

FOUNDER'S **Mastermind**

Collection Information Statements

Immersion Day Training

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Course Outline

In this course you'll learn how to onboard a new prospect and easily find the best resolution option spending a maximum of 30 minutes of your valuable time. Technology works for you, but you need to grasp an idea behind it and learn how to use it. And since practice makes perfect, we'll go over a Case Study on how to compare resolution options and present the best one to your taxpayer.

Once you know the direction of the case, OIC, IA or CNC, we'll go over the most tedious task in Tax Resolution – preparation of a Collection Information Statement for Individuals and Businesses. During this immersion training we'll cover various types of Collection Information Statements, in which situation they are required, and which Forms you need to prepare for each type of tax resolution. You'll also learn about various strategies and techniques on how to maximize taxpayers' savings and achieve the best resolution option. We'll go over a Case Study on Offer in Compromise with Self-Employed Individual to demonstrate how to prepare a solid Form 433-A (OIC), efficiently and creatively.

During this training we'll also spotlight recent changes on First Time Penalty Abatement introduced by the IRS on March 29, 2023, which significantly relaxed the FTA requirements and opened doors for many more taxpayers to get penalty relief.

And finally, we'll go over proven strategies on how to generate additional revenue with the minimum work required on your part using IRS Transcripts.

After completion of this training, you'll be able to quickly find the best tax resolution option, prepare Collection Information Statements like a Pro, and make more money with additional revenue streams.

Case Study 1: OIC, IA or CNC?

Jerry and Mary Stevens live in Orlando, FL and they are 55 and 52 respectively. Jerry works at the local auto-repair shop as a supervisor and Mary was a part-time realtor a few years back, but now is gainfully employed at a local hair salon. It appears that Mary didn't make any estimated tax payments for the time she was a realtor, and she accumulated a debt of \$32,800. Jerry' withholdings also were quite low, so he also contributed about \$12,000 to the tax debt. During their 20-year marriage they always filed jointly. The tax owed is for 2017 and 2018 for the total amount of \$44,800. Assume that CSEDs for both years are 05/05/2028 and 05/09/2029 respectively. Jerry and Mary would like this tax problem behind them and want to resolve it with your help.

1. Based on the facts below, please determine what type of tax resolution is available to them and their payment options.
2. What will change if Jerrys will trade-in his 2015 Toyota Corolla for a 2023 Toyota Corolla with FMV of 22,000 and loan balance of \$17,200 and monthly payment of \$300.

Residence & Dependents

- Jerry and Mary live in Orlando, FL (Orange County);
- They have 2 daughters, Jessica, and Julie, 16 and 14 who live with them.

Assets

- Jerry and Mary have about \$100 in cash between both;
- Jerry and Mary have a joint account with \$1,400 in it;
- Jerry has another checking account with \$3,500 balance;
- Jerry has a savings account with \$350 balance;
- Mary has a small IRA in the amount of \$5,500;
- Jerry and Mary own a small house with a FMV of \$160,000 and a mortgage balance of \$132,500;
- Jerry owns 2015 Toyota Corolla with a current FMV of \$4,800 and no loan balance, current mileage is 65,000;
- Mary leases her 2020 Ford Escape for \$250 a month, current mileage is 20,000;
- Their furniture and personal effects are of about \$5,000 value.

Income

- Jerry makes \$1,751 bi-weekly;
- Mary makes \$1,152 bi-weekly.

Monthly Expenses

- Food & Clothing - \$1,000
- Mortgage - \$1,380 (includes property tax and insurance)
- Electricity - \$240
- Water - \$80
- TV & Internet - \$150
- Cell phones - \$250
- Gasoline & Car Expenses - \$225 for each car
- Prescriptions - \$100
- Current Taxes (withheld bi-weekly)
 - Jerry - \$93 (FIT), \$96 (SS) and \$22 (Medicare)
 - Mary - \$60 (FIT), \$71 (SS) and \$17 (Medicare)

Collection Information Statements

Collection Information Statements play a very important role in most IRS Tax Resolution cases. They are used to present the IRS information on how much money taxpayers make, how much they spend, what they own and how much they can pay to the IRS monthly. The practitioner's role is to present the IRS accurately completed Collection Information Statement using a specific Form number that presents taxpayer's true ability to pay. In this course we will concentrate on Collection Information Statements for Individual and Business Taxpayers, namely Form 433-A / 433-A (OIC), Form 433-F and Form 433-B / 433-B (OIC).

What is a Collection Information Statement?

Collection Information Statement (CIS) is the taxpayer's financial statement generally used by the IRS to gather information about taxpayer's assets, income, and expenses to determine taxpayer's ability to pay or Reasonable Collection Potential (RCP). This is a way for the IRS to find out how much money taxpayers make, how much they spend, what they own and how much they owe on debt obligation other than IRS debts.

Collection Information Statement is signed only by Taxpayers and his/her Spouse under the penalties of perjury, and they declare that to the best of their knowledge and belief this statement of assets, liabilities, and other information is true, correct, and complete. Taxpayer's representatives **should NOT** sign a Collection Information Statement on behalf of their clients, even if they have Power of Attorney and Declaration of Representative (Form 2848) signed by the clients (technically they can sign it, but it's a very bad idea!).

