



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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Affected IRM(s): 5.8.2, 5.8.3, 5.8.4,
5.8.8 and 5.19.7

MEMORANDUM FOR: Guadalupe Ortiz, Director, Specialty Collection Offer in Compromise

FROM: Rocco A. Steco, Acting Director, Collection Policy *Rocco A. Steco*

SUBJECT: Interim Guidance on ITINs, Liens, and ES payments

This memorandum issues guidance to employees of Specialty Collection Offer in Compromise (SCOIC) on changes to current IRM procedures for Process Examiners (PE), Offer Examiners (OE), Offer Specialists (OS) and Tax Examiners (TE) in SCOIC. Please ensure this information is distributed to all affected employees within your organization.

Purpose: The purpose of this memorandum is to add guidance on how to process offers submitted with Individual Identification Number (ITINs). The guidance also adds instructions for OEs/OSs to document AOIC/ICS with their analysis of lien filings found on the Automated Lien System (ALS) and includes an approved open paragraph for PEs to request Estimated Tax (ES) payments and educate the taxpayer regarding ES requirements.

Background/Source(s) of Authority: Currently SCOIC employees are required to identify the ITIN during processability and annotate the remarks. Now, the PE will begin the merge process at the time of submission. If the ITIN is not merged by the time of acceptance, MOIC will now monitor for the merge.

The OE/OS will perform an analysis of liens filed on ALS and document their findings in AOIC or ICS, resulting in reduced paper usage by not having to print lien documents for the file.

Lastly, the PE currently sends a letter to the taxpayer requesting ES payment(s), and now the PE will include an open paragraph in lieu of paragraph AZ. The open paragraph will provide specific amounts and due dates.

Effect on Other Documents: This guidance will be incorporated into IRM 5.8.2, Initial Processing and Processability, 5.8.3, Transfers, Perfection, and Case Building, 5.8.4,

Investigation, 5.8.8., Acceptance Processing and 5.19.7, Monitoring Offer in Compromise by June 26, 2025.

Effective Date: June 26, 2023.

Contact: You may direct any questions to Diana Estey, National Offer in Compromise Program Manager, or a member of your staff may contact Senior OIC Analyst, Adele Muller.

cc:

Office of Chief Counsel

Taxpayer Advocate Service

Independent Office of Appeal

Collection Quality & Technical Support

IRS.gov

Attachment Interim Guidance: SBSE-05-0623-0032

1. ITIN Identification

All new guidance

IRM 5.8.2.4.1, Determining Processability- The PE must research IDRS using IAT for any ITIN (the first digit in the ITIN is a "9") associated with an SSN and vice versa. When the PE identifies these situations, the PE will follow IRM 21.6.2.3.1, NMRG Conditions, and send a Form 4442, Inquiry Referral per IRM 21.6.2.3.4 (5), Reassignment of NMRG Cases Due to Site Specialization. The PE will enter a designated group mailbox number on the Form 4442 in Section C, *Response/Final Resolution* so IDTVA can notify the PE once the merge has been initiated. The PE will clearly annotate the remarks on AOIC and place a copy of the 4442 in the case file for the OE/OS. List all TINs on the MFT screen on AOIC with the balance(s) owed. The offer TIN should always be the SSN. The PEs are to retain a copy of all Form 4442 for 18 months or until the accounts are merged, whichever comes first.

IRM 5.8.4.7, Initial Offer Actions –

- If an unaddressed ITIN merge is identified, refer the offer back to the PE group per 5.8.2.4.1, Determining Processability, to begin the merge.
- 5.8.8.8, Closing Actions on Accepted Offers. If recommending acceptance and the merge is incomplete, the OE/OS must clearly annotate AOIC remarks for MOIC and the date the Form 4442 was sent to the no merge team.

