code 971, and Code of Action to indicate the status of the notice. Taxpayers may have liabilities for related entities, one of which is being evaluated in Appeals while the other is in COIC or FOIC. For various reasons, offers at related entities may be submitted to Appeals after an initial offer is being COIC or FOIC for a different entity. During the course of consideration of an offer in COIC or FOIC, if the OE/OS becomes aware that there is an open and related offer being considered in Appeals, then the OE/OS must coordinate with whoever is assigned the related case in Appeals to accept the transfer of the related case. Once Appeals has indicated that they will accept the offer for the investigation, AOIC's comments must be documented with the Appeals employee who offer transferred to Area 21 in AOIC if the related offer is under the jurisdiction of Appeals based on a CDP. If the offer is related to a previously rejected offer, the allocation number must be changed to match the related offer in Appeals. The comments of the AOIC and the tender dossier should be clearly documented as to whether TIPRA's 24-month period remains open. Related cases will be those related to any joint or individual offer involving the separate liabilities of one or both spouses (e.g. single-ownership liabilities, trust fund recovery penalties, liabilities from a previous marriage). In a situation involving married taxpayers considering two separate offers involving jointly due responsibilities, offers will be considered related only if taxpayers are domiciled together. An offer involving one or more corporations or LLCs closely owned by one or both spouses in the joint or individual offer will not be sent to Appeals. The offer will be investigated and an appropriate provision will be determined. All offers submitted during a CDP or HD hearing will be investigated by an OE or OS. COIC is responsible for making a processability determination. Once a determination is made, the IIC will notify the Appeals using the form provided in Exhibit 5.8-4.1. All CDP cases will be uploaded to AOIC using offer case category code (OCC) 10. Where appropriate, the OCC may be updated by the OE/OS working on the offer based on other identification factors, i.e. - 3110 - PSP/CDP, etc. A CDP OIC must be returned to Appeals with no less than 270 days (9 months) remaining within 24 months for Appeals to make its final determination. If less than 9 months remain within the 24-month period, the investigating employee must contact the Appeals employee assigned to the case and provide a status report on the expected completion of the investigation. The investigating employee should not discuss the merits of the offer, as this is prohibited under ex-part communication. The collection will be responsible for supervising the 24-month period for mandatory acceptance until the offer is transferred to area 21 in AOIC. After the transfer, the responsibility for monitoring will be with Appeals. Appeals must suspend the CDP case while the investigation is completed and forward the offer and related documents to the appropriate COIC site for a processability determination. Appeals will generate L3820 and include it with the offer submitted for a processability determination. If the offer is not COIC will follow the procedures in IRM 5.8.2.12, Processability Determination for Due Process Appeals Collection Offerings. If the offer is actionable, COIC: You will charge the case with AOIC with jurisdiction code 1 (the jurisdiction code will not change, although Appeals will do the Mail AOIC Combo Letter and L3820 to the taxpayer advising the offer is actionable. If appeals do not provide L3820, COIC will only mail the AOIC Combined Charter. Assign the case for the investigation following the current procedures in IRM 5.8.3, Commitment Offer, Centralized Offer on Commitment Transfers, Perfection and Case Building, and Investigate the Offer in Cases That Meet COIC Criteria in accordance with IRM 5.8.4.15.2, CDP Offer Case Decisions. For cases that meet the field transfer criteria, upon receipt from COIC, field offer groups will assign cases in accordance with current procedures and investigate the offer in accordance with IRM 5.8.4.15.2, CDP Bid Case Decisions. The procedures defined in IRM 8.20.7, Closing Procedures, require Account and Processing Support (APS) to close offers in AOIC when appeals case checks are closed. The offer terms screen and accepted bid amount must also be updated in AOIC, if necessary. If the closure cannot be completed by the APS unit, APS will contact COIC or a field area office to help close the case in a timely manner. Complete a financial assessment in accordance with IRM 5.8.5, Financial Analysis and take action in accordance with IRM 5.8.4.9, Actions Based on Reasonable Collection Potential. If the offer is to be accepted, COIC/FOIC: Follow local allocation procedures, including review by the Attorney where appropriate; Follow the procedures in IRM 5.8.8, Acceptance Processing Close the case as an acceptance in AOIC; Forward the case file to the appropriate MOIC function for acceptance monitoring with all required documentation; and Send copies of the acceptance letter and Form 7249 to Appeals. Form 7249 will include acceptance terms, applicable tax periods, and approvals, so no copies of Form 656 and/or any additions are required. In accepted offers, Appeals will make the decision to accept the offer in its entirety and close the CDP/EH. If the offer is returned, terminated, withdrawn voluntarily or a mandatory withdrawal is appropriate, COIC/FOIC: It will issue the appropriate letter of return/termination/withdrawal of AOIC to the taxpayer on the basis of closure; Typically, an offer submitted during a CDP hearing should not be returned under criteria only to delay, as described in IRM 5.8.4.20, Offer sent only to the collection of delays, unless the OE/OS manager agrees that the IRM requirements are met and the RO manager verifies that the compliance action is expected after the bid is returned. Close the AOIC in accordance with the closing procedures described in IRM 5.8.7, Return, Terminate, Withdraw and Reject Processing; and immediately forward the entire case record with all supporting documentation (including an up-to-date complete history, information about any deposit and a copy of the return/withdrawal letter) using the transmission document in Notice of the bid case decision at CDP offer investigations to appeals using traceable mail, unless the Appeals Office is in the same location. Since ex parte rules apply, the OE/OS must share or discuss any documents with the taxpayer that will be provided to the Appeals employee. If the offer is determined it must be rejected, COIC/FOIC: Select OCC 10; Update the offer type to P; Process due to collection issue the preliminary decision letter of THE CDP, signed by the group administrator, to the taxpayer (include the Assets/Equity Table and the Income/Expense Table, if completed); If the offer was submitted as a DATL involving an evaluation of TRFP, AOIC cannot generate a preliminary DECISION letter on these cases. See the OIC Sharepoint site for methods for editing the AOIC CDP preliminary decision letter and appropriate paragraphs. Recommended bids for rejection under Public Policy or Not in the Best Government Interest require approval from the SB/SE Collection, Territory Managers (2nd level) in the field, or Sb/SE Compliance Services Operations Managers for COIC. If a recommendation is made to reject a CDP offer under the jurisdiction of Appeals on this basis, the approval of the second-level manager should be clearly evident. Your approval may be displayed by your signature in the CDP's preliminary decision letter, an approval notation in the case history or comments, or a printable email that means approval of the case decision. If the letter is being signed by the 2nd level administrator, see the sharepoint site in methods for editing the predetermined letter. Transfer the AOIC offer to Area 21; Immediately forward the entire case record with all supporting documentation (including an updated full history and a copy of the CDP preliminary decision letter using the transmission document in Exhibit 5.8-4.2, Notice of Bid Case Decision in CDP Bid Investigations, to Appeals Using Traceable Mail, unless the Appeals Office is in the same location. The OE/OS must also update the accruals on the AOIC MFT screen and include an impression of the MFT screen with the offer case file. Since ex parte rules apply, the OE/OS must share or discuss any documents with the taxpayer that will be provided to the Appeals employee. A CDP hearing request can be received during the investigation of an offer. In these cases, the appropriate CDP codes must be entered in IDRS. The procedures defined in this section apply only to COIC inventory cases. COIC: Continue bid investigation in accordance with IRM 5.8.4.15.2, CDP Bid Case Decisions; If the NFTL was presented by ACS or the field, forward 12153 to the appropriate function; If the NFTL was filed by COIC, complete Form 14461 and follow current procedures to forward the CDP to Appeals within 5 business days; Transmit the file (Forms 12153, 14461, NFTL (Form (Form L 3172 and over) appeals using Form 3210, Transmission of Documents. Include enough information on Form 3210 to identify the request for hearing being transmitted. For example, the Name control, the last 4 digits of TIN, MFT, and tax periods, the type of hearing, and the date of receipt of the hearing. Suspend the control copy of Form 3210 until a copy of the Appeal acknowledgement of receipt is received. Follow-up with Appeals if the acknowledgement of receipt is not received within 30 days. Request the entry of the appropriate TC 971 action codes (ACS) to the respective modules in the CDP application: TC 971 AC 275 when the hearing type is CDP-Levy, CDP-Lien or CDP-Both TC 971 AC 630 in addition to TC 971 AC 275 when the audience type is CDP-Levy or CDP-Both TC 971 AC 278 if the hearing type is EH-Levy, EH-Lien or EH-Both Update AOIC Remarks; If the request for a hearing is timely, Appeals will enter TC 520 CC 76/77, where necessary, in cases of IOC-originated CDP. If the CDP hearing is withdrawn after the case is sent to Appeals, send the withdrawal to Appeals so appeals can close the request and enter action code TC 971 (AC) corresponding to the respective modules in the CDP hearing request (TC 971 AC 276 for CDP or TC 971 AC 279 for HD). Where appropriate, TC 521 cc 76/77 should also be requested. The procedures defined in this section apply only to cases in the field OIC inventory. FOIC: Continue bid investigation in accordance with IRM 5.8.4.15.2; Follow IRM procedures 5.1.9.3.3, CDP and HD Request Processing; Since the modules in status 71 are not in ICS, it may be necessary to set BAL DUE modules (ICS ONLY) in ICS for any tax period listed in the CDP request. If the Status 71 modules were recently in status 26, the user must be able to select them and add them to the ICS CDP application. Information about creating these modules in ICS is available on the IIC sharepoint site. If the offer is closed, monitor the CDP OI according to group procedures. At the conclusion of the CDP's appeals investigation, the bal due modules (ICS ONLY), which were involved in the CDP, should systematically abandon the ICS. The offer group is not expected to take any action after the CDP hearing unless the action involves the closed bid. When transferring these requests to Appeals, see IRM 5.1.9.3.3.2, Sending Request for Hearing to Appeals, the operating system must: Prepare a Form 14461, Transmission of the CDP/EH Hearing Request. Create a CDP OI, if one is not already present. Submit the transfer request with the Form Transmit documents to the group administrator for approval. The group administrator will use Form 3210 to monitor the receipt of the request. If the case is submitted for approval through the ICS CDP application, Form 14461, Form 3210, and CDP OI will generate when the transfer to Appeals is approved by the manager. In certain cases, Appeals may request additional documents submitted by the taxpayer after the offer to reject the offer is made by the COIC OE or FOIC OS. If additional documents or revision are required, Appeals will issue an ARI to the RO or FOIC group manager of the COIC site based on current procedures. These offers will be transferred to the Area office at AOIC, so the appropriate assignment in ICS and AOIC can be successful for the group manager. The OCC AOIC code must also be updated to OCC 41 before mapping to the operating system. If the ARI is issued in a CDP offer that is assigned in AOIC to area 21, an email must be provided to the Collection Policy for the offer to be reassigned in AOIC to the appropriate area office number. The OIC group will have to accept the transfer and then assign the case to the assigned OE/OS. Once the ARI is complete, the offer will have to be reassigned back to Area 21 (Appeals - CDP). If an ARI is issued, in most circumstances, the ARI must be completed by the employee who conducted the initial investigation, however, the manager can allocate based on the current workload. Since the application is based on an evaluation of the previous offer, these