

IRM PROCEDURAL UPDATE

DATE: 08/20/2015

NUMBER: SBSE-05-0815-1330

SUBJECT: Various Changes for Currently Not Collectible

AFFECTED IRM(s)/SUBSECTION(s): 5.19.17

IRM 5.19.17.1.1.2(3) CNC Exception Processing, updated literal time frames from 5 days to twelve (12) when STAUP 2200 input.

3. To close a case CNC using Exception Criteria, follow the steps below based on your function and account status:

If ...	And ...	Then ...
ACS, ACSS and FA,	All modules in ST 22,	<ul style="list-style-type: none"> ○ CR must input "TOC0,05,CNCEXC" (ACS & FA). ○ "TOS0,05,CNCEXC" (ACSS). ○ If approved manager <i>will</i> input "NC24,,53APP".
ACS, ACSS and FA,	At least one module in ST 22 & other(s) in non-ST 22,	<ul style="list-style-type: none"> ○ Input CC STAUP 2200 to bring non-ST 22 accounts to ACS, then: ○ Input "TOC0,12,CNCEXC" (ACS & FA). ○ "TOS0,12,CNCEXC" (ACSS). ○ If approved the manager <i>will</i> input "NC24,53,APP".
ACS, ACSS and FA,	All non— ST 22 modules,	<ul style="list-style-type: none"> ○ Document AMS CNCEXC and provide IDRS print to the manager ○ If approved input to IDRS: CC REQ77 /CC FRM77 TC 530 cc 24. In the remarks area, enter "CNCEXC".
CSCO and AM,	Regardless of status,	<ul style="list-style-type: none"> ○ Input history on AMS CNCEXC for manager approval. ○ If approved input 53 APP on AMS. CC REQ77 /CC FRM77 TC 530 cc 24 on IDRS. ○ In the remarks area, input "CNCEXC".

REMINDER: When inputting CNC closures on IDRS ensure that the appropriate RUC is used.

IRM 5.19.17.1.1.5(5) Cases Reported CNC Based on Prior CNC, added TC 530 CC 39 to exceptions.

5. Exceptions are:
- Unable to locate cases (cc 03), where the current TDA address was not investigated, telephone number not verified and/or a new Levy source not exhausted.
 - Unable to contact cases (cc 12), where the current TDA address was not investigated, telephone number not verified and/or new Levy source not exhausted.
 - Corporate trust fund taxes, requiring a TFRP determination or accruing after the date of the prior CNC closure.
 - Prior bankruptcy (cc 07) dispositions.
 - Cases reported CNC under exception processing, where the total liability owed, including prior CNC modules, now exceeds established criteria; IRM 5.19.17.1.1.2, *CNC Exception Processing*.
 - When a case was closed TC 530 cc 39 (shelved).

IRM 5.19.17.1.1.11 Requesting Approval and Input of Accounts to be CNCd, updated literal time frames in "IF AND Then" chart from 5 days to twelve (12) when STAUP 2200 input.

1. Ensure all necessary actions (financial review, locator sources, etc) are taken before the account is sent to the manager for approval.
2. Ensure AMS is properly documented and when account is ready for approval follow the guidelines shown below. Take the following actions based upon your function:

If ...	And ...	Then ...
ACS, ACSS and FA	All Modules in ST 22	<ul style="list-style-type: none"> ○ CR must Input "TOC0,05,NCXX" (ACS & FA) "TOS0,05,NCXX" (ACSS) <p>NOTE: This includes Individual SRP (MFT 35) modules.</p> <ul style="list-style-type: none"> ○ If approved the manager <i>will</i> input "NCXX,,53APP".
ACS, ACSS	At least one module in ST 22 & other(s) in	<ul style="list-style-type: none"> ○ Input CC STAUP 2200 to bring non ST 22 accounts to

and FA	non-ST 22 modules	<p>ACS, then:</p> <ul style="list-style-type: none"> ○ Input "TOC0,12,NCXX" (ACS & FA) "TOS0,12,NCXX" (ACSS) <p>NOTE: This includes Individual SRP (MFT 35) modules.</p> <ul style="list-style-type: none"> ○ If approved the manager <i>will</i> input "NCXX,,53APP".
ACS, ACSS and FA	All non- ST 22 modules	<ul style="list-style-type: none"> ○ Document AMS with the CNC decision and provide IDRS print to the manager. ○ If approved manager must document AMS that the CNC was approved by inputting "53 APP". ○ If approved input to IDRS: CC REQ77 /CC FRM77 TC 530 cc XX ○ In Remarks enter "CNC".
CSCO and AM	Regardless of status	<ul style="list-style-type: none"> ○ Document AMS with the CNC decision and provide IDRS print to the manager. ○ If approved manager must document AMS that the CNC was approved by inputting "53 APP". ○ Input CC REQ77 /CC FRM77 TC 530 cc XX on IDRS. ○ In the remarks area input "CNC".

