



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

February 12, 2020

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Expiration Date: 02/12/2022
Impacted IRMs: IRM 4.8.8.8, IRM
4.18.5.2, IRM 4.8.8.8.5, IRM 4.24.6.9.2,
IRM 4.24.6.9.8 and IRM 25.6.23.5.7.2.1

MEMORANDUM FOR DIRECTORS OF EXAMINATION EMPLOYEES WHO WORK
OFFER IN COMPROMISE DOUBT AS TO LIABILITY CASES
IN SBSE, LB&I AND W&I

FROM: Maha Williams
Director, Examination – Field and Campus Policy

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SUBJECT: Interim Guidance to Update OIC-DATL Closing Procedures

This interim guidance communicates changes to the process of closing Offer in Compromise Doubt as to Liability (OIC DATL) cases from Field and Specialty Examination groups to Centralized Case Processing (CCP) and Appeals through the Independent Administrative Reviewer (IAR) in Technical Services.

IRM 4.8.8.8, Offer in Compromise Cases, discusses the reviewer's actions upon receipt of an OIC case in Technical Services. IRM 4.18.5.2, Case Closing Procedures, addresses the content of an OIC-DATL case file when it closes from the field to Technical Services and IRM 4.8.8.8.5, Case Closing Procedures, addresses the content of an OIC-DATL case file when it closes from Technical Services. Procedures for cases closing from the field and from Technical Services will be updated to reflect the proper order of required forms within the file and the proper use of Form 3198, Special Handling Notice for Examination Case Processing, to identify the case as an OIC-DATL. See the attachments 1 and 2 for revised IRM language.

Currently, IRM 4.24.6.9.2, Offer in Compromise – Doubt as to Liability Statute Controls, IRM 4.24.6.9.8, Final Case Processing and Closure by Workload Selection and Delivery, and IRM 25.6.23.5.7.2.1, Offer in Compromise - Doubt as to Liability (OIC-DATL) Exam Statute Controls, direct removal of the Tax Increase Prevention and Reconciliation Act (TIPRA) statute upon issuance of a determination, acceptance or confirmation letter, or withdrawal of an offer. The statute update is no longer necessary as the statute is systemically updated for the period of tolling once the Transaction

Code (TC) 48X posts to Master File. See the attachments 3 and 4 for revised IRM language.

This guidance is effective immediately and will be incorporated into the appropriate IRM sections within 2 years from the date of this memorandum. If you have any questions, you may contact me or have a member of your staff contact Christopher Vickers, Acting Program Manager, Examination Field and Campus Policy, Field Examination Special Processes at 813-302-5539.

Attachment 1 – IRM 4.18.5.2, Case Closing Procedures

Attachment 2 – IRM 4.8.8.8, Offer in Compromise Cases and IRM 4.8.8.8.5, Case Closing Procedures

Attachment 3 – 4.24.6.9.2, Offer in Compromise – Doubt as to Liability Statute Controls and IRM 4.24.6.9.8, Final Case Processing and Closure by Workload Selection and Delivery

Attachment 4 – IRM 25.6.23.5.7.2.1, Offer in Compromise – Doubt as to Liability (OIC-DATL) Exam Statute Controls

Distribution:

[IRS.gov](https://www.irs.gov)

Attachment 1, SBSE-04-MM20-0009, Interim Guidance to Update OIC-DATL Closing Procedures.

4.18.5.2 (MM-DD-YYYY) Case Closing Procedures

(3) [Form 7249](#), Offer Acceptance Report, (required for recommended acceptance of offer) or [Form 1271](#), Rejection Memorandum, (required for recommended rejection of offer) is forwarded, with the case file, for the appropriate approval and signatures. Prior to closing a case as an offer acceptance, the examiner should reach out to their Area PSP coordinator for guidance. Offer acceptances require concurrence from the SB/SE Exam Headquarters OIC-DATL analyst. For additional guidance regarding Technical Services' procedures, see [IRM 4.8.8.8](#), Offer in Compromise Cases.

(4) The OIC file should be forwarded to Technical Services with [Form 3198](#), Special Handling Notice for Examination Case Processing, secured to the outside of the folder and marked "OIC-Doubt as to Liability". The file should contain the following documents in the order shown (as applicable):

1. Any written withdrawal request signed by the taxpayer(s) and date stamped
2. [Form 7249](#), Offer Acceptance Report, or [Form 1271](#), Rejection Memorandum, (completed and signed) and [Form 886-A](#), Explanation of Items, completed as described in [IRM 4.18.2.8](#), Doubt as to Liability Offer Rejected
3. [Form 4549-A](#), Report of Income Tax Examination Changes Unagreed and Excepted Agreed, and an explanation of adjustments. For no change OIC-DATL cases, [Form 4549-A](#) should include No Change language
4. [Form 656-L](#), Offer in Compromise (Doubt as to Liability)
5. [Form 5344](#), Examination Closing Record, attached to the front of the tax return
6. Tax return (original, copy or electronic print)
7. [Form 2848](#), Power of Attorney and Declaration of Representative, attached to the tax return as required
8. OIC-DATL workpapers
9. Prior examination workpaper file clipped, banded and/or placed in a separate folder.

Attachment 2, SBSE-04-MM20-0009, Interim Guidance to Update OIC-DATL Closing Procedures.

