



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

February 22, 2021

Control Number: SBSE-05-0221-0014
Expiration Date: 02-22-2023
Impacted IRM: 5.8.2, 5.8.3, 5.8.4

MEMORANDUM FOR Director Specialty Collection, Offer in Compromise

FROM: Kareem Williams, Acting Director, Collection Policy
Kareem Williams

SUBJECT: Interim Guidance on Completion of Initial Compliance Screening, Verification of Low-Income Waiver, and Filing of Notice of Federal Tax Lien on Offer Acceptances

This memorandum issues guidance on actions required when the Offer Examiner/Offer Specialist (OE/OS) is completing the initial compliance review and initial offer actions, and when it may be appropriate to file a notice of federal tax lien (NFTL) if an offer in compromise (OIC) is being recommended for acceptance. Additionally, information is included to provide consistency with other Internal Revenue Manual (IRM) sections on when it is appropriate to provide copies of correspondence to an authorized representative.

These procedures are supplemental to guidance provided in [IRM 5.8.2.3](#), Initial Processing of Offers in Centralized Offer in Compromise Sites, [IRM 5.8.3.19](#), Third Party Authorizations, [IRM 5.8.4.6](#), Initial Compliance Screening, [IRM 5.8.4.7](#), Initial Offer Actions, [IRM 5.8.4.13](#), Notice of Federal Tax Lien Filing, and [IRM 5.8.4.26](#), Third Party Authorizations and will remain in effect until the expiration date cited in this memorandum or an updated revision to IRM 5.8.2, IRM 5.8.3, and IRM 5.8.4 is published.

Please ensure that this information is distributed to all affected employees within your organization.

Purpose:

IRM 5.8.2.3, Initial Processing of Offers in Centralized Offer in Compromise Sites is being revised to be consistent with guidance provided in [IRM 5.1.23.4.2.3](#), Written Communication to a Taxpayer's Authorized Representative.

IRM 5.8.3.19 (2) Third Party Authorizations, is being revised to remove the requirement to send copies of all correspondence to the representative **regardless of whether the box is checked on the Form 2848** as long as all tax periods included in the offer are listed on the form.

IRM 5.8.4.6, Initial Compliance Screening, is being revised to remove actions relative to securing related offers.

IRM 5.8.4.7, Initial Offer Actions is being revised to remove the requirement for the OE/OS to verify the taxpayer qualifies for the low-income waiver (LIW).

IRM 5.8.4.13, Notice of Federal Tax Lien is being revised to include information on when it is appropriate to file a NFTL if an offer is being recommended for acceptance.

Background/Source(s) of Authority:

IRM 5.8.2.3, Initial Processing of Offers in Centralized Offer in Compromise Sites, outlines procedures on the processing of new offers received by process examiners in COIC.

IRM 5.8.3.19, Third Party Authorizations, provides processing guidance for Form 2848, Power of Attorney and Declaration of Representative and Form 8821, Taxpayer Information Authorization received with an OIC.

IRM 5.8.4.6, Initial Compliance Screening discusses actions the OE/OS should take to determine if a taxpayer is in filing and/or paying compliance prior to conducting a complete financial analysis.

IRM 5.8.4.7, Initial Offer Actions, is guidance on the appropriate initial actions when conducting the offer investigation.

IRM 5.8.4.13, Notice of Federal Tax Lien Filing, includes procedures relative to the OE/OS making a NFTL filing determination upon initial review and when appropriate at the conclusion of the offer investigation.

IRM 5.8.4.26, Third Party Authorizations, provides guidance related to when a taxpayer submits or has on file a Form 2848, Power of Attorney and Declaration of Representative or Form 8821, Tax Information Authorization.

Procedural Change:

Refer to **Attachment A – Interim Guidance Control # SBSE–05-0221-0014** for discussion of the procedural changes impacted.

Effect on Other Documents:

This guidance will be incorporated into IRM 5.8.2, Centralized Offer in Compromise Initial Processing and Processability, IRM 5.8.3, Centralized Offer in Compromise Transfers, Perfection, and Case Building, and IRM 5.8.4, Investigation by February 22, 2023.

Effective Date: Effective the date of this memo.

Contact: Questions regarding this memorandum may be directed to Senior Analyst Thomas B. Moore.

Distribution:

Independent Office of Appeals
Taxpayer Advocate
[IRS.gov \(http://www.irs.gov\)](http://www.irs.gov)

Attachment A
IG Control SBSE-05-0221-0014

Procedural Change:

IRM 5.8.2.3(12) is being revised to **remove** and replace the following note:

Note: OIC correspondence is sent to authorized representatives regardless of the check box regarding routine notices and correspondence, per [IRM 5.1.23.4.2.3](#), *Written Communication to a Taxpayer's Authorized Representative*.

IRM 5.8.2.3(12) is being revised to add the following note:

Note: Unless the taxpayer specifically requested the representative not receive copies of correspondence, if an authorized representative requests copies of communication, they may be provided by IRS employees, even if the box "copies of notices" is not checked. If sending correspondence to the representative, the AOIC POA screen should be updated accordingly.

IRM 5.8.3.19 (2) is being revised as follows:

Send all original correspondence to the taxpayer and provide a copy to the representative on the [Form 2848](#), as long as all tax periods included in the offer are listed on the form and the taxpayer has indicated that copies of notices and correspondence should be sent to the representative.

IRM 5.8.4.6 (9) is being removed since the action of securing related offers should be addressed as discussed in IRM 5.8.4.7, Initial Offer Actions.

IRM 5.8.4.7 (2)(a) is being revised as follows:

- (a) Since the determination the taxpayer qualified for the low-income waiver was already made during initial processability, the OE/OS should not conduct an additional review as to whether the low-income waiver requirements are met.

NOTE: If an obvious error was made in the determination as to whether the taxpayer qualifies for the Low-Income Waiver (LIW), either contact the taxpayer for missing application fee and/or TIPRA payments or follow the procedures in para (b) or para (c), if payments were received with the Form 656, Offer in Compromise.

EXAMPLE: The taxpayer's monthly income is \$10,000 with a family size of one based on review of Form 433-A (OIC). A review of IDRS does not show a Low-Income

Indicator and AOIC remarks state the PE used \$1000 per month as their basis for the taxpayer LIW qualification. Since this was clearly an erroneous determination, the taxpayer/representative should be contacted to secure the application fee and/or TIPRA payment, unless payments already received.

IRM 5.8.4.13 is revised as follows:

New paragraph (6): If an offer is being accepted, while there is no requirement to file a NFTL, if the tax liability is greater than or equal to \$50,000 or the offer terms extend past five months, the OE/OS may file a NFTL to protect the government's interest in a taxpayer's real property or other assets. Managerial approval is required if a NFTL is being filed where the tax liability is less than \$50,000 or the offer terms are equal to or less than five months.

Current paragraphs (6), (7), and (8) will be renumbered in next IRM revision.

IRM 5.8.4.26 is being revised as follows:

(2) If the authorization/designation covers all periods and the taxpayer checked the box for their representative to receive correspondence, then the AOIC POA screen should be updated appropriately. Taxpayers can "check the boxes" to have copies of notices and communications sent to up to two authorized representatives.

Note: Unless the taxpayer specifically requested the representative not receive copies of correspondence, if an authorized representative requests copies of communication, they may be provided by IRS employees, even if the box "copies of notices" is not checked. If sending correspondence to the representative, the AOIC POA screen should be updated accordingly.

See **IRM 5.1.23.4.2.3** Written Communication to a Taxpayer's Authorized Representative