investigations should be assigned quickly and, if possible, closed within 45 days of receipt. If the ARI is not completed within 45 days of receipt, Appeals must be contacted to request an extension. Upon return to Appeals, the ARI should be observed if there are less than 180 days left in the TIPRA statute. Since the offer remains under the jurisdiction of Appeals, the ex parte rules apply to any discussion or documents provided to the Appeals employee. Operating system time must be reported under the time code ICS 120, CDP RELATED OICs or ICS time code 360APPEALS, depending on whether the ARI is related to an offer submitted during a CDP hearing request. Appeals may determine that a mandatory statement or withdrawal of an offer submitted during the CDP process does not meet IRM requirements. The determination that an offer was closed against the guidelines provided in the MRI must be made by the Appeals employee within 30 days of receipt of the bid case file. Upon determination that the return or withdrawal was processed by mistake, if the Collection requires additional investigative actions, the Appeals employee will send the bid case file through his Appeals Manager to the attention of the manager who signed the closing letter for the IIC field groups, or the RO site for COIC, which will route the case file appropriately. Upon receipt of the offer file, the COIC/FOIC will reopen the offer in AOIC, (or if the offer cannot be reopened, set a new offer using the same receipt, exemption and opening dates as the previously closed offer). The offer will be immediately allocated to an OE/OS for continuation of the bid investigation. The offer will be investigated in accordance with the guidelines provided in IRM 5.8.4.15.2, 5.8.4.15.2, Decisions on CDP offers. If an additional investigation is conducted and additional documents or information are provided to the Appeals, it should also be shared with the taxpayer/representative. Since a letter of decision was sent, a mandatory acceptance under I.R.C. 7122(f) would no longer apply. If the COIC/FOIC manager disagrees that the closing action by the bidding group was wrong, the Appeal manager should be contacted to discuss the basis for reopening. After discussing with the offer manager, if Appeals is unwilling to change the decision to reopen the offer, Collection will reopen the offer and work in accordance with paragraph 3 of this section. Also advise the policy of collecting the problems involved. Coordination with appeals is sometimes required during bid investigations. During a Due Collection Process (CDP) or equivalent hearing (EH) assigned to Appeals, the taxpayer may submit an offer. IRM 5.8.4.15, Bid Investigation under Appeals Jurisdiction. Taxpayers also occasionally submit an offer from DATC during an appeal of a proposed audit deficiency. Appeals have jurisdiction of both such offers and in certain circumstances may submit an Appeals Reference Investigation (ARI) to the Collection. An ARI requesting complex CIS verification, which may include asset valuation, lien searches, or asset ownership research, must be assigned to a field resource office. The results of the investigation will be reported through a Memorandum to Appeals and Appeals to conclude the investigation. Requests for rapid processing of an ARI will be decided on a case-by-case basis through a discussion between the two functional managers. Ex parte communication rules apply in these situations. Ex parte procedures related to sharing information with the taxpayer and discussions with Appeals must be met upon completion of the review at the request of Appeals. See IRM 5.1.9, Collection Appeal Rights . Offers based on Doubt of Liability (DATL) on Trust Fund Recovery Penalty (TRFP) or Personal Liability Assessments for Excise Duty (PLET) should be reviewed upon receipt to ensure that the case is not pending or has not been heard in appeals. If a DATL offer involving a TRFP or PLET evaluation had previously been determined in Appeals or is found to be currently assigned to an Appeals office, see IRM 5.8.4.22.4, Doubt as to Liability (DATL) regarding the issuance of a rejection letter and the transfer of the appeals. If an offer is received based on DATC or ETA difficulty criteria and there is an open case pending in Appeals, then Appeals will have jurisdiction. The Appeals employee assigned to the Appeals case must be notified of the bid investigation. If the offer is related to a CDP hearing, it must be investigated in accordance with IRM 5.8.4.15, Low Bid Research Jurisdiction. Ex parte communication rules apply in these situations. Ex parte procedures related to the exchange of information with the taxpayer and discussions with Appeals must be respected by the COIC or the field employee. See IRM 5.1.9, Collection Appeal Rights. Removing an AOIC offer should be rare and only in unusual situations. Before completing the delete actions. The COIC/FOIC manager must inform the Collection Policy of the basis for the proposed elimination. Document the AOIC history with the following information, and then reassign it to the appropriate COIC site, if it is not already assigned to the COIC. Request removal of AOIC offer Request reversal from the Request Reason to Delete AOIC Case rate screen. The name and phone number of the Appeals employee involved, if available. Send an email to the corresponding centralized site with the offer number of the offer to be removed from the AOIC system. Identify the action that is requested in the subject line of the email. Email the appropriate site at the following email address: *SBSE COIC Memphis *SBSE COIC Brookhaven For offers under the jurisdiction of Non-CDP Appeals, COIC must move payments from the AOIC payment screen to the AOIC Appeals Alerts screen and remove the AOIC offer. During the initial bid analysis, IDRS must be verified to verify that there are no outstanding actions in the tax modules associated with the taxpayer, including recently filed returns, modified returns, pending TRFP assessments, or pending reviews. Within 7 to 14 calendar days before accepting an offer, IDRS must be reviewed again to ensure that no new audit issues are pending. If a statement has been filed with a balance due, the OE/OS should review the Master File (MF) to determine when the liability will be evaluated. If a recommendation other than acceptance is made, the OE/OS should not delay closing actions until return posts or taxes are evaluated. If the tax period has no responsibility assessed when closing the offer is recommended, it must be removed from the Form 656 and MFT screen. Since taxes must be evaluated to be included in an accepted offer, delays in returns or posting modified returns must be identified as soon as possible to allow resolution before offering closing actions. If it is determined that it is in the government's interest to include the fiscal year in the offer that is recommended for acceptance and MF is not pending, the OE/OS must obtain managerial approval to maintain the offer until the evaluation positions. Depending on the group procedures, the offer must be placed in the appropriate allocation number for monitoring. If the offer continues to be monitored with less than 90 days remaining in TIPRA, the taxpayer must be asked to withdraw the offer. If the taxpayer refuses to withdraw the offer and the taxpayer not accepting that the tax period will be removed from Form 656, the offer must be closed as a actionable statement based on the inclusion of a tax year without liability. If the issues prevent the return from being processed and the taxpayer wishes to have the tax period included in the offer, it may be necessary to secure a withdrawal and have the taxpayer resubmit the offer after the processing issues are resolved. Refer to the following manual sections to help determine potential issues related to a submitted statement that has not been evaluated. IRM 3.12.37-21, ERS Status Codes and IRM 21.4.1.4.1, Location of Taxpayer Declaration. IDRS should be verified to determine whether there are open audits, subreport issues, TEFFRA procedures or other outstanding issues. Pending examination cases and AUR can be identified by: TC 922 without a process code CP 2000 or TC 290/291 TC 976 or 977 without a subsequent tax increase or decrease -L Freeze and/or an AMDIS record code Partnership Investor Control File (PICF) in AMDIS of 5 indicating that an investor with at least one key TEFFRA case link open If potential adjustments are identified, the assigned employee should be contacted to determine the status of the potential and informed assessment that a DATC or ETA-based offer has been received. The decision on how to proceed with the offer should be based on the status and/or issues of possible adjustment/evaluation. The following table provides some examples. When indicators of possible fraud arise during an offer investigation, the operating system: It will work the case to the point where a decision can be made regarding the final provision. All requests for additional documentation must have been sent to the taxpayer and sufficient time for the taxpayer to respond. The final action with respect to the determination will be taken if the case does not meet the fraud reference criteria of the Technical Fraud Adviser (TLC). Discuss the case with the group manager. The CFCF will monitor OIs on a monthly basis and inform Operations Manager of the current status of all Open. Close oversight is needed to ensure that the IIC is resolved before the mandatory acceptance period of 24 months. A taxpayer who submits an offer may or may have been involved in a criminal investigation. The OE/OS should proceed appropriately on the basis of the criminal investigation is open or closed. The involvement of the criminal investigation (CI) with a specific fiscal year may affect the ability to continue the investigation. The participation of the criminal investigation in a fiscal year can be identified in IDRS using Transaction Code (TC) 910, 914 or 916. When a TC 910, 914, 916, or 918 identifying an open IQ is in IDRS, contact must be made with the assigned Special Agent and procedures in IRM 5.1.5, Field Collection Procedures, Civil and Criminal Case Balancing, must be followed. Group or unit managers may need to have a discussion with the CI manager to determine the next appropriate action. A decision should be made on the appropriate measures to be taken and what may or may not be discussed with the taxpayer. The participation of CI does not modify the procedures involving the application of any TIPRA application/payment fee or the return of any deposit that must comply with current procedures. Notify CI of TIPRA's provisions for the automatic acceptance of the offer, if a decision is not reached within 24 months of receipt. We can no longer keep offers open indefinitely pending a decision on the possible criminal investigation. Once a taxpayer has been informed of the open criminal investigation, if the assigned special agent has no objection, the taxpayer may be asked to withdraw the offer until the criminal matter is resolved. If the taxpayer refuses to withdraw the offer, returning the offer to the taxpayer at the discretion remains other investigations that may affect the liability sought to be compromised or the reasons on which it was filed. If the Special Agent objects to asking the taxpayer to withdraw the offer or contact the taxpayer, remind the Special Agent of the mandatory acceptance requirement of 24 months. If the Special Agent continues to request that the taxpayer not be contacted, he reassigns the AOIC case to 9999. Monitor the case and contact the special agent monthly to determine if and when the taxpayer can be contacted. If, after 16 months from the date of receipt of the IRS, CI has not made a decision on what may or may not be discussed with the taxpayer, advise CI that the offer is being returned under the discretion other investigations are pending that may affect the liability sought to be compromised or the reasons on which it was submitted. When a TC 912 is found, identifying a closed criminal investigation in the tax module, the OE/OS should contact the assigned special agent in the closed case. The OE/OS determine whether information is available that may affect the acceptability of the offer, the calculation of reasonable collection potential, or whether the bid investigation should continue. Problems may also include whether the taxpayer was guilty of a tax crime and is currently paying restitution. See IRM 5.8.4.24.1, Commitment Offers including restitution. The OE/OS should also review IDRS to determine if any tax periods involve Abusive Tax Evasion Transaction (ATAT) problems. If there are ATAT issues, the OE/OS should also contact the revenue agent or revenue officer to discuss any impact the ATAT investigation may have on the bid investigation. When it is determined that an offer is presented solely to delay collection, the offer must be returned to the taxpayer without further consideration. The term only to delay collection means that an offer was submitted for the sole purpose of avoiding or delaying collection activity. The determination that an offer is presented solely for the purpose of delaying collection should be evident to an