Types of Collection Information Statements

There are 6 different types of Collection Information Statements for Individuals:

1. Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals
2. Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals (used specifically in Offer in Compromise cases)
3. Form 433-F, Collection Information Statement (usually referred to as a "short form" due to its 2-page length)
4. Form 433-H, Installment Agreement Request and Collection Information Statement (only used for wage earners requesting an Installment Agreement)
5. Form 433-B, Collection Information Statement for Businesses
6. Form 433-B (OIC), Collection Information Statement for Businesses (used specifically in Offer in Compromise cases)

Supporting Documentation for Collection Information Statements

Collection Information Statements for Offer in Compromise cases (Form 433-A (OIC) and Form 433-B (OIC)) are **always** accompanied by supporting documentation to verify numbers in the statement. However, for Forms 433-A and 433-F it is **NOT required** to submit supporting

documentation with the submission, BUT... it may be requested later, so it is better to keep it handy anyway. Depending on each case, supporting documentation may include the following documents:

- Copies of the most recent pay stub, earnings statement, etc., from each employer
- Copies of the most recent statement for each investment and retirement account
- Copies of the most recent statement, etc., from all other sources of income such as pensions, Social Security, rental income, interest and dividends (including any received from a related partnership, corporation, LLC, LLP, etc.), court order for child support, alimony, and rent subsidies
- Copies of individual bank statements for the **three** most recent months. If you operate a business, copies of the **six** most recent statements for each business bank account
- Copies of the most recent statement from lender(s) on loans such as mortgages, second mortgages, vehicles, etc., showing monthly payments, loan payoffs, and balances
- List of Notes Receivable, if applicable
- Verification of delinquent State/Local Tax Liability showing total delinquent state/local taxes and amount of monthly payments, if applicable

The IRS officers reviewing Collection Information Statements may use their discretion and judgment and secure a full credit report to assist in locating taxpayer assets, verifying financial information, and/or determining an alternative resolution to the one offered by a taxpayer or taxpayer's representative.

When to use each Collection Information Statement

- Form 433-A is used when individual and/or self-employed taxpayer cases are worked by a Revenue Officer to establish:
 - an Installment Agreement, or
 - Currently Not Collectible status
- Form 433-A (OIC) is used in Offer in Compromise cases with individual and self-employment tax liability. However, it cannot be used for payroll liabilities of a disregarded Single Member LLC accrued after January 1, 2009 (in these cases Form 433-B (OIC) must be used).
- Form 433-F is used when case is handled by the Automated Collection System (ACS) and individual taxpayers need to establish:
 - an Installment Agreement, or
 - Currently Not Collectible status
- Form 433-B is used by business taxpayers regardless of where the case is with, ACS or RO, to establish:
 - an Installment Agreement, or
 - Currently Not Collectible status

- Form 433-B (OIC) is used in Offer in Compromise cases for businesses, including single member LLCs with payroll tax liability accrued after January 1, 2009.

Not many tax representatives and even IRS officers know that Form 433-F can also be used for some cases worked by Revenue Officers (even though this procedure was introduced in the IRM in 2012!), see IRM 5.15.1.2:

- For Trust Fund Recovery Penalty (TFRP) investigations when the individual is a wage earner and the potential TFRP is less than \$100,000 (See IRM 5.7.5.2);
- For self-employed and individual wage earners who owe for IMF (Individual Master File) liabilities only, with an aggregate balance of assessments less than \$250,000.

When is Collection Information Statement Required?

Collection Information Statement is required when:

1. Requesting an Installment Agreement for an Individual Taxpayer and OOB (Out-of-Business) Sole Proprietor and SUMRY balance (unpaid assessed balance of tax, penalties, and interest) is over \$100,000, and the case is handled by FA (Field Assistance) employees, e.g. ROs (Revenue Officers).
2. Requesting an Installment Agreement for an Individual Taxpayer and OOB (Out of Business) Sole Proprietor and SUMRY balance (unpaid assessed balance of tax, penalties, and interest) is over \$250,000, and the case is handled by ACS (Automated Collection System), ACSS (Automated Collection System Support) or CSCO (Compliance Services Collection Operations) employees.
3. Requesting an Installment Agreement for In-Business Sole Proprietor or any other business entity and SUMRY balance (unpaid assessed balance of tax, penalties, and interest) is over \$25,000.
4. Requesting a Partial Pay Installment Agreement (PPIA) regardless of the amount of unpaid assessed tax, penalties, and interest.
5. Filing an Offer in Compromise for an individual or business taxpayer regardless of the amount of unpaid assessed tax, penalties, and interest (except for Doubt as to Liability Offer in Compromise).
6. Requesting a Currently Not Collectible (CNC) status regardless of the amount of unpaid assessed tax, penalties, and interest. However, when dealing with ACS personnel over the phone, you can provide answers from a Collection Information Statement and in some cases are not required to fax or mail signed Form 433-F and/or supporting documents (usually when expenses claimed are equal or less than IRS standards and there are no other expenses like student loans, delinquent state/local taxes, etc.).

Tips, Strategies and Techniques for preparing a Collection Information Statement

Personal or Business Information

It is usually not a good idea to have ACS personnel or IRS Revenue Officers speaking directly with your client. For this reason, you may want to put your telephone number as representative in this area and clearly noted as such by adding (POA) next to the phone number.

Employment Information for Wage Earners

Self-Employed individuals who do not have W-2 income should not use this section.

For wage earners, pay attention to Pay Period field and do not forget to check appropriate box, because monthly income is being used in each Collection Information Statement and without knowing how often a taxpayer is paid, it's impossible to calculate monthly wages.

If a taxpayer is married, determine if spouse is non-liable for the tax liabilities in question. For non-liable spouse cases, prorate monthly living expenses based on each spouse's contribution to the household budget and do not include assets of non-liable spouse into any calculations.

