



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.18.1

JANUARY 10, 2022

## EFFECTIVE DATE

(01-10-2022)

## PURPOSE

- (1) This transmits revised IRM 4.18.1, Exam Offer In Compromise, Offers In Compromise Received in Exam.

## MATERIAL CHANGES

- (1) Content from IRM 4.18.3, Effective Tax Administration and IRM 4.18.7, Special Case Processing, has been incorporated into this IRM and will be made obsolete with this publication. Changes in this revision are reflected in the table below.

IRM Reference	Description of Change
IRM 4.18.1.1.6	Added FBAR to Acronym list.
IRM 4.18.1.2	The subsection title was changed to better reflect the content.
IRM 4.18.1.2.1	Note was added to clarify IRC 7122 does not apply to the Report of Foreign Bank and Financial Accounts (FBAR) penalty.
IRM 4.18.1.2.4	After revising and removing content duplicated in IRM 5.8.11, the remaining content from obsolete IRM 4.18.3.2, Consideration of Effective Tax Administration Issue, obsolete IRM 4.18.3.3, Jurisdiction-Effective Tax Administration, and obsolete IRM 4.18.3.4, Examination Considerations, was incorporated into 4.18.1.2.4, Effective Tax Administration.
IRM 4.18.1.3.1	Added new subsection to address procedures for multi-period and related pickups when working an OIC-DATL case.
IRM 4.18.1.3.1.1	Added new subsection to address process to close a withdrawal electronically to Technical Services.
IRM 4.18.1.4.1	Added (4) regarding actions to take if a taxpayer files bankruptcy.
IRM 4.18.1.4.2.1	Added new subsection to address expanding the scope in OIC-DATL cases.
IRM 4.18.1.4.2.2	Added new subsection to address the process for offsetting tax adjustments.
IRM 4.18.1.4.2.3	Added new subsection to address the process for additional tax proposed.
IRM 4.18.1.4.3.1	Added option to use new Letter 6434, OIC-DATL Withdrawal Agreed Report Transmittal, to transmit a report to the taxpayer and Form 15281, Request to Withdraw Offer in Compromise-Doubt as to Liability, to secure a withdrawal.
IRM 4.18.1.5.2	Added content addressing examiner responsibilities when cases are under Appeals jurisdiction.

IRM Reference	Description of Change
IRM 4.18.1.6.5	Incorporated relevant content from IRM 4.18.7.1 (obsolete).
IRM 4.18.1.6.6	Moved content in from IRM 4.18.7.3 (obsolete).

- (2) Minor editorial changes have been made throughout this IRM. Website addresses, legal references and IRM references were reviewed and updated as necessary.

#### **EFFECT ON OTHER DOCUMENTS**

This material supersedes IRM 4.18.1, Offer-in-Compromise Received in Exam, dated November 4, 2020.

#### **AUDIENCE**

Small Business and Self-Employed (SB/SE) and Large Business and International (LB&I) employees assigned Offer in Compromise cases.

Lori L. Caskey  
Director, Examination - Field and Campus Policy  
SE:S:DCE:E:HQ:EFCP  
Small Business/Self Employed

4.18.1

Offers in Compromise Received in Exam

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4.18.1.1  
(11-04-2020)  
**Program Scope and Objectives**

- (1) *Purpose.* This IRM provides instructions and guidance to examiners working offer in compromise - doubt as to liability (OIC-DATL) cases.
- (2) *Audience.* These procedures apply to examiners in SB/SE, LB&I, and TE/GE.
- (3) *Policy owner.* The Director, Examination Field and Campus Policy, who is under the Director, Headquarters Examination.
- (4) *IRM owner.* Field Exam Special Processes (FESP), which is under the Director, Examination Field and Campus Policy.
- (5) *Primary stakeholder.* LB&I and TE/GE are the primary stakeholders of the Offer in Compromise program.
- (6) *Program goals.* The goal of the OIC-DATL program is to ensure adherence to IRC 7122, Compromises, and closure of all OIC-DATL cases before the expiration of the 24-month Tax Increase Prevention and Reconciliation Act (TIPRA) statute.

4.18.1.1.1  
(11-04-2020)  
**Background**

- (1) This section provides direction for examiners working OIC-DATL cases.
- (2) All OIC cases are received and processed through the Centralized Offer in Compromise (COIC) group. OIC-DATL cases are routed to the Centralized DATL processing unit in the Brookhaven Campus. Per IRM 5.19.24.6.4.2, Routing Cases Based on Jurisdictional Responsibility, the DATL unit evaluates the offer for processability and sends the case to exam if exam has jurisdictional responsibility.

4.18.1.1.2  
(11-04-2020)  
**Authority**

- (1) In accordance with IRC 7122, Compromises, the IRS is authorized to compromise any civil or criminal case arising under the internal revenue laws prior to referral to the Department of Justice for prosecution or defense. IRM 1.2.2.6.1, Delegation Order 5-1 (Rev. 5), To Accept, Reject, Return, Terminate or Acknowledge Withdrawals of Offers in Compromise, contains delegations of authority related to the OIC Program.

4.18.1.1.3  
(11-04-2020)  
**Responsibilities**

- (1) The Director, Headquarters Examination, is the executive responsible for providing policy and guidance for compliance activities in Field, Specialty and Campus Exam operations and ensuring consistent application of policy, procedures and tax law to effect tax administration while protecting taxpayer rights. See IRM 1.1.16.3.5, Headquarters Examination, for additional information.
- (2) The Director, Examination Field and Campus Policy, reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the SB/SE Campus and Field examination process. See IRM 1.1.16.3.5.1, Field and Campus Policy, for additional information.
- (3) Field Examination Special Processes (FESP), which is under the Director, Examination Field and Campus Policy, is the group responsible for providing oversight and policy, and procedural guidance on specialized examination processes to SB/SE Field examiners and managers. See IRM 1.1.16.3.5.1.2, Field Exam Special Processes.