NOTE: XX = the appropriate CNC cc.

IRM 5.19.17.1.2(4) (a) OIC, clarified lump-sum OIC payment time frame.

IRM 5.19.17.1.2(4) (b) OIC, added clarifying statement regarding periodic payment time frame.

IRM 5.19.17.1.2(4) (d) OIC, added clarification of time frame for OIC payment options.

IRM 5.19.17.1.2(5) OIC, included criteria that a liability previously referred to Department of Justice will not be accepted for OIC processing.

IRM 5.19.17.1.2(7) OIC, updated "Caution" to address Offer Specialist and Offer Examiner authority to recommend acceptance or rejection of OIC.

IRM 5.19.17.1.2(8) OIC, revised instructions associated with providing forms with Letter 278C, Offer in Compromise: Forms Requested.

IRM 5.19.17.1.2(10) OIC, added TC 480 Indicators and definitions.

1. The Service, like any business, encounters situations when an account receivable cannot be collected in full or there is a dispute regarding what is owed. It is an accepted business practice to resolve collection and liability issues through compromise.
2. An offer in compromise (OIC) is an agreement between a taxpayer and the government that settles a tax liability for payment of less than the full amount owed:
 - Doubt as to Collectability – Doubt exists that the taxpayer could ever pay the full amount of the tax liability owed within the remainder of the statutory period for collection. This type of OIC is requested using Form 656, *Offer in Compromise*.
 - Doubt as to Liability – There is legitimate doubt that the assessed liability is correct. This type of OIC is requested using Form 656-L, *Offer in Compromise (Doubt as to Liability)*.
 - Effective Tax Administration – There is no doubt that the tax is correct and there is potential to collect the full amount of the tax owed, but exceptional circumstances exist that would allow the IRS to consider an OIC. This type of OIC is requested using Form 656, *Offer in Compromise*.

NOTE: Taxpayers **cannot** submit offers in compromise at the same time claiming *both* that they do not believe the liability is correct (Doubt as to Liability) *and* that they are unable to pay it (Doubt as to Collectability).

3. Conduct a tiered interview to determine the taxpayer's ability to:
 - Full pay today.
 - Partial pay (VLSP).
 - Full Pay up to 120 days.
 - Pay by IA.

NOTE: See IRM 5.19.1.5, *Methods of Payment*.

4. On May 17, 2006, Congress passed into law the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), making major changes to the OIC program, including narrowing the scope of rules for lump-sum and periodic-payment offers; these changes were effective for all offers received by the IRS starting July 16, 2006.

- a. Under the new law, taxpayers submitting requests for lump-sum OICs must include a payment equal to 20% of the amount offered with Form 656; a lump-sum OIC means any offer of payments made in five or fewer installments within five or fewer months from offer acceptance .

NOTE: A lump sum offer received with a payment that is less than the 20 percent payment will be deemed processable, but the taxpayer will be asked to pay the remaining balance within a specified time frame in order to avoid the immediate return of the offer. Failure to submit the remaining balance within that extended period will cause the IRS to return the offer, retain any non-refundable initial payment, and the \$186 application fee that was submitted with the offer.

NOTE: Prior to December 31, 2013, the OIC application fee was \$150.

- b. Taxpayers submitting requests for periodic-payment OICs must include the first proposed installment payment with Form 656, *Offer in Compromise*; a periodic payment OIC is any offer of payments in six or more installments paid within six to 24 months. The total payments cannot exceed 24 months.

NOTE: The taxpayer is required to make the proposed monthly periodic payments until a determination is made on their offer. All installment payments are non-refundable, even if the offer is deemed non-processable, later returned, withdrawn, terminated or rejected.

- c. Taxpayers qualifying for low income waiver, based on current criteria, r, do not have to submit the application fee or meet the partial payment requirements of TIPRA.