Other Financial Information

Answer all questions Yes or No and provide further details where applicable.

Do not leave any questions unanswered.

The reason why IRS wants to know whether taxpayer lived outside of the U.S. for 6 months or longer is because Collection Statute Expiration Date (CSED) is tolled by the period of prolonged absence from the U.S., and it directly affects the collection of tax liability.

The IRS also wants to know if taxpayer transferred any assets for less than their full value in the past 10 years to check if there was any intentional dissipation of assets that could have been included in Reasonable Collection Potential (RCP). Usually, the IRS reviews assets transferred for less than FMV in the last 3 years before resolution is requested and may classify it as a dissipated asset, thus increasing RCP.

Personal Bank Accounts

For bank account balances input the lowest cash balance during the month or alternatively the average lowest bank balance for the past 3 months. Provide a brief narrative describing how the bank balance was determined in the attachment to the Form. Never enter an ending bank statement balance!

In Offer in Compromise cases, if funds listed on bank accounts are used to pay for monthly allowable living expenses, reduce bank account balance by total amount of allowable monthly living expenses and an additional \$1,000 (but not below \$0) pursuant to IRM 5.8.5.7. Remember, this adjustment only applies to Offer in Compromise cases and only to Individual taxpayers.

If taxpayers have sufficient balances on bank accounts, consider advising clients to pay necessary and reasonable expenses, such as home repairs, representation fees, medical bills,

downpayments on new vehicles, etc. The keyword in such payments is NECESSARY. For example, leaking roof that needs repairs, mold remediation, overdue medical bills, etc.

Remember to include both domestic and foreign bank accounts. The IRS can query their databases to determine if the taxpayer has filed Form 8938. And if Form 8938 has been filed, they may view return information. This may lead to identification of a foreign account or asset.

Equity in Assets

For Offer in Compromise purposes, assets are valued at net realizable equity (NRE). Net realizable equity is defined as quick sale value (QSV) less amounts owed to secured lien holders with priority over the federal tax lien, if applicable, and applicable exemption amounts.

QSV is defined as an estimate of the price a seller could get for the asset in a situation where financial pressures motivate the owner to sell in a short period of time, usually 90 calendar days or less. Generally, QSV is an amount less than fair market value (FMV). Normally, QSV is calculated at 80% of FMV. A higher or lower percentage may be applied in determining QSV when appropriate, depending on the type of asset and current market conditions. Take into account how long the primary residence was held in ownership and whether a home sale exemption would apply if taxpayers are forced to sell the property. Also consider closing costs, commissions and other related expenses which may result in much lower QSV than 80%.

Example: Taxpayer owns a house with a Fair Market Value of \$320,000 and mortgage balance of \$185,000. The Net Realizable Equity (NRE) for Offer in Compromise purposes will be calculated as $(\$320,000 \times 80\%) - \$185,000 = \$71,000$. However, if you determine that 70% QSV must be applied, the NRE will be $(\$320,000 \times 70\%) - \$185,000 = \$39,000$. That's a reduction of the offer amount by \$32,000!

Investments

For Investments, such as stocks, bonds, retirement plans, digital assets and other investments always consider the following factors:

- Whether taxpayer has 100% or partial ownership in the asset
- If 401(k) or 403(b) plans are vested or not, and do not include non-vested amounts into calculations (however, do attach an explanation note)
- If there would be any surrender/liquidation/commission charges if taxpayer must dispose of the asset
- Cost basis of the asset
- Combined Federal and State tax rate of the taxpayer that would be payable on disposal of the asset
- If there is additional 10% penalty on distribution from qualified plans for taxpayers under 59 ½ age
- Loan balance, if any

Since March 2018 the IRS requires to disclose information on all digital assets held by taxpayers, such as Bitcoin, Litecoin, Ripple, etc.

IRM 5.8.5.10 (03-23-2018)

Retirement or Profit-Sharing Plans

1. Funds held in a retirement or profit-sharing plan are considered an asset and must be valued for offer purposes.
2. Contributions to voluntary retirement plans are not a necessary expense. Review of the retirement plan document may be necessary to determine the taxpayer's benefits and options under the plan.
3. It may be necessary to secure a copy of the plan to determine the taxpayer's vested interest and ability to borrow.
4. When determining the value of a taxpayer's pension and profit-sharing plans consider:

If...	And...	Then...
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account	The taxpayer is not retired or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal penalty, if applicable.
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account	The taxpayer is retired or within one year of retirement	<ul style="list-style-type: none"> Equity is the cash value less any tax consequences for liquidating the account and early withdrawal penalty, if applicable. The plan may be considered as income, if the income from the plan is required to provide for necessary living expenses.
The contribution to a retirement plan is required as a condition of employment	The taxpayer is able to withdraw funds from the account	Equity is the amount the taxpayer can withdraw less any tax consequences and early withdrawal penalty, if applicable.
The contribution to an employer's plan is required as a condition of employment	The taxpayer is unable to withdraw funds from the account but is permitted to borrow on the plan	Equity is the available loan value.
Any retirement plan that may not be borrowed on or liquidated until separation from employment	The taxpayer is retired, eligible to retire, or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal penalty, if applicable, or consider the plan as income if the income from the plan is necessary to provide for necessary living expenses.
The plan may not be borrowed on or liquidated until separation from employment and the taxpayer has no ability to access the funds within the terms of the offer	The taxpayer is not eligible to retire until after the period for which we are calculating future income	The plan has no equity.
The taxpayer may not access the funds in the retirement account due to an existing loan	The taxpayer is not eligible to retire until after the period for which we are calculating future income	Determine what equity remains in the account taking into consideration when the loan was taken out, whether the proceeds were used for necessary living expenses, and the remaining equity in the account. If the loan proceeds were used for necessary and allowable expenses and you confirm the taxpayer cannot further access (borrow against) the account given the outstanding loan, the value of the account should be the equity remaining in the plan less the amount of the loan. If the loan proceeds were not used for necessary and allowable living expenses, determine if the provisions of <i>IRM 5.8.5.18, Dissipation of Assets</i> apply.
The plan includes a stock option	The taxpayer is eligible to take the option	Equity is the value of the stock at current market price less any expense to exercise the option.