impartial observer. If the offer is returned under criteria only to delay, the field offer group manager or COIC team manager must independently determine that the return meets the IRM requirements and not rely solely on Form 657. An offer is not considered submitted solely to delay collection only because there is an imminent CSED problem or if an offer has been investigated and rejected and the taxpayer exercises appeal rights. When a taxpayer submits an offer that is not materially different from a previous offer that was considered and rejected with appeal rights, the offer may be returned as solely to delay collection. When a taxpayer submits an offer that is not materially different from a previous offer that was considered and returned and the cause of the above return has not been directed, the offer may be returned as only to delay collection. The taxpayer does not address the problems or defects of the offer presented above. This does not include offers previously returned for not paying estimated tax payments and/or federal tax deposits. See IRM 5.8.7.2.2, Actionable Returns, for returns in error when performing ES or FTD. The offer can be considered materially different when the amount reflected in the re-submission is substantially similar, less than or equal to the previous offer and there is the following: The taxpayer's financial situation has changed. A change in the taxpayer's financial situation may include: (a) A change in employment and/or income, (b) A change in marital status affecting future ability to pay, (c) A change in asset ownership or a significant decrease in the value of any asset, (d) The loss of an asset that was included in the original offer investigation, or (e) A change in circumstances that would affect permitted expenses and ability to pay The taxpayer has raised special circumstances that were not considered during the previous investigation. Although no provisions are provided for any formal appeal of a decision to return an offer submitted solely to delay collection, if contacted after the return letter is issued, employees must decide to return the offer with your immediate manager. In some situations, it can be determined that an offer is submitted only to delay pickup when no prior offer has been submitted. When a collection employee has contacted the taxpayer and has determined that the next necessary measure is to enforce the collection through a lien or seizure, but the taxpayer submits a clearly frivolous offer, which is considerably less than the equity in assets and/or its ability to make future payments, there are no special circumstances, and the RO determines that the filing is to delay this execution action, the offer can be returned as only to delay the collection, unless there is a change of circumstances not considered by the employee. This may include situations involving ICO entities (subject to the assertion of the Trust Fund Recovery Sanction (TRFP) under IRC 6672) that attempt to compromise trust fund taxes when no share of the trust fund has been paid, the applicable TRFP has not been previously evaluated against all responsible persons, the TRFP package submitted for evaluation, or a determination made by an RO not to assert due to collection criteria or dollar and the Service has previously explained to the principals that an offer will not be investigated unless the TRFP investigation is completed or the trust fund is paid. See IRM 5.8.4.22.1, Trusts. For offers involving special circumstances as described in IRM 5.8.11.3.2.1, Public Policy or Empire Capital Factors, the offer may be investigated or, if applicable, held on a suspense until the TRFP investigation is completed. See also IRM 5.1.24.5.8, Trust Fund Recovery Penalty (TRFP) Investigations, and IRM 5.7.3.3.3, Third-Party Payers and Common Law Employers/Clients, which provide guidance on additional factors that ro will consider when determining the will of third-party paying customers. The taxpayer was harmed by an external supplier and submits an offer under criteria of non-economic difficulties. The OE/OS may conduct bid research, but should not make an acceptance recommendation, if it deems appropriate, until the TRFP investigation is completed and it has been decided that there were no responsible/intentional persons or an evaluation of TRFP was recommended against any responsible or intentional person. The following are examples of offers considered submitted solely to delay collection based on re-enumeration after prior rejection, return or non-compliance: (1) During the initial analysis by an OE/OS, it is discovered in AOIC that the taxpayer had previous offer six months ago as part of the Unanswered process. A review of AOIC's case history indicated that the taxpayer did not provide any bank statement with the first offer and did not respond to the combined letter requesting the necessary documentation to determine an accurate CPR. Exactly, initial analysis indicated bank statements are necessary to determine accurate CPR; however, none were provided with the new offer and there was no indication from the taxpayer that the accounts were closed. No special circumstances were indicated. (2) The taxpayer submitted an offer for \$10,000. The OE/OS estimated cPr to be \$20,000. The taxpayer refused to increase the offer to the calculated PCR. A rejection letter was issued and the taxpayer did not appeal. A month later, the taxpayer re-submitted an offer for \$10,100. A thorough analysis indicated that there were no changes in the financial situation of taxpayers and that no special circumstances were indicated. (3) A taxpayer submits an offer for \$3,000 to be paid within 90 days of acceptance. A previous offer was submitted for \$10,000 to be paid within 90 days. The investigation into the initial submission of the offer resulted in the offer being rejected with appeal rights. During that bid investigation it was determined that a good was transferred to an inaconexary spouse without any consideration and that there is a clear issue of the assignee. The value placed on the transferred property was \$30,000, and was included in the reasonable collection potential (CPR). The taxpayer did not request a timely appeal about the rejected offer. No special circumstances were indicated. (4) During the initial processing of an ICAO, AOIC indicates that there have been three offers submitted by the taxpayer in the last 18 months. All three were returned for not providing the requested cS information. The closed return file indicates that the taxpayer was asked to provide a financial statement for a tightly maintained corporation, in which the taxpayer has a 75% stake and is the corporate president. A Form 433-B was requested for this corporation during the bid investigation. The offer specialist clearly documented in the file of interest and position of the taxpayer in this corporation. The request was clear and specific and the taxpayer refused to provide this information, claiming that the IRS has no right to value the corporation in determining its ability to pay for personal tax obligations. The newly submitted offer package does not include a Form 433-B for the corporation, and Form 433-A indicates that the same corporation is the taxpayer's current employer. (5) An offer is filed for \$30,000 payable within 90 days of acceptance. The AOIC investigation indicates a second offer submitted by the taxpayer. A previous offer was submitted for \$20,000 payable within 90 days of acceptance. The original offer was rejected rights of appeal, the taxpayer filed a timely appeal and Appeals up held the rejection. A review of the above offer file indicates that the taxpayer has the ability to fully pay the outstanding liability through an installment agreement. The total liability is \$40,000. A review of financial information indicates that still has the ability to pay full responsibility. The original offer was received 18 months ago and no payments have been made during this period. There is no change indicated in the financial statement, except that the taxpayer has a new employer. The taxpayer's income remained the same. There are no special circumstances indicated. (6) The taxpayer submits a new offer within one year of defaulting on a previous offer and his financial situation has not changed since the offer was accepted. The following are examples of offers considered solely to delay collection based on a prior analysis of collection and determination of ability to pay: (1) The taxpayer owes \$500,000. An offer is presented for \$15,000. The CIS, as presented by the taxpayer, indicates that the taxpayer has recently been fired from his job where he had been earning \$200,000 a year. The CIS also reflects a personal residence with a fair market value of \$1.5 million and outstanding mortgage of \$750,000 leaving a capital of \$750,000; a clear, free-owned piece of property valued at \$60,000, a large ship worth \$140,000 that is not taxed. A final claim has been made and a collection employee has told the taxpayer that a Notice of Federal Tax and possible compliance action will be filed if the taxpayer does not fully pay the responsibility. Research has shown that there are no special circumstances to consider. (2) Self-employed taxpayers owe a joint liability of 1040 for 2017 of \$140,000 and submitted an offer for \$250. They do not have a future revenue potential to be included in the PCR. They own an unchanged lot valued at \$14,000, a personal residence valued at \$177,500, six cars and two horse trailers valued at \$20,000. Based on taxpayers' equity in assets, reasonable collection potential (CPR) is estimated at \$169,200. The balance expiration period was in active collection inventory prior to the shipment of the offer. The collection employee advised the taxpayer to secure a loan on their capital action or lien would be initiated. The taxpayer refused to pay more than the proposed \$250 and submitted the offer instead of making any payment to their tax responsibility. The collection employee completed Form 657 indicating that the case must be returned as only to delay based on the previous collection history and the taxpayer's recent lack of cooperation in resolving the balance due. It was agreed and approved by the collection manager. Research has shown that there are no special circumstances to consider. (3) A corporation owes The Employment Taxes of Form 941 include the unpaid trust fund share. The revenue officer previously warned corporate directors that the Service would not consider an offer in commitment to this tax obligation unless they personally paid a share of the trust fund or the trust fund recovery penalty (TRFP) (TRFP) responsible people. The principals did not pay the trust fund portion and the corporation submitted an offer in commitment before the revenue officer evaluated TRFP against all responsible parties. The determination that an offer was submitted solely to delay collection may be made immediately after the offer is deemed actionable or at any time during the bid investigation when the facts support the decision. The determination that an offer was submitted after a prior rejection or non-compliance may be supported by reviewing records in AOIC and IDRS transactions: To determine whether the re-referral is materially different from the rejected or default offer above: Review any history of AOIC and/or ICS to establish that an offer is a re-submission only to delay collection. Compare the information in the previous history with the forwarded offer package to determine if the offer was submitted only to delay collection. If necessary, the taxpayer/representative should be contacted to discuss whether there are any changes in the taxpayer's situation justifying a new bid submission. This does not include offers previously returned for not paying estimated tax payments and/or federal tax deposits. The