4.18.1.1.4  
(11-04-2020)  
**Program Management  
and Review**

- (1) Periodic program reviews are conducted by FESP to:
- Assess the effectiveness of specific programs within Examination or across the organization,
  - Determine if procedures are followed,
  - Validate policies and procedures, and
  - Identify and share best/proven practices.

4.18.1.1.5  
(11-04-2020)  
**Program Controls**

- (1) Automated Offers in Compromise (AOIC) is a Collection owned application that tracks and controls offers filed with the IRS. AOIC is the official system of record for the OIC program. The Collection OIC analyst sends to the HQ Exam Field Case Selection OIC analyst a monthly report of all DATL cases open on the AOIC system with a TIPRA statute due to expire within 14 months. The report is sent to Technical Services (TS) OIC reviewers and Planning and Special Programs (PSP) OIC coordinators to provide a status update on all offers within 6 months of a TIPRA expiration and to close or update to Appeals on AOIC any case no longer in Exam's possession.

4.18.1.1.6  
(11-04-2020)  
**Acronyms**

- (1) The following table lists acronyms used throughout this IRM and their definitions:

Acronym	Definition
AIMS	Audit Information Management System
AOIC	Automated Offer in Compromise
ASED	Assessment Statute Expiration Date
CDP	Collection Due Process
CEAS	Correspondence Examination Automation Support
COIC	Centralized Offer in Compromise
CSED	Collection Statute Expiration Date
DATC	Doubt as to Collectibility
DATL	Doubt as to Liability
ERCS	Exam Return Control System
ETA	Effective Tax Administration
FBAR	The Report of Foreign Bank and Financial Accounts
IAR	Independent Administrative Reviewer
OIC	Offer in Compromise
PSP	Planning and Special Programs
SNOD	Statutory Notice of Deficiency
SFR	Substitute for Return
TC	Transaction Code
TIPRA	Tax Increase Prevention and Reconciliation Act

Acronym	Definition
TS	Technical Services
WSD	Workload Selection and Delivery

4.18.1.1.7  
(11-04-2020)

#### Related Resources

- (1) The following additional resources are available to assist examiners working OIC-DATL cases:
  - IRC 7122, Compromises
  - Form 656-L, Offer in Compromise (Doubt as to Liability)
  - IRM 1.2.1.5.34, Policy Statement 4-117, Examination authority to resolve issues
  - IRM 1.2.2.6.1, Delegation Order 5-1 (Rev. 5), To Accept, Reject, Return, Terminate or Acknowledge Withdrawals of Offers in Compromise
  - IRM 4.1.1.6.16, Offer In Compromise (OIC)
  - IRM 4.8.8.8, Offer in Compromise Cases
  - IRM 4.24.6.9, Procedural Guidance Relating to Offers in Compromise and Doubt as to Liability
  - IRM 5.19.24, Doubt as to Liability Offer in Compromise
  - IRM 25.6.23.5.7.2.1, Offer in Compromise - Doubt as to Liability (OIC-DATL) Exam Statute Controls

4.18.1.2  
(01-10-2022)

#### Understanding an Offer in Compromise (OIC)

- (1) The IRS, like any business, encounters situations where an account receivable cannot be collected in full or there is a dispute regarding what is owed. It is accepted business practice to resolve collection and liability issues through compromise.
- (2) Form 656, Offer in Compromise, used for doubt as to collectibility (DATC) and effective tax administration (ETA) offers, and Form 656-L, Offer in Compromise (Doubt as to Liability), are forms used by taxpayers to propose to the Government a settlement of a tax liability for an amount less than previously determined and assessed. An offer, having been filed and accepted for processing, will be acted upon by recommendation for acceptance, rejection, return, termination, or it may be withdrawn by the taxpayer or the taxpayer's duly authorized agent.
- (3) An accepted offer in compromise (OIC) is a legally binding agreement between the IRS and the taxpayer, and is enforceable by either party. Contract law principles apply to compromise agreements. The compromise of a tax liability can rest upon:
  - a. Doubt as to collectibility (DATC),
  - b. Doubt as to liability (DATL),
  - c. Promotion of effective tax administration (ETA).
- (4) DATL offers are rarely accepted because examiners are generally able to determine the substantially correct tax liability and secure the taxpayer's agreement to withdraw the offer. If the amount offered is the correct tax liability, it is not a compromise. If the amount offered is not the correct liability, the examiner will determine the correct tax liability.

- (5) Unless collection of tax is in jeopardy, after an offer is accepted for processing the IRS cannot levy on the taxpayer's property while the offer is being considered, for 30 days after rejecting the offer, and for the period that the IRS Independent Office of Appeals is reviewing the rejection. Also, a liability may, in special circumstances, be compromised upon the grounds of compelling public policy or equity considerations. The submission of an OIC does not serve to suspend interest and penalties from accruing on the outstanding tax liability.
- (6) In general, Collection has jurisdiction over DATC offers, and Examination has jurisdictional responsibility for the investigation and processing of DATL offers. In certain circumstances, the IRS Independent Office of Appeals will have jurisdiction regarding an offer. See IRM 4.18.1.5.2 for more information.
- (7) Offers that do not meet the DATL or DATC criteria may be compromised under the criteria for the promotion of effective tax administration. Jurisdiction of these offers rests with Collection.
- (8) An OIC filed after July 16, 2006 is subject to the **24-month** time constraints specified in IRC 7122(f), Deemed Acceptance of Offer Not Rejected Within Certain Period. See IRM 4.18.1.2.2 for additional information about the TIPRA statute.