When the taxpayer/spouse are retired or close to retirement age, and you'd like to exclude retirement assets equity from calculations, and instead include it as income, use **Life Expectancy tables** from [Publication 590-B, Distributions from Individual Retirement Arrangements](#).

Retirement Plan as Income Example

Taxpayer is 68 years old, and his only income is SS benefits of \$2,850 per month. The Collection Information Statement shows that his necessary monthly expenses are \$3,100. Taxpayer owes \$50,000 to the IRS and has an IRA of \$50,000. Appendix B (Single Life Expectancy Table) found in Publication 590-B for a 68-year-old person is 20.4 years. Every month there is a deficiency of \$250 ($\$2,850 - \$3,100$). Let's multiply $\$250 \times 12 \text{ months} \times 20.4 \text{ years}$ and we'll get \$61,200. Therefore, instead of including \$40,000 in RCP for OIC purposes ($\$50,000 \times 80\%$), we'll recharacterize IRA as monthly income of \$250 to close the gap between monthly income and necessary monthly expenses, and completely exclude \$40,000 from RCP.

Real Property

When determining equity in real estate, FMV of the property must be established. FMV is defined as the price a willing buyer will pay for the property in an arm's length transaction with full knowledge of the relevant facts based on the property's current condition and use. The following methods may be used to establish FMV:

- Recent purchase price or an existing contract to sell
- Recent appraisals
- Real estate tax assessment
- Market comparable
- Homeowners insurance replacement cost
- Observation

The IRS verifies declared FMV of the real estate property through internal research of Accurint or other online real estate database, like Zillow, value listed on the real estate tax assessment statements, market comparable and recent purchase price. If internal research does not provide an accurate valuation, the OE/OS may request additional documentation including: an existing contract to sell, recent appraisals or homeowner's insurance policy.

Taxpayers will not be required to pursue equity in real property if borrowing on the equity in the property or selling the property will impose an economic hardship (IRM 5.15.1.30.3.). But this is not applicable to Offer in Compromise cases based on Doubt as to Collectibility. However, for ETA offers or DATC offers with Special Circumstances reduction of some or all of the real property equity is possible.

Life Insurance Policies

Include only Life Insurance policies with cash value. Term Life Insurance does not have any cash value. Reasonable premiums for term life insurance policies may be allowed as a necessary expense. If the taxpayer has a Whole Life or Universal Life policy, then a reasonable amount of the premiums may be allowed which is attributable to the death benefit of the policy. This may be determined by reviewing policy statements.

Personal Vehicles

Use Kelley Blue Book (www.kbb.com) to find out the FMV of personal vehicles.

In Offer in Compromise cases exclude \$3,450 per car from Net Realizable Equity (NRE) of vehicles owned by the taxpayer(s) and used for work, the production of income, and/or the welfare of the taxpayer's family (2 cars for joint taxpayers and 1 vehicle for a single taxpayer) pursuant to IRM 5.8.5.12. Remember, you cannot reduce NRE below \$0, if exclusion of \$3,450 results in negative number, use \$0 as NRE for that vehicle. For joint taxpayers reduce NRE of each vehicle by \$3,450, do not reduce combined NRE of both vehicles by \$6,900. In other words, negative value of 1 vehicle will not offset positive value of another vehicle.

Example: If NRE of Vehicle 1 is \$3,000 and NRE of Vehicle 2 is \$6,000 for a married couple, adjusted value of personal vehicles will be $(\$3,000 - \$3,450)$, but not below zero + $(\$6,000 - \$3,450) = \$2,550$. If you would reduce combined NRE of both vehicles by exclusion for 2 vehicles, you will get $(\$3,000 + \$6,000) - \$6,900 = \$2,100$ and it is incorrect.

When taxpayers own older vehicles without outstanding loan balances or NRE of the vehicle is too high, advise taxpayers trading-in older vehicle to a newer one to get additional allowable expense (up to \$629 is allowed in 2023). Recently purchased vehicles with loan balance rarely have any equity, because a new purchase will lose value as soon as you drive it off the lot.

Furniture and Personal Effects

For Furniture and Personal Effects don't forget to exclude from equity statutory exemption from levy under IRC 6334(a)(2). In 2023 this amount is \$10,810. This statutory exemption is updated annually, make sure to use updated values every year.

Since March 2018 value of Furniture and Personal Effects is required for inclusion in Offer in Compromise calculations, something that was not previously required.

Business Assets

Reduce the value of property exempt from levy under IRC 6334(a)(3) (books and tools necessary for the trade, business, or profession of the taxpayer) by \$5,400 for 2023. This amount is updated annually, so make sure you get the correct amount each year.

If a business asset or a portion of an asset is necessary for the production of income and you are preparing Offer in Compromise case, adjust equity calculation for that asset accordingly pursuant to IRM 5.8.5.15 as an income-producing asset.

Note: Real estate assets cannot be excluded as an income-producing asset!

