



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.8.7

JUNE 23, 2022

EFFECTIVE DATE

(06-23-2022)

PURPOSE

- (1) This transmits revised IRM 5.8.7, Offer in Compromise, Return, Terminate, Withdraw, and Reject Processing.

MATERIAL CHANGES

- (1) Below is a table containing changes impacting this revision of IRM 5.8.7.

IRM Section	Change
5.8.7.1	Updated references.
5.8.7.1.2	Updated authorities.
5.8.7.1.6	Added terms and acronyms.
5.8.7.1.7	Added related resources.
5.8.7.2.1	Added note not to issue a processable return letter if the offer was processed in error.
5.8.7.2.2.1	Removed instruction to monitor for return posting when recommending acceptance (erroneous chapter location).
5.8.7.2.2.2(8)	Removed reference to additional 15 calendar days wait time for written deadlines. Per IRM 5.8.4.6, replaced with "mail time as appropriate."
5.8.7.2.2.3	<ul style="list-style-type: none">(7) Revised the reference to FTD compliance to include the 2 quarters prior to OIC submission.(8) Replaced reference to additional 15 calendar days with "mail time as appropriate."
5.8.7.2.2.4(2)	Revised table for 508 compliance.
5.8.7.2.2.5(7)	Included instruction to update AOIC payment screen with dishonored payment.
5.8.7.2.2.6(2)	Added note that an offer submitted during a CDP hearing will not be returned under "solely to delay" criteria.
5.8.7.2.2.7(2)	Added: <ul style="list-style-type: none">(d) Verify payments were posted as designated and with correct DPCs.(f) Added note to provide form if sole reason for return is outdated revision.(i) It is not necessary to redact PII when enclosing Form 656.(j) Print the history for the file.(k) Document AMS with reason for return.(q) Assign case to managerial approval assignment number in AOIC. Per 1.4.52.8.1, cases must include a systemic or manual entry noting the manager approval in ICS or AOIC.

IRM Section	Change
5.8.7.3	Moved (1) to (3) and added: <ul style="list-style-type: none"> • (2) Closing as a return ends the original offer number. • (4) Return reconsideration procedures do not apply to rejections. Example provided.
5.8.7.3.2	<ul style="list-style-type: none"> • (1) Updated approving official for reconsideration from Department Manager to Team Manager. • (2) Clarified the manager documents the AOIC history when the final determination is made.
5.8.7.3.3	Clarified <ul style="list-style-type: none"> • (2) Where to document and create a control of a request for reconsideration. • (3) To close any open control or CIP if the request is not approved.
5.8.7.3.3.1	Clarified if the reconsideration is denied, the manager will record the AOIC remarks.
5.8.7.3.3.2	Removed <ul style="list-style-type: none"> • (1) Reference to request for taxpayer information which is contained in earlier section. • (2) Reference to failure to submit documents, which is contained in earlier section.
5.8.7.3.3.3	Added it is the OE/OS responsibility to review the reloaded offer record for accuracy and to notate the closed TIPRA statute in Remarks.
5.8.7.3.3.3.1	Clarified entries when reloading offers: <ul style="list-style-type: none"> • (1) If physical document(s) are not required, the IRS received date is the date the manager approves the reconsideration. • (2) The date the PE signs and loads the offer is the waiver date. If documents are required, the received date is the IRS received date. Examples provided. Note added regarding cross-referencing payments from the original offer. Annotate the Remarks of the reloaded offer to identify that TIPRA is closed.
5.8.7.4.1.1(2)	Updated Reference to include Form 14773 and Form 14773-A and remove Letter 3504 and Letter 3504-A.
5.8.7.4.2	<ul style="list-style-type: none"> • (2) Removed reference to additional 15 calendar days wait time. • (9) Added instruction to document AMS.
5.8.7.4.2.1(2)	Changed approving official from Department Manager to Team Manager.
5.8.7.4.3(3)	Added instruction to: <ul style="list-style-type: none"> • (b) Check ACDS for CDP status. • (c) Contact Appeals if uncertain regarding CDP status. • (d) Verify payment application. • (i) Assign the offer to the manager in AOIC.
5.8.7.5.1	Added: <ul style="list-style-type: none"> • (f) Assign the offer to the managerial approval assignment number in AOIC. Managerial approval must be systemically or manually documented in the history.

5.8.7.7.1	<p>Included:</p> <ul style="list-style-type: none"> • (3) Note that the CDP predetermination letter requires editing. • (4) Paragraph regarding NIBIG scenarios in IRM 5.8.4. • (5) Revised language in notes and examples. • (7) Paragraph regarding potential fraud referral.
5.8.7.7.2	<ul style="list-style-type: none"> • (3) Moved note to paragraph. • (4) Added instruction regarding editing of CDP predetermination letter.
5.8.7.7.3(1)	<p>Added (with some renumbering):</p> <ul style="list-style-type: none"> • (a) To close erroneous BMF filing requirements. • (b) To check and correct DPCs and overpayments. • (c) To check ACDS. • (d) To check entity last known address (LKA). • (e) Clarification regarding matching Form 656 with AOIC. Added note regarding periods that are not eligible for compromise. • (f) Instruction to refresh accruals and resolve material errors. • (h) AGI update is only required for IMF. • (m) NIBIG cases require a history summary. • (r) Bullet format for file tab content previously contained in notes and other paragraphs. • (s) Instruction to assign to the manager in AOIC. • (t) Caution that IAR approval is required prior to issuance of the rejection letter.
5.8.7.7.3.1	<p>Added:</p> <ul style="list-style-type: none"> • (1) Additional information regarding dishonored checks. • (2) What to include in the return letter if the taxpayer appeals.
5.8.7.7.3.2	Added a new section addressing potential errors in the rejection letter.
5.8.7.7.3.3	Added a new section regarding processing steps when one spouse has an open CDP.
5.8.7.7.4	<p>Added:</p> <ul style="list-style-type: none"> • (3)(b) The RCP field comes from the DP tables provided to the taxpayer. • (4) Paragraph to address if timely appeal is discovered after the offer was closed as a rejection. Included example.
5.8.7.7.5	<p>Added:</p> <ul style="list-style-type: none"> • (1) Reference to IRM 8.22.5.3.1. • (1)(d) Instruction to use sender's time zone, with example. • (3) Paragraph regarding receipt of new financial information without an appeal.
5.8.7.7.5.1	<p>Renumbered and added:</p> <ul style="list-style-type: none"> • (2) Update AOIC to an ARI OCC code. • (4) Additional opportunity for rebuttal is not required.

5.8.7.7.6	<p>Added:</p> <ul style="list-style-type: none"> • (2)(a) Guidance regarding written notification of transfer to Appeals. • (2)(b) Note not to include additional documentation regarding the merits of the appeal if no new information was supplied. • (2)(c) Verify all payments are recorded on the AOIC Payment screen. • (2)(d) Print the AOIC Summary and MFT screens. • (5)(e) Guidance regarding requesting history deletions. • (6)(b) Reference to the Appeals Case Routing Tool and a note that managers must monitor for receipt of the transferred case.
5.8.7.7.7(3)	Added paragraph regarding requesting mirroring when case is returned by Appeals.
5.8.7.7.7.1	Updated title and added paragraph that manual TC 480 and STAUP is required.
5.8.7.10	<p>Changed title to include Collection Assignment. Added:</p> <ul style="list-style-type: none"> • (1) Language regarding providing assistance with alternative resolutions. • (2) Action must be taken to move the accounts to the appropriate collection status. • (3) Revision regarding case situations that require no action. • (4) Removed instruction to review AOIC remarks in sustained appeals.
5.8.7.10.1	<p>Added:</p> <ul style="list-style-type: none"> • (1) Reinstatement instructions. • (2) Guidance regarding IA input. • (3) Reference to OPA and removed reference to Form 9465. • (4) Instruction to use STAUP for taxpayers using OPA. • (6) Guidance regarding PPIA. • (7) Guidance regarding short CSED periods.
5.8.7.10.2	<ul style="list-style-type: none"> • (1) Added guidance regarding CNC recommendations. • (2) Added guidance regarding returning an account to CNC. • (3) Revised instruction regarding the closing TC 48X.
5.8.7.10.3	Retitled section and revised format to clarify all accounts not specifically recommended for other alternatives must be accelerated to status 22.
5.8.7.10.4	<p>Retitled section and added:</p> <ul style="list-style-type: none"> • (1) through (3) Criteria that may warrant assignment. • (4) What to include in documentation. • (5) Instruction regarding manager concurrence. • (6) Actions to take if the taxpayer doesn't appeal.
5.8.7.10.4.1	Added section with steps to transfer the case to field group.
5.8.7.12.2	<ul style="list-style-type: none"> • (2) Added instruction if unable to record in the FRC Tracking screen. • (3) Removed instruction regarding cases processed prior to AOIC.

- (2) Incorporated the guidance in SBSE-05-0422-0014, Interim Guidance on Federal Tax Deposit Compliance for Offers in Compromise.
- (3) Editorial changes were made throughout the document.
- (4) Throughout this IRM, the phrase "mandatory withdrawal" was revised to "involuntary withdrawal" wherever mentioned.
- (5) Throughout this IRM, updated the IRM references and legal references, as necessary.

- (6) Throughout this IRM, corrected the title of Form 1271 Rejection Memorandum wherever mentioned.
- (7) Throughout this IRM, updated examples containing dates to reflect the current timeframe.
- (8) Throughout this IRM, added routing information for Form 3177.
- (9) Throughout this IRM, corrected the title from Office of Appeals to Independent Office of Appeals.
- (10) Some additions resulted in renumbering of IRM sections.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.8.7, dated 12/20/2018 and incorporates Interim Guidance Memorandum (IGM) SBSE-05-0422-0014, Interim Guidance on Federal Tax Deposit Compliance for Offers in Compromise.

AUDIENCE

SB/SE Collection and Campus Compliance employees

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5.8.7

Return, Terminate, Withdraw, and Reject Processing

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5.8.7.1
(06-23-2022)
Program Scope and Objectives

- (1) Purpose: Offers that are not recommended for acceptance will be closed by return, rejection, withdrawal, or termination. This section defines the types of dispositions other than acceptance and describes the procedures for completing each type of closure.
- (2) Audience: These procedures apply to IRS employees who are responsible for investigating offers.
 - Offer Examiners (OE) in Centralized Offer in Compromise (COIC)
 - Offer Specialists (OS) in the Field OIC (FOIC)
 - Additional IRS employees assigned to the offer program and employees who conduct offer in compromise investigations
- (3) Policy Owner: Director, Collection Policy OIC
- (4) Program Owner: Collection Policy, SBSE, Offer in Compromise (OIC) Program
- (5) Primary Stakeholders: COIC OE and FOIC OS
- (6) Program Goals: Policy Statement 5-100 explains the objective of the OIC as a collection tool. By following the procedures in this IRM, employees will be able to accurately process returns, rejections, withdrawals, and terminations of offers in compromise when appropriate.

5.8.7.1.1
(12-20-2018)
Background

- (1) Offers in compromise not recommended for acceptance require specific closing actions. This section addresses what must be considered when not accepting an offer, and the closing actions required when closing a case as a return, rejection, withdrawal, or termination.

5.8.7.1.2
(06-23-2022)
Authority

- (1) Authorities relating to this section include:
 - IRC 7122 - Compromises
 - 26 CFR 301.7122-1, Compromises
 - IRM 1.2.1.6.17, Policy Statement 5-100
 - Rev. Proc. 2003-71 ,
 - Notice 2006-68
 - IRM 1.2.2.6, Servicewide Policies and Authorities, Delegations of Authority for the Collecting Process

5.8.7.1.3
(12-20-2018)
Responsibilities

- (1) The Director, Collection Policy is responsible for all policies and procedures within the Offer in Compromise program.
- (2) The National Program Manager, Offer in Compromise is responsible for development and delivery of policies and procedures within the program.
- (3) Managers of employees investigating offers are responsible for ensuring these procedures are followed and employee actions are timely and accurate.
- (4) Offer examiners, offer specialists, and other employees investigating offers are responsible for following the procedures in this IRM.

5.8.7.1.4
(06-23-2022)
**Program Management
and Review**

- (1) Operational and program reviews are conducted on a yearly basis by the Director, Specialty Collection OIC and OIC Collection Policy with the use of data and reports from the Automated Offer In Compromise (AOIC) system and ENTITY case management system. In addition, ad hoc reports, which provide information on the inventory levels, hours per case, and age of offers in inventory or at the time of closure, are also provided. See IRM 1.4.52, Offer in Compromise Manager's Resource Guide.
- (2) Managerial case reviews are also completed as defined in IRM 1.4.52, Offer in Compromise Manager's Resource Guide, . These reviews are a method to determine if the offer amount accurately reflects the reasonable collection potential (RCP) as defined in Policy Statement 5-100.
- (3) National quality reviews and consistency reviews are routinely conducted to ensure program consistency and effectiveness in case processing. As a result of these reviews, procedural changes may be required to improve the quality and effectiveness of the program.

5.8.7.1.5
(06-23-2022)
Program Controls

- (1) ICS is used by field employees as a method for inventory control and history documentation.
- (2) AOIC is used to track offers submitted by taxpayers and record case actions and history. Ability to take action on AOIC is limited to specific offer employees. Additional permissions are provided based on an employee's duties and responsibilities.
- (3) Managers are required to follow program management procedures and controls addressed in IRM 1.4.50, Collection Group Manager, Territory Manager and Area Director Operational Aid and IRM 1.4.52, Offer in Compromise Manager's Resource Guide.
- (4) Approving officials ensure the closing of the offer via return, rejection or withdrawal is appropriate, and all actions required by the IRM are taken. Managerial requirements for case approval are defined in IRM 1.2.2.6, Delegations of Authority for the Collecting Process.
- (5) Monitoring OIC (MOIC) is responsible for addressing any funds held as deposits by applying the funds to the liability or issuing a refund.

5.8.7.1.6
(06-23-2022)
**Terms/Definitions/
Acronyms**

- (1) Terms or acronyms used throughout this IRM:

Term or Acronym	Definition
Deposit	Payment remitted by the taxpayer that is not immediately applied to the liability. Pending the outcome of the investigation, the funds may be applied to the account or returned to the taxpayer.
Offer(s)	Offer(s) in Compromise
Reject	A non-acceptance recommendation that includes appeal rights

Term or Acronym	Definition
Return	A non-acceptance recommendation that does not include appeal rights
Termination	A closing of the offer due to the death of the taxpayer
Withdrawal, voluntary	A closing of the offer at the request of the taxpayer
Withdrawal, involuntary	A closing of the offer because the taxpayer failed to make payments required under the Tax Increase Prevention and Responsibility Act (TIPRA)
ACDS	Appeals Centralized Database System
ATE	Appeals Technical Employee
ATM	Appeals Team Manager
CAP	A type of appeal under the Collection Appeal Program
CCC	Case Category Code in AOIC (also referred to as OCC)
CCP	Centralized Case Processing
CDP	A type of appeal under the Collection Due Process hearing provisions
CIP	Compliance Initiative Program modules used to create a case in ICS
CNC	Currently Not Collectible
COIC	Centralized Offer in Compromise
CSED	Collection Statute Expiration Date
DLN	Document locator number
e-fax	Enterprise Electronic Facsimile or an electronically transmitted scanned document sent to or from an IRS e-fax number
EFTPS	Electronic Federal Tax Payment System
EH	Equivalent Hearing (Appeals)
ES	Estimated Tax Payment
ETA	Effective Tax Administration, a basis of consideration wherein the taxpayer does not contest the ability to pay in full, but requests consideration of their special circumstances
FIV	Future Income Value (monthly income times a multiplier)
FTD	Federal Tax Deposit

Term or Acronym	Definition
FTP	Failure to pay penalty
IA	Installment Agreement
ICS	Integrated Collection System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
NIBIG	Not in the Best Interest of the Government
NFTL	Notice of Federal Tax Lien
NOD	Notice of determination issued by Appeals - also known as the closing letter
NOL	Net Operating Loss
OE	Offer Examiner
OIC	Offer in Compromise
OIC SP	Offer in Compromise SharePoint
OS	Offer Specialist
PII	Personally Identifiable Information
POA	Power of Attorney or legal representative
PPIA	Partial-Pay Installment Agreement
PUB	Publication
RBA	Restitution Based Assessment
RCP	Reasonable Collection Potential
RO	Revenue Officer
SCOIC	Specialty Collection Offer in Compromise
TIPRA	Tax Increase Prevention and Reconciliation Act of 2005
TP	Taxpayer

- (2) For a list of other common abbreviations, definitions and acronyms used throughout this IRM, see IRM 5.8.1 Exhibit 1, Common Abbreviations Used in the IRM.
- (3) Additional acronyms and keywords can be searched in the ReferenceNet Acronym Database, at <http://rnet.web.irs.gov/Resources/Acronymdb.aspx>.