taxpayer must be contacted, preferably by phone, and with a reasonable time to submit the required payments before returning the offer for fulfillment. Do not return the offer just to delay. Cases assigned to an RO field – When the RO field receives an offer, or is notified that the taxpayer submitted an offer to COIC, the RO will complete Form 657, Income Officer's Report, and send it to the RO group manager for approval. Form 657 must provide detailed reasons to support any time to delay the collection decision. The RO will fax Form 657 to the FOIC group manager or COIC group manager, depending on where the offer is currently allocated. If the taxpayer/representative contacts the OE/OS to discuss the bid return, the taxpayer/representative should be ordered to discuss the determination only to delay with the RO filed by Form 657 and, if applicable, its manager. If it is determined to issue a lien notice before the offer is returned, the RO must obtain approval from the SB/SE Collection Territory Administrator in accordance with IRM 1.2.65.3.1. The OE/OS is responsible for working only to provide aspects of an investigation. During the bidding process, employees may discover collection issues that require Field RO research. If the problems are identified by an OE at COIC, the OE must first discuss the issue with its site manager and RO, to confirm that problems require field RO research. In the following situations, except in the case of TFRP or PLET investigations, a further investigation (OI) will be initiated only after the COIC or field manager and RO RO manager agree that the situation justifies the issuance of the OI. Certain types of taxpayers and/or liabilities require unique considerations. The instructions described below should be followed when considering such cases. Before an offer to compromise the trust fund tax is investigated, all topics described in IRM 5.8.4.21, Responsibility for Bid Examiners, Bid Specialists and Previous Field Revenue Officers should be considered for entities where the trust fund recovery penalty applies. In addition, as a prerequisite, the tax trust fund portion must be paid, TFRP must be evaluated against all responsible/intentional persons, a determination made by a central payment office not to assert due to collection criteria or dollar, or the trust fund package submitted for evaluation. If the aggregate liability of the taxpayer's outstanding trust fund is under the criteria set out in IRM 5.7.4.9, TFRP and Commitment Offerings, is out of business without the possibility of incurring additional liability, and the RO determines that no previous TFRP (unrelated entity) claims were made against the responsible parties, a determination made by an RO not to assert TFRP is sufficient to allow the bid investigation to proceed. For offers involving special circumstances as described in IRM 5.8.11.3.2.1, Public Policy or Empire Capital Factors, the offer may be investigated or, if applicable, held on a suspense until the TFRP investigation is completed. See also IRM 5.1.24.5.8, Trust Fund Recovery Penalty (TFRP) Investigations, and IRM 5.7.3.3.3., Third-Party Payers and Common Law Employers/Clients, which provide guidance on additional factors that ro will consider when determining the will of third-party paying customers. It is the Service's policy that the amount offered to compromise a liability subject to TFRP's assertion will represent what may be charged from the employer. If the Service enters into a commitment to an employer by a portion of the trust fund's tax responsibility, all other trust fund taxes may still be collected from a responsible person. Income officers have two options when negotiating with the entity's directors. This applies to liabilities of trust funds in Status 26 or other reporting status assessments related to the Status 26 entity, which have any unpaid trust fund amounts still within the TFRP Evaluation Statute (ASED) Due Date. They are: If the entity wants an offer, usually all responsible people must first accept the TFRP assessment. Both liability and intentionality must be present to enforce TFRP and/or request the signature of Form 2751, Proposed Assessment of trust fund recovery penalty. Although a Form 2751 is secured, the field RO must also ensure basic documentary evidence to support the affirmation responsible person(s), even if you sign Form 2751. Signing Form 2751 does not prevent the person responsible from imposing this assessment by paying a divisible portion of the tax, filing a refund claim, and, if unsuccessful, a refund claim. The responsible person must be advised of the right to file a refund claim when Form 2751 is provided to the person responsible. Alternatively, the responsible parties may personally pay the amount of the trust fund on behalf of the entity. IRM 5.7.4.4, Payments by Responsible Party on Behalf of the Employer, contains instructions when a responsible person decides to pay on behalf of the entity. In the absence of an assertion determination due to an inability to pay or dollar criteria, failure to pay the trust fund or sign Form 2751 by a party determined to be responsible and intentional will result in a determination solely to delay the determination if the entity submits an offer. See IRM 5.8.4.20, Offer sent only to delay collection, above. In addition, a formal appeal from the proposed TFRP will result in the offer being returned only to delay. If there are mitigating circumstances that prevent the evaluation of TFRP against all responsible persons, the Competent Authority, after consultation with its manager, may request the continuation of the processing of the offer without the evaluation of all potential persons responsible. For example, a potential responsible person cannot be located. The RO may request that the IPO continue to be investigated if the interests of the government are sufficiently protected and if the other persons responsible have agreed to evaluate TFRP. Only the amount that can be collected from the entity (including dissipated assets and fraudulently transferred assets) will be considered in the CPR calculation of an acceptable offer. The Service will pursue the collection of TFRP evaluated against the responsible person(s), unless the share of the trust fund has been paid in full. A taxpayer may designate TIPRA (pre-acceptance) payments to a specific liability, including trust fund liabilities. For a TIPRA payment designation to be valid, you must accompany the specific payment. Once the offer is accepted, subsequent payments of the offer amount will be applied in the best interest of the government. During the initial analysis of an offer received from an entity subject to the TFRP statement involving unpaid trust fund tax, the bid specialist must determine the ASED for each period and take immediate action to protect it if expiration is imminent. The following actions should be taken on the basis of facts of the case: In the situation where the amount offered by a company combined with payments already made in the related TFRP fees exceeds the total tax liability of the company's employment tax during the same tax periods, take the following steps: Request the responsible person(s) irrevocable requests to transfer payments from TFRP accounts to the responsibility of the related corporation. Complete and process Form 3870 to transfer the credit(s). Ensure full payment of the corporation's balance due. Ensure withdrawal of the offer. When corporate offerings are being considered, corporate, shareholder, or other officials determined to be responsible for a TFRP may be required to file a Form 433-A (OIC). When partnership or LLC offers are being considered, general partners and LLC owners may be required to file a Form 433-A (OIC) as well. In certain cases, since the CPR for a corporate offer is based on the collection amount and equity of the corporation, it may be unnecessary to ensure a 433-A (OIC) of individual shareholders, corporate officials or other parties, who hold only a minimum interest in the corporation and/or have no control over the corporation's activities. Corporate employment tax liabilities are not joint and several, as in the case of joint income tax assessments. The ability of the Service to charge members is based on state law. When an association responsibility is compromised by any individual general partner, our ability to collect from all other general partners may be affected. Therefore, the amount offered to compromise a corporate tax responsibility must include what we can charge from the association plus what can be collected from each of the general partners. No offer should be accepted to compromise a partner's individual responsibility for the company's debt. When investigating partnership offers, an CIS of the association and all general partners must be ensured. The PCR for the association should be equal to what could be collected from the association plus what could be collected from all general partners. Typically, a DATC-based offer from an association will not be accepted when the CPR of one or more of the general partners cannot be determined. When it is not possible to obtain a CIS from one or more of the general partners, as they cannot be located or refuse to cooperate or join the offer, the offer can still be accepted if the investigation is able to establish that there is no potential to collect non-participating partners. If the offer is being rejected based on the lack of financial information from a general partner, the offer specialist must determine a resolution appropriate to the association's account. See IRM 5.8.7.10, Alternative Resolutions. Trust fund taxes are taxes withheld or collected from an individual and paid to the government in of that person. See IRM 5.7.3, Establishing Responsibility and Willfulness for the Trust Fund Recovery Penalty (TFRP), for a list of tax returns used to report trust fund taxes and where TFRP's assessment based on passive liabilities it's possible. When an offer is accepted to compromise the trust fund tax owed by an operating company, the taxpayer is exempted from significant operating expenses. The effect is to give the delinquent taxpayer an economic advantage over competitors in tax compliance. The following procedures apply to all In Business Trust Fund (IBTF) taxpayers, including sole owners, companies, limited liability companies, as well as corporations. These taxpayers must remain in compliance while considering the offer. See IRM 5.8.7, Return, Terminate, Withdraw, and Reject Processing; required shares before returning the offer. For offers involving corporate entities, or any entity in which the TFRP assertion applies: the trust fund share of tax liabilities must be paid, TFRP must be evaluated against all responsible persons, a determination made by an RO not to assert due to collection criteria or dollar, or the trust fund package submitted for evaluation. See IRM 5.8.4.22.1, Trust Fund liabilities, above for instructions on processing these investigations in conjunction with open offerings, even when the responsibility of the aggregated outstanding trust fund is under the criteria set out in IRM 5.7.4.2, TFRP Determination, Interviews and Investigations and Offers presented in special circumstances discussed in IRM 5.8.11.3.2.1, Public Policy or Equity Factors. The following issues should be carefully reviewed and/or considered: Depreciation – Do not allow depreciation. Instead, allow the necessary actual monthly obligations paid to creditors on depreciable assets (i.e. automobiles, equipment, or real estate loans) to be paid. Personal expenses paid for by the business – Financial statements must be reviewed to ensure that expenses such as car payments, insurance, utilities, etc. are not claimed on both Form 433-A (IIC) and Form 433-B (OIC). See IRM 5.8.10.2, Bankruptcy, for a discussion on the factors to consider in potential bankruptcy situations. Field visits to evaluate business assets: When appropriate, a field call must be made to validate the existence and value of business assets and the inventory of offers involving an operating business that will be recommended for acceptance. The offer specialist should make the field call, if practical after discussing with your group manager, or initiate an OI to request that another rotation make a call, if the taxpayer operates outside the travel area of the offers. If a field call was previously made and active valuated and documented, a field call would not be required. Determining whether a field call should be made will be based on the type of business entity, the assets involved, and, if applicable, the discussion with the field RO group administrator to determine whether a field call would be an appropriate use of resources. A field call an acceptance requirement that the Territory Manager, Operations Manager or Director is the CEO he approves. If after discussion with the RO group manager, it is determined that a field call cannot be made, due to the taxpayer's geographic location, the AOIC history or iCS history will be documented and the offer acceptance recommendation can be submitted for approval. OIs referred to in accordance with these instructions should be considered high risk cases, code 100 and processed accordingly. If the offer is recommended for acceptance based on effective public policy/equity tax administration (NEH-ETA) factors, a field call can be requested, but it is not a requirement. See IRM 5.8.5.26, Limited Liability Companies (LLC) Issues, for information on managing LLC entities. After initial processing, DATL-based offerings from a TFRP or PLET are transferred to area offices for assignment to an operating system. All other DATL offerings must be sent without initial processing to the centralized DATL processing unit located on the Brookhaven campus. The taxpayer is not required to file an application fee or any TIPRA payment with a DATL offer. Current compliance and presentation of financial statements are NOT required. If the taxpayer's offer is accepted, no refunds or five-year compliance aspects will apply. For DATL-based offers of a TFRP or PLET, the decision to accept or reject is based primarily on a reconsideration of whether or not the assessed person was responsible and did not intentionally pay the subject tax. Offers on evaluations of this nature that were determined by Appeals or received an Appeal hearing must have a letter of rejection from the IIC mailed to provide taxpayers with appeal rights. The collection is not responsible for any initial development of the case or for the protection of the closed administrative file. The rejection