## 4.18.1.2.1

(01-10-2022)

**Offer in Compromise -  
Doubt as to Liability  
(OIC-DATL)**

- (1) Doubt as to liability exists when there is a genuine dispute as to the existence or amount of the correct tax liability under the law. Doubt as to liability does not exist where the liability has been established by a final court decision or judgment concerning the existence or amount of the tax liability.

**Note:** IRC 7122 does not apply to Title 31 Report of Foreign Bank and Financial Accounts (FBAR) penalty liabilities.

- (2) Grounds for an OIC-DATL may exist when there is legitimate doubt from both the viewpoint of the taxpayer and the IRS. Validity of the OIC-DATL is determined by evaluating the supporting evidence and circumstances. The taxpayer is required to submit documentation and/or other evidence to support the OIC-DATL. The evidence available for both parties must be weighed in order to determine the extent of any "doubt".

**Note:** The extent of any determination of "doubt", should be consistent with Policy Statement 4-117. See IRM 1.2.1.5.34, Policy Statement 4-117, Examination authority to resolve issues.

- (3) An OIC-DATL may not be rejected solely because the IRS is unable to locate the taxpayer's return or return information. The taxpayer is not required to submit a financial statement for a DATL offer. Also, there is no application fee for a DATL offer.
- (4) SB/SE Examination has jurisdiction over OIC-DATL cases, except as noted in the following paragraph. Examination employees are responsible for preparation of the necessary documents and letters to effect the disposition of the OIC-DATL filed by the taxpayer.
- (5) Collection Division has jurisdiction over doubt as to liability offers involving the Trust Fund Recovery Penalty and Personal Liability for Excise Tax. Unless the



prior assessment was made by Examination, liability offers concerning assessments made during bankruptcy proceedings may also fall under the jurisdiction of SB/SE Collection.

4.18.1.2.2  
(11-04-2020)  
**Statute of Limitations**

- (1) The filing of an OIC-DATL request extends an open statute for additional tax assessments in accord with the terms of the waiver provisions of Form 656-L, Offer in Compromise (Doubt as to Liability), filed by the taxpayer. See IRM 25.6.23.5.7.2.1, Offer in Compromise - Doubt as to Liability (OIC-DATL) Exam Statute Controls, for more detailed statute information. When an additional assessment is considered, steps must be taken to protect the interest of the government before the recalculated statutory period for assessment expires. The recalculated period for assessment can be extended by consent before the recalculated period expires.
- (2) In addition to the ASED statute, OIC-DATL cases have a Tax Increase Prevention and Reconciliation Act (TIPRA) statute. IRC 7122(f), Deemed Acceptance of Offer Not Rejected Within Certain Period, provides, "Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer."
- (3) OIC-DATL cases forwarded to Exam will carry the TIPRA statute date, that is two years from the IRS received date of the Form 656-L. The statute will also carry an "R" as part of the statute date, for example 04-04-2018R, to assist in identifying the TIPRA statute. The TIPRA statute is carried on AIMS/ERCS and the master file ASED will be blank while the offer is in process.
- (4) When TS issues a rejection letter, the TIPRA statute is closed. As a result, even if the TIPRA statute date appears to be less than a year when sent to Appeals, once a final determination letter is issued, the TIPRA statute is no longer live.

4.18.1.2.3  
(11-04-2020)  
**OIC-DATL Process**

- (1) OIC-DATL offers are filed with the Brookhaven Centralized OIC Operation on Form 656-L, Offer in Compromise (Doubt as to Liability). The DATL unit is responsible for the initial screening for processability. See IRM 5.19.24.6, Processability. The Campus DATL unit loads the offer on the Automated Offer in Compromise (AOIC) system. AOIC is the case management system for Offers in Compromise. The AOIC system uploads a transaction code (TC) 480 to IDRS and generates a "Y" freeze.
- (2) OIC-DATL cases may be forwarded from the DATL unit to the Area Planning and Special Program (PSP) or Workload Selection and Delivery (WSD) OIC coordinators for further review. The OIC coordinators determine whether further examination is warranted, prepare the cases to be sent to the field and update AOIC for assignment to the field. See *Offer in Compromise* in the SB/SE Field Exam Procedures book on Knowledge Management for a list of PSP OIC coordinators.
- (3) Examination is responsible for the investigation of OIC-DATL cases.
- (4) TS (WSD for excise cases) is responsible for case closing procedures, the administrative review and closure on AOIC. This occurs after the investigation and processing of OIC-DATL cases are completed in Examination.

4.18.1.2.4  
(01-10-2022)  
**Effective Tax  
Administration**

- (1) If there are no grounds for compromise under the doubt as to collectibility or doubt as to liability provisions, Treas. Reg. 301.7122-1(b)(3), Promote Effective Tax Administration, (see 26 CFR 301.7122-1(b)(3)) states a compromise may be entered into to promote effective tax administration when compromise of the liability will not undermine compliance with the tax laws, and:
  - a. Collection of the full liability will create economic hardship within the meaning of Treas. Reg. 301.6343-1, Requirement to Release Levy and Notice of Release, (see 26 CFR 301.6343-1); or,
  - b. Regardless of the taxpayer's financial circumstances, compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for compromising the liability. Compromise will be justified only where, due to exceptional circumstances, collection of the full liability would undermine public confidence that the tax laws are being administered in a fair and equitable manner. A taxpayer proposing compromise to promote effective tax administration with compelling public policy or equity considerations will be expected to demonstrate circumstances that justify compromise even though a similarly situation taxpayer may have paid his liability in full.
  - c. See IRM 5.8.11. Effective Tax Administration, for legal basis and evaluation of ETA offers.
- (2) Collection has jurisdiction over offers based on effective tax administration for public policy reasons or equity considerations. Collection's Non-Economic Hardship - Effective Tax Administration (NEH-ETA) group reviews offers submitted under public policy or equity consideration.
- (3) Occasionally, the NEH-ETA group may request review or input from Examination relative to a tax law issue or an issue that would undermine public confidence that the tax laws are being administered in a fair and equitable manner or would undermine compliance. See IRM 5.8.1.6.4, Examination Function.
- (4) If Collection requests assistance, the request will be forwarded to the group from PSP. Collection will retain control of the case and any time spent by the examiner will be charged to Examination Technical Time Reporting System Activity Code 812, Details Out of Practice Area or Area to: Collection Division. See IRM 4.9.1.6.4, Details.