5.8.7.1.7
(06-23-2022)

Related Resources

- (1) Additional resources can be found in:

IRM	Title	Guidance On
1.2.2.6	Delegations of Authority for the Collecting Process	Delegation for approval of various types of disposition of offers in compromise
1.2.2.6.4	Delegation Order 5-4 Federal Tax Lien Certificates	Authority to sign Notices of Federal Tax Lien
5.8.4	Investigation	Actions required to determine the appropriate method of closure.
5.8.5	Financial Analysis	Appropriate evaluation of the taxpayer's ability to pay and computation of reasonable collection potential.
5.8.6	Collateral Agreements	Considerations involved when rejecting an offer where a collateral agreement was a factor.
5.8.10	Special Case Processing	Additional considerations required in special cases such as death of the taxpayer, MFT 74 or 76 modules, etc.
5.8.11	Effective Tax Administration	Consideration of hardship or public policy/equity issues.
5.8.1.5	Protecting Taxpayer Rights	Rights afforded by Internal Revenue Code and Taxpayer Bill of Rights (TBOR).
5.19.7	Monitoring Offer in Compromise	Actions taken on accepted offers.

(2) Employees can find helpful information on these websites:

- SERP: <http://serp.enterprise.irs.gov>.
- Interim Guidance memorandums at <http://imdtrack.web.irs.gov/search.asp>.

5.8.7.2 (12-20-2018) Returns

- (1) An offer can be returned as either a “not processable return” or a “processable return.” It is important to note the distinction because when there is a **not processable return**, the collection statute is not suspended. The application fee is returned to the taxpayer in all cases involving a not processable return; however, the IRS keeps the application fee when it is a processable return. See IRM 5.8.2.4.1, Determining Processability, for the criteria.
- (2) Review the AOIC record to ensure the information is accurate.

5.8.7.2.1 (06-23-2022) Not Processable Returns

- (1) An offer is determined to be not processable if any of the “Not Processable” criteria listed in IRM 5.8.2.4.1, Determining Processability, is present. This decision is the sole responsibility of the Centralized OIC (COIC) sites located in the Brookhaven and Memphis Campuses.

Note: Do not use a processable return letter if the offer should not have been processed. Reassign the offer to COIC so a PE can follow the steps in IRM 5.8.2.7, Erroneous Processability Determinations.

5.8.7.2.2
(06-23-2022)

Processable Returns

- (1) Processable returns include all returns made after the offer has been determined to be processable.

Note: If an offer is processed in error, the IRS will follow the provisions of IRM 5.8.2.4.1 as to the treatment of TIPRA payments.

- (2) A processable return will result in suspension of the collection statute for the period of time the offer was considered processable and will result in the IRS keeping the application fee and applicable TIPRA payment(s). A taxpayer whose offer is closed as a return does not receive appeal rights; however different levels of approval exist for some return situations. The IRS's return of an offer may be reconsidered in limited situations. Refer to IRM 5.8.7.3 below for reconsideration criteria.
- (3) During the offer investigation, there are a number of situations that may result in a processable offer being returned to a taxpayer. During discussion with the taxpayer or if correspondence is sent, the taxpayer should be made aware of all issues which are preventing the offer investigation from proceeding, i.e. the taxpayer may have compliance issues and verification of an expense is required.
- (4) The following chart lists the reasons a processable offer may be returned and who can authorize the return. Approval authority is outlined in IRM 1.2.2.6.1.3, Return Authority.

Reason for Return	OIC Employee Delegated to Sign the Letter
<ul style="list-style-type: none"> • Taxpayer filed bankruptcy during a pending investigation. • Tax was paid in full by a refund offset, tax has been abated, or no tax can be identified as owing. • Taxpayer failed to perfect original offer form necessary to process the offer for consideration. • All other return reasons not specified below 	Investigating Process Examiner (PE), Offer Examiner (OE), field Tax Examiner (TE), and Offer Specialist (OS)

Reason for Return	OIC Employee Delegated to Sign the Letter
<ul style="list-style-type: none"> • Failure to provide financial information • Failure to make required estimated tax payments or federal tax deposits • Failure to make required TIPRA payments and/or the application fee when submitting a revised or related Form 656 • Failure to perfect the original offer, incorrectly claiming exemption from application fee or TIPRA payments • Other investigations pending • Solely to delay 	Team Manager in COIC and Group Manager in FOIC

5.8.7.2.2.1
(06-23-2022)
**Return for Filing
Compliance**

- (1) A processable offer must be returned when the investigation reveals the taxpayer has not remained in filing compliance. One attempt should be made by telephone to secure the return(s). If the taxpayer or their representative cannot be reached by telephone a letter should be issued. If the taxpayer fails to submit the delinquent returns or provide a reason for not filing and internal research verifies the returns are not posted or pending, return the offer without further contact. Document the case history with attempts to secure the delinquent returns.

Note: If any periods included on the offer were prepared under unagreed substitute for return (SFR) proceedings, offer processing may continue; however, notify the taxpayer/POA that if an offer is accepted, the taxpayer's liability on the SFR tax year can never be adjusted, even if the offer defaults. If the taxpayer wishes to contest the liability by filing a corrected tax return, solicit a withdrawal of the offer. Amended returns may take months to process, and the offer should not be held in inventory pending the determination. The taxpayer may file an offer after the tax returns are processed.

- (2) If the current year return has not posted and there is no extension (TC 460), check FFINQ to verify if the return has been received or is waiting to be processed. Do not return the offer for non-compliance if indicators on FFINQ show that the return has been received but not processed. Submission Processing IRM 3.30.123.6.1.6, Domestic Form 1040 Series OTFP (AUSPC, FSPC, KCSPC, OSPC Only) (Program #s 43110, 43130, 44110, and 47130) Processing Specifications, provides specific dates for the current year processing.
- (3) If the AOIC remarks indicate an OIC employee made a prior request for delinquent tax return(s) and the taxpayer failed to file the requested return(s) or provide a reason for not filing, and internal research verifies the returns are not

posted or pending, the offer may be returned without any additional contact. See IRM 5.8.4.7, Additional Initial Offer Actions, for further instruction. Document the case history.

- (4) If you receive a return that cannot be processed due to a defect, such as a missing signature or a missing tax schedule, make one attempt to secure the necessary information. If possible, secure the correction via fax. If the taxpayer does not resolve the defect, the return should be forwarded for routine (not expedited) processing. The Service Center will return the tax return to the taxpayer if they are unable to resolve the defect. The offer should be returned on the basis the taxpayer did not file the return. Use the open paragraph to explain the taxpayer did not provide the necessary information to make the tax return processable.

5.8.7.2.2.2
(06-23-2022)

**Return for Inadequate
Estimated or Insufficient
Withholding Tax
Payments**

- (1) A processable offer must be returned if the taxpayer does not supply requested verification of sufficient estimated tax paid or income tax withheld to cover the estimated tax of the tax year the offer was submitted, or fails to remain compliant with estimated tax payments or have sufficient withholding in any year after the offer is submitted.

Example: While investigating an OIC on July 16, 2021, which was submitted in January 2021, you should verify the taxpayer has made the required estimated tax payments for the first two quarters of the 2021 tax year.

Example: In June 2021, you conduct an initial compliance screening of an OIC that was submitted in November 15, 2020, and identify an apparent deficiency. The 2020 return is on extension and based on the last filed return, the taxpayer has an estimated tax obligation for 2020 and 2021. Upon initial contact, the taxpayer should be asked to submit payment of the delinquent tax payments for 2020 and to bring current the estimated tax payments for 2021. If the taxpayer fails to meet the deadline, the offer should be returned.

Exception: If the tax return for the year the offer submitted has been filed and assessed or is pending assessment, the tax period may be included in the offer if it is in the best interest of the government.

Example: The offer in compromise was submitted on November 15, 2020 and in May 2021 you conduct your initial analysis and RCP calculation. There was no previous contact with the taxpayer to request missed estimated tax payments for 2020. The taxpayer is current on estimated tax payments for 2021 and the offer appears to meet acceptance criteria. If the 2020 tax return has been filed and assessed, you may add the 2020 tax year to the offer and proceed with acceptance. You may also wait for a pending assessment to post, if the delay is in the best interest of the taxpayer and the government.

Example: The offer in compromise was submitted on November 15, 2020, and the offer investigation is being conducted in June 2021. There was no previous contact with the taxpayer to request missed estimated tax payments for 2020. The taxpayer is current on estimated tax payments for 2021 and the offer investigation has been completed and the offer is being recommended for rejection. If the 2020 tax return has been filed

and assessed, the OE/OS may add the 2020 tax year to the offer and proceed with rejection. Because the investigation has been substantially concluded, it is generally in the government's best interest to reject, rather than return, the offer. If the taxpayer submits a similar offer in the future, there may be grounds to return the offer as not materially different from an offer that was considered, but not accepted.

Note: Any compliance issues identified in the initial compliance screening discussed in IRM 5.8.4.6 must be addressed prior to completing a review of the taxpayer's financial information.

- (2) The requirement to have adequate estimated tax paid prior to acceptance of an offer applies to corporate as well as individual taxpayers.
- (3) Estimated tax payments are required when a taxpayer does not pay their tax through withholding, or does not pay enough tax through withholding. This can include income from self-employment, business earnings, interest, rent, dividends and other sources including wages, salaries and pensions.
- (4) To determine the estimated taxes required and when it should be paid:
 - a. For individuals, if the taxpayer expects to owe at least \$1,000, the amount of the payment will be based on 100% of the prior year's tax or 90% of the current year's tax due at the time of the offer, whichever is less. Current year's tax should be based on current income and all legally allowable expenses. The OE/OS may use the on-line calculator on www.irs.gov to calculate the ES payments due.
 - b. If the prior year's tax liability showed no estimated tax payments were due, then the taxpayer would not legally be required to make any payments for the current year. If it appears the taxpayer may have a liability this year, remind the taxpayer that filing a return with a balance due would be a default in the offer terms if the offer is accepted.
 - c. The amount of the estimated tax payment is generally based on the net taxable income, including the gross income earned, less allowable deductions. This includes depreciation, home office expenses, automobile expenses, and depletion from carrying on a trade or business.
 - d. Generally, payments should be made quarterly and are due April 15th, June 15th, and September 15th of the current year in addition to January 15th of the following year.
 - e. See Pub 505, Tax Withholding and Estimated Tax, and Pub 334, Tax Guide For Small Business (For Individuals Who Use Schedule C or C-EZ), which provide a more detailed and complete discussion on the matter.
- (5) The OE/OS should determine the appropriate amount due during the initial analysis of the case as defined in IRM 5.8.4.6, Initial Compliance Screening, and IRM 5.8.4.7, Additional Initial Offer Actions.
- (6) If it is determined that the taxpayer is delinquent in the payment of estimated tax and a previous request for estimated tax payments was not made, calculate the required amount due and give the taxpayer up to 15 calendar days to make the payments. One attempt should be made by telephone to contact the taxpayer to request the necessary tax payment(s). Document the case history with the results of the phone contact attempt.

Note: The OE/OS should provide the taxpayer/representative with the calculated ES payment. Allow the taxpayer/representative the ability to provide information which shows a different amount may be appropriate.

- (7) If no telephone contact can be made, a letter must be prepared and mailed to the taxpayer requesting the payment. If you are also requesting required financial information, you may use the Letter 2844 Option D to request contact. This letter should be issued **only** after the phone attempts referenced in IRM 5.8.4.6(11) are documented. If the taxpayer does not respond, you may return the offer.
- (8) If you are requesting only ES, use Letter 2844 with an open paragraph. This letter should be issued **only** after the phone attempt referenced in IRM 5.8.4.6(11) is documented. Allow 15 calendar days from the date of the letter for the taxpayer to respond (plus mail time as appropriate), before taking the next action. Document the case history.
- (9) If the taxpayer or their representative provides a legitimate reason for requesting additional time to make the payment(s), a reasonable deadline for responding must be given along with a warning that the offer will be returned if the payment is not received by the established deadline. This may be an additional 15 calendar days from the original established deadline. Barring any special circumstances such as, a taxpayer's medical reason that may extend the request beyond the additional 15 calendar days, the offer may be returned if the taxpayer fails to comply with the request for the payment(s). The case history must be sufficiently documented indicating the attempts made to secure the payment(s).
- (10) Prior to returning an offer for this reason, the following actions must be taken:
 - a. Determine whether the taxpayer has earned sufficient taxable income to require ES payments or income tax withholding for the year(s) in question.
 - b. Determine the amount of tax that should have been paid in ES tax payments to date (or withheld) on the income earned and document the basis of the calculation.

Example: Based on last return filed 2020 tax of \$10,000, the taxpayer should have paid in \$7,500 in ES (3 quarters x \$2,500).

- c. Document the case history with attempted contacts as defined in paragraphs (6) and (7) above (including any requested and/or granted extensions of time).

Note: A "no answer" contact does not meet the criteria as an attempt. If contact by telephone could not be made, a letter requesting payment of the specific amount is required.

- d. Research to determine if the payment may have been submitted. Proof of payment may be verified on IDRS or may include a copy of a cancelled check, a receipt issued by the Taxpayer Assistance Center that accepted the payment, certification of mailing to the appropriate Campus for processing, a receipt from the bank that processed the payment, or EFTPS acknowledgement number.

Note: If the taxpayer or representative provides reasonable verification that the required ES payments for the current year are substantially less than the

prior year or the taxpayer may not incur any tax liability for the current year, do not return the offer for failure to make ES payments based on the prior year tax liability. However, advise the taxpayer that filing a return with a balance due would be a default in the offer terms if the offer is accepted.

- (11) The history must be documented to support the reason for the return and all attempted requests to bring the taxpayer into compliance. Prior to returning the offer, verify through internal sources (IDRS) if any ES payments have posted to the taxpayer's account.
- (12) In instances where the failure to remain in compliance with estimated tax payments was subsequent to a preliminary determination being shared with the taxpayer or a preliminary determination letter being issued to the taxpayer, proceed with rejection of the offer without contacting the taxpayer to discuss the non-compliance. Document the case history thoroughly, including the date the preliminary determination letter was mailed and the timing of any subsequent non-compliance. In this case, issue a rejection letter, allowing the taxpayer appeal rights.

Exception: If the taxpayer was previously afforded the opportunity to get current on ES payments during this offer investigation, and misses an additional estimated tax payment, it may be appropriate to return, rather than recommend rejection with appeal rights.

Example: During the offer investigation, the taxpayer was previously afforded the opportunity to get current with the first two quarterly ES payments for 2021, and was advised that any additional missed ES payments would result in return. On September 10, you advised the taxpayer of the preliminary determination to reject and allowed an opportunity to respond to the preliminary RCP, but the information provided did not change the determination. On October 1, while preparing the file for rejection, you discover the ES payment due on September 15 was not made. The offer may be returned.

Note: The taxpayer should be advised when personally contacted or in correspondence provided during the offer investigation that failure to remain in compliance with estimated tax payments may result in the offer being closed as a return.

- (13) A return for failing to make required estimated tax payments or insufficient withheld tax requires approval of a Group Manager in the FOIC or a Team Manager in COIC. See IRM 1.2.2.6.1.3, Return Authority, for details.

5.8.7.2.2.3 (06-23-2022)

Return for Failure to Make Timely Federal Tax Deposit

- (1) A processable offer may be returned when the investigation reveals the taxpayer has not made federal tax deposits during the investigation.
- (2) Generally, every employer who pays wages to an employee must withhold income tax and the employee share of FICA (i.e., social security and Medicare) or RRTA taxes from the employee's gross wages and report the tax liability on an employer's federal tax return (941, 943, 944, 945 or CT-1). Non-payroll income tax withholding must be reported on Form 945, Annual Return of Withheld Federal Income Tax. If the employer accumulates an employment tax liability for withheld taxes and the employer share of FICA or RRTA taxes of \$2,500 or more during a quarter (for returns due quarterly) or a year (for

returns due annually), this liability must be deposited monthly or semi-weekly depending upon the employer's deposit schedule.

Note: The deposit rules for Form 941, Employer's Quarterly Federal Tax Return, also apply to tax liabilities for Form 943, Employer's Annual Federal Tax Return for Agricultural Employees; Form 944, Employer's Annual Federal Tax Return; Form 945, Annual Return of Withheld Federal Income Tax; and Form CT-1, Employer's Annual Railroad Retirement Tax Return. However, because Forms 943, 944, 945 and CT-1 are annual returns, the rules for determining the deposit schedule apply to a calendar year rather than a calendar quarter.