Compare the value of the income stream produced by the income-producing asset(s) to the equity that is available. Consider the impact on the viability of the business if the assets are liquidated. If assets are used as collateral to secure a loan or income-producing assets are liquidated, make the appropriate adjustment to the income and expense analysis.

Business Income and Expenses

Use the prior 3-, 6-, 9- or 12-month period to determine typical business income and expenses. You may average 6-12 months' income/expenses to determine Gross monthly income and monthly expenses.

Instead of entering detailed business income and expenses on Collection Information Statements you can attach current Profit & Loss Statement and enter only Gross Monthly Income, Gross Monthly Expenses and Net Business Income.

Note: Deduction for non-cash expenses (e.g. depreciation, depletion, amortization, etc.) are not permitted as an expense for Offer in Compromise purposes and must be added back to the net income figure.

Individual Monthly Income and Expenses

This is the section where MOST mistakes/omissions are made.

Include only MONTHLY income and expenses. If you have data based on other time periods, convert it to monthly amounts. E.g. Interest/Dividend amounts reported on annual Forms 1099-B should be divided by 12.

Know what expenses are allowable. Allowable expenses consist of necessary and conditional expenses. A necessary expense is one that is necessary for the production of income or for the health and welfare of the taxpayer's family. Conditional expenses are those that may be allowed when the tax will be paid in full by an installment agreement within 6 years (*e.g. payroll savings plans, purchase of whole life policies, mutual funds, or voluntary retirement plan contributions*). Refer to [IRM 5.15.1 Financial Analysis Handbook](#) for a detailed description of allowable and not allowable expenses and to [IRM 5.8.5 Financial Analysis](#) for a detailed description of allowable and not allowable expenses for Offer in Compromise cases.

Make sure you know national, local and regional standards for applicable expense categories. Don't let IRS officers determine the Reasonable Collection Potential without you understanding it yourself. And remember, National, regional and local expense standards are just guidelines. If it is determined a standard amount is inadequate to provide for a specific taxpayer's basic living expenses, a deviation is allowed.

Food, Clothing and Miscellaneous Deviation Example

National Standard Expense amount is \$1,100. The taxpayer's actual expenditures are: housekeeping supplies - \$100, clothing - \$100, food - \$700, personal care products - \$100, and miscellaneous - \$200 (Total Expenses - \$1,200). The taxpayer is allowed the national standard amount of \$1,100 unless the higher amount is justified as necessary. In this example the taxpayer has claimed a higher food expense than allowed. Justification would be based on prescribed or required dietary needs. The taxpayer must substantiate and verify only the food expense. The taxpayer is not required to verify expenses for all five categories if a higher expense is claimed for one category. The standard amounts will be allowed for the remaining categories.

Housing & Utilities Deviation Example

The taxpayer is living in a home with a \$2,250 monthly housing expense, including utilities. The present fair market value of the house is approximately equal to the mortgage balance. The local standard allowance is \$1,800 per month. If the taxpayer remains in his home, income and expenses are approximately equal, leaving no disposable income in the calculation of future income value. If the taxpayer is unable to restructure their mortgage payment and the equity in the property is insufficient to pay the costs of selling their current home, related moving expenses, and purchasing or renting a new home that would allow for monthly payments within the national standard, the taxpayer may be allowed a housing amount that exceeds the standard.

Vehicle Operating Expenses

In situations where the taxpayer has a vehicle that is currently over 8 years old or has reported mileage of 100,000 miles or more, an additional monthly operating expense of \$200 will generally be allowed per vehicle (up to two vehicles when a joint offer is submitted). If the vehicle(s) meets the age and/or mileage threshold, written documentation would not be required to determine the exact additional operating costs, unless additional allowance exceeds the \$200 provided.

HELOC Repayment

Repayment of loans incurred to fund the offer and secured by the taxpayer's assets will be allowed, if the asset is necessary for the health and welfare of the taxpayer and/or their family, i.e. taxpayer's residence, and the repayment amount is reasonable. The same rule applies whether the equity is paid to IRS before the offer is submitted or will be paid upon acceptance of the offer.

Business Overhead Expense Insurance

Business overhead expense insurance covers the costs of running your business when you can't work or pay the costs because of a disability. It is a viable expense for many business owners, including self-employed individuals who are responsible for 20% or more of the expenses of business with a minimum of 30 hours of work per week. Premiums depend on overhead expense of the business like rent, employee salaries, utilities, office supplies, etc. Recommend taxpayers to get BOE Insurance if business or self-employed income requires a downward adjustment.

Education Expenses

Education expenses will be allowed only for the taxpayer and only if they are required as a condition of present employment. Expenses for dependents to attend colleges, universities, or private schools will not be allowed unless the dependents have special needs that cannot be met by public schools.

Delinquent State and Local Taxes

Calculate the dollar amounts for IRS and state or local payments based on the total liability owed to each agency (including penalties and interest to date).

Example:

The taxpayer owes the state \$20,000 and owes the IRS \$100,000, a total of \$120,000 (\$20,000/\$120,000 = 17%; \$100,000/\$120,000 = 83%). The taxpayer has disposable income of \$300 per month. A monthly payment to the State Taxing Authority of \$51 may be allowed until the debt is retired. See the If/Then table below for examples.

- Seventeen percent (17%) of \$300 = \$51
- Eighty-three percent (83%) of \$300 = \$249

Defaults for Tax Resolution Options

Refer to the table below for defaults used for each tax resolution option, in other words, whether actual or IRS standard amount is acceptable by the IRS for each expense category.

