IRM PROCEDURAL UPDATE

DATE: 06/10/2015

NUMBER: SBSE-05-0615-0995

SUBJECT: Various Changes for Financial Analysis

AFFECTED IRM(s)/SUBSECTION(s): 5.19.13

CHANGE(s):

IRM 5.19.13.1(8) (c) Securing Financial Information, added reference to SERP Who/Where, Form 4442 Referral Fax Numbers.

8. When toll free contact is made on a financial case with an **open IDRS control in ACSS or CSCO,** advise the taxpayer to:
    a. **Contact the tax examiner whose name and number was provided on the notice.**
    b. **Do not** allow additional time without contacting the person with the open control.
    c. If you can resolve the case **based upon the controlling person's history and the taxpayer providing the required information**, fax a Form 4442, *Inquiry Referral*, to the controlling tax examiner advising them of the closing action. USE the fax number per SERP Who/Where, Form 4442 Referral Fax Numbers.
    d. **DO NOT** request the taxpayer provide additional information that has **not** been requested by the person with the control base, such as bank statements, pay stubs etc.

IRM 5.19.13.1.2.1(3) (f) Shared Expenses, removed Note and added link to IRM 5.19.13.1.5, Full Payment in Six (6) Years (6 Year Rule).

3. Regardless of whether community property laws apply, secure sufficient information concerning the non-liable person to determine the taxpayer's proportionate share of the total household income and expenses. Review the entire household's information and:
    a. Determine the total actual household income and expenses.
    b. AMS will compute what percentage of the total household income the taxpayer contributes.
    c. Input all allowable household expense amounts on AMS.
    d. Determine which expenses are shared and which expenses are the sole responsibility of the taxpayer (uncheck shared expense box(es) for those expenses which are the liable spouse’s sole responsibility).

EXAMPLE: Child support, allowable educational loan, union dues.

NOTE: The National Out-of-Pocket Health Care Standard allowed would be the above calculated percentage multiplied against the Out-of-Pocket Health Care Standards for the household or the Out-of-Pocket Heath Care Standard for one person, whichever is greater. However, in all allowable expenses except the National Standards, the liable spouse can only claim the amount they actually pay.

e. AMS will apply the taxpayer's percentage of income to the overall shared expense amount.
f. Expenses claimed for national and local standards are allowed up to the maximum standard amounts without verification. Verification and **substantiation is only required when expense amounts exceed the standard amount, and consideration of the amount will be given once substantiated.** See IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.
g. Do not allow the taxpayer any amount paid toward a non-liable person's discretionary expenses.

CAUTION: If an internal verification is conducted on the non-liable person, this information cannot be provided to the taxpayer. This is not an Unauthorized Access (UNAX) violation if duties require the inspection or disclosure of this information for tax administration purposes. However, it is a disclosure violation under IRC 6103 if any information is shared with someone other than the non-liable person in question, unless consent to disclose the information is obtained from the non-liable person.

IRM 5.19.13.1.2.2(3) Allowable Living Expenses, revised Note to include link to IRM 5.19.13.1.5, Full Payment in Six (6) Years (6 Year Rule).

3. ALE standards are guidelines. If it is determined a standard amount is inadequate to provide for a specific taxpayer’s basic living expenses, allow the higher expense with substantiation. All expenses allowed that exceed the National and Local Standards must be verified, reasonable and documented on AMS. Request substantiation of amounts **only** if they are going to be allowed.

   NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

IRM 5.19.13.1.2.3(3) National Standards: Food, Clothing and Other Items, revised Note to include link to IRM 5.19.13.1.5, Full Payment in Six (6) Years (6 Year Rule).

3. Allow taxpayers the national standards amounts for their family size without questioning the amount actually spent. For additional information, refer to the SB/SE Allowable Expense Lookup Tool. Substantiation is **only** required **IF** the taxpayer claims more than the national standards amounts **and** consideration is being given to allowing the additional expense.

   NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

   NOTE: When securing financial information related to national standards, first provide the taxpayer with the total national standard we can allow. Tell the taxpayer this includes expenses for:

   - Food,
   - Housekeeping supplies,
   - Apparel and services,
   - Personal care products and services, and
   - Miscellaneous items.

   Ask the taxpayer if they expend more then the maximum allowed. If the taxpayer does not expend more, you do not have to go through each expense item. Just allow the total maximum standard. If the taxpayer does not expend more than the total national standard, input the total amount claimed by the taxpayer in the food box on AMS. If the taxpayer states they expend more than the overall national standard, you must cover each individual standard, and record on the AMS financial screen. If the total amount claimed for all five categories is more than the total national standards, the taxpayer must only substantiate those individual expenses exceeding the standard.