letter must indicate that the offer is being rejected since the initial determination was made by Appeals. The offer file must be transferred to Appeals for consideration if a timely appeal is filed. The taxpayer must offer an amount in dollars. An offer for zero dollars on this basis is not acceptable and is subject to perfection requirements. The amount may be a cash or periodic offer, payable within 90 days of acceptance, unless an alternative payment term is approved at the time the offer is accepted. The administrative record should be protected and reviewed to examine the evidence supporting the evaluation. It's because new information, testimony or documents submitted by the taxpayer. Refer to IRM 5.7, Trust Fund Compliance Manual, for a discussion of the factors and evidence that support an evaluation of a TFRP or PLET. A DATL offer of a TFRP or PLET liability must be resolved in one of the following ways: Before considering a DATL offer, first examine Form 656-L to determine if it can be and if all required documentation is attached. DATL offers cannot be considered if one of the following conditions exists: It is clear that the taxpayer's intention is not to compromise tax liability based on the belief that it is incorrect. For example, taxpayers may erroneously submit Form 656-L when the intention is to request an installment agreement to pay for existing liability or compromise liability on the basis that they cannot pay. The taxpayer seeks to commit a tax period for an unearned liability, pending in Automated Underreporter (AUR), Return Substitute (SFR/ASFR), Combined Annual Wage Report (CAWR) or Federal Unemployment Tax Adjustment (FUTA). Still under examination (L-freeze, CC AMDISA area office status codes 10 – 56). A 30-day letter has been issued informing you of changes in the exam or the legal notice of deficiency. If there is a determination pending before the Tax Court. If the IRS referred the taxpayer case involving such responsibility to the Department of Justice (DOJ). IRS can assist the DOJ with a financial analysis of an offer sent to the DOJ, however, the IRS has no authority to accept an offer on any tax liability that is under the jurisdiction of the DOJ. Examples of DATL offers that can be returned solely to delay collection are: Forwarding offers that are based on explanations of previously rejected offers or pre-returned offers for which the taxpayer has not provided any new information. It asserts that liability stems from the operation of a law that is abusive (e.g. responsibility based on withdrawal of funds from a 401(k) plan). Claims based on a divorce decree stipulating that spouses each owe certain portions of joint responsibility (the government is not a party to such agreements). Those who do not raise a question of valid responsibility or who give no reason for the DATL basis. Frivolous or evidently unfounded offers, such as those affirming the types of tax arguments listed in Notice 2010-33, and Notice 2006-31. In atrocious situations, the assertion of the penalty for frivolous presentation may be appropriate. See IRM 5.8.10.13, Offer in submitting commitment with frivolous, delay or obstruction issues. If a head office determines that the offer should be returned in accordance with IRM 5.8.4.20, offers submitted solely to delay collection, a Form 657, Commitment Offer – Income Officer's Report, with the Yes block checked to indicate that the was submitted solely to delay collection, must be submitted with the offer with appropriate supporting documentation. If the liabilities covered by Form 656-L are in IDRS Status 26 and a Form 657 was not received, please contact the OFFICE assigned to the balance account due to report receipt of the DATL offer. Request a Form 657 to determine if you should consider the IIC. En En taxpayers may submit an offer from DATC even though they intend to challenge tax liability under the provisions of La DATL. In these cases, the OE/OS should discuss with the taxpayer whether the withdrawal of the DATC offer and the submission of a DATL offer is appropriate. Since consideration for a DATL and DATC offer cannot be considered at the same time, see IRM 5.8.10.14, The Doubts and Doubts Taxpayer Files regarding Collectibility Offerings, regarding appropriate actions to address taxpayer issues. An ICO may not be appropriate in the following situations: innocent spouse, reverse credits, reimbursement schemes, offers involving payments or deferred evaluations of IRC 965, and others. As always, each case must be evaluated on its own merit before returning or rejecting an offer on the identified basis. If applicable, the offer may be returned without further consideration or investigation. When one spouse files a joint and multiple liability relief claim and the other spouse files an IIC, the Service employee considering the section 6015 claim must be contacted before proceeding to ensure that there is no reason to delay the IIC investigation until the section 6015 claim is resolved. If a taxpayer submits a DATC offer but raises relief from joint and several liability issues during the investigation, the issue should be discussed with the taxpayer. Inform the taxpayer that an applicant spouse has no right to alleviate joint responsibility and various responsibilities under Section 6015 for any year for which the applicant spouse has made an offer in commitment. See La Treas Regulations. 1.6015-1(c)(1). If after discussing with the taxpayer it is determined that a claim must be filed with the Cincinnati Centralized Operations Unit for Innocent Spouses (CCISO), for which you must be asked to withdraw the offer after being advised to withdraw the offer will not allow the taxpayer any right of appeal, it will not result in any payment that the taxpayer has made with the offer returned to him, and the claim must be forwarded to the CCISO. If IDRS indicates that the taxpayer has an open demand for relief from joint and multiple liability, or if a DATC offer and a joint and multiple liability claims are filed simultaneously, ask the taxpayer to withdraw the offer unless CCISO advises that the claim will be closed immediately unchanged. If the taxpayer refuses to withdraw the offer and a complaint is filed or CCISO indicates that an outstanding claim appears valid and the taxpayer will not withdraw the bid investigation should be suspended pending the provision of section 6015. If the IRS's date of receipt becomes 18 months or more, the offer must be returned as Other Pending Investigations and the taxpayer warned that an offer may be submitted once the Innocent Spouse's claim is resolved. There may be situations where the intentionally claimed a credit to receive a refund greater than the legally entitled to, for example, first-time homebuyer, EITC, Early Child Tax Credit (ACTC), etc. During the investigation of an offer involving such adjustments, it may be necessary to obtain a copy of the audit work documents to determine the cause of the liability, the amount, frequency, and whether the claimed credit was intentionally fraudulent. Offers in which the taxpayer intentionally and knowingly claimed a credit for which he was not entitled may be rejected for not being in the best interest of the government. Situations involving reimbursement schemes, i.e. unfounded withholdings on forms W-2 and 1099 OIDs, and erroneous refundable credits, in which the taxpayer received fraudulent refunds, may be rejected as not in the best interest of the government. The taxpayer's compliance history for a number of years after participating in the scheme can be taken into consideration to determine whether the taxpayer's offer should be investigated. The review function puts a lot of time and effort into assessing these civil penalties, which are intended to increase voluntary compliance. Sanctions are very serious in nature. Collecting the sanctions assessed is essential to preserve their impact on compliance. These civil penalty modules are identified by Master File Tax (MFT) 13 for Business Master File (BMF) or MFT 55 for Individual Master File (IMF), with specific penalty reference numbers depending on the penalty code section. See IRM 25.24.4, Return Preparer Misconduct Field Collection. In the absence of unique special circumstances, any offer submitted that includes such sanctions must be rejected by not in the best interest of the government. See also MRI 5.8.7.7.1, Not in the best interest of government rejection. An offer in commitment can be submitted for consideration that includes tax periods that have identity theft problems (IDT). The guidance in IRM 25.23.2.4, IDT indicators - Tax Related, provides information on the identification of the fiscal periods involved in the IDT and the appropriate actions. Identifying an IDT problem does not prohibit the investigation of the offer. Each case will have to be considered on its own merit, as there may be unique issues affecting the decision of the case. Identification of IDT situations may be determined by internal investigation or assured information from the taxpayer or their representative. Tax periods involving open cases of IDT are identified by TC 971 AC 522 in the tax module. Also review for a TC 971 501/506 on the fiscal year involved indicating that all identity theft tax administration problems have been resolved from the taxpayer's perspective. While researching IRPTR you identify that the taxpayer has multiple sources of income. The CIS only shows one employer and the taxpayer verifies that they have not worked the other entities listed. See IRM 25.23.2.3, Identity Theft Claims - General Guidelines for information on completing Form 14039, Affidavit of Identity Theft. If applicable, ask the taxpayer to download the form or, if requested, send the form to the taxpayer. Request Form 14039 completed, affidavit of identity theft will be returned within 10 days. The OE/OS must submit Form 14039 completed with a Form 4442, Reference Inquiry to *W&I:IDT-Fresno:SPEC-CSCO and highlight the fact that the taxpayer has an open offer in commitment. The IDTVA Specialties (formally compliance with IDTVA) will take appropriate action, including the contribution of TC 971/522 and will work in the case of Priority Code 2. Upon closing of the case, the Headquarters Compliance Link will be contacted so that notification can be provided to the bidding program. The OE/OS should track 30 days to give time for initial processing of the IDT form and TC entry 971/522. COIC OE will update the AOIC Case Category Code to 15, Identity Theft, and Report Time under 810-66012. Document AOIC case history. The time reported is for discussion with the taxpayer about IDT issues and completion of 4442 and reference forwarding only. The field operating system will update the AOIC case category code to 15, identity theft, and report time in ICS. ICS/AOIC case history document. The OE/OS must complete the financial analysis to determine an CPR. If the imposit periods involved in the issuance of IDT are not included in the offer and there is no expectation that additional tax liability against the taxpayer will be assessed, the OE/OS should take the following actions: If the bid amount is equal to or greater than the taxpayer's CPR, proceed with the acceptance offer. Information on IDT periods should be provided to MOIC with the acceptance file and documented in AOIC's comments to prevent non-compliance with the offer. In addition, it would not be necessary to enter or request the entry of TC 470 CC 90, as the case would be in state 71. If the offer amount is less than CPR and the taxpayer is unwilling or cannot increase the offer, proceed with the rejection. If the imposit periods involved in the issuance of IDT are included in the offer or there is an expectation that additional tax liability will be applied against the taxpayer, the OE/OS must take the following actions: If the bid amount is equal to or exceeds the taxpayer's CPR, monitor the IDT's actions and proceed with acceptance once solve all IDT issues. Once TC 971/522 is requested and acceptance of the offer is determined, the OE/OS should discuss with its manager the appropriate allocation for bid follow-up. If there are less than six months left within the mandatory acceptance period of TIPRA 24 months and there is no solution to the issuance of IDT, the taxpayer should be asked to withdraw the offer. If the taxpayer is or does not respond to contact requests, the offer may be returned as other pending investigations. If the offer amount is less than CPR and the taxpayer is unwilling or cannot increase the offer, proceed with the rejection. A taxpayer becomes a victim of fraud return preparer when the tax return preparer (paid or otherwise) completes a tax return for a taxpayer and without the taxpayer's knowledge makes changes to that return resulting in a benefit to the preparer or third party. Taxpayers may not be aware that there is a problem until the IRS is contacted, long after all refunds have been issued. See IRM 25.24, Declaration Preparer Misconduct Program for guidance on required actions to be taken when an individual taxpayer alleges that the return preparer is misconduct (RPM) with respect to the taxpayer's tax return. There are many variations in scenarios involving a preparer