Resolution purpose	Food, Clothing and Miscellaneous	Housing and Utilities	Vehicle Ownership Costs	Vehicle Operating Costs	Public Transportation	Out of Pocket Health Care Costs
Offer in Compromise Doubt as to Collectibility	N	LOSA	LOSA	LOSA	GOSA*	GOSA
Offer in Compromise Effective Tax Administration	GOSA	A	A	A	GOSA*	GOSA
Streamlined IA – Liability under \$50,000	GOSA	A	A	A	GOSA*	A
“6-year” Full Pay IA	GOSA	A	A	A	GOSA*	GOSA
“1-year Rule” IA	GOSA	A	A	A	GOSA*	GOSA
Full Payment over Remaining Statute IA	N	LOSA	LOSA	LOSA	GOSA*	GOSA
Partial Pay IA	N	LOSA	LOSA	LOSA	GOSA*	GOSA
CNC Status “53”	N	LOSA	LOSA	LOSA	GOSA*	GOSA

N – National Standard

L – Local or Regional Standard

A – Actual Expense

LOSA – Lower of the applicable Standard or Actual expense

GOSA - Greater of the applicable Standard or Actual expense

GOSA* - Greater of the applicable Standard or Actual expense, conditional.

Condition: If Vehicle Operating Costs is greater than \$0 you must substantiate Public Transportation expenses and use actual expenses only.

For all other expense categories, use Actual expenses and make sure to provide supporting documentation. Remember, not all expenses are allowable for all resolutions. Refer to [IRM 5.15.1 Financial Analysis Handbook](#) for a detailed description of allowable and not allowable expenses and to [IRM 5.8.5 Financial Analysis](#) for a detailed description of allowable and not allowable expenses for Offer in Compromise cases.

Acronyms

ACS – Automated Collection System

ACSS – Automated Collection System Support

CIS – Collection Information Statement

CNC – Currently Not Collectible or Status 53 case

CSCO – Compliance Services Collection Operations

DDIA – Direct Debit Installment Agreement

FA – Field Assistance

FMV – Fair Market Value

IA – Installment Agreement

NRE – Net Realizable Equity

NSIA – Non-Streamlined Installment Agreement

OIC – Offer in Compromise

PPIA – Partial Pay Installment Agreement

RCP – Reasonable Collection Potential

QSV – Quick Sale Value

Case Study 2: Offer in Compromise with Self-Employed Individual

Michael Woods owns a self-employed business designing, manufacturing, and installing custom-built closets for residential and commercial customers in New Jersey. He is a perfect example of being hit by a housing crisis of 2007-2008, as his product sales directly correlate with the housing market. He was not able to make ends meet and got into tax debts. Michael now owes about \$75,000 in tax, interest and penalties and doesn't want to pay his debt all his life. Michael has suffered from a glaucoma and had 4 eye surgeries in the last few years, but still lost 50% vision in one of his eyes. Since he is the one who designs the closets using computer programs and needs good vision to do so, his business is also affected by this health problem. His wife Amy recently lost a job as a teacher and after a few months trying to find a job and failing at it, decided to open a small childcare business in their garage. They invested all the money that they had to remodel the garage. Given the facts below, check if you can help Michael and Amy to get rid of the tax debt quickly and get back on their feet.

Residence and Dependents

- Michael is 46 and Amy is 42
- They live in Allentown, NJ (Monmouth County)
- They have 2 sons, 16 and 18 who both live with them and claimed as dependents on their MFJ return
- Older son is about to go to a local college

Assets

- Michael and Amy have a joint checking account in Wells Fargo with a balance of \$2,800.
- Amy has a 403(b) account at T Rowe Price with a gross value of \$4,500.
- They own a house with a FMV of \$656,000 and a mortgage balance of \$585,050.
- Michael owns 2011 Land Rover with a FMV of \$22,800 and loan balance of \$27,000.
- Amy owns 2002 Mercedes ML500 with a current FMV of \$2,000 and owned outright.
- Son Peter owns 1998 Chevrolet Tahoe with a FMV of \$500 (Michael is a co-signer on the purchase agreement due to son's age)
- Son Michael Jr owns 2002 Ford Mustang with a FMV of 600 (Michael is a co-signer on the purchase agreement due to son's age)

Business Assets

- His self-employed business has checking and savings accounts with \$250 and \$200 balances respectively at the end of the month

- Michael owns a building that he uses as a production facility and a showroom, FMV is \$80,000 and mortgage balance is \$64,000.
- 2005 GMC Savana Cargo Van with a FMV of \$1,800 and no loan balance
- Amy has a business checking account with a balance of \$160

Income

- Closet business grosses monthly \$24,300
- Amy's business grosses monthly \$5,400