4.18.1.3  
(11-04-2020)  
**Return Controls**

- (1) The Campus DATL unit forwards the Form 656-L, Offer in Compromise (Doubt as to Liability), and associated documents to Area PSP or WSD. PSP/WSD requests the administrative file and establishes AIMS controls. In some situations, the administrative file may not be available. The electronic file should be requested as an alternative.
- (2) For AIMS purposes, the return is requested using source code 73 and project code 0264. Once the return is established, AIMS freeze code 08 must be added. See IRM 4.18.1.2.2, Statute of Limitations, for statute information. Employment Tax cases worked in Area 212 (Exam, Specialty, Employment Tax), use tracking code 6506 for all OIC-DATL cases. See IRM 4.23.14.3.2, Statute Controls for Offer-in-Compromise, Doubt as to Liability (OIC-DATL) Cases.
- (3) Offers that are deemed processable by the OIC coordinator are generally sent to field examiners for further consideration.

- (4) Because OICs are priority cases, the OIC coordinator must effectively monitor OIC cases assigned to the field and in process. Monthly status updates will be obtained on offers in process over 6 months.
- (5) See IRM 4.1.1.6.16.1, OIC Coordinator, for more detail of coordinator responsibilities.

#### 4.18.1.3.1 (01-10-2022)

##### **Multi-Period and Related Pickups**

- (1) Before expanding to additional periods, collectibility must be considered. See IRM 4.20.1.2.1, Collectibility Considerations.
- (2) If a non-offer period was previously examined, then reopening procedures apply of an adjustment unfavorable to the taxpayer is being considered. See IRM 4.2.1.6, Reopening of Closed Cases.
- (3) Pickups should carry the appropriate source code and project code 0264. Employment tax cases worked in Area 212 should include tracking code 6506.
- (4) The offer period(s) must remain in a separate case file and **MUST** close to TS with at least 6 months remaining on the TIPRA statute. The TIPRA statute **cannot** be extended.
- (5) If offer and non-offer periods have interdependent issues, then all periods must close together to TS with at least 6 months remaining on the TIPRA statute.
- (6) If the taxpayer disagrees and wants offer and non-offer periods to stay together but additional time is needed to complete non-offer period issues then:
  - Secure a signed withdrawal statement from the taxpayer on Form 15281, Request to Withdraw Offer in Compromise - Doubt as to Liability, or use the language found in IRM 4.18.1.4.3.1.
  - Process the withdrawal through TS and ask that controls be returned once the withdrawal is processed. The withdrawal may be completed electronically without the physical case file. See IRM 4.18.1.3.1.1.
  - TS will process the withdrawal, close the offer on AOIC, update the status on AIMS and return the controls and the electronic file to the field group. The AOIC closure will generate a TC 48X to reverse the TC 480 and the master file statute will be systemically recalculated.

#### 4.18.1.3.1.1 (01-10-2022)

##### **Processing Withdrawal Electronically - Exam Retains Case File**

- (1) If additional time is needed to complete the examination of non-offer year issues and the taxpayer is willing to withdraw the offer, then:
  - The examiner sends an email to the manager requesting the withdrawal be processed. The email must include taxpayer information (name, TIN, and tax periods), a scanned copy of the withdrawal and an explanation why the case needs to remain open.
  - If approved, the manager updates the OIC-DATL case years in ERCS to Status 21, prepares Form 3210, Document Transmittal, and attaches Form 3210 to the email. Form 3210 must state "physical case file retained by exam group".
  - The manager sends the email to the TS OIC reviewer found at *Technical Services Contact by Program* and transfers the electronic file to TS.

4.18.1.4  
(11-04-2020)  
**Examining an OIC-DATL**

- (1) Per IRC 7122(f), Deemed Acceptance of Offer Not Rejected Within Certain Period, if an offer is not returned, rejected, or withdrawn within 24 months following the submission of the offer, it is deemed accepted. Consequently, priority treatment of offers is critical.

4.18.1.4.1  
(01-10-2022)  
**Initial Review of OIC-DATL**

- (1) Offers are identified on IDRS using the following transaction codes (TC):
- TC 480 - Offer pending (Jurisdiction code 1=collection, 2=exam and 3=appeals)
  - TC 481 - Offer rejected or returned
  - TC 482 - Offer withdrawn
  - TC 483 - Correction of TC 480
  - TC 780 - Accepted Compromised
  - TC 781 - Defaulted OIC
  - TC 788 - All collateral conditions of the OIC completed
- (2) The following CSED indicators are found with the TC 480:
- P - The primary taxpayer submitted the offer
  - S - The secondary taxpayer submitted the offer
  - B - Both taxpayers submitted the offer
- (3) When an offer is received in an Area office and the taxpayer is not located within the receiving Area, the offer will generally be forwarded to the PSP Area office where the taxpayer resides using Form 3210, Document Transmittal, through their local PSP office. The PSP coordinator will update the Area assignment on AOIC to the correct Area and record where the offer was sent in the AOIC remarks.
- (4) If the taxpayer files for bankruptcy, stop the OIC review and contact the PSP OIC coordinator or WSD OIC coordinator (excise cases). See IRM 5.19.24.14, Bankruptcy Filed During DATL Investigation.