- (3) Deposit requirements are dictated by the dates and amounts of a taxpayer's payroll.
- a. There are two deposit schedules: monthly and semi-weekly. The deposit schedule a taxpayer must use is based on the total tax liability the taxpayer reported during a look-back period. Generally, for Form 941 filers, the look-back period begins July 1 and ends June 30. If the taxpayer reported \$50,000 or less of employment taxes during the look-back period, they would be classified as a monthly depositor. If the taxpayer reported more than \$50,000 of employment taxes in the look-back period, they would be classified as a semi-weekly depositor.

Exception: If an employer's total tax liability for any quarter is less than \$2,500, payment may be made with the Form 941 on the due date of the return in lieu of making deposits.
 - b. Use IDRS command code ENMOD to determine if the taxpayer has an open employment tax filing requirement. Use BMFOLK to determine if a taxpayer is a monthly or semi-weekly depositor for a particular quarter.
 - c. Monthly depositors must deposit accumulated taxes on payments made during a calendar month by the 15th day of the following month.
 - d. Semi-weekly depositors must deposit accumulated taxes on payments using the following schedule:

Payment Days	Deposit By
Wednesday, Thursday, and/or Friday	Following Wednesday
Saturday, Sunday, Monday, and/or Tuesday	Following Friday

- e. Generally, the amount required to be deposited is comprised of the federal income tax withheld plus both the employee and employer Social Security and Medicare taxes.

Note: For more information on federal tax deposit requirements, see IRM 20.1.4, Penalty Handbook — Failure to Deposit Penalty.

- (4) Determine the type of depositor (monthly or semi-weekly) and verify that deposits are being made. Continue to monitor compliance with FTDs throughout the offer investigation via IDRS.
- (5) Effective January 1, 2011, all FTDs must be made by means of the Electronic Federal Tax Payment System (EFTPS). EFTPS is a system designed to use

electronic funds transfer (EFT) to pay Federal taxes. The EFT acknowledgment number is provided on the EFTPS when a deposit is made.

- (6) Most employers will also have an employment tax filing requirement for Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. If an employer's FUTA tax liability for any calendar quarter is over \$500 (including any FUTA tax carried forward from an earlier quarter), the employer must deposit the tax (i.e., make an FTD) by electronic funds transfer (EFTPS). The employer must include liabilities owed for credit reduction with the 4th quarter FTD. If an employer's FUTA tax liability for a quarter is \$500 or less, the employer does not have to deposit the tax. Instead, it may be carried forward and added to the liability for the next quarter.
- (7) The taxpayer must be current with FTDs for the two preceding quarters prior to offer submission, through the current quarter of offer submission, and during the investigation of the offer. If it is determined at any time during the investigation that the taxpayer is not current with FTD(s), contact the taxpayer by telephone and request the missing deposits. Allow the taxpayer 15 calendar days to make the deposit(s) and/or provide documentation of a reduction in the required deposit. Advise the taxpayer that any future missed deposits will result in immediate return of the offer without appeal rights and with no additional contact. Document the case history with the results of the discussion or attempted contact.
- (8) If telephone contact cannot be made, a letter must be prepared and mailed to the taxpayer requesting the missing FTD(s). Allow 15 calendar days from the date of the letter for the taxpayer to respond or make up the missed deposit(s) (plus mail time as appropriate), before taking the next action. Document the case history.
- (9) If the taxpayer was previously provided the opportunity to pay a required FTD and advised that failure to make these required payments would cause the offer to be returned, the OE/OS is not required to provide the taxpayer additional time to submit the payment. Ensure the taxpayer/representative has not communicated a change in circumstance that reduces or eliminates the payment due. If it is unclear whether the taxpayer's circumstances may have changed, contact the taxpayer to determine if payment(s) are due before proceeding.
- (10) The history must be documented to support the reason for the return and all attempted requests to bring the taxpayer into FTD compliance.
- (11) A taxpayer whose offer is returned for failure to make FTDs will not include appeal rights. The application fee, as well as any TIPRA payments, will be retained.
- (12) A return of an offer for failure to make required FTDs requires approval of the team (COIC) or group (FOIC) manager.

5.8.7.2.2.4
(06-23-2022)
**Return for Failure to
Provide Information**

- (1) An offer may be returned at any time during processing if the taxpayer fails to provide information necessary to determine whether it should be accepted or rejected. Make every reasonable effort to secure the information needed so a recommendation can be made. If the taxpayer responded, but did not provide all information, document the history to support the determination.

- (2) Refer to the following table to determine the appropriate action based on taxpayer's response:

If	Then
Taxpayer did not provide any of the information/documents requested	Return offer for failure to provide information.
Taxpayer did not provide all the requested information but the information provided is sufficient to support a rejection recommendation.	Contact the TP to discuss the case determination. See IRM 5.8.4.9, Actions Based on Reasonable Collection Potential. Because Appeals will address only the assets established in RCP, include an estimated value for all assets and income stream in the AET/IET. Document the valuation method, e.g. "FMV was based on apparent sales proceeds" or "Valuation of stock in closely-held business was based on total asset value reported on the tax return."
Taxpayer provided some information requested and the OE/OS is unable to determine RCP.	Return offer for failure to provide information. Clearly document that a request for the specific information was made and the taxpayer was advised of the consequences for failure to provide all the information requested by the date requested.
Taxpayer provided some information requested and the OE/OS is unable to determine RCP, yet it appears the taxpayer has attempted to fully comply with the request.	Attempt one phone contact to secure the missing information. If a message is left allow the TP/POA two business days to respond. If you are unable to leave a message, immediately issue a Letter 2844 option D. If TP/POA fails to respond, return the offer for failure to provide information.

- (3) The return letter must be signed by the team (COIC) or group (FOIC) manager. See IRM 1.2.2.6.1.3, Return Authority for more detail.

5.8.7.2.2.5
(06-23-2022)
Return for Dishonored Payments

- (1) Upon notification of a dishonored application fee and/or TIPRA payment (initial or periodic), determine the current AOIC offer assignment by querying the offer number annotated on the upper left-hand corner of the check.
- (2) If the research indicates the taxpayer has not corrected the dishonored payment issue, the offer will be immediately returned to the taxpayer with the

appropriate notification for a dishonored check. Document the case history with which check(s) (application fee, TIPRA payment, or both) was returned and the date the check was dishonored.

- (3) If the taxpayer or an authorized representative offers to replace the dishonored check and requests reconsideration of their offer, contact by the taxpayer or their representative must be made within 30 calendar days of the date of the initial return letter.
- (4) The replacement payment must be in the form of certified funds (money order, cashier's check, etc.) and submitted via overnight mail or the taxpayer must provide proof via overnight mail or e-fax/fax, a previously submitted replacement check has cleared the bank. See IRM 5.8.7.3, Return Reconsideration, below for reconsideration procedures.
 - Inform the taxpayer or the authorized representative that the offer will not be reconsidered if the payment is not made with certified funds.
 - Provide a reasonable due date for receipt of the payment to the taxpayer or the authorized representative.
 - Advise the taxpayer or their representative to submit the payment by overnight mail. If proof a replacement check has cleared is being submitted, it should also be submitted via overnight mail or sent via e-fax/fax.
 - Document the case history.
- (5) Inform the taxpayer or the authorized representative that the certified funds must be mailed to either of the following addresses:

Brookhaven: Internal Revenue Service Center, 5000 Corporate Court - Stop 680, Holtsville, NY 11742

Memphis: Internal Revenue Service Center, 5333 Getwell Rd AMC - Stop 880, Memphis, TN 38118

- (6) To ensure proper handling, advise the taxpayer to include a letter requesting reconsideration of the offer.
- (7) If the payment was dishonored with a TC 671 on the Master File, include information in the AOIC remarks and update the AOIC payment screen if appropriate. Once payments are entered in AOIC Payment Screen, they cannot be edited. To debit an erroneous credit, add a payment with the original received date and code with the applicable "bad payment" descriptor from the drop down menu.
- (8) Upon receipt of the replacement payment, the case should be worked under reconsideration criteria, if appropriate. The employee should verify if the payment was received within the established deadline as annotated in the case history.

5.8.7.2.2.6
(06-23-2022)
**Other Types of
Processable Returns**

- (1) In addition to the returns referenced in this section, other circumstances in which a processable return is appropriate are discussed in IRM 5.8.4, Investigation. These include returns based on solely to delay criteria and circumstances in which other investigations are pending which will not allow for a decision on the taxpayer's offer until the other investigation is concluded.

- (2) IRM 5.8.4, Investigation, provides guidance on the following types of processable returns:

- IRM 5.8.4.17, Pending Assessments
- IRM 5.8.4.19.1(2), Open Criminal Investigations
- IRM 5.8.4.20.2, Procedures for Return of Offers Submitted Solely to Delay Collection

Note: SCOIC will no longer return offers submitted during a CDP hearing as "solely to delay." See IRM 5.8.4.15.2, Case Decisions on CDP Offers.

5.8.7.2.2.7
(06-23-2022)

Closing an Offer as a Processable Return

- (1) Processable returns do not require preparation of the Form 1271, Rejection Memorandum.
- (2) The following actions should be taken to close a case as a processable return:
- a. Verify that the AOIC record reflects a "Y" in the Processable status field.
 - b. Review IDRS to determine if the taxpayer has filed a Collection Due Process (CDP) hearing request (unreversed TC 520 with CDP closing code or -W freeze code) or an Equivalent Hearing (EH) request (unreversed TC 971 AC 278) on any module. Also check request ACDS research to see if the notice of determination (NOD) or closing letter is issued, which would end Appeals jurisdiction, even though TC 520 remains open. If a CDP or EH request is open in Appeals, the offer file should be forwarded to Appeals after the return letter is mailed and the offer is closed on AOIC. Refer to IRM 5.8.4.15.2, Case Decisions on CDP Offers, for closing an offer when the taxpayer has an open CDP/EH.
 - c. Review AOIC to determine if any taxpayer payments are being held as a deposit. If there is a deposit, see IRM 5.8.7.8 for required actions.
 - d. Review IDRS to ensure any offer payments have been applied correctly. If needed, correct DPCs to ensure any designations requested by the taxpayer have been recorded accurately.
 - e. If the basis of the offer is ETA, update the Offer Type on the AOIC summary screen from "C" to "A."

Note: If the Form 656 includes a request to have the offer considered under ETA, AOIC should reflect type of offer "A".

- f. Generate the "Return Letter" for the signature of the appropriate delegated official, listing the reason(s) the offer is no longer processable.

Note: If the sole reason for the return is failure to respond to a request for a current revision of Form 656 or Form 433-A(OIC)/Form 433-B(OIC) (RET-C5 or RET-D1 paragraphs in AOIC), enclose current revisions of the forms or generate a request through AMS/ELITE to directly mail the Form 656-B. Use the open paragraph to advise if the form is being mailed separately.

Note: Outgoing correspondence should be signed with an actual signature, or with a graphic signature if the approval signature is secured via electronic methods, in accordance with the current security and verification standards of the Internal Revenue Service. In all instances, a printed copy of the signed or electronically executed document, form, or letter, must be included in the offer case file.

- g. Clear the return letter in AOIC. The content of any open paragraph is not populated into AOIC until the letter is cleared. Delays in this action will cause erroneous information to appear in the AOIC Remarks.

Example: The final determination letter was mailed on February 19, 2021. The OE/OS does not clear the forms/letters until May 28, 2021. The AOIC remarks will reflect any open paragraph information with a May 30, 2021 date.

- h. If a POA indicator exists, verify a POA letter is provided. If a disclosure issue exists, use the appropriate paragraph to indicate this in the return letter, and do not send a copy to the representative.
- i. Stamp the Form 656 "RETURN." Cross out the IRS received date(s) with a "X." It is not necessary to redact PII from the Form 656.
- j. Document the case history, indicating the reason(s) the offer is no longer processable and with any other pertinent information regarding the case. Print the history for the file.
- k. Document AMS with a brief reason for the return to provide IRS personnel with information regarding the offer closure.
- l. Attach a copy of the offer to the taxpayer's letter and submit the letter(s) for approval and required signature.
- m. Keep the original offer, any amended offers, the closing letter(s), the CIS, all supporting documentation, and all internal documentation secured in connection with the investigation in the case file. For space saving purposes, delete any unnecessary documentation, such as duplicate copies. For example, if the taxpayer both faxed and mailed a 30 page response, it is not necessary to retain both.

Note: See IRM 5.8.7.11, Destruction of Credit Reports, for information on the purging and destruction of credit reports.

- n. If any periods are NMF, prepare the Form 3177, Notice of Action for Entry on Master File, to request input of a TC 481 to reverse the TC 480 for any NMF tax period. Forward the Form 3177 to *W&I KCSPC Non-Master File Team.
- o. If the file contains a "TC" after the offer number, or if the case history reflects a TC 480 was manually input, it must be manually reversed by the field or COIC person inputting closing actions on AOIC. Review the AOIC Remarks to determine which periods require manual reversal. Ensure all TC 480s are reversed.

Note: At a minimum, the AOIC Transaction Listing (Parts 2 and 3) must be resolved on a weekly basis to ensure all reversing transactions are correctly posted. Additionally, any open IDRS control bases assigned to XX88888884 (first 2 digits represent the area), must be closed, once the systemic posting error has been resolved. There could be a delay from the time the error is on the AOIC transaction listing to when the control base is opened on IDRS.

- p. Assign the offer to the managerial approval assignment number in AOIC. All cases requiring managerial approval must include a manual or systemic ICS or AOIC history entry noting the manager approval.
- q. The case may be closed on AOIC as a **return** once the letter is signed and mailed.
- r. Per IRM 5.8.4.13(3), wait 15 days after the date of the letter before processing any NFTL request to Centralized Lien Operations (CLO). If appeal

rights were discussed with the taxpayer, it is not necessary to wait 15 days unless a significant time has passed. Refer to IRM 5.1.9.2, Informing Taxpayers of Their Appeal Rights.

- s. See IRM 5.8.7.10, Alternative Resolutions and Collection Assignment, for procedures on forwarding the case for the next appropriate collection action.
- t. Mirroring is required at case closure if the offer processing resulted in differing Collection Statute Expiration Dates (CSEDs) for spouses in a joint assessment (MFT 30 or 35). The need for mirroring may be indicated by a red “M” after the offer number on the case file, but should be verified in every case. A request for mirroring the accounts (MFT 30/31 and MFT 35/65) should be processed in accordance with the mirroring procedures discussed in IRM 5.19.7.11, Separate OICs on Joint Liabilities, at the conclusion of the offer investigation. When a case is closed on AOIC, it requires a “yes or no” answer regarding the need for mirroring or the need for manual code reversal. The results will appear on the AOIC Summary Screen.

Example: The taxpayer and spouse submit separate offers for their joint and several liabilities on the same day, both with TC 480 on February 3. The offers are both returned on September 9. No mirroring is required.

Example: In the example above, the primary taxpayer’s offer was returned for failure to stay in compliance on September 9, while the spouse’s offer remains under consideration. When the spouse’s offer is closed, mirroring is required to record the taxpayers’ different CSEDs for the joint periods.

- (3) See IRM 5.8.7.7.3.1, Notification of Dishonored Check After Issuance of the Rejection Letter, for procedures to close the offer as a return based on notification of a dishonored check after issuance of a rejection letter.

5.8.7.3 (06-23-2022)

Return Reconsideration

- (1) Upon receipt of a return letter, taxpayers may contact the IRS to object to the return of an offer. Situations may arise when the reconsideration of a returned offer would best serve the interests of both the IRS and the taxpayer. Below are the criteria for possible reconsideration. Generally, an additional application fee and initial TIPRA payment will not be required.

Note: Notice 2006-68 states that an offer will not be deemed accepted under section 7122(f) if the offer is rejected, returned, or voluntarily or involuntarily withdrawn within the 24-month period. Thus, if a case is reopened for any reason, including IRS error, after one of these events occurred (rejection, return, withdrawal), the IRS will have already acted on the offer within the 24 months, and the offer will not be deemed accepted if it is not worked within the 24 months.

- (2) When the IRS returns an offer, the original offer number is ended and cannot be reopened/accepted. See IRM 5.8.7.3.3.3, Reopening a Returned Offer.
- (3) Not all offers are eligible for reconsideration. This section *does not* apply to offers returned for any of the following reason codes, unless the return was determined to have been in error.

- P — filed bankruptcy after offer submission
- Q — non-compliance after offer submission
- V, W — “solely to delay” submissions
- S — collection is in jeopardy
- X — “other investigations are pending that may affect ...”
- Y — original assessment fully abated

- (4) Return reconsideration procedures **do not** apply to rejections that were deemed in error. If an offer was closed as a rejection in error, utilize Reopen Closed Offer from the AOIC Area Office Menu using “administrative error” as the reason. Input manual TC 480 and STAUP to stat 71.