   EXAMPLE: The National Standard is $1,100; the taxpayer's expenses are:

National Standard Expenses ...	Taxpayer's Claimed Expenses ...
Housekeeping supplies	$100
Clothing	$100
Food	$500
Personal Care Products	$100
Miscellaneous	$200

   The total taxpayer expenses being claimed equal $1,000.
   We are required to allow the maximum National Standard of $1,100 in this scenario, even though the amount claimed was less.

   EXAMPLE: The National Standard is $1,100; the taxpayer's expenses are:

National Standard Expenses ...	Taxpayer's Claimed Expenses ...
Housekeeping supplies	$100

Clothing	$100
Food	$700
Miscellaneous	$200
Personal care	$100

The total taxpayer expenses claimed equal $1,200.
We can only allow the National Standard of $1,100, unless the expenses claimed over the National Standard, in this case the food expense, are reasonable and substantiation is received that justifies the additional expense. (See example in next paragraph.)

IRM 5.19.13.1.2.4(6) National Standards: Out-of-Pocket Health Care Expenses, revised Note to include link to IRM 5.19.13.1.5, Full Payment in Six (6) Years (6 Year Rule).

6. Taxpayers with *no health insurance* that claim more than the total allowed by the out-of-pocket health care standard, may also be allowed more than the standard if they provide documentation to substantiate and justify the additional expenses.

   NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

IRM 5.19.13.1.2.5(2) Local Standards for Determining Expenses, revised Note to include link to IRM 5.19.13.1.5, Full Payment in Six (6) Years (6 Year Rule).

2. Unlike the national standards, the local standards for housing, utilities and transportation normally serve as a cap. As a general rule, the taxpayer is allowed the lesser of the local standard or the amount actually paid.

   NOTE: A taxpayer claiming more than the total allowed by the local standards must substantiate any expenses exceeding the standard amount that does not meet the necessary expense test - **but only if the amount substantiated will be considered once substantiated.** All expenses exceeding the local standards must be documented on AMS Substantiation screen. Consider the information provided on the Form as well as information obtained verbally.

   EXAMPLE: The local standard for housing and utility expenses for a taxpayer is $1,889. The taxpayer claims and substantiates expenses meeting the necessary expense test totaling $2,100 per month. Allow $2,100 per month when completing the financial statement input.

NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

IRM 5.19.13.1.2.5.2(6) & (9 - 12) Transportation Expenses, revised Note to include link to IRM 5.19.13.1.5, Full Payment in Six (6) Years (6 Year Rule).

6. When determining the allowable transportation amounts, you only allow the actual expenses being paid by the taxpayer or the maximum standard which ever is less for both ownership and operating costs. Substantiation for either ownership or operating expenses is not required unless the amount claimed exceeds the maximum standard allowed.

   NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

7. Additional considerations for ownership and operating costs are:
   a. A single taxpayer is allowed ownership and operating costs for only one vehicle.
   b. If a husband and wife own two vehicles, they are allowed the amount claimed for each vehicle up to the maximum allowances for ownership and operating expenses.

      NOTE: On a shared expense calculation, if the liable taxpayer pays the ownership costs from their separate funds, they are allowed the total ownership costs (and the shared expense box must be unchecked). If the ownership costs are not coming from separate funds the shared percentage applies to the ownership of both cars (and the shared expense box must remain checked). In both situations, the operating cost of all cars are applied the shared percentage.

   c. If a self-employed taxpayer is claiming car/truck expenses on Schedule C, *Profit or Loss From Business*, ensure the same expenses are not also included under personal expenses; it may be necessary to include only a portion of the expenses attributed to personal use under allowable transportation expenses. Excessive expenses may not be allowed for that vehicle.
8. If a taxpayer has a car, but no car payment is checked on the AMS Asset screen as a necessary expense, only the operating costs portion of the transportation standard is used to figure the allowable transportation expense. The taxpayer is allowed the amount actually spent or the standard, whichever is less.
9. If a taxpayer does not own a car, there is a single nationwide allowance for public transportation; this allowance is established as a "floor" for individuals with no vehicle. Taxpayers with no vehicle are allowed the standard, per

household, without questioning the amount actually spent. The taxpayer is not required to provide documentation unless the amount claimed exceeds the standard.

NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

10. If a taxpayer owns a vehicle and uses public transportation, both ownership and operating expenses may be allowed, along with public transportation, provided they are needed for the health and welfare of the individual or family, or for the production of income; however, the expenses allowed are the **actual** expenses incurred. Documentation is not required unless the amount claimed exceeds the standards.

    EXAMPLE: If a taxpayer takes a train to work, but drives a vehicle from home to the train station, the actual expenses incurred for vehicle ownership and operating costs, and the actual cost for train fare, are allowable.

    NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

11. If a taxpayer claims higher amounts of operating costs because they commute long distances to reach their place of employment, they may be allowed more than the standard.

    REMINDER: The additional operating expense would generally meet the production of income test and therefore be allowed if the taxpayer provides substantiation.

    NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

12. If the amount claimed is more than the total allowed by any of the transportation standards, the taxpayer must provide documentation to substantiate that those expenses are necessary. All transportation standards above the maximum amount must be substantiated, reasonable and will be documented on AMS on the Substantiation screen.

    NOTE: If the tax liability including projected accruals can be paid in six (6) years and within the CSED, see IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)* for further guidance.

IRM 5.19.13.1.2.6 Other Necessary Expenses, added clarifying Note to identify states without income tax.

1. Other necessary expenses may be considered if they meet the necessary expense test; **they must provide for the health and welfare of the taxpayer and/or their family, or they must be for the production of income**. This is determined based on the facts and circumstances of each case.
2. There may be circumstances where expenses may be allowed even if they do not meet the necessary expense test. If the IRS tax liability, including accruals, can be paid within six years and within the CSED, all expenses may be allowed if they are reasonable. See IRM 5.19.13.1.5, *Full Payment in Six (6) Years (6 Year Rule)*. If the taxpayer cannot pay within six years, it may be appropriate to allow the taxpayer up to one year in order to modify or eliminate one or more expenses. See IRM 5.19.13.1.6, *Eliminating Excessive Expenses Within One Year*.
3. The following are examples of some expenses that may be determined other necessary expenses:

Expense	Expense is Necessary	Notes/Tips
Accounting and legal fees,	1. Representation before the Service (i.e., to resolve current balances due, delinquent returns, examinations, etc.). 2. The fees must meet the necessary expense test. 3. The amount should not be excessive and must be reasonable given the complexity of the case. **NOTE:** An accountant will charge less for a wage earner with all returns filed that just needs the collection paperwork completed, than he/she would charge for a self-employed individual that needs several returns prepared along with the collection paperwork. 4. Fees vary across the country so allowable amounts may also differ depending on where the	1. Fees related to business operations (i.e., reported on Schedule C, *Profit or Loss From Business*) should not be claimed as personal expenses.

	taxpayer lives.	
Charitable contributions, **EXAMPLE:** Donations to tax exempt organizations.	Meets the necessary expense test or is a condition of employment, **EXAMPLE:** A minister is required to tithe according to his employment contract.	1. Disallow any other charitable contributions not considered necessary. 2. Review the employment contract
Child Care, **NOTE:** Baby-sitting, day care, nursery, and pre-school.	1. Meets the necessary expense test; only reasonable amounts are allowed. 2. Costs of child care can vary greatly; do not allow unusually large child care expenses if more reasonable alternatives are available.	Ask how old the child is. **NOTE:** Find out if the taxpayer's spouse is employed.
Court-ordered Payments (Alimony, child support, including orders made by the state, and other court ordered payments),	1. If alimony and child support payments are court-ordered, reasonable in amount, and being paid, they are allowable. 2. If payments are not being made, do not allow the expense unless the nonpayment was due to temporary job loss or illness. 3. Restitution payments made to other victims pursuant to a court order are allowable expenses. If alimony and child support payments are court ordered, reasonable in amount, and being paid, they are allowable.	Review the court order. Payments that are included in a state court order are not necessarily allowable (such as a child's college tuition that would not otherwise be allowable as a necessary expense.) **NOTE:** Court-ordered payments may include conditional expenses that are not classified as alimony or child support, such as private school, college tuition, dance lessons, etc. Apply the same rules as other conditional expenses, as these must be considered reasonable and may or may not be allowed.
Dependent Care, **EXAMPLE:** For the care of the elderly, invalid or handicapped.	Considered necessary if there is no alternative to the taxpayer paying the expense.	**Intentionally left blank**