who has committed fraud or misconduct on the taxpayer's return. Here are some of the common scenarios: (Unauthorized Filing) - A taxpayer communicates with a returns preparer, but for some reason decides not to use this preparer and never authorizes a filing of returns. Later, the taxpayer attempts to electronically file a return, but the IRS rejects the electronically filed return. The taxpayer then learns that the IRS has already processed a return filed by the preparer, who directed the refund to an account that does not belong or under the taxpayer's control. (Authorized Filing, Altered Return Information and No Additional Refund Due to Taxpayer) - The taxpayer was in contact with a preparer and authorized a filing of returns, but states tax data (exemptions, income, expenses, deductions, credits, etc.) on their return was altered before it was filed to include items that he/she did not authorize. The preparer divides the refund using Form 8888, Refund Allocation (including Savings Bonus Purchases), so that the taxpayer receives the expected refund, while the preparer directly deposits the overpayment (fraudulent) to a different bank account under the control of the preparer (authorized filing, altered return information and additional taxpayer reimbursement) - The taxpayer was in contact with a preparer and authorized a filing of returns, but the tax details of the states (exemptions, income, expenses, deductions, credits, etc.) on their return were modified earlier to include items that they did not authorize. The taxpayer only receives one (or none) of the correct refund they expected. Misdirected Refund - The taxpayer was in contact with a preparer and authorized a filing of the return, but states that although the tax data, direct deposit information or postal address for the refund check was altered, diverting all or part of the refund to the preparer. Be careful to distinguish between return preparer fraud and identity theft that was committed by return preparer. If the taxpayer authorized a preparer to prepare and file the taxpayer's return, but the preparer altered the income/deductions/credits/withholding items to obtain a larger refund without the taxpayer's knowledge and consent, this is the return preparer's fraud and you must follow the procedures in this section. Instead, for fiscal year 2018, the taxpayer filed his own return and did not use a preparer. However, unknowingly the taxpayer, the preparer he used in 2017 filed a 2018 return using the taxpayer's SSN without permission. This is identity theft, and you must follow the procedures in IRM 5.8.4.23.5, Identity Theft. Modules identified with fraud or misconduct of the preparer should not prohibit the investigation of the offer. Each case will have to be considered on its own merit, as there may be unique issues affecting the decision of the case. Be sensitive to the adverse impact that being a victim of Return Preparer Fraud can have on a taxpayer and their ability to pay. If the offer is accepted, information about THE IDT periods must be provided to MOIC with the acceptance file and documented in AOIC's comments to prevent non-compliance with the offer. If misconduct is detected, in addition to the actions required in (6) in this section, see IRM 5.8.10.9.3, Tax Practitioner Misconduct Reference to the Office of Professional Responsibility, and IRM 5.8.10.9.4, Preparation of Form 8484, Report of Suspected Practitioner Misconduct and Appraisal Penalty Report to the Office of Professional Responsibility (OPR). OE COIC Reporting Procedures: Update the AOIC Case Category Code to 16, Return Preparer Fraud or Misconduct. Report time under 810-66013. The time reported is to complete reference 4442 only Document the history of AOIC cases. Field operating system reporting procedures: Update the AOIC case category code to 16, Fraud, or Return Preparer Misconduct. ICS/AOIC Case HISTORY Document . Unlike identity theft (IDT) procedures, Field OS currently has no time reporting requirements for cases identified as Fraud or Return Preparer Misconduct. If a Notice of Lien Federal Prosecutor (NFTL) has been filed and all balance owed covered by the NFTL is due to return the preparer's misconduct or fraud, request a release certificate under NFTL's erroneous provisions of IRC 6326 pursuant to IRM 5.12.3.9, Notice of Federal Error Tax. These versions contain a statement that the filing was wrong and are requested to Specialty Collection - Advisory. The adviser also publishes Letter 544, Letter of Apology MIS submission of the Notification of Federal Tax Levies. At the taxpayer's written request, a copy of the release and letter of apology may be provided to creditors or credit bureaus. Instruct the taxpayer to provide names, postal addresses, and permission to disclose the information, see IRM 5.12.3.10.1, Return Preparer Misconduct Situation, more direction. IRC 965 states that certain taxpayers must pay transition tax on foreign income not taxed from certain foreign corporations specified as if that income had been repatriated to the United States. The provisions of IRC 965 allow a taxpayer to choose to pay their net tax liability IRC 965(h) in installments of more than eight years (IRC 965(h)) or, if the taxpayer is a shareholder in a company S that is a U.S. shareholder in a deferred foreign income corporation, choose to defer the assessment of its net tax responsibility IRC 965(i) until a trigger event occurs (IRC 965(j)). Evaluations and possible evaluations of IRC 965 can be identified by the following transaction codes: TC 971 AC 114 – total tax IRC 965 included in the amount of TC 150. If TC 971, AC 114 is \$0.00, deferral may fall under IRC 965(j), which means that the assessment of the tax obligation is deferred to a trigger event. TC 971 AC 115 - the amount of deferred tax IRC 965(h) as reported by the taxpayer. There should only be one TC 971 AC 115 if an IRC 965(h) choice was made, otherwise there will only be one TC 971, AC 114 in the module. TC 766 CRN 263 - The amount of the net tax liability IRC 965(h) under the IRC 965 payment from which the taxpayer is deferring. Taxpayers making an IRC 965 (h) choice can make installment payments for up to 8 years. For the first year, this amount of credit could be up to 92% of the net tax obligation IRC 965(h) under IRC 965 included in TC 150. If an offer that includes IRC 965 net tax liability is considered actionable, the compliance review and other initial bid actions must be completed in accordance with IRM 5.8.4.6, Initial Compliance Screening and IRM 5.8.4.7, Initial Offer Actions. If a tax year is included in the offer that has only deferred taxes under IRC 965(j) or deferred payment under IRC 965(h), which has not been accelerated, the taxpayer must be asked to remove the tax year from the offer. If the taxpayer refuses to withdraw that fiscal year, the offer must be closed as a actionable return. If an IRC 965 liability has been evaluated and no election was made under IRC 965(h), the tax may be included in the offer. Verification of the taxpayer's financial information in these situations may include the assistance of an ATAT company's service company to determine whether the taxpayer is withholding foreign assets and the valuation of those foreign assets. The investigation of the Foreign Account Tax Compliance Act should also be completed if the offer is being recommended for acceptance. If the made an IRC 965(h) election and the offer will be recommended for acceptance, tax liability may be included in the offer, if the acceleration has been carried out under IRC 965(h)(3) in such a way that the total amount of net tax liability IRC 965(h) is currently due and if the taxpayer had not previously entered into a transfer agreement and net tax liability IRC 965(h) of another taxpayer that is now included in the offer. Income tax rates, other than IRC 965 liabilities, in fiscal years that also include deferred assessment by IRC 965(i) may be compromised, however, the taxpayer must be specifically advised of the language of Form 656 which states that net tax obligations IRC 965(i) are not included in the compromise proposal. The tender case file must be clearly documented in connection with this discussion with the taxpayer or his representative. The unique nature of these assessments requires a thorough review of any tax period in which the taxpayer has reported or may be required to report Transitional taxes under IRC 965. The reviewer must determine whether there is the possibility of tax liability based on a qualifying event or deferral of payments due. Any commitment determination should document this review and include information about the choices the taxpayer has made to ensure an appropriate resolution to the taxpayer's account. In certain circumstances, based on the dollar amount of the IRC 965 evaluation or other factors, assistance to the Review may be requested to assess whether the IRC 965 tax has been reported in accordance with the regulations. Due to the unique nature of offers involving IRC 965 liabilities, the operating system must complete a thorough review of the taxpayer's financial situation to assess whether acceptance of an offer involving this tax is in the interest of the government. Any acceptance to compromise a tax period that includes a potential IRC 965 responsibility or liability must be approved by the Territory Manager or Operations Manager. If it is determined that the taxpayer is trying to avoid paying this tax through dissipation or transfer of assets, the offer may be rejected under the non-government interest. The IRS only has IRC-based authority No. 7122 to compromise tax obligations arising under the Internal Revenue Code, Title 26. In some cases, taxpayers will include responsibilities on a Form 656 that may not be compromised by the IRS as a matter of law. In these cases, any liability that the IRS does not have authority to commit must be removed from Form 656 of the offer before the investigation begins. This section identifies some of the most common responsibilities, however, any liability that the IRS does not have authority to commit should never be included in Form 656 or addendum. When determined to allow efficient tax and non-tax responsibilities, the offer may include an attachment that provides a condition that a breach of the offer can occur if the taxpayer does not meet the payment terms associated with the amounts owed to the Department of Justice. In these cases, the wording of the annex must be approved by Area Counsel. An offer may be submitted by a taxpayer who has also been sentenced to pay restitution. Although the IRS is to pursue the collection of a restitution-based assessment (RBA), an IIC can only address a taxpayer's civil tax obligations, not any criminal restitution. Since the IRS does not have the authority to compromise restitution, any restitution or associated GDR should not be included in any OIC. If a taxpayer who also owes criminal restitution to the IRS, the offer may be considered for all civil tax obligations other than restitution-based assessments (RBA, for their). The offer must still include all tax periods with a civil tax liability other than RBA. Inform the taxpayer that the offer has no effect on any restitution or court-ordered RBA. The taxpayer is still required to make payments in accordance with any restitution order, and the IRS may separately search for collection on any RBA. Any problems related to restitution payments should be directed to the Adviser's parole link. If the taxpayer is unwilling to remove the RBA from the terms of the offer, the appropriate resolution would be a actionable return on the taxpayer's offer. The taxpayer submits an IIC for fiscal years 2013 through 2018. Civil tax assessments for the 2013 and 2014 fiscal years are based on a court order that requires the taxpayer to pay \$20,000 in restitution for these years. An offer can be considered for the taxpayer's civil tax obligations for tax years 2013 to 2018. The taxpayer will continue to owe separately the total amount of restitution ordered by the court for 2013 and 2014. The taxpayer owes restitution for fiscal year 2015, but does not have a corresponding civil tax assessment in that year. The taxpayer has civil tax obligations in 2016 and 2017. An offer can be considered for the years 2016 and 2017 of the taxpayer. The taxpayer would continue separately to owe court-ordered restitution for 2015. The court orders the payment of restitution to the IRS for fiscal year 2016 in the amount of \$50,000. The IRS makes a restitution-based assessment (RBA) of \$50,000, which is reflected in Master File (MF) as RBA for fiscal year 2016. MF also includes the \$30,000 civil tax assessment and according to an additional exam, the IRS evaluates additional taxes, interest, and penalties in the amount of \$10,000 for the same fiscal year. The IRS may compromise the civil tax assessment (\$30,000) and the additional amount assessed as civil tax liabilities (\$10,000). The taxpayer will continue to owe separately the \$50,000 in restitution, is reflected in MF as a \$50,000 RBA. Acceptance of the offer to compromise the civil tax assessment does not affect the RBA and the taxpayer remains responsible for any outstanding balance of the RBA. Questions