Example: IRS closed an offer in October 2021 as rejected no appeal. In December 2021, the IRS discovered the taxpayer had submitted a timely appeal. This offer number would be reopened on AOIC with manual input of TC 480, and the appeal addressed.

5.8.7.3.1
(12-20-2018)
**Criteria for Return
Reconsideration**

- (1) Generally, the taxpayer or the representative must contact the IRS to raise objections and provide an explanation for failure to provide the requested items. The objection must be raised within 30 calendar days from the date of the return letter (unless the condition that caused the failure to supply the substantiation continued for a prolonged period).

- (2) Acceptable criteria for potential situations where return reconsideration may be applicable based on IRS error are listed below. These are not all inclusive.

- a. The offer was closed as a return in error by the FOIC or the COIC site.

Note: If the return was based on a “Solely to Delay” determination from a field offer group, then the ICS history or AOIC remarks must provide information that the Field Group Manager who approved the determination was notified of the offer being reopened.

- b. The information was sent timely, but it was not associated with the case.
c. The taxpayer was affected by a federally declared disaster as described in IRM 20.1.2.2.2.2.
d. The taxpayer is in a combat zone as defined in IRC § 7508.
e. The taxpayer provided proof that the required application fee, application fee shortfall and/or TIPRA payments were made prior to the offer return.

- (3) Acceptable criteria for potential situations where return reconsideration may be applicable based on specific taxpayer issues are listed below. These are not all inclusive.

- a. Serious illness or injury prevented the taxpayer from submitting the information timely.

Note: Serious illness or injury may not apply to the taxpayer’s representative, if the taxpayer controlling the information receives a copy of the combo or additional information letter and is aware they should respond directly. Inquire with the representative and/or use POA bypass procedures if necessary. See IRM 5.1.23, Taxpayer Representation, for bypass procedures.

- b. There was a death in the taxpayer’s immediate family that prevented timely mailing of the information.

- c. The failure to perfect by providing a required additional Form 656, required TIPRA payment (i.e., remainder of 20% of the amount of a lump sum cash offer), and application fee when the original Form 656 included both joint and separate liabilities or individual or joint and corporation or partnership liabilities.
- d. The taxpayer requests a low-income certification waiver instead of paying the application fee and required TIPRA payment, and then provides proof that an incorrect conclusion was made.
- e. The taxpayer failed to make ES payments but provides proof that ES payments or withheld taxes are not due.
- f. The taxpayer made ES payments timely, but the verification did not reach the requesting OIC unit within the deadline.
- g. The taxpayer submitted funds within the required timeframes to replace previously dishonored check(s). See also IRM 5.8.7.2.2.5, Return for Dishonored Payments.

(4) The following would **not** be acceptable criteria for return reconsideration:

- a. Lack of availability of either the taxpayer or representative, absent circumstances identified in IRM 5.8.7.3.1, Criteria for Return Reconsideration, above;
- b. Representatives' filing season activity, unless the representative made a reasonable request for an extension prior to return of the OIC.
- c. Demonstrating compliance more than 30 days after an offer was returned.

Example: A taxpayer with a CDP OIC filed an extension to file Form 1040. ES payments of record are inadequate compared to the last filed return. The taxpayer did not respond to the request for verification of ES compliance, so the offer is returned. Two months later, the taxpayer files a Form 1040 that shows the existing credits are sufficient, and advises Appeals the offer should not have been returned. The IRS will not reopen the offer because the taxpayer did not supply the information timely, or within the 30 day reconsideration period.

5.8.7.3.2
(06-23-2022)

**Approval Authority for
Return Reconsideration**

- (1) Approval to reconsider a returned, processable offer(s) will be obtained from the COIC team manager or FOIC group manager. This authority may not be re-delegated.
- (2) Before requesting the taxpayer or authorized representative send any missing documentation or payments to support a reconsideration, obtain approval from your manager that the case qualifies to be considered. It is not necessary for the manager to document the AOIC history until the taxpayer has provided any requested information and a final determination is made whether to reconsider the offer.
- (3) The manager will indicate ultimate approval or denial of the request by making a history entry on AOIC.

5.8.7.3.3
(06-23-2022)
**Reconsideration
Procedures**

- (1) If the employee receiving a telephone request from a taxpayer or authorized representative for reconsideration determines the request does not have merit, based upon the acceptable criteria outlined in IRM 5.8.7.3.1, Criteria for Return Reconsideration above, the employee will advise the taxpayer or their authorized representative of the decision and the taxpayer's right to discuss the issue with the employee's manager. Annotate the closed offer record history on AOIC.
- (2) If the employee receiving a telephone request for reconsideration determines that the request does have merit based upon the acceptable criteria outlined in IRM 5.8.7.3.1, Criteria for Return Reconsideration above, after manager concurrence, the employee will:
 - Contact the taxpayer or their representative and request additional information to support the reconsideration request, if applicable.
 - Advise the missing or required information, substantiation, Forms 656, and/or applicable fees must be received within 10 calendar days of the contact. Unless original documents are required, e-fax is the preferred method of receipt.
 - Annotate the closed AOIC history to record the taxpayer's request for reconsideration. Create a control to follow up on the request. For example, FOIC will reopen ICS CIP and COIC may use the reconsideration control log stored on OIC SP.
- (3) If the taxpayer or their representative fails to provide the requested information, annotate the closed AOIC remarks that there will be no reconsideration. Close any open controls or CIPs.
- (4) If the taxpayer or their representative provides the requested information, the recommending employee will:
 - Annotate the closed AOIC remarks and request the reconsideration by making a history entry on the closed offer record on AOIC (not ICS), describing the taxpayer's claim or supporting verification and why the reconsideration request is justified.
 - Submit the closed offer case file, along with any verification submitted by the taxpayer to support the reconsideration request, through the appropriate management channels to the approving official.
- (5) Retain the original Form(s) 656 in the case file and if the offer is reopened, see IRM 5.8.7.3.3.3.

5.8.7.3.3.1
(06-23-2022)
**Denial of the
Reconsideration**

- (1) If the approving official denies the reconsideration request, they will record the denial in the AOIC remarks. The employee who received the request should clearly communicate by telephone to the taxpayer or their representative that the request for reconsideration was denied and that the matter is closed..

5.8.7.3.3.2
(06-23-2022)
**Approval of the
Reconsideration**

- (1) If the approving official agrees that a returned offer should be reconsidered, they will indicate approval of the request by making a history entry on AOIC. The employee assigned the case will telephone the taxpayer or their representative and advise that the offer is being reconsidered.
- (2) No action will be taken to reload or work the offer to AOIC until receipt of any required information or substantiation, Forms 656, and/or applicable fees.

5.8.7.3.3.2.1
(05-10-2011)
**Additional Form(s) 656
and Application Fee(s)
Received as Condition
for Reconsideration**

- (1) Some reconsideration situations may involve an original offer that included either joint and individual tax liabilities, or joint or individual and corporation or partnership liabilities on one Form 656. The offer may have been returned because the taxpayers failed to perfect the offer by submitting additional Forms 656 and the applicable application fee and required TIPRA payments for each. Since the taxpayers met the fee and payment requirement for the original, returned Form 656 they must submit and meet the fee requirement for each additional Form 656 before the original offer can be reloaded under return reconsideration procedures. Therefore, both the "Amended/Revised" and "Related to" offers that were previously provided with the Combo letter, must be loaded to AOIC, but not until the application fee is received for the "Related to" offer along with any additional substantiation that was required.

5.8.7.3.3.3
(06-23-2022)
**Reopening a Returned
Offer**

- (1) When a return letter is issued, the offer is closed and a TC 481 is systemically uploaded. If the offer meets reconsideration criteria, a new TC 480 is required. Offers that meet reconsideration criteria must be reloaded on AOIC, versus using the Reopen Closed Offer action on AOIC. FOIC must provide a request to COIC to take the appropriate actions to reload the offer. Reloading the offer accurately reflects the time the offer is actively under consideration, with a correct CSED suspension. See IRM 5.8.10.7(7) for the effect of offers on the CSED.

Note: Notice 2006-68 states that an offer will not be deemed accepted under section 7122(f) if the offer is rejected, returned, or voluntarily or involuntarily withdrawn within the 24-month period. Thus, if a case is reopened for any reason, including IRS error, after one of these events occurred (rejection, return, withdrawal), the IRS will have already acted on the offer within the 24 months, and the offer will not be deemed accepted if it is not worked within the 24 months.

- (2) It is the responsibility of the OE/OS to review the new AOIC record for accuracy. When the offer is loaded, enter in the remarks: *The TIPRA statute is closed for this reconsidered offer.*

5.8.7.3.3.3.1
(06-23-2022)
**Reloading the Returned
Offer**

- (1) FOIC does not have the authority to reload an offer record on AOIC. If reconsideration has been approved by the FOIC manager and the offer must be reloaded onto AOIC, the field must notify the respective COIC site. FOIC offices should obtain the Reconsideration Cover Sheet from *OIC SharePoint*. Be sure to include a full copy of the Form 656, complete all fields on the cover sheet and fax to the applicable COIC location. This will enable the COIC sites to create the new offer record. For the IRS and AO Received Dates, if no physical documents were required to support the reconsideration, use the date the manager approved the reconsideration. Otherwise, use the date the document(s) were received.

Note: Cases that are reloaded should be worked expeditiously with the goal of rendering a decision within 24 months of the original offer pending date. This is particularly true for cases closed in error. The 45-day initial analysis timeframe in IRM 5.8.4.7 does not apply to reloaded offers, if the initial review has already been conducted.

- (2) For purposes of an approved **return reconsideration**, COIC will take the following actions:

- In the waiver section of the faxed copy of the original Form 656, the PE should place their signature and title (alongside the existing signature and title), along with the current date, to indicate acceptance of the waiver of the statutory period of limitations. The date the PE signs the waiver and loads the offer will be the "Pending Date" field of the new offer.

Note: Reconsidered offers are not subject to the 24-month TIPRA statute because the determination letter on the original offer closed TIPRA.

- Create a new AOIC offer record by reloading the same AOIC data as the returned offer, except for "IRS Rcvd Dt," "AO Rcvd Dt" and "Pend Dt" fields. The "IRS Rcvd Dt," and "AO Rcvd Dt" fields will be provided by the OE/OS and will depend on whether information was required by the taxpayer. If no physical documents were required to support the reconsideration, the "IRS Rcvd Dt" and "AO Rcvd Dt" dates will be the date the manager approved the reconsideration. If documents were requested to support the reconsideration (such as new Forms 656, financial information or missing payments), the date the document(s) were supplied by the taxpayer will be used.

Example: Taxpayer asks for reconsideration on 12/07/2021, and the manager agrees to consider if the requested information is supplied. On 12/13/2021, the IRS receives the information and a copy of the returned Form 656. On 12/15/2021, the manager approves the reconsideration and on 12/16/2021 the PE signs the waiver and the offer is loaded to AOIC. The IRS and AO received dates would be 12/13/2021 and the waiver date would be 12/16/2021.

Example: On 12/07/2021, the taxpayer calls and requests reconsideration because he paid the requested ES shortfall by the established due date of 11/15/2021. After confirming the payment on IDRS the manager approves the reconsideration on 12/08/2021. On 12/09/2021, the PE signs the waiver and the offer is loaded to AOIC. The IRS and AO received dates would be 12/08/2021 and the waiver date would be 12/09/2021.

- Show the offer as related to the original offer, so they are linked. Notate in remarks the offer is reloaded, and any TIPRA payments associated with the original offer apply.

Note: There is no need to transfer payments to the new offer in AOIC. The new offer AOIC Payment Summary screen will show the waiver type is "ME-Master Clsd Error" with the cross-reference to the "master" original offer.

- Annotate the remarks of the new OIC *This is a reconsideration offer for OIC #100XXXXXXX. TIPRA statute for this offer is CLOSED.*
- Document the AOIC remarks of closed offer record that all documents are associated with the reloaded offer.
- Return the Form 656 to the originator, so they can associate the documents from the closed offer with the new, reloaded offer folder.

- 5.8.7.3.3.3.1.1
(10-07-2016)
Reloading Offers with a Previously Submitted Application Fee (COIC ONLY)
- (1) If the taxpayer paid the application fee with the original returned offer, for the new AOIC offer record enter:
- “N” in the “Fee Due” field
 - “ME” in the “Waiver Criteria” field
 - The number of the original, returned offer in the “Master Offer #” field of AOIC Application Fee screen.
- 5.8.7.3.3.3.1.2
(12-20-2018)
Reloading Offers with a Previous Low-Income Certification (COIC ONLY)
- (1) If the taxpayer previously checked low-income certification on the returned offer and they qualified for the low income waiver, enter the following for the new AOIC offer record:
- “N” in the “Fee Due” field.
 - “ME” in the “Waiver Criteria” field of AOIC Application Fee Screen.
 - The number of the original, returned offer in the “Master Offer #” field of AOIC Application Fee Screen.
- 5.8.7.4
(06-23-2022)
Withdrawal
- (1) There are two kinds of withdrawn offers; they are (1) Voluntary and (2) Involuntary.
- (2) Voluntary withdrawal of offers – An action that may be taken by the taxpayer at any time during the offer investigation. See IRM 5.8.7.4.1, Voluntary Withdrawal, below for more information.
- (3) Involuntary Withdrawal of offers – An action that may be taken by an OE/OS during the offer investigation. See IRM 5.8.7.4.2, Involuntary Withdrawal, below for more information.
- 5.8.7.4.1
(12-20-2018)
Voluntary Withdrawal
- (1) Taxpayers may voluntarily withdraw their OIC at any time prior to the IRS’ acceptance of the offer. A withdrawal must never be solicited merely to avoid a complete investigation or deny taxpayers access to Appeals.
- (2) When an OIC cannot be recommended for acceptance, allow the taxpayer an opportunity to voluntarily withdraw the offer and, at the same time, inform the taxpayer that withdrawing the offer forfeits all appeal rights.
- Note:** Do not negotiate alternative resolutions when a CDP offer is withdrawn. Appeals has jurisdiction over virtually all outcomes and is responsible to explain taxpayer rights within CDP, including the right to judicial appeal and retained jurisdiction of the final decision.
- (3) A voluntary withdrawal request may be made orally, by fax, or in writing. Receipt of a withdrawal (either in writing or orally) must be clearly documented in the case file indicating how the request was received. See IRM 5.8.7.4.3 for the date a withdrawal is effective.
- Note:** You must confirm both spouses are withdrawing a joint offer. See IRM 5.8.7.4.1.1 regarding joint offers.
- (4) Review AOIC to determine if any taxpayer payments are being held as a deposit. If there is a deposit, see IRM 5.8.7.8 for required actions.
- (5) Document the case history or correspondence that the taxpayer was informed that a withdrawal forfeits their appeal rights.

- (6) Per IRM 5.8.4.13(3), wait 15 days after the date of the letter before processing any NFTL request to Centralized Lien Operations (CLO). If appeal rights were discussed with the taxpayer, it is not necessary to wait 15 days unless a significant time has passed. Refer to IRM 5.1.9.2, Informing Taxpayers of Their Appeal Rights.

- (7) AOIC should be documented with results of contact or any actions taken.

5.8.7.4.1.1 (06-23-2022)

Voluntary Withdrawal of a Joint Offer

- (1) When a joint offer is withdrawn, verify both spouses concur with the withdrawal.
- (2) If one spouse verbally requests withdrawal, request telephone confirmation from the other spouse. If you are unable to secure verbal approval, send an AOIC Letter 2844 Option D and enclose Form 14773-A, Offer in Compromise Withdrawal - Joint . If the taxpayers do not respond by the deadline, return the offer for failure to respond (Option AT). If the spouse requests reopening of the offer within 30 days of the return letter, they must submit an amended Form 656 to remove the other spouse and allow consideration of their sole offer.
- (3) You may accept a written withdrawal signed by one spouse, as long as the withdrawal refers to the joint offer. If unclear, or if one signature block on the Form 14773-A, Offer in Compromise Withdrawal - Joint is unsigned, an effort should be made to perfect the request. Contact the spouse to secure verbal approval or request a written request. See (2) if you are unable to reach the taxpayer.
- (4) If either spouse requests refund of a deposit, the joint deposit will be refunded.
- (5) If only one spouse submits a withdrawal, a request for mirroring the accounts (MFT 30/31 and MFT 35/65) should be processed in accordance with the mirroring procedures discussed in IRM 5.19.7.11, Separate OICs on Joint Liabilities, at the conclusion of the offer investigation.