4.18.1.4.2  
(11-04-2020)  
**Working the OIC-DATL**

- (1) Time applied to investigating an OIC, including time spent examining books/records, preparing the report, and preparing the rejection/withdrawal memorandum and taxpayer letters, is charged directly to the case (return).
- (2) For SB/SE Field Exam, if a prior examination occurred, the case must be set up in RGS similar to an audit reconsideration. See the *RGS quick reference guide for Audit Reconsiderations*.
- (3) Taxpayer contact should generally be made within 30 days from receipt of the OIC-DATL. Offers in process over six months are considered overage. Letter 6233, Offer in Compromise (OIC) - Doubt as to Liability (DATL) Contact, will be used for the initial contact with the taxpayer regarding their OIC-DATL.

**Note:** If a power of attorney is on file for the year(s) under examination, a copy of the initial contact letter will be mailed to the representative with Letter 937, Transmittal Letter for Power of Attorney,

- (4) Section 3201(d) of the IRS Restructuring and Reform Act of 1998 requires that, wherever practicable, any notice relating to a joint return be sent separately to each individual filing the joint return. This requirement also applies to an OIC filed on a joint liability. See IRM 4.10.1.2.2.1, Separate Notice Requirements for Joint Returns, for more information.

**Caution:** Examiners must exercise caution when divorced or separated spouses request collection information about the other spouse. See IRM 11.3.2.4.1.1, Disclosure of Collection Activities with Respect to Joint Returns, for guidance.

- (5) Generally, the scope of the exam is limited to the issues raised in the offer. If other material issues are evident, see IRM 4.18.1.4.2.1.
- (6) The OIC-DATL file is maintained separate from any previous examination file. Any previous file (paper and electronic) is used for reference only and must remain unchanged. The OIC-DATL issue workpapers should be in a separate folder in the electronic file.
- (7) A brief summary of why the offer was filed must be included, and all conclusions must be documented and all arguments raised by the taxpayer addressed in the workpapers.

4.18.1.4.2.1  
(01-10-2022)  
**Expanding the Scope**

- (1) DATL cases are generally limited scope exams; if additional issues are identified examiners must consider the statute, the previous exam, collectibility and the potential tax impact.
- (2) DATL cases have two statutes, see IRM 4.18.1.2.2. The examiner must determine if the ASED is open and confirm the open ASED with the *TS OIC reviewer*.
- (3) By filing an offer, the taxpayer has requested an additional review of their books. Examiners should consider the cost/benefit of re-examining no changed issues or examining previously declassified issues.
- (4) DATL cases often result from the taxpayer's inability to pay. Before expanding the scope, collectibility must be considered. See IRM 4.20.1.2.1, Collectibility Considerations.

4.18.1.4.2.2  
(01-10-2022)  
**ASED Closed -  
Offsetting Tax  
Adjustments**

- (1) If the ASED expired before the offer is filed, then other issues may only be pursued to offset the amount of any allowable reduction in liability. The adjustments included in the final report must be limited so not to result in an increase to tax or penalties. The full amount of the adjustments must be in the report explanation and supporting workpapers with a statement in the "conclusion" to alert the reader that adjustments shown on the report are limited to the amount necessary to bring the tax increase or decrease to zero.

4.18.1.4.2.3  
(01-10-2022)  
**ASED Open - Additional  
Tax Proposed**

- (1) If the ASED is open when the offer is filed, then issues resulting in additional tax and/or penalties may be considered. In the rare case of a substantial government burden of proof issue that can't be closed with at least six months remaining on the TIPRA statute, contact the *TS OIC reviewer* for guidance.
- (2) If the ASED is open and additional tax and/or penalties are proposed, the examiner will:
  - If agreed, follow OIC withdrawal instructions in IRM 4.18.1.4.3.1.
  - If unagreed, prepare an unagreed report and close to TS (WSD for excise cases) as a rejection. The examiner will not issue a 30-day letter; the report can be shared with the taxpayer but the examiner must explain the report is subject to review. The "Other Information" section of

Form 3198, Special Handling Notice for Examination Case Processing, must include "OIC DATL additional tax proposed."

- (3) If additional tax and/or penalties are proposed, TS will:
- Send the OIC-DATL rejection letter generated in AOIC. Select paragraph F and include, "We have reviewed all information provided and determined there is no legitimate doubt as to liability and an additional assessment is proposed as shown in the attached report. If we do not receive a response to this letter, a statutory notice of deficiency will be issued. See enclosed Publication 3498, The Examination Process."
  - If the taxpayer doesn't respond, issue a SNOD.
  - If the taxpayer sends new information for consideration along with a request for an appeal, return the case to the group for consideration of the new information. After the information is reviewed, the case is returned to TS as either an agreed case or for transfer to the Independent Office of Appeals.
  - If the taxpayer requests an appeal, forward the case to the Independent Office of Appeals.

**Note:** When TS issues the rejection letter the 24-month TIPRA statute no longer applies. The Form 656-L acts as a statute extension; the ASER is extended for the time the offer is pending plus one year. The pending period includes the time the rejected offer is considered by the Independent Office of Appeals.