IRM 5.19.7.3.5, Case History Documentation - When MOIC receives an accepted offer and the remarks on AOIC indicate the account is being merged, MOIC is to monitor the merge until completed and ensure all TINs are listed on the MFT screen for the balances owed. The offer must remain in MP/ML if the offer hasn't been full paid. In the event the merge isn't completed after the offer is full paid and there is no collateral agreement, update the offer to MO status with a follow up for the remaining time necessary for the 4442 to be worked. The TE is responsible for updating the MFT screen once the merge has been completed. If over 150 days from submission of the F4442, the TE will request their manager contact the PE manager to inquire about the status of the merge.

2. Liens

Current guidance

IRM 5.8.4.13, Notice of Federal Tax Lien Filing

(4) The initial review of any case must include an analysis of whether a NFTL has been correctly filed on all tax modules with a balance due, is filed in the correct jurisdiction, and whether any filed NFTLs should be re-filed. If analysis indicates a NFTL was erroneously allowed to self-release, appropriate action must be taken to correct the problem.

New guidance:

IRM 5.8.4.13, Notice of Federal Tax Lien Filing- The initial review of any case must include an NFTL analysis using the Automated Lien System (ALS) to determine if a NFTL:

- has been correctly filed on all tax modules with a balance due,
- is filed in the correct jurisdiction
- and whether any filed NFTLs should be re-filed.

Document this NFTL analysis and actions taken as a result, including any periods without liens, the filing location, and the earliest refile deadline date if within 12 months. If analysis indicates a NFTL was erroneously allowed to self-release, appropriate action must be taken to correct the problem.

3. ES Payments

Current guidance

IRM 5.8.3.8(7) PE Requests for Estimated Tax Payments

- If there are no ES payments, or missing ES payments, the PE is required to request the correct amount of ES payments owed in the Combo letter by following the steps below: Check the prior year TXMOD to determine the taxpayer's total tax liability (TC 150). If the prior year tax return is

processing on TRDBV or if the taxpayer provides a copy, you may use the figures from that tax return to calculate the ES payments.

Note: If the prior year return has not yet been filed you may use the year just prior to that one. If the taxpayer has not filed a tax return for the last two years, do not request ES payments. Include paragraph BA in the combo letter.

- Subtract any withholding tax (TC 806)
- Subtract any known tax credits
- If the result is \$1,000 or more, this would be the amount due for ES payments in the current year. If the result is under \$1,000, the taxpayer is not liable for ES payments.
- Divide the total amount by 4 to get the quarterly amount due.
- Determine the amount due up to the current date and request the payment or the shortfall using the Combo letter, paragraph AZ.
- Annotate the remarks section of AOIC with your request and schedule the appropriate follow-up.

New guidance:

The PE will no longer use paragraph AZ in the combination letter. They will use the below open paragraph to request ES payments and to educate the taxpayer on future payment compliance.

Approved ES Open Paragraph:

A review of your account indicates you have not made the (fill in) quarter(s) estimated tax payments for tax year (fill in). For us to consider your offer, you must make an estimated tax payment in the amount of \$__. If you do not make this payment by _____, your offer will be returned, and you will forfeit your rights to appeal our decision.

In addition, you must continue to make your estimated payments for each quarter as they become due while we are considering your offer. The amount of your required quarterly payment is \$ _____. Your next payment of \$ _____ will be due on _____. The payments are due on April 15th, June 15th, September 15th, and the following January 15th. If you do not make these estimated payments, we will return your offer without further consideration.

If you disagree with the amounts required, please pay the amount you calculate by the due date given and provide a copy of your calculation as well as proof of payment and a current profit and loss statement within 30 days from the date of this letter.

*****The new mandatory IAT tool will provide the quarterly value to enter on the last paragraph***
See IGM SBSE-05-0223-0001, Interim Guidance on OIC-IAT Usage in the Offer in Compromise Process at https://imdtrack.web.irs.gov/IG_Uploads/IRS.gov_No/sbse-05-0223-0001.pdf**