5.8.7.4.2 (06-23-2022)

Involuntary Withdrawal

- (1) If during the investigation the taxpayer fails to make the required subsequent periodic payments as required by TIPRA, the offer may be considered withdrawn. Check both AOIC and IDRS for TIPRA payments prior to an involuntary withdrawal determination.
- (2) One request for the missed payment(s) must be made by telephone. If the taxpayer or their representative cannot be contacted by telephone, issue a letter requesting the missed payment(s). If the contact is by telephone, allow the taxpayer 15 calendar days to submit the payment(s) before taking the next action. If the contact is written, allow 15 calendar days from the date of the letter for the taxpayer to submit the payment(s) plus mail time as appropriate, before taking the next action. Document the case history.

Note: If documentation is in the offer file that a previous request was made for the missed payment(s) and the payment(s) has not been made, the OE/OS is not required to re-request.

- (3) If the taxpayer provides a reasonable explanation for missing the payment(s) (i.e. special circumstances exist), the investigation of the offer should continue.

Example: The taxpayer misses monthly TIPRA payment of \$200 in July and previously missed the January TIPRA, which was subsequently paid. Before

the OIC is closed as an involuntary withdrawal, the taxpayer informs the OS he had a medical emergency in July, and offers to immediately bring the delinquent payment current. The taxpayer may be provided the opportunity to make up the payment(s).

- (4) Review AOIC to determine if any taxpayer payments are being held as a deposit. If there is a deposit, see IRM 5.8.7.8 for required actions.
 - (5) Issue the withdrawal letter indicating that the taxpayer failed to comply with the request for the required payment(s), therefore the offer is withdrawn.
 - (6) The letter must include the following information:
 - A statement indicating that the taxpayer failed to respond to the request for the remainder of the required periodic payments.
 - A statement indicating how any deposit made is being disposed of (i.e., refunded or applied to the tax deposit).
 - (7) Close the offer as withdrawn as defined in IRM 5.8.7.4.3, Closing an Offer as a Withdrawal, below.
 - (8) Document the case history, thoroughly describing the attempts to secure the funds and the decision to consider the offer withdrawn.
- Note:** The taxpayer should be advised, whether personally contacted or in correspondence provided during the offer investigation, that failure to remain in compliance with periodic payments may result in the offer being closed as a return or involuntary withdrawal with no appeal rights.
- (9) Document AMS that the offer was closed due to failure to make required offer payments. This provides IRS personnel with information regarding the offer closure.
 - (10) In instances where the failure to remain in compliance with periodic payments was subsequent to a preliminary discussion with or letter being issued to the taxpayer advising that the OIC would be rejected, proceed with rejection of the offer without contacting the taxpayer to discuss the non-compliance. See IRM 5.8.7.7.

Note: Document the case history thoroughly, including the date the preliminary determination letter was mailed or discussion took place and the timing of any subsequent non-compliance. In this case, issue a rejection letter so the taxpayer will receive appeal rights.

Exception: As a policy matter, if this is the second instance of the taxpayer missing a periodic payment, it may be appropriate to close the offer as an involuntary withdrawal.

Example: Upon receipt of the case, you identify the taxpayer has missed two monthly TIPRA payments. Before proceeding with the additional initial analysis, you secure the payments and advise failure to make future payments will result in involuntary withdrawal. After completing the preliminary RCP, you advise the POA the offer amount appears unacceptable, and if the taxpayer does not supply information to justify acceptance of the offer by the stated deadline, you will proceed with a

rejection recommendation. The taxpayer fails to make the next TIPRA payment. You may close the offer as an involuntary withdrawal versus a rejection recommendation.

- (11) Per IRM 5.8.4.13(3), wait 15 days after the date of the letter before processing any NFTL request to Centralized Lien Operations (CLO). If appeal rights were discussed with the taxpayer, it is not necessary to wait 15 days unless a significant time has passed. Refer to IRM 5.1.9.2, Informing Taxpayers of Their Appeal Rights.
- (12) Upon notification of a dishonored required TIPRA periodic payment, the offer should be returned in accordance with IRM 5.8.7.2.2.5, Return for Dishonored Payments.

5.8.7.4.2.1
(06-23-2022)
**Reopening an
Involuntary Withdrawal
(IRS Error)**

- (1) If an offer closed as an involuntary withdrawal was closed due to IRS error, the offer may be reopened. When an offer is closed as an involuntary withdrawal, a TC 482 is systemically uploaded. If the offer is to be reopened, a new TC 480 date is required. Offers that were closed as an involuntary withdrawal in error must be reloaded on AOIC, versus using the Reopen Closed Offer action on AOIC. While an additional application fee will not be required, the taxpayer must make any required TIPRA periodic payments which became due after the involuntary withdrawal letter was mailed. Upon receipt of a letter advising the taxpayer their offer was a involuntary withdrawal, taxpayers may telephone to object to the closing of the offer. If the taxpayer can provide proof that the required TIPRA payments were made timely, but not posted and submit any additional required TIPRA periodic payments, the offer may be reopened.
- (2) Approval to reconsider an offer closed as an involuntary withdrawal will be obtained from the COIC team manager or the FOIC group manager before requesting the offer be reopened. This authority may not be re-delegated.
- (3) The manager who approved the reconsideration will indicate approval or denial of the reopening of the offer by making an entry in AOIC remarks. If the case does not meet the criteria for reopening, the employee assigned the case should clearly communicate by telephone to the taxpayer or their representative that the request for reconsideration was denied and that the matter is closed. Document the AOIC remarks with the information.
- (4) Refer to IRM 5.8.7.3.3.3, Reopening a Returned Offer, and IRM 5.8.7.3.3.3.1, Reloading the Returned Offer, for the procedures to provide a request to COIC to reload the offer. The TC 480 date will be the date the offer is agreed to be reopened.

Note: Since an involuntary withdrawal is based on the taxpayer's failure to submit required TIPRA payments, the only basis for reopening of an involuntary withdrawal is IRS error when the payments were actually received prior to the withdrawal, yet not processed or posted timely.

Note: The 24-month mandatory acceptance period as defined in the TIPRA statute no longer applies once the IRS has issued a determination letter, even if the offer is subsequently reopened.

5.8.7.4.2.2
(06-23-2022)**Amended Offer after
Failure to Make
Required Periodic
Payments**

- (1) The OE/OS will follow the provisions of IRM 5.8.7.4.2, Involuntary Withdrawal, and close an offer as an involuntary withdrawal if the taxpayer fails to remain in compliance with periodic payments required based on the terms of the offer under investigation. The submission of an amended offer, unless requested by the OE/OS, will not change the determination to process an involuntary withdrawal, if any required TIPRA payments based on the terms of the original offer are not paid.

Example: The taxpayer submits an amended offer in which the payment terms under periodic payment provisions are for a lesser amount than required under the original offer amount. The taxpayer is unable or unwilling to make up the payments required under the original terms through the date of the amended offer. The original offer in the amount of \$12,000 provided for the TP to submit periodic payments on a monthly basis equal to \$500 per month for 24 months. After four months the taxpayer has submitted two payments totaling \$1,000 and submits an amended periodic payment offer in the amount of \$5,000 with the periodic payment terms being \$1,000 already paid and \$200 per month for 20 months. In this instance, the taxpayer would be required to submit the missing required periodic payments of \$1,000 for the offer investigation to continue.

Example: The amended offer is for a lesser amount than the previous offer and has lump sum payment terms (five or fewer payments in five months or less). The taxpayer requests any previous periodic payments be applied toward the 20% required TIPRA payment for a lump sum offer.

- (2) If the OE/OS has determined reasonable collection potential (RCP) and the taxpayer is willing to submit amended terms equal to or greater than RCP as well as with any required TIPRA payment(s), the OE/OS may proceed with recommending acceptance, even though previously required periodic payments were missed.

Example: The taxpayer submitted a periodic payment proposing \$500 a month for 24 months. After six months, the taxpayer had only paid in \$1,000. The OE/OS did not request the \$2,000 arrearage during the initial compliance screening but instead completed the initial analysis with RCP and determined a lump sum offer for \$10,000 is acceptable. If the taxpayer is willing to submit an addendum for \$10,000 lump sum terms with an additional \$1,000 for the required 20% payment, the OE/OS may proceed with acceptance. The addendum is allowable because it was solicited by IRS and can be recommended for acceptance.

- (3) If the taxpayer has made all payments required under TIPRA at the time an amended offer is received, monitor required TIPRA payments based on the amended offer and make a determination on the acceptability of the amended offer based on the revised terms.

5.8.7.4.3
(06-23-2022)**Closing an Offer as a
Withdrawal**

- (1) Offers closed as withdrawals do not require preparation of Form 1271, Rejection Memorandum.

- (2) The effective date of an involuntarily withdrawn offer is the date the letter is issued. The effective date of the voluntary withdrawal will depend on the method of receipt of the request to withdraw. The following chart shows the correct date to use as the withdrawal date:

If taxpayer withdraws an offer in compromise by...	Then the offer will be considered withdrawn ...
phone	on the date the IRS mails, or personally delivers, a written letter to the taxpayer acknowledging the withdrawal.
non-certified mail or fax	on the date the IRS mails, or personally delivers, a written letter to the taxpayer acknowledging the withdrawal.
mailing written notification of the withdrawal via U.S. certified mail	on the date the IRS receives the certified mail.
personal delivery	when notification of the withdrawal is received by the IRS.

- (3) The following actions should be taken to close an offer as a withdrawal:
- Review the AOIC record to ensure the information is accurate.
 - Review IDRS to determine if the taxpayer has filed a CDP hearing request (unreversed TC 520 with CDP closing code or -W freeze code) or an EH request (unreversed TC 971 AC 278) on any module. Do not rely solely on IDRS - check ACDS. See OIC SharePoint for information on researching ACDS. If Appeals has issued a NOD (a date is shown next to SNDATE), the CDP is closed and Appeals no longer has jurisdiction. If the CDP is closed, issue a regular rejection letter per IRM 5.8.7.7.3.
 - If a CDP/EH hearing request is open in Appeals, the offer file should be forwarded to Appeals after the withdrawal letter is mailed and the offer is closed as a withdrawal on AOIC. Refer to IRM 5.8.4.15.2, Case Decisions on CDP Offers, for closing an offer when the taxpayer has an open CDP. Request ACDS research and if necessary contact Appeals if you are uncertain if the taxpayer has an open CDP.

Note: Do not negotiate alternative resolutions when an offer under the jurisdiction of Appeals is withdrawn.
 - Review IDRS to ensure any offer payments have been applied correctly. If needed, correct DPCs to ensure any designations requested by the taxpayer have been recorded accurately.

Note: It is especially important to transfer any overpayments on BMF EIN modules. Overpayments on BMF periods do not always offset to the next balance due period and may be refunded when the stat 71 is reversed.
 - If the basis of the offer is ETA, ensure the Offer Type on the AOIC summary screen is "A" vs. "C." Update if necessary.

Note: If the Form 656 includes a request to have the offer considered under ETA, AOIC should reflect type of offer “A”.

- f. Generate the AOIC “Withdrawal Letter” for the signature of the authorized delegated employee. For voluntary withdrawals, use the chart above to determine the effective date of withdrawal. For involuntary withdrawals, use paragraph Option E (the withdrawal is effective the date the letter is issued).
- g. Generate the POA letter for any authorized representative, if applicable.
- h. Document the AOIC remarks, indicating the date, method of receipt, and type of withdrawal (e.g., voluntary or involuntary).
- i. Assign the offer to the managerial approval assignment number in AOIC if applicable.
- j. Submit the file for approval and signature of the letter(s). All cases requiring managerial approval must include a manual or systemic ICS or AOIC history entry noting the manager approval.

Note: Outgoing correspondence should be signed with an actual signature, or with a graphic signature if the approval signature is secured via electronic methods, in accordance with the current security and verification standards of the Internal Revenue Service. In all instances, a printed copy of the signed or electronically executed document, form, or letter, must be included in the offer case file.

- k. Review AOIC to determine if any taxpayer payments are being held as a deposit. If there is a deposit, see IRM 5.8.7.8 for required actions.
- l. Close the case on AOIC as withdrawn after approval has been received. Keep a copy of the signed letter(s) with the closed offer file.
- m. If any periods are NMF, prepare a Form 3177, Notice of Action for Entry on Master File, to request input of Transaction Code (TC) 482 to reverse the TC 480 for any NMF tax period. Forward the Form 3177 to *W&I KCSPC Non-Master File Team.
- n. If the file contains a “TC” after the offer number, or the case history reflects a TC 480 was manually input for any periods, those TC 480s must be manually reversed by the field or COIC person inputting closing actions on AOIC. Ensure all TC 480s are reversed. Review the AOIC Remarks to determine which periods require manual reversal.

Note: At a minimum, the AOIC Transaction Listing (Parts 2 and 3) must be resolved on a weekly basis to ensure all reversing transactions are correctly posted. Additionally, any open IDRS control bases assigned to XX88888884 (first 2 digits represent the area), must be closed, once the systemic posting error has been resolved. There could be a delay from the time the error is on the AOIC transaction listing to when the control base is opened on IDRS.

- o. See IRM 5.8.7.10, Alternative Resolutions and Collection Assignments, for procedures on forwarding the case for the next appropriate collection action.
- p. Mirroring is required at case closure if the offer processing resulted in differing Collection Statute Expiration Dates (CSEDs) for spouses in a joint assessment (MFT 30 or 35). The need for mirroring may be indicated by a red “M” after the offer number on the case file, but should be verified in every case. Process a request for mirroring the accounts (MFT 30/31 and MFT 35/65) in accordance with the mirroring procedures discussed in IRM

5.19.7.11, Separate OICs on Joint Liabilities, at the conclusion of the offer investigation. When a case is closed on AOIC, it requires a “yes or no” answer regarding the need for mirroring or the need for manual code reversal. The results will appear on the AOIC Summary Screen.

Example: The taxpayer and spouse submit separate offers for their joint and several liabilities on the same day, both with TC 480 on February 3. The offers are both returned on September 9. No mirroring is required.

Example: In the example above, the primary taxpayer’s offer was returned for failure to stay in compliance on September 9, while the spouse’s offer remains under consideration. When the spouse’s offer is closed, mirroring is required to record the taxpayers’ different collection statute extension for the joint periods.

5.8.7.5
(10-07-2016)
**Termination of
Consideration**

- (1) Consideration of an offer must be terminated upon the death of a single proponent. See IRM 5.8.4.10. The date of termination is the taxpayer’s date of death and the date used for the TC 482. If the taxpayer’s date of death is prior to the offer submission, refer to 5.8.7.5.1(2)(f). Offers that are terminated do not receive appeal rights. See IRM 5.8.10.4.1, Death of a Taxpayer, for instructions on actions to take prior to termination when advised that one party to a joint offer has died.

5.8.7.5.1
(06-23-2022)
**Closing an Offer as a
Termination**

- (1) Offers closed as terminations do not require preparation of Form 1271, Rejection Memorandum.
- (2) The following actions should be taken to close an offer as a termination:
 - a. Generate the AOIC “Termination Letter” for the signature of the authorized delegated employee. On the salutation line of the letter, enter the “Estate of” and the taxpayer’s name.
 - b. Generate a copy of the letter for any authorized representative.
 - c. Document the history indicating the date of death and how notification was received.
 - d. Check INOLE to determine if a TC 540 has been input. If no TC 540 is present, then request input of TC 540 to IDRS if the exact date of death is confirmed.
 - e. Submit the package for approval and signature of the letter(s).
 - f. Assign the offer to the managerial approval assignment number in AOIC. All cases requiring managerial approval must include a manual or systemic ICS or AOIC history entry noting the manager approval.

Note: Outgoing correspondence should be signed with an actual signature, or with a graphic signature if the approval signature is secured via electronic methods, in accordance with the current security and verification standards of the Internal Revenue Service. In all instances, a printed copy of the signed or electronically executed document, form, or letter, must be included in the offer case file.

- g. Close the case on AOIC as a “Termination” after approval and document the date of death in the case history.

Note: If the date of death is prior to the TC 480, when closing the offer on AOIC, use the pending date of the TC 480.

- h. Keep a copy of the signed letter(s) with the closed offer file.
- i. If any periods are NMF, prepare the Form 3177, Notice of Action for Entry on Master File, to request input of a TC 482 to reverse the TC 480 for any NMF tax period. Forward the Form 3177 to *W&I KCSPC Non-Master File Team.
- j. If the file contains a “TC” after the offer number, or the case history reflects a TC 480 was manually input for any periods, those TC 480s must be manually reversed by the field or COIC person inputting closing actions on AOIC. Review the AOIC Remarks to determine which periods require manual reversal. Ensure all TC 480s are reversed.