4.18.1.4.3  
(11-04-2020)  
**Determination of Liability**

- (1) If the taxpayer's liability changes as a result of the examination determination, a revised examination report must be prepared. The taxable income and or tax per return or previously adjusted/assessed must be the corrected taxable income and or tax from the previous report, verified from a transcript of the taxpayer's account.
- (2) The adjustment(s) should be discussed with the taxpayer(s). An examination report will be prepared to reflect the corrected tax liability. If the case is closing as a rejection, the report is not issued to the taxpayer. See IRM 4.18.1.4.3.3, Rejection.
- (3) When considering an OIC-DATL where the assessment was based on substitute for return (SFR) assessments, any return filed with an open assessment statute must be reviewed to determine if all reportable income was included in the assessment. If the OIC-DATL investigation reveals additional income not included in the SFR assessment, or a subsequent return, and the statute is open, the taxpayer will be required to file an amended return to include the additional income.
- (4) If a liability remains after consideration of the offer, payment should be solicited. See IRM 4.20.1.3.1, Request Full Payment.

4.18.1.4.3.1  
(01-10-2022)  
**Withdrawal**

- (1) When the examiner and taxpayer reach an agreement on the correct tax liability, a "compromise" is not required. In order to process the case as agreed it is necessary for the taxpayer to withdraw the offer.
- (2) Any adjustments required to correct the outstanding tax liability are accomplished through abatement of the erroneously assessed tax. If the taxpayer



indicates agreement with the findings and wishes to withdraw the offer, then the following procedures are completed by the examiner:

- a. Prepare an agreed audit report starting with tax and/or taxable income as previously determined. Verify this from a transcript of account. Explain the recommendation to the taxpayer, with the caveat that the report is subject to review. Include the following language in the Other Information section of the audit report: "I hereby withdraw my offer in compromise. By withdrawing my offer, I waive my appeal rights." Letter 6434, OIC-DATL Withdrawal Agreed Report Transmittal, may be used to transmit the report to the taxpayer for signature.
  - b. Alternatively, secure a completed Form 15281, Request to Withdraw Offer in Compromise-Doubt as to Liability, or a signed withdrawal statement from the taxpayer that states, "I hereby withdraw my offer for the tax period (insert period(s)), subject to the reduction of \$(enter amount) in previously assessed tax and penalties, respectively, plus interest."
  - c. The taxpayer's signature is required on the report form or the withdrawal statement. If the offer was filed jointly, signatures of both spouses are required. The taxpayer's representative (per the power of attorney) may sign on the taxpayer's behalf.
  - d. Inform the taxpayer that when the OIC-DATL is withdrawn by signing the report or withdrawal statement, this action forfeits any appeal rights and also resumes the running of the statutory period for collection.
- (3) The signed withdrawal may be received in person, by mail, or by fax, and must be date stamped upon receipt. The case file must be clearly documented with the date of receipt and the delivery method, for example, by certified mail, regular mail, fax or personal delivery.
- (4) OIC-DATL cases are mandatory review and the completed case must close to the *TS OIC reviewer*. See IRM 4.18.1.5. Excise cases must close to WSD.

4.18.1.4.3.2  
(11-04-2020)  
**Acceptance**

- (1) An offer to compromise a tax liability must set forth the legal grounds for compromise and must provide enough information for the IRS to determine where the offer fits within its acceptance policies. Doubt as to liability exists when there is a genuine dispute as to the existence or amount of the correct tax liability under the law. Doubt as to liability does not exist when the liability has been established by a final court decision or judgment concerning the existence of the liability.
- (2) While acceptance of an offer is a possibility, an accepted offer will be very rare. This is because there will rarely be an instance when a liability cannot be determined.
- (3) Typically, the only time an offer would be accepted is when there is no way to determine the liability, for example, books and records do not exist and can't be reconstructed. In that event, the taxpayer will be requested to withdraw the OIC-DATL. Closure as acceptance will be the last resort.
- (4) Acceptance of an OIC-DATL requires special processing procedures. IRM 1.2.2.6.1, Delegation Order 5 -1 (Rev. 5), To Accept, Reject, Return, Terminate or Acknowledge Withdrawals of Offers in Compromise, outlines the level of authority needed to approve an OIC. Under IRC 7122(b), Record, if the total liability for an offer is \$50,000 or more, Counsel must provide an opinion to

ensure that the OIC meets the legal requirements for compromise and conforms to the IRS's policy and procedure. See IRM 5.8.8.12, 24-Month Mandatory Acceptance under IRC 7122(f).

- (5) If an acceptance is being considered, immediately contact the PSP OIC coordinator, the WSD OIC coordinator or the *TS OIC reviewer* to discuss and secure the current acceptance procedures.
- (6) The completed case must close to the *TS OIC reviewer*. See IRM 4.18.1.5. The reviewer will review the case and secure approval to issue the acceptance letter.

4.18.1.4.3.3  
(11-04-2020)  
**Rejection**

- (1) If the taxpayer does not agree with the examiner's conclusions and/or the offer is not withdrawn, the case is processed as a rejection and the following procedures are completed by the examiner:
  - a. Prepare an unagreed report on Form 4549-A, Report of Income Tax Examination Changes (Without Taxpayer Signature) or other applicable report form, to reflect any decrease in tax and penalties (based on the correct tax liability determined by the examiner). Do not issue the report to the taxpayer or solicit a signature. If requested, explain the recommendation to the taxpayer with the caveat that it is subject to review. If no abatement of tax is recommended, then a no change report is required to populate Form 5344, Examination Closing Record.
  - b. Prepare Form 1271, Rejection Memorandum, and check the box indicating rejection. Do not fill in the date of rejection letter at the top of the form. Attach to Form 1271, a Form 886-A, Explanation of Items, or lead sheet providing a (1) Summary, (2) Facts as to Liability, and (3) Conclusion.

**Note:** If a report is prepared, Form 886-A or lead sheet, and any other supporting workpapers and schedules will be enclosed in the case file. If an explanation of adjustments is not prepared, Form 1271, must contain sufficient detail to explain why the OIC-DATL is rejected.