Education,	1. Required for a physically or mentally challenged child and no public education providing similar services is available. 2. Allowed only for the taxpayer and only if required as a condition of employment.	**EXAMPLE:** A teacher whose employment is conditional upon completion of a graduate program.
Involuntary Deductions,	Union dues, uniforms, work shoes, etc. that are a condition of employment,	Verify it is a requirement of the job. To determine monthly expenses, the total out of pocket expenses would be divided by 12.
Life insurance,	1. Is limited to term policies on the life of the taxpayer only. 2. Life insurance used as an investment is **not** a necessary expense.	Check on whole life policy; whole life policies should be reviewed as an asset for borrowing against.
Secured or legally perfected debts,	Allow if it meets the necessary expense test,	The taxpayer **must** substantiate the payments are being made.
Credit Card Debts,	1. Minimum credit card payments are allowed under the six-year rule. 2. Credit cards are generally considered a method of payment. A taxpayer may pay for necessary living expenses using cash or a credit card.	1. If a credit card is used to pay for personal expenses such as food, clothing, gas, insurance - these expenses are already being allowed on the financial statement. 2. If a taxpayer is paying for necessary expenses that exceed the standards, and those expenses are justified, a deviation under the expense item on the financial statement should be allowed. 3. If a credit card payment is only partially allowed or not allowed at all, the taxpayer should be advised that IRS allows an amount monthly for miscellaneous expenses that can be used to pay

		credit card payments.
Current Year Taxes,	1. Current federal, FICA, Medicare, state* and local taxes are allowed regardless of whether the taxpayer made them in the past or not. **NOTE:** If the taxpayer is a wage employee, place withholding amounts on the AMS Income screen in the appropriate box. **NOTE:** If the taxpayer is self-employed or has non-wage income, allow estimated tax payments on the AMS financial screens and document AMS comments that this expense was allowed. **NOTE:** The following states do not have a state income tax: ○ Alaska (AK) ○ Florida (FL) ○ Nevada (NV) ○ New Hampshire (NH) ○ South Dakota (SD) ○ Tennessee (TN) ○ Texas (TX) ○ Washington (WA) ○ Wyoming (WY)	Federal taxes do not need to be verified if the amounts are within 20% of the amounts on CC IRPTR , CC RTVUE , CC BRTVU or CC TRDBV
Delinquent State or Local Taxes,	Payments for delinquent state and local (county or municipal) tax liabilities may be allowed in certain circumstances: 1. When a taxpayer does not have the ability to full pay the tax liability. 2. When a taxpayer provides complete financial information.	See paragraph (4) below, for determining allowable amount.

	3. When a taxpayer provides verification of the state or local tax liability and agreement (if applicable).	
Optional telephones and telephone services, **EXAMPLE:** Pager, call waiting, caller identification, or long distance.	Must meet the necessary expense test or full pay within six (6) years and within the CSED,	**Intentionally left blank**
Student loans,	See paragraph (5) below.	**Intentionally left blank**
Repayment of loans for payment of Federal taxes,	If the IRS has received the proceeds of the loan and the taxpayer can document the loan, the payment amount should be allowed.	**Intentionally left blank**

4. Delinquent State and Local Taxes - Payments for delinquent state and local (county or municipal) tax liabilities may be allowed in certain circumstances:

   - When a taxpayer owes both delinquent federal taxes and delinquent state or local taxes, and does not have the ability to full pay the tax liability.
   - When a taxpayer is cooperative and provides complete financial information.
   - When a taxpayer advises IRS that he/she owes delinquent state or local taxes and provides verification of the state or local tax liability and agreement (if applicable).

   Follow the procedures in this table to determine the allowable payment for delinquent state or local tax debts:

If ...	And ...	Then ...
The taxpayer **does not** have an existing agreement for payment of the delinquent state or local tax debts,	Provides a complete CIS and verification of state or local tax debts,	Follow procedures under **Determining Allowable Payments for Delinquent State or Local Tax Debts** below to establish the calculated percentage amount that will be listed as the allowable monthly payment for delinquent state

