INTERNAL REVENUE SERVICE

IRS Fact Sheet

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Revisions to Form 656, Offer in Compromise

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The Internal Revenue Service (IRS) has announced the release of Form 656, Offer in Compromise, revision February 2007. The Form 656 package was last revised in 2004 to help taxpayers correctly and completely prepare an offer and reduce the chances of an offer being returned for omissions. The new form retains the taxpayer burden reduction features while adding significant changes as a result of the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA). These changes include:

- New payment terms and submission rules;
- Processability checklist, redefined as a result of TIPRA, which assists taxpayers in determining up front if they are eligible for an offer before investing any preparation time;
- A new matrix to assist in determining the number of Forms 656, $150 application fee(s), and TIPRA payments to submit to the IRS depending on the number of individuals submitting the offer and the types of liabilities being compromised;
- A checklist which reduces the chance that the application will be returned by the IRS for omissions, as well as a reminder of the necessary documents to include with the application prior to its submission to IRS;
- Revised Section V which defines the terms of the offer;
- OIC Application Fee and Payment Worksheet to determine eligibility for claiming exception to the payment of the $150 application fee and TIPRA payments;
- Form 656-A, renamed Income Certification for OIC Application Fee and Payment; and
- Form 656-PPV Offer in Compromise Periodic Payment Voucher.

Outlined below is a summary of the major procedural changes implemented as a result of TIPRA and now reflected on the Form 656 revision. In addition, some of the form's key features are also summarized.

Procedural Changes

1. Form 656–L: Doubt as to Liability

The February 2007 revision no longer contains a category block for Doubt as to Liability offers.

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A taxpayer wishing to file a Doubt as to Liability offer will need to complete Form 656-L (Revised January 2006) when claiming that all or part of the assessed tax liability is incorrect. Form 656–L must reflect the amount which the taxpayer believes is the correct amount of the tax liability after credits and payments. This amount must be more than zero and cannot include a refund that is owed to the taxpayer or amounts that have already been paid. A taxpayer must also attach a detailed written statement explaining why it is believed that the tax is incorrect, and include any documentation or evidence to support the claim.

Form 656–L also contains information which explains when the form is inappropriate for use, as well as provides the taxpayer with other collection remedies that are less complex than an offer in compromise. Form 656–L, along with the taxpayer's written statement and any supporting documents, should be mailed to:

Brookhaven Internal Revenue Service
COIC Unit
P.O. Box 9008
Holtsville, NY 11742-9008

Taxpayers may obtain Form 656–L by calling the IRS toll free number at 1-800-829-3676, visiting their local IRS office or by visiting the IRS Web site at IRS.gov.

2. Doubt as to Liability Offers cannot be filed concurrently to request consideration under a different basis.

In the 2004 version of the Form 656, a taxpayer had an option to submit a Doubt as to Liability offer either separately or in combination with a Doubt as to Collectibility or Effective Tax Administration (ETA) offer. This is no longer an option. A taxpayer will now be required to file a Form 656–L when it is believed that the tax liability is incorrect. Form 656 should be filed only when there is doubt as to collectibility that the tax liability could ever be paid in full, or under the basis of Effective Tax Administration (ETA). A taxpayer is no longer able to file offers concurrently claiming both that the tax liability is incorrect along with the inability to pay it.

3. New rules for offer submissions and processability criteria

The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) created major changes to the IRS OIC program. These changes affect all offers received by the IRS on or after July 16, 2006. The legislation amended Section 7122 by adding a new subsection (c) "Rules for Submission of Offers in Compromise." Form 656 now contains information concerning these rules as they relate to doubt as to collectibility and ETA offers, as well as the new criteria that is used to determine whether these offers are assigned for investigation or returned back to the taxpayer as not processable.

Listed below is a synopsis concerning the rules governing the submission of these types of offers and the new processability criteria:

- Rules for Submission

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a. Lump sum cash offer — An offer in which the offer amount is paid in five or fewer installments upon written notice of acceptance. Twenty percent of the total amount of the offer must be paid with the Form 656. If the installments will be paid in five months or less, the taxpayer should offer the "realizable value" of his assets plus the total that could be collected over 48 months of payments (or the remainder of the statutory period for collection, whichever is less). If the installment payments will be paid in more than five months, the taxpayer should offer the realizable value of his assets plus the total that could be collected over 60 months of payments (or the remainder of the statutory period for collection, whichever is less).

   Note: "Realizable value" is defined as the quick sale value (amount that a taxpayer could reasonably expect from the sale of an asset if sold quickly, typically in 90 days or less) minus what the taxpayer owes a secured creditor.

b. Short Term Periodic Payment Offer — An offer in which the taxpayer must submit the first payment with the offer and must continue to make regular payments during the offer investigation. The offer amount must be paid within six to 24 months from the date the IRS receives Form 656. The offer amount must reflect the taxpayer's realizable value of assets plus the amount that could be collected over 60 months of payments (or the remainder of the statutory period of collection, whichever is less). Failure to make the periodic payments during the offer investigation will cause the offer to be treated as a withdrawal.

c. Deferred Periodic Payment Offer — An offer in which the amount must be paid over the remaining statutory period for collecting the tax. As with the short term periodic payment offer, the taxpayer must submit the first payment along with Form 656, and must continue to make regular payments during the offer investigation. The offer amount must reflect the taxpayer's realizable value on assets, plus the amount that could be collected through monthly payments during the remaining life of the collection statute. Failure to make the periodic payments during the offer investigation will cause the offer to be treated as a withdrawal.

