



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTORS, COLLECTION AREA OPERATIONS
(CALIFORNIA, GULF STATES, AND SOUTH ATLANTIC)

FROM: Scott D. Reisher /s/ **Scott D. Reisher**
Director, Collection Policy

SUBJECT: Reissuance of Guidance Involving Initial Offer Actions and
First Contact Procedures in Field Offer in Compromise Cases

The purpose of this memorandum is to reissue interim guidance memorandum SBSE-05-0611-054 dated June 14, 2011, titled Initial Offer Actions and First Contact Procedures in Field Offer in Compromise Cases.

These interim procedures provide guidance to offer specialists (OS) relative to the initial review of offer cases, first contact procedures, and taxpayer discussions during an offer in compromise (OIC) investigation.

As stated in IRM 5.8.1.2, Timeliness of Offer Investigations, "The timeliness of case actions in an offer investigation is important not only to ensure the efficiency of the process but also is a key component of taxpayer satisfaction." During initial contact with the taxpayer (TP) or Power of Attorney (POA), it is critical that the OS discuss the viability of the OIC and for the TP/POA to clearly understand what document(s) or information is required to make a recommendation on the acceptability of the OIC.

IRM 5.8.4.7(3) and 5.8.4.8 discuss the initial offer actions which must be completed by the OS and procedures for taxpayer contact. These actions include a review of the financial information, completion of a preliminary asset/equity table (AET) and income/expense table (IET), and contacting the taxpayer by telephone or in writing to secure additional information, if necessary.

Upon issuance of this memorandum, a deviation is being granted to allow for screening of offer cases to determine the taxpayer's current compliance with return filing, current year estimated tax payments, current quarter federal tax deposits, and required payments under the Taxpayer Increase Prevention and Reconciliation Act of 2005 (TIPRA). The

area offices may establish processes to have the screening discussed in this memorandum conducted by tax examiners prior to assignment to the offer specialists.

If compliance screening is not conducted by the field area office until assignment to an OS, the OS should review the offer for current compliance, and if necessary, contact the TP/POA by telephone to discuss and set a reasonable deadline for any tax returns or tax payments which must be submitted prior to the offer investigation proceeding. If the taxpayer does not become compliant, the offer should be returned or closed as a mandatory withdrawal. Prior to returning the offer, internal sources must be researched to verify if any tax returns are pending or posted. The procedures in IRM 5.8.7.3 - Return Reconsideration will apply if it is determined that the taxpayer submitted returns/payments in a timely manner.

Additionally, during this initial screening process the OS should determine if any "delay of collection" criteria (as described in IRM 5.8.4.18) apply before completing the detailed financial evaluation. Since this process is being established to expedite case processing, the IRM timeframes to complete initial analysis when a separate compliance check and "delay of collection" determination(s) are made is extended to 45 days, or 50 days if the OS is not co-located with their manager, to allow the taxpayer time to comply any request for filing or payment.¹ NOTE: If appropriate, the OS may allow the taxpayer a reasonable period of time to become compliant, yet the initial financial analysis discussed in 2. below must be completed within the 50 day timeframe discussed.

NOTE: The OS is not limited in their discussion with the TP/POA during this "compliance" contact and may discuss additional issues relative to the offer investigation, including a taxpayer's obvious ability to full pay the liability determined from the financial information submitted by the taxpayer and alternative resolutions.

Subsequent to the initial screening or if no screening was conducted, the following actions must be included in the OS initial offer actions:

1. Prior to contact with the TP/POA, available internal sources must be researched to verify and supplement taxpayer information. Information should not be requested from the taxpayer that is available through internal sources.
2. Upon completion of the initial financial analysis the OS, in most instances, should make initial contact with the TP/POA by telephone. The initial telephone contact discussion should include the following:
 - Reasonable collection potential (RCP) as determined in the initial analysis and the viability of the taxpayer's offer based on the information provided and reviewed.
 - Any special circumstances or other issues that exist. The TP/POA should also be asked if there are any special circumstances or other issues that were not considered in the initial analysis.
 - If financial analysis shows the taxpayer can fully pay via current installment agreement guidelines (absent special circumstances), alternative resolutions should be discussed with the taxpayer, if not previously discussed in the "compliance" contact, and an attempt

¹ If there are no compliance issues to address, the additional 15 days for initial analysis does not apply.

should be made to secure a withdrawal of the offer. If the taxpayer agrees to enter into an installment agreement, the field should process the agreement under normal procedures.

- Any information or documents that were not provided and inclusion would change the outcome of the case decision.

Any request for additional information discussed during the telephone contact may be supplemented with correspondence such as an additional information request letter.

NOTE: If you are able to leave a message on an identified VMS, request a call back within 2 business days. If you are not able to reach the TP/POA by phone within 2 business days or the TP/POA does not return your call, send an additional information request letter in accordance with IRM 5.8.4.8.

Discussion of the TP's offer and the offer process by telephone with the TP or POA will expedite the offer investigation and allow the TP to understand the reasoning behind any recommendation. The discussion of any disputed asset values, encumbrance allowance/disallowance, income determinations, or expense allowance/disallowance should be thoroughly documented in the AOIC or ICS histories. This documentation will assist the manager, independent administrative reviewer, and Appeals in understanding the basis for the recommendation.

The OS should also remember the initial contact time frames are the maximum time frames for contact. Wherever possible, the OS should strive to make initial contact as soon as possible after case receipt.

If you have any questions, please feel free to contact me or a member of your staff may contact Thomas B. Moore, OIC Senior Program Analyst.

cc: National Taxpayer Advocate

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