4.8.8.8 (MM-DD-YYYY)

Offer in Compromise Cases

- (6) The TS reviewer should complete the following:
- a. Perform current IDRS research for all years listed on the offer, including CFINK to determine if there is a power of attorney.
 - b. Check ERCS to ensure the case is in the correct status, review and suspense type.
 - c. Check for input of TC 480 for all years listed on the offer.
 - d. Verify the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) statute is correctly reflected on AIMS. [IRM 25.6.23.5.7.2.1](#) Offer in Compromise – Doubt as to Liability (OIC-DATL) Exam Statute Controls. Once verified, highlight the correct TIPRA statute on Form 3198 and on Form 895.
 - e. In the rare case of an additional assessment, confirm an open ASED as of the date the Form 656-L was received.

4.8.8.8.5 (MM-DD-YYYY)

Case Closing Procedures

(1) After the appropriate letter is sent to the taxpayer, the OIC DATL file is forwarded to Centralized Case Processing for closure, unless the taxpayer has requested an appeal of a rejected offer.

(2) The OIC-DATL case file should include the following documents in the order shown (as applicable):

1. Signed and dated file copy of the determination letter issued to the taxpayer and a copy of any correspondence sent to the representative.
2. In the event of a withdrawal, the withdrawal request signed by the taxpayer and date stamped by the Service.
3. In the event of a rejection, [Form 1271](#), Rejection Memorandum, properly completed and signed and [Form 886-A](#), Explanation of Items.
4. In the event of an acceptance, [Form 7249](#), Offer Acceptance Report, signed and date stamped by the Service.
5. [Form 656-L](#), Offer in Compromise (Doubt as to Liability).
6. [Form 4549-A](#), Report of Income Tax Examination Changes (Unagreed and Excepted Agreed), or [Form 3870](#), Request for Adjustment.
7. [Form 5344](#), Examination Closing Record, attached to the front of the tax return.
8. Tax return(s) (original, electronic print, copy or RTVUE (IDRS print)).
9. [Form 2848](#), Power of Attorney and Declaration of Representative, attached to the tax return as required.
10. OIC-DATL workpapers.
11. Copy of the completed IAR checklist. See table below for a copy of the checklist.
12. Prior audit workpapers, report, letters, etc. clipped, banded and/or placed in a separate folder.

Attachment 3, SBSE-04-MM20-0009, Interim Guidance to Update OIC-DATL Closing Procedures.

4.24.6.9.2 (MM-DD-YYYY)

Offer in Compromise - Doubt as to Liability Statute Controls

(5) [DELETED]

4.24.6.9.8 (MM-DD-YYYY)

Final Case Processing and Closure by Workload Selection and Delivery

(1) Upon receipt of a case from the SME for rejected offers or from the excise examiner for withdrawal offers, WSD will:

- a. Generate and issue the appropriate AOIC disposition letter.
- b. For rejected offers, suspend the case for 45 days to allow taxpayer time to request Appeals consideration.
- c. Complete the IAR/Tech Checklist and fax or scan the sheet to the Brookhaven Centralized OIC-DATL site.
- d. Return the IAR/Tech Checklist to the OIC-DATL processing unit within 180 days of receipt. It must include the date the case was forwarded to Appeals, if appropriate.
- e. Complete the AOIC offer closing actions based on information on the IAR/Tech Checklist.
- f. Close the case to CCP for final closure, if agreed or if no Appeals request is received.

For accepted offers, a file containing a copy of [Form 7249](#) and IDRS CC MFTRA for all periods compromised is maintained for public inspection. This file is maintained for one year, after which it may be destroyed.

Attachment 4, SBSE-04-MM20-0009, Interim Guidance to Update OIC-DATL Closing Procedures

25.6.23.5.7.2.1 (MM-DD-YYYY)

Offer in Compromise - Doubt as to Liability (OIC-DATL) Exam Statute Controls

(4) Given the simultaneous statutes on OIC-DATL cases, statutes should be controlled as follows:

- a. Cases accepted for processing that are forwarded to Planning and Special Programs (PSP) or Workload Selection and Delivery (WSD) will be updated to reflect the TIPRA "deemed acceptance" statute by the receiving function prior to being forwarded for examination. This statute date will be calculated as 24 months from the date the Form 656-L is stamped received and will be identified as a TIPRA statute with the inclusion of an "R" after the date itself. For example, if a Form 656-L is stamped received by the Brookhaven Service Center (BSC) on 12/7/2017, the TIPRA statute input by PSP or WSD will be shown as "12/7/2019R".

Caution: The TIPRA statute does not provide any measure or indication of the time remaining under IRC 6501, Limitation on Assessment and Collection, to make additional tax assessments. This should not be confused with the assessment statute date which is calculated separately from the TIPRA statute date.

- b. The examination will be conducted while the case is controlled by the TIPRA statute to allow for monitoring of the time remaining before an OIC-DATL case defaults as accepted.

Caution: The TIPRA statute cannot be extended by consent.

Caution: If the ASED was not expired at the time the OIC-DATL was filed, the Form 656-L must be retained in the casefile in the same manner as an executed statute extension consent form would be retained (such as a [Form 872](#), Consent to Extend the Time to Assess Tax). See [IRM 25.6.22.5.12\(d\)](#), Examiner's Responsibility after Receipt of Consent.

(5) [DELETED]