Note: At a minimum, the AOIC Transaction Listing (Parts 2 and 3) must be resolved on a weekly basis to ensure all reversing transactions are correctly posted. Additionally, any open IDRS control bases assigned to XX88888884 (first 2 digits represent the area), must be closed, once the systemic posting error has been resolved. There could be a delay from the time the error is on the AOIC transaction listing to when the control base is opened on IDRS.

5.8.7.6
(12-20-2018)
**Fast Track Mediation for
Offer in Compromise**

- (1) The goal of Fast Track Mediation - Collection (FTMC) is to help taxpayers resolve certain collection disputes without the need to formally appeal a rejection determination. It may allow expedited resolution in situations with an isolated disagreement.
- (2) The Appeals mediator does not have settlement authority. Any recommendation made by the Appeals mediator does not bind the parties and is not a decision regarding any issue in dispute.
- (3) For additional information regarding FTMC, refer to IRM 8.26.3, Alternative Dispute Resolution (ADR) Program,- Fast Track Mediation for Collection Cases; Rev. Proc. 2016-57; and Pub 3605, Fast Track Mediation - A Process for Prompt Resolution of Tax issues.

Note: This program is not available for any work in the COIC sites.

- (4) Unlike a formal appeal, Collection provides active participation in the mediation. The prohibition against ex parte communications between Appeals personnel and other IRS employees does not apply because Appeals is not acting in their traditional Appeals settlement role. Any information developed in mediation will become part of the administrative file if the taxpayer elects to proceed with a formal appeal.

5.8.7.6.1
(06-23-2022)
**Criteria for Fast Track
Mediation - Collection**

- (1) Mediation may only be considered after the OS has fully developed the case facts and made a reasonable attempt to negotiate an acceptable offer. A request for participation in FTMC should be initiated after an issue has been fully developed, but before Collection has made a final determination regarding the issue.

Note: Mediation is not a substitute for the taxpayer’s or the taxpayer’s representative’s right to a conference with the manager.

- (2) Taxpayers or taxpayer representatives who express an interest in mediating must first request a conference with the manager.
- (3) The opportunity to mediate should only be granted after the first level manager has reviewed the case and determined that the issues in dispute may be resolved in mediation.
- (4) When appropriate, mediation should be addressed before the case is forwarded to the Independent Administrative Reviewer for approval. If the rejection letter has been issued, FTMC may not be utilized.
- (5) Below are some examples of when it would be appropriate or inappropriate to offer mediation. The examples are not all inclusive.

Example: Appropriate — valuations of ongoing business' goodwill; artwork with collector or sentimental value; valuation of assets including real property. See IRM 8.26.3.4.1, Cases Included in FTMC, for additional examples.

Example: Inappropriate — taxpayer has ability to full pay based on financial data; taxpayer declines to increase the amount offered and does not disagree with the values; rejection is based on public policy. See IRM 8.26.3.4.2, Cases or Issues Excluded from FTMC - General, and IRM 8.26.3.4.2.1, Cases or Issues Excluded from FTMC - OIC for additional examples.

- (6) Cases requiring approval higher than that of a FOIC manager are **not** eligible for FTMC. See IRM 1.2.2.6.1.1, Acceptance Authority.
- (7) Both parties have to agree to mediation to participate in FTMC. If the OS and group manager do not feel the mediation would be beneficial, see IRM 5.8.7.6.3.

5.8.7.6.2
(12-20-2018)
**Processing Granted
Requests for Fast Track
Mediation**

- (1) When the request for mediation is granted, the OS will complete the following actions:
 - Complete the Form 13369, Agreement to Mediate. The form must be signed by both the group manager and the taxpayer, or authorized representative. If signed by a representative, a copy of Form 2848 must be attached.
 - Complete a written summary of disputed issues
 - Complete a RCP computation
 - Within three business days of securing the required signatures, follow local established procedures to submit the request to Appeals.
 - Provide a copy of the Form 13369, Agreement to Mediate, to the taxpayer or their representative.
 - The OS who completed the investigation must be in attendance. Because each party must have at least one participant with decision-making authority present, the group manager must also attend the mediation session.

Note: Collection retains exclusive jurisdiction of the offer throughout the mediation process.

- (2) Update the case category code (CCC) in AOIC to 42.

5.8.7.6.3
(12-20-2018)
**Processing Denied
Requests for Fast Track
Mediation**

- (1) If Fast Track Mediation is denied, document the case file with the reason for the denial, including how it was relayed to the taxpayer and/or their representative.
- (2) Managerial approval is required. The manager should indicate concurrence by documenting the ICS history.
- (3) Update the CCC code in AOIC to 42.

5.8.7.7
(06-23-2022)
Rejection

- (1) When the facts of the case do not support acceptance and the taxpayer will not agree to an acceptable offer or an alternative resolution of the delinquency and withdraw the offer, the taxpayer should be informed that the offer will be recommended for rejection.

Note: The calculation of RCP is required in all instances. This includes offers being rejected under “not in the best interest of the government” (NIBIG) and “public policy”.

- (2) When the offer is rejected, the taxpayer will be notified in writing and the letter will explain how the taxpayer may exercise their appeal rights. Information received from the taxpayer in response to a conversation or letter must be considered before proceeding with the rejection.
- (3) Generally, rejections on offers based on DATL are because the liability is believed to be correct as assessed or the taxpayer will not withdraw the offer after the account has been adjusted.
- (4) The most common reason for rejecting an offer based on Doubt as to Collectibility (DATC) is because it has been determined that more can be collected than was offered. In all cases, contact the taxpayer by phone prior to the issuance of the rejection letter. Explain the computation of the RCP, offer to provide the taxpayer with a copy of the financial analysis, and give the taxpayer an opportunity to submit any additional financial information. If no conversation can be held with the taxpayer to convey this information, send the taxpayer/poa an additional information letter paragraph Option-E to request contact. Enclose the AET/IET if prepared. Edit the bottom of L2844 to reference the enclosures. A PD 3500 may be used when the additional information letter paragraph Option-E is not appropriate, yet correspondence is required, i.e. taxpayer is in a combat zone, is residing out of the country or is incarcerated.

Note: If contact is made, remind the taxpayer to remain in compliance with their estimated tax or periodic payments while the offer is being investigated to avoid their offer being returned or closed as an involuntary withdrawal. Refer to IRM 5.8.7.2.2.2, Return for Inadequate Estimated or Insufficient Withholding Tax Payments, or IRM 5.8.7.4.2, Involuntary Withdrawal, for the appropriate closing actions to take if the taxpayer’s failure to remain in compliance occurs subsequent to a preliminary rejection letter.

Note: When providing information on the taxpayer’s ability to pay prior to the offer being rejected under NIBIG or Public Policy, the taxpayer should be advised, “although the financial information may show the offer might be acceptable under DATC, the offer is being rejected based on the fact it is either not in the best interest of the government or contrary to public policy (also insert

specific issues identified).” The description of the reason(s) for rejection should identify the specific issues which provided for the offer to be rejected under NIBIG or public policy.

- (5) When discussing the potential rejection or preparing the potential rejection letter requesting an increased offer amount, the calculation should reflect any payments made during the offer investigation.

Example: The taxpayer submitted a \$1,000 periodic payment offer. The balance due is \$10,000. The RCP was determined to be \$4,400, so when providing the RCP information to the taxpayer, the OE/OS should include the following information: “To date you have made four (this number will reflect actual number of payments made) payments totaling \$400. If you wish to submit an amended offer in the amount of calculated RCP, your balance of \$4,000 must be paid in 20 months at \$200 per month.

Note: Periodic payment terms up to 24 months beginning with the date of the amended offer may be provided when deemed appropriate.

- (6) If the taxpayer or their representative presents new information, it must be considered and addressed in the history. If the information does not change the decision to reject, contact the POA/TP by telephone to discuss the new information and inform them that the information submitted did not change the rejection determination. If no telephone contact can be made, issue the appropriate AOIC rejection letter and document the AOIC or ICS history.
- (7) When an offer is rejected, there is no obligation on the part of the taxpayer to continue to make periodic payments pursuant to the offer schedule, even if the taxpayer has appealed the rejection. Generally, once the IRS has notified the taxpayer of the intention to reject with appeal rights, whether verbally or in a predetermination letter, we should proceed with the rejection recommendation, even if it is discovered the taxpayer missed a payment before the case was submitted.

Exception: If this is the second instance of the taxpayer missing a periodic payment, it may be appropriate to close the offer as an involuntary withdrawal. See IRM 5.8.7.4.2.

Example: Upon receipt of the case, you identify the taxpayer has missed TIPRA payments. Before proceeding with the additional initial analysis, you secure the payments and advise failure to make future payments will result in involuntary withdrawal. After completing the preliminary RCP, you advise the POA the offer amount appears unacceptable, and if the taxpayer does not supply information within 10 days to justify acceptance of the offer, you will proceed with a rejection recommendation. The taxpayer fails to make the next TIPRA payment. You may close the offer as an involuntary withdrawal versus a rejection recommendation.

- (8) If the taxpayer is not in compliance prior to a preliminary determination being shared with the taxpayer or a preliminary determination letter being issued to the taxpayer, the offer should be a processable return, not rejected. See IRM 5.8.7.2.2, Processable Returns, for complete instructions.

5.8.7.7.1
(06-23-2022)
**Not in the Best Interest
of the Government
Rejection**

- (1) An offer rejection may also be based on a determination that acceptance of the specific offer at hand is not in the “best interest of the government” (NIBIG) as discussed in Revenue Procedure 2003-71, SECTION 6.03 which states: “The decision whether and when to accept an offer to compromise a liability is within the discretion of the IRS. In keeping with IRM 1.2.1.6.17, Policy Statement 5-100, an offer will only be accepted if it is determined to be in the best interest of both the taxpayer and the IRS. In addition to the criteria discussed in Section 4.02, the IRS may take into account public policy and tax administration concerns in determining whether an offer to compromise is acceptable”. Rejections under this provision should not be routine and should be fully supported by the facts outlined in the rejection narrative. Offers rejected under this section require the review and approval of the **second level manager**; that is, Territory Manager for the field or Operations Manager for COIC.

Note: If making this recommendation for a CDP offer under the jurisdiction of Appeals, the approval of the second level manager must be shown in the file. They may sign the proposed determination letter, notate approval in the case history or remarks, or provide a printable e-mail.

- (2) Even if a determination is made that a rejection under this basis is appropriate, a calculation of the taxpayer’s ability to pay needs to be fully developed. The preliminary asset/equity and income/expense tables as discussed in IRM 5.8.4.7, Additional Initial Offer Actions, should be completed and provided to the taxpayer. The extent of additional verification, if required, should be based on the facts of the case. The preliminary tables and the basis for the rejection should be discussed with the taxpayer/representative to allow for submission of additional information for consideration.
- (3) The discussion regarding the basis for the rejection must be well documented and addressed in the open paragraph. See IRM 5.8.7.7.3 for preparation of the rejection letter.

Note: For CDP offers, Collection issues a predetermination letter versus a rejection letter. Because the standard language in the CDP Predetermination Letter does not include a NIBIG paragraph, it is necessary to edit the letter in Adobe PDF before sending to the taxpayer. See OIC SharePoint for instructions.

- (4) IRM 5.8.4, Investigation, includes examples of situations that warrant rejection under NIBIG, including:
 - IRM 5.8.4.23.2, Reversed Credits,
 - IRM 5.8.4.23.3, Refund Schemes,
 - IRM 5.8.4.23.4, Preparer, Promoter, Appraiser, Material Advisor, and Aiding & Abetting Penalties, and
 - IRM 5.8.4.23.6, Return Preparer Fraud or Misconduct.
- (5) Below are additional situations that may warrant rejection as not being in the “best interest of the government” (not all inclusive).
 - The taxpayer has an egregious history of past noncompliance and appears not to be in current reporting compliance. The taxpayer failed to report all income on recent tax years and did not pay the tax liability when he had the means to do so.

Example: An offer in compromise is submitted by a taxpayer who has a history of filing frivolous returns. The OIC includes tax assessments which were completed by the IRS under substitute for return procedures. The financial statements submitted with the offer include very little income on which minimal estimated tax payments have been made. Information from internal sources reveals the taxpayer has additional income not being reported on the financial statement. It is not in the government's interest to investigate an OIC until the taxpayer demonstrates compliance with filing and payment of the appropriate tax. Referral to Exam should also be considered based on available information.

Note: A taxpayer simply owing for numerous tax years is not sufficient reason to reject NIBIG.

- If the taxpayer's offer would otherwise be acceptable based on projected ability to pay, but the OE/OS determines it is appropriate to include the value of a dissipated asset, if the taxpayer is unwilling or unable to include the value of the dissipated asset in the offer amount, the offer must be rejected as NIBIG. For a discussion on when inclusion of the value of a dissipated asset is appropriate, refer to IRM 5.8.5.18, Dissipation of Assets.

Note: Appeals conducts a secondary determination of dissipated assets, per IRM 8.23.3.3.2.4 , Dissipated Assets. Clearly document justification for including the dissipated asset in RCP even though that asset is no longer available to pay the liability.

- The taxpayer is the primary responsible party for a related entity, i.e. corporation, partnership, etc., that is not in compliance with its filing and/or paying requirements, has not entered into an agreement to resolve the compliance or balances due, or does not have an offer pending.
- The owner, general partner, or a significant shareholder of the BMF taxpayer is not in compliance with their filing and/or paying requirements, has not entered into an agreement to resolve the compliance or balance due, or does not have an offer pending. When determining if someone is a significant shareholder, consider if they are an officer or exercised authority in the business, as well as the percentage of ownership in the business.

Example: The president of the S-corporation signed and submitted the offer for the corporation. He appears to make all decisions for the corporation, but only shows 10% stock ownership. The president has not filed a personal tax return for five years but has a filing requirement based on the apparent income stream from the S-corporation. If the Form 1040 returns are not filed, it would be appropriate to reject the corporate offer on NIBIG.

Note: If the IRS has determined the related taxpayer liability is currently not collectible, NIBIG rejection generally would not apply.

- An in-business taxpayer compromising employment taxes, where financial analysis indicates the business does not have the ability to

fund the offer, remain current with future tax obligations, and meet the business's normal operating expenses.

- The offer is from an ongoing business that appears to be insolvent, will remain insolvent, even if the offer is accepted, and it appears that the government's position would be better protected through a formal insolvency proceeding. Refer to IRM 5.8.10.2.2.1, Consideration of a Potential Bankruptcy Filing on the Calculation of RCP in an OIC Investigation.
- The offer is from an entity that is closely-associated with an individual with restitution-based assessments (RBA). Payments to the offer entity are cross-referenced and credited to the RBAs, as indicated by TC 971 AC 184/185 on the offer entity tax periods. Acceptance of an offer from the cross-reference entity may allow the taxpayer to structure income and impair collection of the RBA liability.
- The taxpayer is not able to fully pay via an installment agreement (IA), but due to a high monthly payment ability, the amount collectible through the CSED is substantially more than the amount that appears acceptable under the calculation of reasonable collection potential as defined in IRM 5.8.5, which includes a value of future income over a 12 or 24-month period. Due to the disparity between the amount offered and the amount collectible via a partial pay installment agreement (PPIA), acceptance of an offer would not be in the government's best interest. In these instances, the taxpayer should be provided the opportunity to enter into a PPIA. Refer to IRM 5.8.4.3(4). Ensure the case determination is consistent with the program objectives to effect collection of what can reasonably be collected. See IRM 5.8.1.2.4.

Note: This recommendation typically applies only to taxpayers with substantial monthly payment ability and lengthy remaining CSED.

Example: A taxpayer with monthly payment ability of \$5,000 submits an offer after filing several years of delinquent returns with \$750,000 liability. Although the \$5,000 installment payment will not pay the liability in full, the collection potential over the remaining 9-year CSED is significant. Since the offer in compromise future income valuation amount of \$60,000 (\$5,000 x 12) is almost \$500,000 below the amount potentially collectible via a PPIA, it appears that acceptance of an offer for \$60,000 is not in the government's interest. Absent any special considerations, a rejection based on NIBIG may be appropriate.

- (6) In each of the situations listed, a complete analysis of the taxpayer's financial situation must be completed prior to a final determination that a rejection under NIBIG is the appropriate course of action. RCP must be fully developed. If Appeals does not sustain the basis of NIBIG, they will consider acceptance of the offer under DATC for the amount determined by Collection as RCP.
- (7) In circumstances where the potential for a fraud referral exists, the financial evaluation conducted and verified should be based on the facts and circumstances of the case. Refer to IRM 5.8.4.18, Potential Fraud Referrals. Do not solicit a withdrawal when there is potential for a fraud referral.