Category	Sample Content
Summary	The taxpayer is seeking to compromise under authority of IRC 7122, an unpaid liability for income taxes plus statutory additions. The amount of the offer is the total sum of (\$ amount) to be paid in full within ten days of acceptance of the offer. This is the first offer submitted by the taxpayer. The offer is recommended for rejection on the grounds that no legitimate doubt exists from the viewpoint of both the taxpayer and the IRS that the assessed liability is incorrect.
Facts as to Liability	The liability in this case arose from an examination conducted in 2020. The examination disallowed in full the Schedule A deduction because the deduction does not meet the requirements of IRC 170. The non-deductible contributions to a fraudulent church have been upheld by the Tax Court (Hall v Commissioner, 41 T.C.M. (CCH) 1169, T.C. Memo 1981-143 Court Opinion.
Conclusion	For the reasons stated above, this offer is recommended for rejection on the grounds that there is no legitimate doubt that the assessed liability is incorrect.

- (2) The completed case must close to the *TS OIC Reviewer*. See IRM 4.18.1.5.1. If the OIC Independent Administrative Reviewer (IAR) agrees with the examiner's determination, they process the file. If the OIC IAR disagrees, the file is returned to the group via Form 3990, Reviewers Report, to communicate the OIC IAR's observations. Excise cases close to WSD. See IRM 4.24.6.9.5, Excise Tax Examination of Offer in Compromise Case.
- (3) The OIC-IAR Reviewer in TS or WSD (excise only) issues a rejection letter to the taxpayer. The taxpayer has 30 calendar days from the date of the rejection letter to file an appeal request. If the taxpayer requests an appeal, the file will be forwarded to the IRS Independent Office of Appeals. Any partial abatement is made before the case is forwarded to Appeals.

4.18.1.5  
(11-04-2020)  
**Case Closing  
Procedures**

- (1) After consideration of an OIC case is completed in the field, the file is forwarded to the Exam OIC reviewer in TS using Form 3210, Document Transmittal. There must be a minimum of six months (180 days) remaining on the Tax Increase Prevention and Reconciliation Act (TIPRA) statute when the case is received in TS. See IRM 4.18.1.2.2, Statute of Limitations.
- (2) All OIC-DATL cases are required to be closed through TS. An independent administrative review by TS is required for offers with a rejection recommendation.
- (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 must reach out to their Area PSP OIC coordinator, WSD OIC coordinator or

the *TS OIC reviewer* for guidance. Offer acceptances require concurrence from the SB/SE Exam Headquarters OIC-DATL analyst. For additional guidance regarding TS' procedures, see IRM 4.8.8.8, Offer in Compromise Cases.

- (4) Complete Form 5344, Examination Closing Record, using the disposal code shown below and the original source code.

Outcome of the Case	Disposal Code
If the offer is withdrawn	DC 03 - Agreed
If the offer was rejected	DC 08 - Other
If the offer was accepted	DC 03 - Agreed

**Reminder:** For SB/SE Field Exam, a no change report must be generated in RGS in order to populate the Form 5344.

- (5) The OIC file must be forwarded to TS 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 must contain the following documents in the order shown (as applicable):
- Any written withdrawal request signed by the taxpayer(s) and date stamped.
  - 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 4.18.1.4.3.3, Rejection.
  - Agreed or unagreed audit report form and an explanation of adjustments. For no change OIC-DATL cases, Form 4549-A, Report of Income Tax Examination Changes (Without Taxpayer Signature), or other applicable unagreed report form must include no change language.
  - Form 656-L, Offer in Compromise (Doubt as to Liability).
  - Form 5344, Examination Closing Record, attached to the front of the tax return.
  - Tax return (original, copy or electronic print).
  - Form 2848, Power of Attorney and Declaration of Representative, attached to the tax return as required.
  - OIC-DATL workpapers.
  - Prior examination workpaper file clipped, banded and/or placed in a separate folder.
- (6) After review, the TS OIC reviewer will update the AOIC system with the closing data.

4.18.1.5.1  
(11-04-2020)  
**Independent  
Administrative Review**

- (1) IRC 7122(e), Administrative Review, requires the IRS to provide for independent administrative review of all proposed rejections of offers in compromise prior to the rejection being communicated to the taxpayer.
- (2) For Examination (except excise cases), this review occurs within the TS function where one reviewer shall be designated as the Independent Administrative Reviewer (IAR). See IRM 4.8.8.3, Independent Administrative Review Procedures for Rejected Offers. For excise cases this review occurs in WSD. See IRM 4.24.6.9.7, Doubt as to Liability Cases Subject to Independent Review Process.

- (3) If the IAR determines that the rejection is not appropriate, the case file will be returned to the examiner, using Form 3990, Reviewers Report, with an explanation of why the rejection was inappropriate. If an agreement cannot be reached between the examiner and the IAR, the issue will be elevated to management (group managers or above) by either the field examiner or IAR, as appropriate.

4.18.1.5.2  
(01-10-2022)  
**Offers Under  
Independent Office of  
Appeals Jurisdiction**

- (1) If Appeals receives a DATL case from Examination that is not fully developed, the case will not be returned. The hearing officer will make a decision based on available information. See IRM 8.23.3.9(8), Consideration of Doubt as to Liability (DATL) Offers.
- (2) If the taxpayer provides additional information to the hearing officer, the hearing officer may send the new information to the originating function via Form 5402, Appeals Transmittal and Case Memo, Form 10467, Appeals Division Feedback Report and Transmittal Memorandum, or Form 2209, Courtesy Investigation. See IRM 8.23.3.9.3, Examination or Specialty DATL Offers - Liability Previously Determined by Form 870 or Defaulted Statutory Notice of Deficiency (SNOD).
- Appeals will retain jurisdiction over the case.
  - The originating function has 45 days to take action on the new information and respond to the hearing officer. The time-frame may be extended.
  - Time is charged to Activity Code 822, Details out of Practice Area or Area to: Appeals Division.