d. Taxpayers may designate in writing how the IRS should apply the payments made while the offer is under investigation by specifying how the payment(s) are to be applied to specific taxable years or periods and to the type of tax. Without a written designation request, the IRS will apply the payments in the best interest of the government. The $150 application fee reduces the assessed tax or other amounts due and cannot be designated by the taxpayer.

e. All offer payments are considered "payments on tax" and are not refundable regardless of whether the IRS declares the offer not processable or later returns, rejects, withdraws, or terminates the offer as a result of its investigation. When this happens, the IRS will apply the payment(s) to the taxpayer's outstanding liability.

f. A taxpayer who has an approved installment agreement payment plan with the IRS and is making payments under this plan may stop remitting the installment payments at the time that a short term or deferred periodic payment offer is filed. However, this procedure does not apply to lump sum cash offers. A taxpayer that submits a lump sum cash offer and is currently making installment agreement payments must continue to make the installment agreement payments until the offer is accepted. If it not accepted, the installment agreement payments must continue.

- Processability Criteria

As a result of TIPRA legislation, the IRS revised the offer processability criteria. In order for a Form 656 to be declared processable and assigned for investigation, a taxpayer must now meet the following criteria:

- Is not a debtor in an open bankruptcy proceeding;
- Submitted the $150 application fee, or Form 656-A, Income Certification for Offer in Compromise Application Fee and Payment;
- Submitted 20 percent payment with the lump sum offer, or a signed Form 656-A, Income Certification for Offer in Compromise Application Fee and Payment; and
- Submitted the first installment payment on a short term or deferred periodic payment offer, or a signed Form 656-A, Income Certification for Offer in Compromise Application Fee and Payment.

Before the IRS will begin to investigate an OIC, the taxpayer must be current on filing all tax returns, estimated tax payments and federal tax deposits.

Form 656 – Key Features

1. New guidelines for defining a low-income taxpayer for purposes of determining exception to application fee and TIPRA initial payment

Prior to the issuance of the new Form 656 version, IRS defined a low-income taxpayer as an individual whose income falls at or below poverty levels based on standards established by the U.S. Department of Health and Human Services (HHS). The IRS has established new guidelines to determine eligibility for this waiver. Based on the new guidelines, a low-income taxpayer is one whose income falls at or below 250 percent of the 2006 HHS Poverty Guidelines. These new standards are incorporated into the IRS OIC Monthly Low Income Guidelines. These new guidelines are effective with the revision of the Form 656.

Under the Notice 2006-68, taxpayers qualifying as low-income or filing Form 656-L based on doubt as to liability, qualify for a waiver of the 20 percent payment on a lump sum offer, or the required payment on a short term or deferred periodic payment offer. In addition, the waiver also exempts a taxpayer from the payment of the $150 application fee. The waiver for taxpayers qualifying as low-income applies solely to individuals and does not apply to other entities such as corporations or partnerships.

2. New worksheet to determine eligibility for claiming exception to the payment of the $150 application fee and TIPRA initial payments

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The OIC in Compromise Application Fee and Payment Worksheet is designed to assist a taxpayer in determining eligibility for the low-income waiver. The worksheet also clarifies Item 2 to reflect Total Household Monthly Income, and now requires self-employed individuals to adjust their total monthly income in Item 2.

3. Certification of eligibility for waiver of application fee and first TIPRA payment

The new Form 656 also contains Form 656-A, renamed Income Certification for Offer in Compromise Application Fee and Payment. Taxpayers claiming the low-income exception must complete Form 656 and attach Form 656-A and the OIC Application Fee and Payment Worksheet. All three documents must be submitted to the IRS at the same time. Eligibility for the low-income waiver exempts a taxpayer from paying the $150 application fee and all other required TIPRA payments.

4. Payment Voucher

The new revision now includes Form 656-PPV Offer in Compromise Periodic Payment Voucher which is a removable form designed to be used by a taxpayer to remit to the IRS the required short term or deferred periodic payments while the offer is under investigation. The form contains a section which gives the taxpayer the option to designate a specific tax liability where the payment should be applied. It also contains instructions to assist in its completion, as well as the proper address to mail the payments as it is different from the address location which was used to file the original Form 656 application.

Form 656-PPV should be mailed to the IRS accompanied by a check or money order payable to the “United States Treasury.” Taxpayers should not send cash.

5. Revised Section V defines the terms of the offer

Form 656, Section V, defines the terms of an Offer in Compromise. Listed below is a summary of the new terms:

- Section V (a) — outlines that TIPRA payments are not refundable even if the taxpayer were to withdraw the offer prior to acceptance or the IRS were to return, or reject the offer.

- Section V (b) — outlines that all payments made while the offer is under investigation will be applied to the tax liability unless the taxpayer specifies in writing that they be treated as a deposit. Only amounts that exceed the mandatory TIPRA payments can be treated as a deposit. Such a deposit will be refundable if the offer is rejected or returned by the IRS or is withdrawn by the taxpayer. The IRS will not pay interest on the deposit.

- Section V (c) — outlines that the $150 application fee will be kept by the IRS unless the offer is declared not processable.

The new Form 656 can be obtained by calling IRS toll free l-800-829-3676 (1-800-TAX-FORM), visiting your local IRS office, or by visiting the IRS Web site at IRS.gov and searching under Offer in Compromise, or OIC.