Monthly Expenses

- Michael's business monthly expenses are \$15,200
- Amy's business monthly expenses are \$3,900
- Food & Clothing - \$1,500
- Mortgage - \$4,900
- Electricity - \$550
- Gas - \$300
- TV & Internet - \$250
- Phone - \$20
- Michael's car payment - \$545
- Vehicle Operating expenses - \$530 Amy's and \$630 Michael's
- Health Insurance - \$1,820
- Out of pocket healthcare - \$300
- Term Life insurance - \$75 and \$80 for both spouses
- Estimated taxes - \$830

return or they did in fact comply and were not subject to any penalty on a module on which a penalty abatement was input with PRC 018, 020, or 021, consider the taxpayer compliant for that module. **NOTE:** If a MFT 06, 07, or 08 module for the first tax year beginning after December 31, 2015, and before January 1, 2017, contains a penalty abatement input with PRC 018 (or 020) AND a TC 971 with Action Code 199 stating **PER NOTICE 2017-47**, disregard the penalty reversal that was input with PRC 018 (or 020). Public Law 114-41 changed the due date of returns processed on MFTs 06, 07, and 08 from the fifteenth day of the fourth month following the close of the taxable year to the fifteenth day of the third month following the close of the taxable year for tax years beginning after December 31, 2015. Notice 2017-71(which superseded Notice 2017-47) provides penalty relief for the first return due for a taxable year beginning in 2016 that would have been timely if not for the due date change. The Notice also provided that taxpayers qualifying for relief would not be treated as having received a first-time abatement. A TC 971 with Action Code 199 stating **PER NOTICE 2017-47** was input on all modules meeting relief criteria, however, some penalties were incorrectly abated with PRC 018 (or 020) prior to input of the TC 971.

5. When determining if FTA criteria are met for penalties assessed on MFT 30 or 31, the taxpayer(s) must meet FTA criteria for the three years preceding the penalized tax period for returns required to be filed as a primary and secondary taxpayer, if applicable. **EXAMPLE:** If the filing status of the return on the penalized period is Married Filing Joint and the required returns in the preceding 3 years were not filed under the same primary SSN and with the same filing status and same primary and secondary SSNs, FTA criteria for both SSNs must be met. **EXAMPLE:** If the filing status on the return on the penalized period is other than Married Filing Joint and the taxpayer filed, or was required to file, as a secondary taxpayer during the preceding 3 years, FTA criteria must be met for the returns on which the taxpayer was reported, or was required to be reported, as the secondary taxpayer on a joint return.
6. In addition to the criteria in paragraph (4), FTA criteria will not be met on BMF accounts if any of the following is true:
 - a. A total of four or more FTD penalty waiver codes are present in the taxpayer's three-year penalty history. Waiver Code 24 is set when the FTD penalty is waived due to a change in deposit frequency. Waiver Code 25 is set when the FTD penalty is waived per IRM 20.1.4.3, Restrictions on Assessments, criteria. Waiver codes, if posted, are shown in Command Code (CC) BMFOL definer R with the literal FTD PEN WAIVER CD. **NOTE:** Some employers with COVID-19 credits that filed Form 941 for tax period ending June 30, 2020 followed directions per Notice 2020-22, Relief from Penalty for Failure to Deposit Employment Taxes, and also existing instructions for Form 941 and Schedule B when reporting their liabilities. This caused some employers to incur an FTD penalty. Due to this issue, disregard Waiver Code 25 for MFT 01 for tax period ending June 30, 2020 when determining if FTA criteria are met.

- e. Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business
- f. Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts
- g. Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner
- h. Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations (See IRM 20.1.9 for exception.)
- i. Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business (See IRM 20.1.9 for exception.)

9. FTA is an administrative waiver and does not carry any oral statement authority (OSA) threshold. See *IRM 20.1.1.3.1*, Unsigned or Oral Requests for Penalty Relief, for OSA guidelines.

10. As stated in paragraph (2), penalty relief under the FTA waiver only applies to a single tax period. Further, penalty relief under the FTA waiver only applies to a tax period for which the qualifying criteria in paragraphs (4)-(6), as applicable, have been met. In addition, the FTA waiver is not applicable based solely on a taxpayer's first request for penalty relief.

EXAMPLE: If a Form 941 filer was compliant for calendar years 2013, 2014, and 2015 but made late deposits and was assessed FTD penalties on all 4 2016 tax periods, FTA criteria can only be met and the waiver applied to the tax period ended 201603. Reasonable cause criteria must be met for tax periods 201606, 201609, and 201612.

EXAMPLE: If the same Form 941 filer was not compliant during calendar year(s) 2013, 2014, and/or 2015 but didn't request penalty relief for those years and their first request for penalty relief is for the 4 FTD penalties on their 2016 returns, penalty relief under the FTA waiver is not appropriate for any of the 2016 penalties.

11. An FTA waiver is not penalty-specific. In other words, if the taxpayer has any unreversed penalties (except an ES penalty) on a module in the three-year look-back period, or any penalties reversed with PRC 018, 020, or 021, the FTA waiver does not apply to any penalty on the module under consideration.

EXAMPLE: If a taxpayer was assessed an FTD penalty and no other penalties on Form 941 for tax period 201703 and a review of the three-year look-back period shows an unreversed FTP penalty ≡≡≡≡≡≡≡≡≡≡ (and a notice was issued), or the FTP penalty was removed with PRC 018, 020, or 021, the FTA waiver does not apply for 201703 tax module.

12. Per *IRM 20.1.1.3*, Criteria for Relief From Penalties, penalty relief under Administrative Waivers, including FTA, is to be considered and applied before reasonable cause. If FTA criteria are met, the FTA waiver will be applied before reasonable cause and the taxpayer must be notified that we removed their penalty or penalties based on their prior history

of compliance and not based on their reasonable cause statement. **CAUTION:** Do not provide relief under the FTA waiver if there is clear and convincing evidence that the taxpayer did in fact comply and is not subject to any penalties or if the penalty or penalties is/are the result of an IRS error. Take appropriate corrective actions that will result in systemic reversal of the penalty or penalties. If the module is restricted from removing the penalty or penalties systemically or the penalty or penalties is/are clearly the result of an IRS error then input the penalty abatement transaction(s) with penalty reason code (PRC) 045.