		or local taxes on the CIS.
The taxpayer has an existing agreement for delinquent state or local tax debts, and that agreement was established **after** the earliest IRS date of assessment,	The payment amount on the state or local agreement is **less** than the calculated percentage amount,	The monthly amount due on the existing state or local agreement will be listed as the allowable delinquent state or local tax payment on the CIS. The payment to IRS will be increased by the amount allowed for the monthly state or local payment one month after the date the state or local liability is scheduled to be full paid.
The taxpayer has an existing agreement for delinquent state or local tax debts, which was established **after** the earliest IRS date of assessment,	The payment amount on the agreement, is **more** than the calculated percentage amount,	The amount listed as the delinquent state or local tax payment on the CIS will be the calculated percentage amount. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the additional amount due for the delinquent state or local tax payment. The payment to IRS will be increased by the amount allowed for the monthly state or local payment one month after the date the state or local liability is scheduled to be full paid.
The taxpayer has an existing agreement for delinquent state or local tax debts, which was established **prior to** the earliest IRS date of	Allowing the amount on the existing state or local agreement will not result in the case being reported uncollectible,	Allow the existing state or local tax payment and increase the IRS payment one month after the date the state or local liability is scheduled to be fully paid.

assessment,		See explanation below if allowing the state payment will result in the account being reported Currently Not Collectible.

Determining Allowable Payments for Delinquent State or Local Tax Debts

- Determine net disposable income on a Collection Information Statement (CIS), Form 433–A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, or Form 433–F, *Collection/Information Statement*. Do not include any amount that is being paid for outstanding state or local tax liabilities in the calculation. Net disposable income is the difference between gross income and allowable living expenses.

- 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)
- Use the net disposable income and a percentage of IRS and state liabilities to total liability to calculate the payment amounts.

Examples of Determining Percentage and Allowable Payments for Delinquent State or Local Tax Debts

Type of Liability	Amount
IRS Liability	$10,000.00
State or Local Liability	$5,000.00
Total	$15,000.00

Type of Liability	Percentage
IRS	10,000.00/15,000.00 = .67
State or Local	5,000.00/15,000.00 = .33

Type of Payment	IA Payment Amount
Taxpayer's net disposable income	$400.00
IRS Payment (400 x .67)	$268.00
State or Local Payment (400 x .33)	$132.00

If allowing even a minimal payment for delinquent state or local taxes will result in the account being reported CNC due to hardship:

And ...	Then ...
The taxpayer does not have an existing agreement for the delinquent state or local tax debts,	A payment for delinquent state or local taxes **will not** be allowed. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the delinquent state or local tax payment.
The taxpayer has an existing agreement for the delinquent state or local tax debts, which was established **after** the earliest IRS date of assessment,	A payment for delinquent state or local taxes **will not** be allowed. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the delinquent state or local tax payment.
The taxpayer has an existing agreement for delinquent state or local tax debts, which was established **prior to** the earliest IRS date of assessment,	The amount allowed for state and local taxes on the CIS will be reduced to allow for an IRS IA payment. Advise the taxpayer that he/she can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the additional amount due for the delinquent state or local tax payment. The payment to IRS will be increased by the amount allowed for the monthly state or local payment one month after the date the state or local liability is scheduled to be fully paid.

REMINDER: Calculations must be documented in the AMS history.

NOTE: Allowing payments for delinquent state or local taxes when establishing an IA has no effect on NFTL or levy priorities. This guidance only impacts determinations of ability to pay. If the taxpayer refuses to establish an IA or defaults on an IA, IRS employees should follow existing procedures to pursue collection.

Minimum payments for delinquent state and local taxes are allowed for IAs using the six year rule. If the six year rule applies, taxpayers are required to provide financial information, but do not have to provide substantiation of reasonable expenses. If the taxpayer meets all other requirements for the six (6) year rule, the amount claimed for state or local taxes may be allowed. Employees would not be required to obtain verification of the state payment or calculate an amount due based on the percentage basis as discussed above.
NOTE: If a state already has a Federal/State Memorandum of Understanding for establishing joint Federal and State agreements, follow the MOU guidelines.

5. Student loans - Payments for student loans may be allowed in certain circumstances:

If ...	Then ...
Taxpayers with student loan debt, who have not yet made arrangements to repay the loan,	Allow 10 days to set up a payment plan for the student loan and provide verification so the loan payment can be allowed. Additional time may be allowed if a taxpayer has extenuating circumstances. **Advise taxpayer of the following:** o If they do not respond by the due date, the IA amount will be established without allowing for a student loan payment. o If they later make arrangements to pay the student loan, they can request the IA be revised.

Taxpayers who have student loan debt, but are unable to make payments on the debt because they are suffering an economic hardship or have medical problems	The IA amount will be established without allowing for a student loan payment. **Advise Taxpayer of the following:** ○ To request a deferment or forbearance of the student loan payments. ○ That if they later make arrangements to pay the student loan, they can request the IA be revised.