5.8.7.7.2

(06-23-2022)

Public Policy Rejection

- (1) Policy Statement 5-89, IRM 1.2.1.6.15, establishes that offers may be rejected on the basis of public policy if acceptance might in any way be detrimental to the interests of fair tax administration, even though it is shown conclusively that the amount offered is greater than could be collected by any other means, provided no ETA issues exist.

Note: This section should not be confused with IRM 5.8.11.3.2, Public Policy or Equity Grounds, under ETA offers.

Note: As a matter of policy, offers may not be accepted from any federal agency. If an offer is submitted by a federal agency, it should be rejected under public policy.

- (2) Offer acceptance reports are open to public inspection in accordance with Internal Revenue Code § 6103(k)(1), so the general public may be aware of any offer acceptance. A decision to reject an offer for public policy reason(s) should be based on the fact that public reaction to the acceptance of the offer could be so negative as to diminish future voluntary compliance by the general public. *Decisions to reject offers for this reason should be rare.*
- (3) A reasonable collection potential computation is required even if the basis for rejection is public policy. Complete the preliminary asset/equity and income/expense tables as discussed in IRM 5.8.4.7, Initial Offer Actions. You may base the extent of additional verification requested from the taxpayer on the facts of the case. Discuss the preliminary tables and the basis for the rejection with the taxpayer/representative to allow for submission of additional information for consideration.
- (4) After discussing with the taxpayer/representative, if the decision to reject the offer is appropriate, proceed with rejection in accordance with IRM 5.8.7.7.3, Recommending Rejection of an Offer. The rejection letter will provide the taxpayer appeal rights in accordance with Treasury Regulation 301.7122-1(f)(5). Use paragraph D in the AOIC rejection letter.

Note: For CDP offers, Collection issues a predetermination letter versus a rejection letter. Because the standard language in the CDP Predetermination Letter does not include a public policy paragraph, it is necessary to edit the letter in Adobe PDF before sending to the taxpayer. See OIC SharePoint for instructions.

- (5) Below are some examples of situations that may warrant rejection based on a public policy decision.
 - The taxpayer has in the past, and continues to openly encourage others to refuse to comply with the tax laws.
 - Indicators exist showing that the financial benefits of a criminal activity are concealed or the criminal activity is continuing.

Exception: Do not summarily reject, under public policy provisions, an offer submitted by a taxpayer involved in the business of cultivating and selling marijuana. Prepare an RCP, per IRM 5.8.5.25.2, Calculation of Future Income - Cultivation and Sale of Marijuana in Accordance with State Laws. If the taxpayer is unwilling to submit an acceptable offer based on the calculation involving allowable expenses for income tax purposes, rejection under public policy is appropriate. Rejecting under

public policy further supports the determination, in the event the taxpayer argues the allowable expenses.

- The taxpayer engaged in a pattern of conduct suggesting intentional dissipation of assets which was intended to circumvent the offer investigative process.

Example: The taxpayer, a payroll service provider, has received from its clients payments of employment taxes in the amount of \$10 million. The taxpayer remits to the IRS an amount equal to the trust fund portion of the employment taxes and designates the payment for application to the trust fund portion of the tax. The taxpayer pays no more of the employment tax. Meanwhile, the taxpayer dissipates the remainder of the collected tax payments and all of its remaining assets, reducing its reasonable collection potential to \$0. The taxpayer then submits an OIC for \$10,000. Because the OIC exceeds reasonable collection potential, the taxpayer would qualify for the OIC on the grounds of doubt as to collectibility. Nevertheless, the OIC should be rejected on public policy grounds.

- Fraud or identity theft is present and documented relative to the illegal use of an Individual Tax Identification Number (ITIN). This illegal activity may involve stolen, borrowed or purchased SSNs and there is continued fraudulent activity.

(6) An offer will not be rejected on public policy grounds *solely* because:

- It would generate considerable public interest, some of it critical.
- A taxpayer was criminally prosecuted for a tax or non-tax violation.

(7) The rejection narrative should discuss the specific public policy issues.

(8) Rejections of this type require the approval of the SB/SE Collection, Territory Managers (2nd level) in the field or SB/SE Compliance Services Operations Managers for COIC. Refer to IRM 1.2.2.6.1.2 , Rejection Authority.

Note: If making this recommendation for a CDP offer under the jurisdiction of appeals, the approval of the second level manager must be shown in the file. They may sign the proposed determination letter, notate approval in the case history or remarks, or provide a printable e-mail.

5.8.7.7.3
(06-23-2022)

Recommending Rejection of an Offer

(1) The following actions should be taken to recommend rejection of an offer:

- a. Review AOIC and IDRS to verify taxpayer is current on all required TIPRA payments, required FTD and ES payments, and the filing of all required returns.

Note: If the taxpayer has compliance issues which occurred prior to being notified of the rejection (either verbally or via a preliminary determination letter), and has not cured the issue, the offer should be returned and not rejected. See IRM 5.8.7.2.2.2, Return for Inadequate Estimated or Insufficient Withholding Tax Payments. If the taxpayer is not in compliance with TIPRA, refer to IRM 5.8.7.4.2, Involuntary Withdrawal.

- b. For BMF accounts, ensure all filing requirements are correct. Close out any erroneous open filing requirement. See IRM 5.8.4.6, Initial Compliance Screening.
- c. Analyze accounts on AOIC and IDRS systems and resolve any issues involving misapplied payments or deposits. If needed, correct DPCs to ensure any designations requested by the taxpayer have been recorded accurately.

Note: It is especially important to transfer any overpayments on BMF EIN modules. Overpayments on BMF periods do not offset to the next balance due period and will be refunded when the stat 71 is reversed.

- d. Review IDRS to determine if the taxpayer has filed a CDP hearing request (unreversed TC 520 with CDP closing code or -W freeze code) or an EH request (unreversed TC 971 AC 278) on any module. If a CDP/EH hearing request is open in Appeals, then Collection does not have the authority to issue a rejection letter. Refer to IRM 5.8.4.15.2, Case Decisions on CDP Offers, relating to closing an offer when the taxpayer has an open CDP. Request ACDS research if you are uncertain if the taxpayer has an open CDP.
- e. Review and verify AOIC entity information matches the entity on the offer and reflects the correct last known address (LKA). Unless the taxpayer has provided SCOIC with a more recent address, AOIC should reflect the IDRS address. Update if necessary. This may include adding or removing a taxpayer's name based on the original or submission of an amended Form 656.

Note: If the Form 656 includes a request to have the offer considered under ETA, AOIC should reflect type of offer "A".

- f. Verify that all periods on the offer are listed and match the MFT screen. Make any required pen and ink changes to Form 656 (initial and date). Update the MFT screen with assessment dates, if necessary. If any un-assessed periods need to be added to the offer, clearly notate the file so Appeals is aware of the need to add the pending liability to AOIC and input TC 480.

Example: The taxpayer filed the 2021 return and simultaneously filed an offer that included tax year 2021. As of the date of rejection, the 2021 return had not been assessed. Annotate the closing history that the period must be added to AOIC when assessed, with TC 480 date XX-XX-XXXX (the date the offer was processed).

Note: If any periods are not eligible for compromise (such as Title 31 FBAR penalties, RBAs, etc.), and the taxpayer will not agree to submit an amended Form 656 to remove the periods, the offer should be returned, not rejected with appeal rights.

- g. Refresh and update accruals to the current balance due. Accruals will not update for periods that include INTST error codes. If AOIC indicates there are INTST errors, check for messages in MFT Interest Details screen. Any *material differences or obvious errors* such as large mismatches in the balance due require manual correction via the MFT screen **Update** feature.

Note: Even though FTP does not accrue on civil penalties such as MFT 55, these modules do generate the “error” messages and interest will not systemically update.

- h. If the AOIC remarks reflect a TC 480 was manually input, annotate a prominent red “TC” after the OIC number on the file. Document the closing AOIC Remarks with the periods that require manual reversal, and flag the case to alert the person inputting closing actions on AOIC that manual closing codes are required.

Note: If the file is transferred to Appeals, ensure the need for manual input is clearly noted.

- i. If the taxpayer is IMF, update AOIC screen with current AGI. No entry is required for BMF.

(2) Prepare the rejection letter and Form 1271.

- a. Generate the AOIC rejection letter using the appropriate optional paragraph(s) for the signature of the authorized delegated official. The letter should reference the date of the most recent Form 656 (i.e. any amended offer), and the current amount being proposed by the taxpayer (i.e. any addendum), so it is clear what contract terms are being rejected. Attach the IET and AET to the letter when the offer is based on DATC.

Note: If the offer is being rejected under public policy or not in the best interest of the government, the open paragraph must be used to provide information on the basis for the rejection under these criteria. The description of the issue(s) involved should provide the taxpayer with enough information to be able to address the issue(s) if they wish to appeal the offer rejection. If the reason for the rejection was discussed with the taxpayer, you may reference this in the open paragraph.

Example: We are recommending rejection of this offer due to the egregious history of compliance. This offer was submitted immediately after filing seven years of delinquent income tax returns. During these years you reported income well in excess of necessary living expenses, yet made no estimated tax payments. Your financial statement now shows little income, yet there appears to be no change in lifestyle. It is in the government’s best interest to file a Notice of Federal Tax Lien and refer the case to a revenue officer for further investigation of collectibility.

Example: The basis for rejection includes dissipation of assets to non-priority creditors.

- b. Generate the POA letter, if applicable.
- c. Generate Form 1271, Rejection Memorandum, for signature by the appropriate delegated officials. The Reviewer on Form 1271 must be the Independent Administrative Reviewer (IAR).
- d. Clear the Form 1271 and rejection letter in AOIC. The content of any open paragraph is not populated into AOIC Remarks until the letter is cleared. Delays in this action could cause erroneous information to appear in the AOIC Remarks.

Example: The final determination letter was mailed on February 22, 2022. The OE/OS does not clear the forms/letters until May 27, 2022. The AOIC remarks will reflect any open paragraph information with a May 27, 2021 date.

- (3) Document the ICS history or AOIC remarks regarding the decision. Include the following:

- Amount of the RCP
- Attempts to negotiate an alternative resolution
- Key issues in the disagreement
- Discussion of any special circumstances noted
- Current compliance status
- NFTL determination
- The recommended alternative collection assignment or resolution after the appeal period. See IRM 5.8.7.10.
- A comprehensive history summary to support the determination if the basis is NIBIG or Public Policy.

Note: If documentation is in ICS, copy the closing summary into AOIC Remarks, with a statement that the full history is in ICS.

- Any pertinent information of which Appeals should be aware such as any pending assessments, if a collateral agreement was discussed with the taxpayer, or if a collateral agreement is warranted if an acceptance is negotiated.

Example: The taxpayer has a \$400,000 net operating loss he is carrying forward. The taxpayer was not asked to waive this loss via a collateral agreement because Collection is not recommending acceptance of this offer. Document the file that the net operating loss is a significant tax advantage, and provide an estimate of the value. See IRM 5.8.6.5.1(2). Per IRM 5.8.6.2(3), a collateral agreement to waive the loss is appropriate if an OIC were to be accepted.

Note: In the rare event the rejection recommendation includes facts of a confidential nature that should not be disclosed through a Freedom of Information Act (FOIA) request, prepare a supplemental memorandum and clearly mark as "Confidential Information— Not to be Disclosed".

- (4) Document AMS history with a brief statement regarding the rejection recommendation. You may include information regarding any assets, income stream or the amount required for compromise if it would aid in collection.

Example: Recommending rejection of offer for \$500 because TP can pay in full. Average deposits in Wells Fargo checking > \$10,000.

Example: Recommending rejection of offer for \$500. TP would not increase to \$25,000 RCP.

- (5) Assemble the file. Use of labeled dividers Document 9600-B is required.
- a. Generally, place documents within the tabs with the most current on top. For example, if because of Counsel feedback, the OS changed direction

and rejected the offer, the top document would be the rejection letter followed by the Form 1271, counsel opinion, and crossed out acceptance letter and Form 7249.

- b. IMFOLI and SUMRY should be the top pages under the “IDRS” tab, followed by any necessary supporting prints.

Note: Before archiving, remove any irrelevant IDRS prints and duplicates. For example, if the taxpayer both faxed and mailed a 30-page response, it is not necessary to retain both.

- c. Credit bureau should be tabbed separately for easy removal before case closure. See IRM 5.8.7.10.
- d. Print the AOIC Remarks and/or ICS History for the offer file. Only print **prior** ICS history if it is relevant to the OIC investigation and rejection recommendation.

- (6) AOIC should be updated to show the location and status of the case rejection recommendation.

- 1. Assign the offer to the managerial approval assignment number in AOIC and submit the case for managerial approval and signing of Form 1271.
- 2. After approval by the delegated official(s), route the file to the IAR.

Note: The rejection letter cannot be issued to the taxpayer prior to the independent administrative review of the proposed rejection. If the rejection letter is issued in error, see IRM 5.8.7.7.3.2.

Note: If the taxpayer is claiming ETA or “special circumstances” the package to the IAR must include the taxpayer explanation (Form 656 or attachment).

- 3. After approval of the IAR, route the offer for signature, dating and mailing of the letter(s).

Note: Outgoing correspondence should be signed with an actual signature, or with a graphic signature if the approval signature is secured via electronic methods, in accordance with the current security and verification standards of the Internal Revenue Service. In all instances, a printed copy of the signed or electronically executed document, form, or letter, must be included in the offer case file.

- 4. Assign the case on AOIC to the designated “30-day hold (xx99)” assignment number and route the case file to the hold file for monitoring of the appeal period.

- (7) If the offer includes MFT 74 or MFT 76 modules, see IRM 5.8.10.16.5, Procedures Relating to MFT 74 and MFT 76 Modules - Case Closures, for additional closing actions.

5.8.7.7.3.1
(06-23-2022)

**Notification of
Dishonored Check After
Issuance of the
Rejection Letter**

- (1) A taxpayer submitting a periodic payment offer is required to make the proposed periodic payment installment payments proposed. Failure to be in compliance could result in the offer being returned by Appeals as a premature referral, per IRM 8.23.2.6.4, Taxpayer Compliance Issues - Periodic Payment Offers. If notification of the dishonored check occurred after issuance of a rejection letter, contact the taxpayer and advise that the appeal rights were provided contingent upon their compliance with TIPRA. Provide them the opportunity to replace the payment per the procedures and timeframe in IRM

5.8.7.2.2.5, Return for Dishonored Payments. If the taxpayer does not get into TIPRA compliance but also does not file an appeal, at the conclusion of the appeal period, close the offer as rejected, no appeal.

- (2) If the taxpayer files a timely appeal but does not get into compliance, follow the steps below.
 - Generate a return letter using paragraph “RET-AR” and open paragraph “RET-M” to explain. The manager is the approving official.
 - Close the case on AOIC as a return using the mail date of the return letter and AOIC final disposition code 10.

5.8.7.7.3.2
(06-23-2022)
**Potential Errors in the
Rejection Letter**

- (1) Errors in the rejection letter can impair the taxpayer’s ability to appeal, impact the validity of the rejection or result in erroneous ex parte communication with Appeals. To avoid errors, review the letter before mailing. Verify the taxpayer’s last known address (LKA). Ensure the rejection letter contains the correct basis for rejection and that the letter is approved by the correct delegated official per IRM 1.2.2.6.1.2 Rejection Authority.
- (2) If the rejection letter was issued prior to IAR review, the letter is not valid. Obtain IAR approval and reissue the rejection letter with the current date. If the taxpayer has already submitted an appeal, contact them to explain the error. In order for the appeal to be considered, they have to submit another appeal after the new rejection letter is issued. They can do this by supplying a copy of the Form 13711 with a new signature and new date.
- (3) If a rejection letter was not received by the taxpayer due to an address change, the action will depend on whether the rejection letter was sent to the LKA of record. This guidance is based on IRM 8.2.2.3.2, Undeliverable or Unclaimed Appeals Issued Statutory Notice of Deficiency.

If	And	Then
The letter was issued to the correct LKA	The 30 day appeal period is still open	Provide the taxpayer a copy of the rejection letter. This does not extend the 30 day appeal period.
The letter was issued to the correct LKA	It is past the 30 day appeal period	The opportunity to appeal this offer is expired. Notate the case history.
The letter was not issued to the correct LKA	The 24-month TIPRA period is open	Reissue the rejection letter with a new 30 day appeal period.
The letter was not issued to the correct LKA	The 24-month TIPRA period is closed	Do not reissue the letter. Contact OIC Policy.

- (4) The IRS is not required to accept an offer if the rejection letter references an incorrect amount.

Example: While the enclosed DP tables show RCP of \$50,000, due to a typographical error, the rejection letter indicates we may recommend acceptance if the offer is increased to \$5,000. The taxpayer submitted an amended offer for \$5,000 with their Form 13711. Advise the taxpayer of the amount required and if agreement is not reached, forward the case to the Independent Office of Appeals.