NOTE: Taxpayers filing doubt-as-to-liability (DATL) offers are also exempt from the application fee and payment requirements.

- d. Form 656, *Offer in Compromise*, provides detailed instructions for completing and submitting the offer and includes all necessary financial forms. There are two types of payment terms to which the Service and the taxpayer may agree:

- **Payment Option 1:** Must be paid in five or fewer installments within five or fewer months from offer acceptance.

- **Payment Option 2:** Must be paid in more than five months and in monthly installments paid within six and must not exceed 24 months with no right to appeal. The taxpayer must continue to make monthly payments while the IRS is considering their offer. Failure to make regular monthly payments will cause the offer to be returned.

5. The IRS will **NOT** accept an OIC for processing when the following criteria are present:
 - The taxpayer is in bankruptcy.
 - The taxpayer did not include the \$186 application fee when the offer is submitted.
 - The taxpayer did not submit the required initial payment with the offer.
 - The liability was previously referred to the Department of Justice (DOJ).
 - Unassessed liabilities
 - Offer submitted solely for tax period(s) with expired CSED(s)

EXCEPTION: The requirements for the taxpayer to pay both the \$186 application fee and the down payment with the offer are waived if the taxpayer meets the requirements for Low-Income certification.

6. If the taxpayer asks for an OIC, and the account is assigned to a RO, ST 26, advise the taxpayer to contact the RO.
7. If you are speaking to the taxpayer, **they request** an OIC and the account is in:
 - Notice Status.
 - ST 22.
 - ST 24.

Take the following actions:

NOTE: If you are working correspondence, follow procedures in paragraph (8) below.

- a. Secure financial information, if necessary to, analyze the taxpayer's ability to full pay:
 - If the liability can be paid in full or the taxpayer qualifies for an IA, the taxpayer does not qualify for an OIC unless it is an OIC concerning doubt as to liability or there is evidence that paying the liability in full would cause economic hardship, ETA.
 - Encourage a taxpayer qualifying for a PPIA to enter into one; however, they may choose to submit an OIC instead.

- Follow procedures in paragraph (8) below if the taxpayer chooses to submit an offer.
- b. If financial analysis shows the taxpayer has the ability to pay, advise them that while they may submit an offer, the financial information they provided shows they have the ability to pay their liability. As a result, it is unlikely the offer will be accepted. Provide the alternative method to resolve the liability, such as full pay or an IA.

NOTE: If the financial information indicates the taxpayer is unable to pay, (negative net income), consider a CNC: IRM 5.19.17.1.1, *CNC Policy and Overview*.

- c. Follow procedures in paragraph (8) below if:
 - The taxpayer does not agree with the proposed method of resolution and wants to proceed with the offer; or
 - You are working correspondence.

CAUTION: While speaking to the taxpayer, you must advise them of the requirements for the OIC to be accepted for processing, and to consider payment alternatives to submitting an offer. Only an OIC Specialist or COIC Offer Examiner can accept or reject an offer.

- 8. If the taxpayer requests an offer, and you are working correspondence; or during phone contact the taxpayer does not agree with the proposed method of resolution and wants to proceed with the offer, or the Service has determined through financial statement processing the taxpayer has a potential for an offer, take the following actions:
 - a. Send Letter 278C, *Offer in Compromise; Forms Requested*. Provide the required tax forms or advise the taxpayer how to obtain them. If the taxpayer has internet access, you can provide him/her with the IRS web-site address www.irs.gov. You can also provide the Toll-Free number 1-800-TAX-FORM (1-800-829-3676) to order forms. You can also enclose the forms in the letter or use "ELITE" (on AMS) to directly mail forms to the taxpayer's address.
 - Form 656-B, *Offer in Compromise (Booklet)*. This booklet includes instructions and removable forms: Form 433-A (OIC), *Collection Information Statement for Wage Earners*, Form 433-B (OIC), *Collection Information Statement for Business*, and Form 656, *Offer in Compromise*.
 - Form 656-L, *Offer in Compromise (Doubt as to Liability)*.

CAUTION: Taxpayers cannot have both types of offers open at the same time. If you are speaking with the taxpayer, ask them whether they disagree with the liability. If they disagree with the liability, then they should file their OIC using Form 656-L, *Offer in Compromise (Doubt as to Liability)*. If the taxpayer agrees with the liability, then they

should file their OIC using Form 656–B, *Offer in Compromise (Booklet)*.