4.18.1.6  
(11-04-2020)  
**Miscellaneous**

- (1) This section contains guidance for various processing issues that may occur in OIC-DATL cases.

4.18.1.6.1  
(11-04-2020)  
**Payment with Form 656**

- (1) No payment, or application fee, is required with the submission of Form 656-L, Offer in Compromise (Doubt as to Liability). On occasion, taxpayers submit payments when they submit OIC-DATL offers. If a payment is submitted with the offer, the Brookhaven DATL unit will apply the funds to the outstanding liability as discussed on Form 656-L.

4.18.1.6.2  
(11-04-2020)  
**Innocent Spouse**

- (1) If the sole issue is relief from joint and several liability, ask the taxpayer to withdraw their OIC and file Form 8857, Request for Innocent Spouse Relief. In most instances, this will expedite the processing of their claim.

**Reminder:** Once a determination is made regarding a taxpayer's OIC, the taxpayer is precluded by the terms of the offer from raising any issue related to the liability of the tax period compromised. Therefore, the taxpayer is ineligible to file an innocent spouse claim for that tax period.

4.18.1.6.3  
(11-04-2020)  
**Fraudulent and False  
Statements**

- (1) IRC 7206(5), Compromises and Closing Agreements, provides for penalties (imprisonment and fines) for fraudulent and false statements applicable to compromises (and closing agreements). If an examiner believes fraudulent and false statements were made in submission of the offer, the Fraud Referral Specialist should be consulted.

4.18.1.6.4  
(11-04-2020)  
**Death of the Taxpayer**

- (1) When the IRS is notified of the death of a taxpayer who submitted an OIC-DATL that is currently under consideration, the IRS can no longer consider the OIC-DATL. If the OIC-DATL under consideration was submitted jointly by a husband and wife, contact with the surviving spouse should be made to determine whether there is a probate proceeding pending. See IRM 5.19.24.15, Death of a Taxpayer.

4.18.1.6.5  
(01-10-2022)  
**OIC Filed During the Audit**

- (1) This section provides procedures for handling Offers In Compromise DATC, DATL, and ETA filed during an examination. While Collection has jurisdictional responsibility for DATC and ETA offers, examiners may play a role in the processing of offers.
- (2) If a taxpayer submits an offer to the examiner during the course of an examination, the examiner must promptly forward the offer to *Centralized Offer in Compromise* (COIC) for processing. If a payment is submitted, the offer must be forwarded within 24 hours of receipt, otherwise within three calendar days of receipt. Upon receipt of the offer, the examiner will date stamp page 1 of Form 656, Offer in Compromise, or Form 656-L, Offer in Compromise (Doubt as to Liability), in the upper right-hand corner and will review the offer for completeness prior to forwarding to COIC.
- (3) The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) requires mandatory acceptance if a determination is not made on a taxpayer's offer within 24 months of the IRS received date. Based on this requirement, it is critical any OIC submitted to the IRS is promptly forwarded to COIC for a processability determination.
- (4) The examiner must not sign the OIC.
- (5) To provide better service to the taxpayer the examiner will perform a cursory review to expedite processing of the OIC. The examiner should ensure the offer package, at a minimum includes the following:
  - a. Full identification of taxpayer: name, address, social security number or employer identification number; both taxpayer names and signatures in instances of a joint liability offer.
  - b. Form 656 must include completed Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, and/or Form 433-B, Collection Information Statement for Businesses.
  - c. Form 656 must also include the application fee and the initial offer payment, if applicable. Taxpayers who qualify as low income, based on current criteria, and check the Low-Income Certification Section on Form 656, are not required to submit the application fee or any offer payment(s) while the OIC is being investigated.
- (6) If an offer is submitted, the examiner must consider collectibility and adjust scope as appropriate. See IRM 4.20.1.2.1, Collectibility Considerations.
- (7) The examination and closure continues as normal. Prior to closure, if requested, the examiner will provide a copy of the audit report to the Collection employee handling the OIC case.
- (8) Examiners must never solicit or obtain conditional agreements wherein the taxpayer only agrees to the proposed tax with the condition that an OIC simultaneously submitted (doubt as to collectibility) is accepted.

- (9) If the taxpayer submits the OIC directly to Collection during the course of an audit, Collection will determine whether any periods are being examined and if so, contact the examiner for further coordination. See IRM 5.8.4.17, Pending Assessments.
- (10) If an OIC is to be accepted by Collection, an acceptance letter cannot be mailed to the taxpayer until an assessment of the liability has been made. To obtain a quick assessment of the liability, Form 3198, Special Handling Notice for Examination Case Processing, the "Other" must be annotated, "Prompt Assessment Request—Offer Pending in Collection".
- (11) The IRS will not consider an OIC under its administrative OIC procedures while a taxpayer is in bankruptcy. If an examiner receives an offer from a taxpayer that is in bankruptcy the offer must be forwarded to COIC. The Form 3210 must state that the taxpayer is currently in bankruptcy.

4.18.1.6.6  
(01-10-2022)  
**Collateral Agreements**

- (1) When Campus Examination checks compliance with the terms of future income or other collateral agreements, the complete files with related returns may be referred to Area Examination. Cases may be referred for follow-up action to determine if the taxpayer has complied with the collateral agreement obtained as part of an OIC acceptance. A collateral agreement may involve a waiver of a future deduction arising from net operating losses or capital loss carryforward arising in prior periods. See IRM 5.8.6, Collateral Agreements.