relating to the terms of a restitution order (e.g. the amount awarded, the tax periods covered) should be addressed to the special agent assigned to the case or to the advisory probation link. Defendants seeking to change a order should be directed to contact your probation officer. See IRM 5.1.5.15, Restitution, for more information. If an offer is accepted and the taxpayer has RBA and/or restitution pending, AOIC's comments must be clearly documented so that MOIC is aware that coordination with advice on the implementation of payments will be required. In addition, due to the possibility of cross-references, the reduction of committed liabilities should be coordinated with the unit that completes RBA cross-references. In some cases, it may be appropriate to wait until the CSER has expired, although a version of the NFTL would be appropriate when the terms are met. If acceptance of an offer that includes a tax module with civil tax assessments and RBA is recommended, the OE/OS must provide the facts to the Collection Policy for review before being forwarded to Area Counsel. In addition, all acceptance recommendations involving tax periods involving civil tax obligations and an RBA must be reviewed by the area attorney before the acceptance letter is issued. If a taxpayer has been ordered to pay restitution, then any change in the terms of a return payment schedule in a Sentencing and Commitment Order can only be made in accordance with the order of the same court that issued a restitution order. The existence of a payment schedule in the Judgment and Commitment Order does not prevent or limit the IRS from pursuing administrative collection of the total amount of the ordered restitution. A payment schedule only instructs the taxpayer to pay no less than that amount during the specified period. In determining whether administrative collection is justified while a taxpayer is making timely payments in accordance with the return order payment plan, the Service will consider the taxpayer's ability to pay. The defendant must notify the court and the Department of Justice of any material changes in the defendant's economic circumstances that may affect the defendant's ability to pay. The United States may also notify the court of a change in the defendant's economic circumstances. Upon receipt of notification of such change, the court may, at the request of a party or ex officio, adjust a timetable for payment of restitution or require immediate payment in full, as required by the interests of justice. See 18 USC 3644(k). A defendant seeking to adjust a restitution order or payment schedule should consult with their probation officer. Prior to the enactment of Public Law 111-237, the amount of the ordered restitution payable to the IRS in a criminal case does not be assessed as a tax. The Firearms Excise Tax Improvement Act of 2010 (FETI Act), Public Law No. 111-237, as amended by IRC No. 6201, to provide that the IRS assesses and collects the amount of restitution ordered in a criminal case for not paying any taxes imposed by the Internal Internal Revenue Code in the same way as if such an amount were such a tax. The law applies to restitution orders entered after August 16, 2010. See IRM 5.1.5, Field Collection Procedures - Balancing Civil and Criminal Cases. Although FETI allows the evaluation of restitution, the IRS cannot yet compromise or change the terms of any restitution order. However, to the extent that there is a payment plan set forth in the court restitution order, the taxpayer is not prohibited from paying the Service more than the minimum payment amount provided for in the return order and the Service is not prohibited from pursuing administrative collection for the amount of the ordered refund. In determining whether administrative collection is justified while a taxpayer is making timely payments in accordance with the return order payment plan, the Service will consider the taxpayer's ability to pay. Since the enactment of the FETI Act, a restitution assessment can be established in idRS. This assessment is created in MFT 31 for taxpayers ordered to pay restitution to the IRS. Other identifying factors are: Transaction code (TC) 971 with Action Code (AC) 102 will be used to identify these modules as restitution assessments. TC 290 with reason codes 141 to 149 will be used to assess the amount of restitution. TC 971 with AC 180 to 189 will reflect the type of tax and fiscal periods for which restitution was ordered. Since the IRS has no authority to compromise restitution, an accepted offer in commitment should never include any evaluation based on the return of MFT 31. An offer may be submitted that includes FBAR assessments or a taxpayer who submitted an offer to compromise their tax obligations also has FBAR-based assessments. Because the IRS has no authority to commit FBAR-based assessments, the taxpayer must be asked to submit a modified offer to eliminate the FBAR liabilities that are included in Form 656. FBAR sanctions are evaluated under Title 31 and do not appear in IDRS. If the taxpayer has an assessment liability under FBAR, an offer of tax obligations other than FBAR can be investigated. During the review of the taxpayer's financial information, the OE/OS must take additional investigative actions to determine whether the taxpayer continues to have assets outside the United States. Review the history of the ICS to determine what investigation may have been conducted by a field revenue officer. The OE/OS may also issue other research (OI) to a group of ATAT or International RO to investigate FinCEN and/or CBRS to help current foreign assets in which they hold an interest. The taxpayer may also have outstanding assessments related to the Offshore Voluntary Disclosure Initiative. If the taxpayer is unwilling or unwilling to submit a modified offer that eliminates FBAR liabilities, the offer must be closed as a actionable return. Processable, recognize that the assignee's liability may arise under the assignee's theories of responsibility under applicable state law. Section 6901(a)(1)(A)(i) of the IRC authorizes the assessment of the assignee's liability, by law or in equity, in the same way as liability for income taxes. This provision, however, does not create any separate liability; it simply provides a secondary method for enforcing the transferor's existing responsibility. Since the substantive question of whether an assignee is responsible for the assignor's obligation depends on state law, assignee responsibilities arising under state law that the IRS collects under section 6901 should not be included in any offer. Section 7122(c) of the IRC, as amended by TIPRA, requires that the OCI be filed as of July 17, 2006 (and is not subject to exemption from low-income taxpayers or offers submitted solely on daTL) must be accompanied by partial payment of the proposed bid amount. These payments apply to the tax obligations included in the offer and are in addition to any application fees imposed. The form of these partial payments depends on the offer proposed by the taxpayer and their terms. A flat-rate cash offer (defined as payable in five or fewer payments within five months of acceptance of the offer) must be accompanied by a payment of 20% of the amount offered, unless there is an exception as described in IRM 5.8.1.15.4, Payments. A periodic payment (defined as

payable in six to 24 months or through the legal period) must be accompanied by payment of the proposed first installment, and additional payments must be paid in accordance with the terms of offer proposed by the taxpayer while the Service evaluates the offer. The total quotas may not exceed 24 months. If the taxpayer qualifies for the Low Income Waiver, the taxpayer is not required to pay the application fee, or TIPRA payment(s), including any future payments, until accepted. If a recurring payment offer is accepted and the taxpayer qualifies for a Low Income Waiver, the 24-month period for paying the accepted bid amount will begin on the date of written notice of acceptance. At that time, the taxpayer will begin making payments in accordance with the terms of the accepted offer. While the Service evaluates a recurring payment offer, the taxpayer must make subsequent proposed payments as they expire. There is no requirement that payments be made monthly or in equal amounts. The Service is not bound by eer the amount of the offer or the terms proposed by the taxpayer. The OE/OS can that the amount of the proposed offer is too low or the payment terms too long to recommend acceptance. In this situation, the bid investigator may advise the taxpayer that a larger amount or different terms would likely be recommended for acceptance. Taxpayers who qualify for the application fee exemption are also exempt from TIPRA payment(s). If during the investigation, it is discovered that the taxpayer does not qualify for the waiver, contact the taxpayer and make a phone request for the required payment and application fee. Please allow 15 calendar days for the taxpayer to submit the payment(s) and fee. If the taxpayer cannot be contacted by phone, issue a letter of additional information to notify the need to make the payment and wait 15 calendar days from the date of the letter to send the payment(s). If the taxpayer or POA does not file the payment or requests an extension within 30 days from the date of the letter, close the offer as a mandatory withdrawal, using the appropriate withdrawal letter. Document ICS or AOIC history. See IRM 5.8.7.4.2, Mandatory Withdrawal. If the taxpayer filed the application fee, and the TIPRA payment in addition to checking the Low Income Certification box, and it is discovered that the taxpayer does not qualify for the waiver, the bid investigator should consult IRM 5.8.4.7, Initial Bid Actions para. (2) for guidance regarding the request for any payments submitted with the offer. If the taxpayer submitted a recurring payment offer, the offer specialist/examiner will make an application by phone for the taxpayer to process expired TIPRA payments from the filing date to the discovery date. Wait 15 calendar days for the taxpayer to file the payment(s). The taxpayer must then make payments in accordance with the terms of the offer when presented for the remainder of the investigation. If the taxpayer cannot be contacted by phone, issue a letter of additional information to notify the need to make the payment and wait 15 calendar days from the date of the letter to send the payment(s). If the taxpayer or POA does not file the payment or requests a time extension within 30 calendar days from the date of the letter, close the offer as a mandatory withdrawal, using the appropriate withdrawal letter. Document ICS or AOIC history. See IRM 5.8.7.4.2, Mandatory Withdrawal. There may be situations where the bid investigation has been completed and it has been determined that the offer will not be accepted before determining that the taxpayer has defaulted on a fee from their periodic payment offer. In these cases, when the taxpayer is contacted to ensure the lost fee(s), either by phone or correspondence, in addition to advising the taxpayer the offer will be processed as a mandatory withdrawal if the fee is not paid, the OE/OS must also inform the taxpayer that even if the taxpayer makes the required fees, the offer will be recommended for the Providing a copy of the ETI and AET may also be appropriate. The next appropriate action should be taken on the basis of the taxpayer/POA response. Taxpayers can how the required TIPRA payments will be applied to the taxpayer's liabilities. The request for designation must be made in writing when the offer is submitted (in the case of upfront partial payments) or when payment is made (in the case of subsequent installment payments made for a recurring payment offer). Once a payment designation is made, it cannot be changed at a later time. The written payment designation should clearly explain how these payments will apply to specific tax periods or liabilities (e.g. income taxes, employment taxes, portions of employment trust funds or excise duties, etc.). This written payment designation must be part of and remain with the bid case file. In the absence of any written payment designation by the taxpayer when payment is made, the Service will apply payments in the best interest of the Government. Form 656 may include a TIPRA down payment designation, it does not serve as a designation for any subsequent payment. COIC will process TIPRA's required down payment accompanying periodic payment offers before transferring an offer to an OS or Grade 12 OE. For offers submitted by corporations to compromise trust fund taxes, colC will apply the initial payment(s) to tax liability with the CSed not expired sooner. The OE/OS assigned to investigate these offers are responsible for transferring the partial payment(s), if necessary, in the best interest of the government as defined in 5.8.4.25.1 below. It is the responsibility of the OE/OS assigned to the case to ensure that taxpayers make the proposed quotas during the bid investigation. In addition, the OE/OS must also ensure that the additional amounts required are paid if the taxpayer submits a revised IIC that reflects a larger proposed