- b. Instruct the taxpayer they must submit all applicable forms within 30 days.
- c. For Notice Status accounts, input CC STAUP 2209.
- d. Update AMS history.
- e. If enforcement action was previously taken, do not release the levy solely based on the taxpayer's request for an OIC; follow related guidelines.
See IRM 5.19.4.4.10, *Levy Release: General Information*.
- f. Cover normal case processing, including:
 - Full Compliance Check (FCC).
 - Cause and Cure (C&C).

REMINDER: If in ST 22, Warn of Enforcement Action (WEOA).

- g. Forward the correspondence to the assigned RO if the account is in ST 26.

9. ACS uses one of the following history codes based on the account information on ACS:

If ...	And ...	Then ...
A levy source is available	The "FNL NOT" date is shown on at least one balance due module	Enter "TOE3,60,OIC"
A levy source is available	No "FNL NOT" date is shown on any balance due module	Enter "TOE2,60,OIC"
No levy source is available	Intentionally left blank	Enter "TOI4,60,OIC"

10. If TC 480 previously posted to the ST 22 account, and the CC STAUP 71 did not post to the account in the next cycle, prepare a Form 4442, *Inquiry Referral*. Provide the taxpayer's name, phone number, SSN and document the periods that require ST 71 input. Fax this information on Form 4442, *Inquiry Referral*, to the appropriate COIC site.

CAUTION: CC STAUP 71 is not always input on joint liabilities when only one of the taxpayers submits an offer. To determine which spouse is included on the offer, look for one of the following TC 480 indicators; B = Both, P = Primary and S = Secondary. Normal case processing may continue against the non-offer spouse in these instances.

11. For additional information regarding OICs, see IRM 5.8, *Offers In Compromise*.

IRM 5.19.17.1.2.1 Taxpayer Claims OIC Submitted, insert new section.

1. If a taxpayer states they filed an offer and there is no TC 480 or ST 71 present, ask the taxpayer or authorized representative:
 - o When did you file the offer in compromise?
 - o Where did you file the offer in compromise?
 - o Did you send a payment with the offer and has it been cashed?
 - o Did you receive a letter regarding the offer in compromise?
 - o Were the tax periods on the offer filed jointly?

NOTE: STAUP 71 is not input on joint liabilities when only one of the taxpayers files an offer.

NOTE: Normal case processing may continue against the spouse that did not submit an offer.

2. Posting of TC 480 might be impacted by where the offer was submitted. All offers are loaded by Memphis or Brookhaven COIC therefore it will take longer for TC 480 to post on offers received in other locations. Determine if taxpayer or POA:
 - o Submitted OIC to COIC (Memphis or Brookhaven)
 - o Gave to Revenue Officer, or to
 - o Appeals or other business unit
3. If an OIC payment was submitted, check IDRS TXMOD for a:
 - o TC 670, DPC 33 (OIC application fee)
 - o TC 670, DPC 34 (OIC 20 percent lump sum/initial periodic payment)

EXCEPTION: If the taxpayer checked the Low Income Certification box on Form 656 or filed Form 656-L for Doubt as to Liability (DATL) there will not be an application fee or TIPRA payment

4. If the taxpayer has received correspondence from the service regarding their offer application, advise them to follow the instructions contained in the correspondence.
5. If the offer does not apply to only one spouse or the return was not jointly filed and the OIC was mailed 45 days or more and the taxpayer has not received correspondence from COIC, take the following actions:

"IF"	"THEN"
More than 45 days has lapsed from the date the taxpayer claims an OIC was filed.	<ul style="list-style-type: none"> o Document the taxpayer's name, number and tax periods covered by OIC. o Determine which COIC unit processes OIC's for the taxpayer's location and fax the Form 4442 to the appropriate COIC unit.

	<ul style="list-style-type: none"> ○ For ACS cases input literal "TOR4,60,OIC" ○ For Non-ACS Cases, input CC STAUP 2209.
<p>Less than 45 days has lapsed from the date the taxpayer states an OIC was filed</p>	<ul style="list-style-type: none"> ○ Document the taxpayer's name, number and tax periods covered by OIC ○ For ACS cases input literal ""TOR4,60,OIC"" ○ For Non-ACS Cases, input CC STAUP 2209.