13. When penalty relief under the FTA waiver is granted, notify the taxpayer that the penalty or penalties have been removed based on their prior history of compliance and not based on a reasonable cause explanation provided, if applicable. Correspondence Letters nce68C, 3502C (RCA only), and 3503C (RCA only), as well as ICS (integrated collection system) macro letters 4722, 4723, and 4724, contain appropriate paragraphs to use for this notification requirement. The following is an example of this paragraph:

EXAMPLE: *We approved your request to remove the penalties. However, we only granted penalty relief because you have a good history of filing and paying on time. This type of penalty removal is only available once. We will base our decisions to remove any future penalties on reasonable cause criteria.*

NOTE: When applicable, include an explanation that educates the taxpayer how to be compliant in the future. Examples of when an explanation may not be applicable include deceased taxpayers and telephone contacts during which an explanation was provided verbally.

14. If the tax is not paid in full on the module that meets FTA criteria, allow abatement of the FTP penalty under the FTA waiver and use reason code **(RC) 062** with the TC 271. While the FTA waiver is an administrative waiver and not reasonable cause, the **RC 062** will not restrict Master File from continuing to compute the FTP penalty on the unpaid tax and is to be used in this instance only. **NOTE:** An open paragraph must be used in Correspondence Letters 168C, 3502C, and 3503C to inform the taxpayer that the FTP penalty will continue to apply to the unpaid tax. After the tax is paid in full, the additional FTP penalty can be removed under the FTA waiver. **CAUTION:** If the tax is paid in full or the taxpayer has agreed to pay the balance owed immediately upon receipt of notice of abatement of the penalty (see IRM 20.1.2.2.4.1(9), Penalty Abatements and Re-assessments), allow abatement or suppression of the assessed amount of FTP penalty (i.e., input TC 270 for \$0.00 if the module only reflects accrued FTP). On IMF modules, use RC 065.

15. Per *IRM 20.1.1.5.1*, Master File Penalty Reason Codes, a PRC is required when abating an assessed penalty or suppressing a penalty that is otherwise applicable. The FTA waiver carries its own PRCs as follows:

- **PRC 018** - To be used when an independent determination of the taxpayer's eligibility for penalty relief under the FTA waiver is made. This includes situations where RCA is used but RCA did not determine FTA criteria have been met.
- **PRC 020** - To be used when RCA is used and RCA displays a message indicating the module under review meets FTA criteria. This includes situations where RCA

displays a message indicating one or more modules in the three-year history have been moved to the retention register and manual review of the module(s) moved to the retention register confirms FTA criteria have been met or review of a module under a secondary or cross reference TIN confirms FTA criteria have been met.

16. Taxpayers are not required to specifically request penalty relief under the FTA waiver to be eligible for the waiver. If one or more penalties eligible for relief under the FTA waiver remain after all account discrepancies have been corrected, and/or are being proposed in the course of an examination, abatement or suppression of the penalty or penalties should be made if all FTA criteria have been met.

Penalty Abatement after RSED Expiration

Under IRC 6511 (Limitations on credit or refund) Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid.

IRM 25.6.1.10.2.7 (10-03-2022)

Claims for Credit or Refund – General Time Period for Submitting a Claim

1. The period for filing a claim for credit or refund has two prongs:
 - First, a date by which a claim must be filed with the Service, and
 - Second, a limitation on the amount that may be claimed that is determined by "looking back" from the date of the claim to an earlier payment date.
2. The following chart will help you in determining general claim rules governing a refund claim: **CAUTION:** These are the general rules. There are many exceptions for which taxpayers have a longer timeframe to file a claim. Do not disallow a claim for failing to meet the general rules until you have considered whether any exceptions may be applicable.

RETURN FILED	CLAIM FILED	MAXIMUM AMOUNT OF REFUND OR CREDIT ALLOWABLE
On or before due date	Within 3 years from due date of return	Tax paid during the period immediately preceding filing of claim equal to 3 years plus any extensions of time for filing. IRC 6511(b)(2)(A). Advance payment is considered as being made on due date. IRC 6513(a).
On or before due date	More than 3 years from due date of return	Tax paid during the 2 years immediately preceding filing of claim. IRC 6511(b)(2)(B).
On or before due date	None	If refund or credit is allowed within 3 years of when return was filed, amount allowable is the tax paid during the period immediately preceding the date credit or refund is allowed equal to 3 years plus any extensions of time for filing. If refund or credit is allowed more than 3 years from the date the return was filed, the amount allowable is the tax paid within 2 years preceding the date the credit or refund is allowed. IRC 6511(b)(2)(C). IRC 6511(b)(2)(C). Advance payment is considered made on due date. IRC 6513(a).
After the due date	It is within 3 years from filing of return	Tax paid during the period immediately preceding filing of claim equal 3 years plus any extensions of time for filing can be refunded. IRC 6511 (b)(2)(A).
After the due date	It is more than 3 years from filing of the original return	Tax paid during the 2 years immediately preceding filing of claim can be refunded. IRC 6511(b)(2)(B).
After the due date	None	Tax paid during the period immediately preceding filing of the return equal to 3 years plus any extensions of time for filing.
None (e.g., deficiency assessment)	Within 2 years from the date the tax was paid	Tax paid during 2 years immediately preceding filing of claim. IRC 6511(b)(2)(B).
None (e.g., deficiency assessment)	None	Tax paid during the 2 years immediately preceding allowance. IRC 6511(b)(2)(C).

NOTE: If the taxpayer requests an adjustment that does not create an overpayment, then IRC 6511 **DOES NOT** apply. This is considered a request for abatement of tax still owed.