offer amount and/or changes the offer from a recurring payment to a flat-rate cash offer. If an OE/OS receives a subsequent payment with a Form 656-PPV, forward the payment with Form 656-PPV to the appropriate COIC address shown on the form. An operating system can process payments on Form 795 using ICS, however, if processed through ICS, the AOIC payment screen must also be noted. Upon receipt of a subsequent payment received by the colC site while the offer is allocated to an OE/OS, COIC must write down the AOIC payment screen or if it is unable to access the payment screen, record the AOIC history with the following information: Date(s) of receipt Payment location amount (MFT and period) applied It is the responsibility of the OE/OS to check the AOIC payment screen, AOIC history and/or IDRS for verification of recorded or pending payments that have been received at the COIC site. If the OE/OS receives a subsequent payment, the OE/OS will use Form 3244 to apply the payment(s) directly to tax liability in accordance with the taxpayer's written payment designation, if if presented with payment. If no written payment designation is filed, apply the payment(s) directly to a tax liability to the government's best interest. For offers submitted by entities other than companies, apply the payment(s) to the tax liability(s) with the first undue CSDEs. For offers submitted by corporations or other entities subject to the trust fund recovery penalty, apply payments in the following descending order: To all Forms 1120, 940, and any other non-fiduciary fund liabilities (in the CSed order not expired earlier), if any; and to the following unpaid portions of all periods of Form 941 (in the first order of non-expired CSDEs): (1) Portion of the non-fiduciary tax fund (employer participation in FICA) (2) Tax rates and collection expenses (5) Penalty accrued at the date of payment (6) Interest accrued up to the date of payment (7) Part of the Form 941 trust fund (employee and participation in FICA withholding) Write down the AOIC payment screen or, if you are unable to access the AOIC payment screen, write down AOIC history with the amount or date of receipt. Use DPC 02 when posting payments for subsequent recurring offers specified in the trust fund portion when the offer was submitted by a corporate taxpayer. In all other situations, use DPC 35. If the taxpayer does not make a proposed fee for a recurring payment offer, the OE/OS will allow an opportunity to pay the missing amount(s). Try to contact the taxpayer by phone and wait 15 calendar days for the taxpayer to file payments. If the taxpayer or representative cannot be contacted by phone, issue a letter of additional information to notify the need to make the payment and allow 15 calendar days from the date of the letter to file the payment(s). If the taxpayer submits the payment(s) within 30 calendar days from the date of the letter (allowing 15 calendar days for the mail), continue with the investigation of the offer. In some cases, it may be necessary to give additional time for the taxpayer to submit payments. Document the ICS or AOIC history with the reason for the delay. If the taxpayer does not submit the payment or requests a time extension within 30 calendar days from the date of the letter, close the offer as a mandatory withdrawal, using the appropriate withdrawal letter. Document ICS or AOIC history. Taxpayers will be given an opportunity to offset non-payment payments for a recurring payment offer, including modified offers, unless there are special circumstances. The amounts and proposals submitted by a taxpayer dictate the required partial payments of the offer. The Service is not bound by those same terms when determining an acceptable offer. Therefore, OE/OS may negotiate different terms of offer, where appropriate. During the evaluation of an offer, the OE/OS may determine that the proposed offer is too low or the payment too long to recommend acceptance. In this situation, the OE/OS will inform the taxpayer that a larger amount or different terms would likely be recommended for acceptance. If the taxpayer submits a revised offer that reflects a larger proposed offer amount or changes the terms, one or more additional payments may be required, unless the taxpayer qualifies for the waiver. The taxpayer will be given credit for partial payments already made with respect to the original offer. If the taxpayer who submits a revised or modified offer does not make the required additional payments, the OE/OS will return the offer as a actionable return using the letter generated by the appropriate AOIC. Exceptions to this rule are whether the taxpayer was subject to the exemption with respect to low-income taxpayers or for offers submitted on the sole basis of DATL. These taxpayers are not required to submit payments with an amended IIC. If the taxpayer does not submit the revised offer, prepare the rejection letter. The OE/OS is responsible for ensuring that TIPRA payments are made during the investigation. Once the final determination letter is issued, the OE/OS is no longer required to monitor payments. Once an IIC is determined to be actionable, the taxpayer will only have to make TIPRA payments. The case status will be changed to Status 71. If the taxpayer is in a DDIA or PDIA and there are delays in stopping the payment deduction, any installment payment received after the date of receipt of the offer may be designated as an offer payment. If the offer is rejected, returned, withdrawn or terminated, return the account to State 60. Step-by-step instructions for taking a taxpayer account from state 60 to state 71 are provided on the OIC SharePoint site . If the taxpayer's account is returned to Tier 60 on the basis of a previous installment agreement, a federal tax levy notice should not be filed unless the criteria in IRM 5.8.4.13, Lien Federal Tax Notice, involving situations where government interest is at risk as discussed in paragraph (2). Before the NFTL is requested, the taxpayer must be informed of the proposed NFTL submission and CAP rights. Taxpayers wishing to be represented must file a duly executed Form 2848, Judiciary, and Representative Statement. If the POA information is in CFINQ, upload the information to the AOIC POA screen and follow the procedures described below. Enter the representative information in AOIC and keep a copy of the in the paper case file. Forward the original to be written to the centralized authorization (CAF) file. If the authorization/designation covers all periods, also check the box in AOIC the representative/designate is entitled to copies of the ICAO correspondence. The taxpayer is not obliged to check the boxes on Forms 2848 and 8821 for the representative to receive notifications on an ongoing basis. See IRM 5.1.23.4.2.3, Written Communication to the Taxpayer's Authorized Representative. Send all original correspondence to the taxpayer and provide a copy to the representative. Persons who are not allowed to represent taxpayers with respect to collection matters (such as unenrolled preparers) may accompany taxpayers to meetings if the taxpayer provides a duly completed Form 8821, Taxpayer Information Authorization, or other appropriate authorization, and may receive and provide information related to the bid investigation. They are not authorized to represent taxpayers or sign documents related to offers in commitment. If the authorization/designation does not cover all types of taxes and tax periods included in the offer, do not include a copy of the taxpayer's correspondence with the letter of submission to the representative. If a copy of the taxpayer's correspondence is not attached, the cover letter to the representative must inform the representative that the problem involves tax information that the representative is not entitled to receive on the basis of Form 2848 or Form 8821 on file, and instructs them to contact the taxpayer. The letter sent to the taxpayer may request the completion of a Form 2848 to cover the lost periods. If during the investigation it is discovered that the POA no longer represents the taxpayer, secure a letter revoking the POA and document the case history. Remove the POA information from AOIC. Attorneys, Certified Public Accountants (CPA), enrolled agents, or enrolled actuaries are generally the only professionals authorized to represent taxpayers before the IRS in collection matters. An unrolled return preparer is a person, other than a registered attorney, CPA, registered agent, or actuary, who prepares and signs a taxpayer's return as a preparer, or who prepared a return but is not required to sign the return. An unrolled returns preparer cannot represent a taxpayer before the IRS on any collection matter. An unrolled returns preparer, however, may represent a taxpayer before the IRS in certain other limited situations. See IRM 5.1.10.7.2, Right to Representation. If a taxpayer does not have a representative, they may be eligible for assistance from a Low Income Taxpayer Clinic (LITC) for their nations. For LITC eligibility guidelines, see IRS Publication 4134, List of Low Income Taxpayer Clinics. During the course of the investigation, taxpayer may file a Form 2848 by designating a third party as their representative or power of attorney, or a Form 8821 that designates a designee or may complete the third-party design section on Form 656, Commitment Offer. When the taxpayer completes and submits it correctly, each of these forms defines the scope of permissible interaction with a designated third party. Shape Shape authorizes an eligible person (e.g. attorney, CPA, enrolled agent, or enrolled actuary) to represent and receive confidential information. Form 8821 authorizes the designated person to receive certain confidential information. Design members of Form 8821 must provide copies of all IIC correspondence, including the letter of determination. If Form 8821 is missing critical information that can only be provided by the taxpayer (e.g. tax years, tax rate, lack of taxpayer signature, date) will be returned to the taxpayer. The information that may be disclosed to the designee is limited to the type of tax, tax form number, years or tax periods, or specific tax subject that appears on Form 8821, point 3. A designee who does not have a Form 2848 on file is not authorized to respond to any correspondence on behalf of the taxpayer if the response advocates a position indicating that the designee is assuming a representative role. Where a recognized representative has unjustifiably delayed or hindered an examination, collection or investigation by not providing, after a repeated request, the non-privileged information necessary for the examination, collection or investigation, the employee of the Internal Revenue Service conducting the examination, collection or investigation may have permission to circumvent the representative and contact the taxpayer directly to obtain such information. 26 C.F.R. - 601.506(b) (Declaration of Procedural Rules). Before contacting the taxpayer directly, the IRS employee must first initiate the bypass procedures. See IRM 5.1.23.6, Bypassing a Taxpayer's Representative, for procedures for circumventing an POA. There may be times when a taxpayer or representative may request expedited processing of their IIC due to a perceived emergency or emergency situation. Situations that may justify expedited case processing include: A contract or business agreement that requires the taxpayer, as a condition of the contract or agreement, to resolve tax liability on a specific date. The availability of money to finance the offer is limited to a certain time. A terminal illness can affect the ability to complete payment terms. Situations that were not initiated by the taxpayer may arise, either by telephone contact, fax or mail. Once identified that fast processing may become necessary, follow (3) and (4) below and discuss with your manager. The processing of Forms 656 should be considered priority and handled quickly due to pending collection action. Offers with an expedited request for processing should be forwarded to management to decide whether or not accelerated treatment is warranted. In some cases, it may be appropriate for the manager to request verification of the basis of the expedited treatment request. If the decision is made to expedite the processing of the offer, the manager must the history of AOIC, indicating the basis of the decision. Form 656 must be clearly labeled at the top of Requested Emergency Processing, and an immediate determination of the processability and allocation for the investigation must be made. Every effort must be made to close the offer within 90 calendar days of receipt. In an attempt to bring the case to a quick and timely resolution and to meet the taxpayer's special needs, immediate contact should be made with the taxpayer to request any additional information necessary. If the decision is made not to expedite the case, the manager must document the basis for the decision on the history of AOIC and ICS. Contact the taxpayer by phone or correspondence explaining the basis of the decision. The case should be worked on in routine processing. More Internal Revenue Manual

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