- (5) In rare instances, a rejection letter may have been issued for an offer that does not qualify for appeal rights, or in situations where IRS lacks jurisdiction to consider an offer. In these cases, a letter must be issued to close the offer as a return. Use paragraph RET-AR. If the error is discovered before the taxpayer has submitted an appeal, use Adobe PDF to remove the sentence that references receipt of an appeal. Examples of situations not eligible for rejection include:
- Offshore Voluntary Disclosure Initiative (OVDI) assessments - the terms of the Form 906 agreement typically require the taxpayer to waive all future appeal rights, including for offers in compromise
 - The taxpayer is in bankruptcy.
 - There is an open criminal investigation.
 - The assessments are under DOJ jurisdiction.
- (6) For offers with an open CDP that are to be recommended for rejection, Appeals makes the final determination. If SCOIC erroneously issues a rejection letter for a CDP offer, contact the taxpayer by phone to explain they do not have to respond to the rejection letter. If the taxpayer has already submitted an appeal, inform them of any changes to RCP. If you can reach the taxpayer by phone, it is not necessary to issue a CDP predetermination letter because the information supporting Collection's determination was conveyed in the rejection letter. Advise the taxpayer of the case transfer and update the case in AOIC as indicated in IRM 5.8.4.15.2, Case Decisions on CDP Offers. If you cannot reach the taxpayer by phone, issue a CDP Predetermination Letter to inform of the case transfer.
- Example:** After the offer is processed and assigned for investigation, the taxpayer submits a CDP for a tax period included on the offer. Unaware of the CDP, SCOIC issues a rejection letter. The taxpayer informs SCOIC of the open CDP in their appeal but provides no information to change the RCP or the decision regarding the offer. The rejection letter does not need to be rescinded because the offer is under the jurisdiction of Appeals and Appeals will make the determination in a rejection. Per IRM 8.22.7.10.1.3(5), the TIPRA 24-month statute is closed by an erroneously issued rejection letter.
- (7) When an offer is rejected on the basis of NIBIG or public policy (i.e., the RCP would otherwise be acceptable under DATC), or NIBIG or policy issues contributed to the DATC offer rejection, additional steps are required in preparation of the rejection letter. See IRM 5.8.7.7.1 and IRM 5.8.7.7.2. Due to the sensitivity and potential for serious error, if you encounter any of the instances below, contact OIC Policy to get approval **before** proceeding.

If	Then
A rejection letter was issued under the basis of NIBIG and was signed by the frontline manager. The manager was not authorized to sign the letter. The 24-month TIPRA statute has not expired.	Because the manager lacked the delegated authority per IRM 1.2.2.6.1.2, the letter is void and there has not been a rejection under section 7122(f). Generate a new rejection letter. Advise the taxpayer a new appeal is required but they may simply state "I appeal, see information supplied with the original appeal dated XX-XX-XXXX."
A rejection letter was issued under the basis of NIBIG and was signed by the frontline manager. The manager was not authorized to sign the letter. The 24-month TIPRA statute has expired.	See IRM 5.8.8.12, 24-Month Mandatory Acceptance under IRC Section 7122(f).
The history contains reference to items that require 2nd level manager approval, such as NIBIG rejection or public policy, but when the rejection letter was prepared it only referenced DATC and the rejection was not submitted for the 2nd level manager approval	The IRS made a valid rejection of the offer on the basis the offer terms were less than RCP. The rejection letter cannot be reissued. Refer the file to the second level manager so they can document their approval or disapproval of the rejection based on the NIBIG issues. To avoid potential violations of the ex parte communication rules and to allow for thorough consideration by Appeals, the taxpayer must be afforded the opportunity to address the reasons for rejection that were documented in the history before the case is forwarded to Appeals. Contact the OIC Policy mailbox for additional guidance based on the circumstances of the case.

If	Then
<p>In the example above the taxpayer was verbally advised of NIBIG basis, the summary was documented and the 2nd level manager signed the letter, but the rejection letter did not contain the NIBIG paragraph.</p>	<p>The IRS made a valid rejection of the offer on the basis the offer terms were less than RCP. To avoid potential violations of the ex parte communication rules and to allow for thorough consideration by Appeals, the taxpayer must be afforded the opportunity to address the reasons for rejection that were documented in the history but not included in the rejection letter. Contact the OIC Policy mailbox for additional guidance based on the circumstances of the case.</p>
<p>After the rejection letter is issued, additional information is discovered that would have substantially impacted the determination and warranted a NIBIG rejection</p> <p>Example: Upon receipt of the rejection letter, the TP submits an amended offer equal to the RCP referenced in the enclosed tables. When reviewing the acceptance recommendation for legal requirements, Counsel identifies the tax liability consists of promoter penalties not eligible for compromise based on OIC policy per IRM 5.8.4.23.4. Counsel does not approve the acceptance proposal.</p>	<p>Do not issue a new rejection letter – the original DATC rejection letter is valid based on the offer terms and the RCP at that time. Refer the file to the second level manager so they can document their approval or disapproval with the NIBIG recommendation. To avoid potential violations of the ex parte communication rules and to allow for thorough consideration by Appeals, the taxpayer must be afforded the opportunity to address the information documented after the rejection letter was issued and that is preventing Collection from proceeding with the acceptance. Contact the OIC Policy mailbox for additional guidance.</p>

5.8.7.7.3.3
(06-23-2022)

**One Spouse Has a CDP
OIC**

- (1) When jointly-filing taxpayers submit a Form 656 and one of them has an open CDP, two offers are required to allow for separate processing. See IRM 5.8.3.5, Processing Forms 656 and Initial Offer Payments. These situations may be identifiable by a TC 520 and CDP AC with a "P" or "S" CSED indicator or TC 971 AC 278. Typically SCOIC secures an amended Form 656 from the CDP taxpayer and a related OIC for the non-CDP spouse. Because the determination to accept or not accept both offers will be based on the joint RCP, the files must be kept together.

Reminder: Before proceeding, verify there is an open CDP. See *OIC SharePoint* for guidance on researching ACDS.

- (2) Ensure both offers are appropriately cross-referenced in AOIC. Prepare one joint DP record under the CDP OIC (aka KEY file) and maintain all financial information in the CDP case unless it pertains solely to the RCP of the non-CDP OIC. The CDP file should be clearly marked as CDP, per your local procedure. If the determination is other than rejection, follow routine processing in IRM 5.8.4.15, Case Decisions on CDP Offers. If the recommendation is to reject, follow the steps below.
- (3) Advise the spouses they will receive two different types of letters. The CDP taxpayer will receive a predetermination letter. A rejection letter will be issued for the non-CDP taxpayer OIC. That taxpayer can also receive consideration in Appeals if they file a timely appeal in response to the pending rejection letter. Any information they supply with the appeal will be considered. If SCOIC cannot accept *both* OICs, both cases will be forwarded to Appeals. If you cannot reach the taxpayers by phone, include an open paragraph in the non-CDP rejection letter.

Example: “As previously explained, your offer in compromise is under Collection jurisdiction, while your spouse’s offer in compromise is under the jurisdiction of the Independent Office of Appeals. If you would like consideration of your offer by Appeals, you must file a timely appeal as explained in this letter. Any information you supply with the appeal will be considered by our office, and if we can accept both offers, we will do so.”

- (4) Take the following actions:
 1. For the CDP OIC *only*, update the type of OIC to CDP “P” and prepare a CDP predetermination letter for the signature of the delegated manager.
 2. Copy the DP record into the non-CDP spouse OIC. Prepare a rejection letter for the non-CDP for the signature of the delegated manager.
 3. The approving official will wait to sign both of the letters until after the IAR has reviewed the non-CDP rejection.
- (5) So long as the offer is less than 580 days old (150 days or more remain on the TIPRA 24-month period), the cases will stay together. If less than 150 days remain, follow the steps in IRM 5.8.7.7.3.3(8) below.
 1. In AOIC, assign both OICs to the IAR for tracking purposes. Put a history entry in the CDP case AOIC remarks: “Related to non-CDP OIC assigned to IAR.”
 2. After the IAR has approved the non-CDP rejection and assigned both offers back to the group, the manager will sign and mail both the CDP and the rejection letter to the taxpayers on the same date.
 3. Assign both OICs back to the OE/OS versus the 45 day hold. The OE/OS will set a follow up for 40 days from the date of the rejection letter.

Caution: It is important that the OE/OS act promptly and keep the manager informed of case status because the TIPRA 24-month period is still open on the CDP case.

- (6) Any appeal from the non-CDP spouse must be reviewed upon receipt (within 5 business days). Unless the information allows you to proceed with an acceptance recommendation for both OICs, follow IRM 5.8.7.7.6, Addressing a Timely Appeal Without Ex Parte Communication. Ensure the DP records in both OICs are correct and promptly route both cases to the manager.
 1. Follow the steps in IRM 5.8.4.15.2(4) to assign the CDP case to AO21. Include the TIPRA 24-month statute date on Form 3210.
 2. Transfer the non-CDP OIC to Appeals on AOIC and list on the Form 3210 as a regular OIC.
 3. Send an e-mail to the assigned ATE (Appeals Technical Employee/Settlement Officer) that both cases are being shipped, and CC their manager (ATM). The manager needs to be aware so the non-CDP case can be assigned in ACDS. Include the TIPRA 24-month statute date in the subject line.
- (7) If no appeal is received, close the non-CDP OIC on AOIC. Transfer and send the CDP OIC to the ATE by the 45th day from the date of the CDP predetermination letter.
- (8) If less than 150 days remains on the TIPRA 24-month period, or Appeals asks that the CDP case be returned to them separately, issue the CDP predetermination letter without delay. Advise the ATE if an appeal is received, the non-CDP OIC will be forwarded for assignment as a related case.
 - If an appeal is not received, close the OIC on AOIC. Notify the ATE via e-mail and cc the ATM.
 - If an appeal is received, **do not adjust RCP**. The final determination will impact both offers because it is based on joint RCP. If you document any observation regarding the information provided, advise the taxpayer per IRM 5.8.7.7.6, Addressing a Timely Appeal Without Ex Parte Communication. Send an e-mail to the ATM with a CC to the ATE and advise the offer file will be sent directly to the ATE unless they provide alternate shipping instruction. Prepare a transfer letter and forward the file for assignment and association with the CDP OIC. Annotate on the Form 3210: "Non-CDP OIC is related to CDP OIC #1001xxxxxx, sent XX-XX-XXXX. All financial information is with the CDP key file." Mail case separately to ensure proper tracking. Follow up on the Form 3210 to verify case receipt and document AOIC.

5.8.7.7.4
(06-23-2022)

Rejection Not Appealed

- (1) Treasury Regulation 301.7122-1 (f) (5) provides that the 30-day period to request an appeal starts the day after the date on the rejection letter. The rejected offer must be suspended during this 30-day period to allow the taxpayer an opportunity to request an appeal, even if the taxpayer advises the IRS that no appeal is desired. These cases should be monitored for receipt of a request for appeal.

Note: IRC 7508 provides for postponement of certain acts, including submission of an appeal in OIC cases, during the period of time a taxpayer is in a combat zone (CZ) plus 180 days. This postponement would be in addition to the 30 days allowed in the rejection letter. If the taxpayer enters a CZ during the appeal period, the appeal period would be the time the taxpayer is in the CZ, plus any remaining time in the appeal period, plus 180 days.

- (2) Rejected offers should be held in the suspense file for 15 calendar days past the 30-day deadline to allow time for an appeal request to be received and associated with the offer file.

Note: See IRM 5.8.7.7.5, Rejection Appealed, for information regarding timeliness.

- (3) If no appeal request is received by the 45th day from the date of the rejection letter, the following actions should be taken:
- Close the offer record as a rejection with no appeal on AOIC.
 - Update AOIC to reflect the computed RCP from the DP tables provided in the rejection letter.
 - Review AOIC to verify this information is correct: entity name, address, type of offer, CCC code. Correct, if necessary.
 - Review AOIC to determine if any taxpayer payments are being held as a deposit. If there is a deposit, see IRM 5.8.7.8 for required actions.
 - A notice of federal tax lien (NFTL) cannot include shared responsibility payment (SRP) statutory liens on the NFTL. If a NFTL request is being forwarded for filing, it cannot include any SRP liabilities. See IRM 5.12.2.3.1.1, Affordable Care Act's (ACA) Shared Responsibility Payment (SRP) Exception, and IRM 5.12.2.6.1, ACA Shared Responsibility Considerations When filing NFTL.

Note: SRP liabilities are not subject to penalties or to lien and levy enforcement actions.

Note: Per IRM 5.8.4.13(3), wait 15 days after the date of the letter before processing any NFTL request to Centralized Lien Operations (CLO). The rejection letter contains language regarding the Collection Appeal Program. **If appeal rights were discussed with the taxpayer, it is not necessary to wait 15 days unless a significant time has passed.** Refer to IRM 5.1.9.2, Informing Taxpayers of Their Appeal Rights.

- If any periods are NMF, prepare the Form 3177, Notice of Action for Entry on Master File, to request input of a TC 481 to reverse the TC 480 for the NMF tax period(s). Forward the Form 3177 to *W&I KCSPC Non-Master File Team.
- If the file contains "TC" after the offer number, or the case history reflects a TC 480 was manually input for any periods, those TC 480s must be manually reversed by the field or COIC person inputting closing actions on AOIC. Review the AOIC Remarks to determine which periods require manual reversal. Ensure all TC 480s are reversed.

Note: At a minimum, the AOIC Transaction Listing (Parts 2 and 3) must be resolved on a weekly basis to ensure all reversing transactions are correctly posted. Additionally, any open IDRS control bases assigned to XX88888884 (1st 2 digits represent the area), must be closed, once the systemic posting error has been resolved. There could be a delay from the time the error is on the AOIC transaction listing to when the control base is opened on IDRS.

- Mirroring is required at case closure if the offer processing resulted in differing Collection Statute Expiration Dates (CSEDs) for spouses in a joint assessment (MFT 30 or 35). The need for mirroring may be indicated by a red "M" after the offer number on the case file, but should be verified in every case. A request for mirroring the accounts (MFT

30/31 and MFT 35/65) should be processed in accordance with the mirroring procedures discussed in IRM 5.19.7.11, Separate OICs on Joint Liabilities, at the conclusion of the offer investigation. When a case is closed on AOIC, it requires a “yes or no” answer regarding the need for mirroring or the need for manual code reversal. The results will appear on the AOIC Summary Screen.

Example: The taxpayer and spouse submit separate offers for their joint liabilities on the same day, both with TC 480 on February 3. The offers are both returned on September 9. No mirroring is required.

Example: In the example above, the primary taxpayer’s offer was returned for failure to stay in compliance on September 9, while the spouse’s offer remains under consideration. When the spouse’s offer is closed, mirroring is required to record the taxpayers’ different CSEDs for the joint periods.

- i. If warranted, take action to return the accounts to the Field Compliance function for immediate resumption of collection activities. See IRM 5.8.7.10, Alternative Resolutions and Collection Assignment, for procedures on forwarding the case for the next appropriate collection action.
 - j. Route the offer file to the closed files.
- (4) If a timely appeal is discovered **after** the offer was closed as a rejection, utilize Reopen Closed Offer from the AOIC Area Office Menu using “administrative error” as the reason. Input manual TC 480 and STAUP to stat 71.

Example: IRS closed an offer in October 2021 as rejected no appeal. In December 2021, the IRS discovered the taxpayer had submitted a timely appeal. This offer number would be reopened on AOIC with manual input of TC 480, and the appeal addressed.

5.8.7.7.5 (06-23-2022)

Rejection Appealed

- (1) Appeals may be submitted via mail; via fax; or via hand-delivery. When a request for appeal is received, it must be reviewed upon receipt to determine if it was submitted timely and contains the required statements and signatures. Document that an appeal was received, the fax or postmark date; and provide a brief description of the contents. The IRS looks to different rules to determine if a document is considered timely, as described in IRM 25.6.1.6.15, When a Document is Treated as Filed Under the IRC. If a request is received after the 30 calendar days referenced in the rejection letter, consider if it is timely based on the rules below. For additional information regarding timeliness of requests for Appeals’ hearings, refer to IRM 8.22.5.3.1 , Determining Timeliness - General Procedures.
- a. **Saturday, Sunday or Legal Holiday (SSLH) Rule:** If the 30th day falls on a Saturday, Sunday, or legal holiday, the appeal will be considered timely if it is received the next business day. Under SSLH, the type of delivery service is irrelevant. For example, the 30th day for appeal falls on Saturday, August 21, 2021. The request for the appeal is received Monday, August 23, 2021. This is considered a timely appeal because it was received on the first regular business day following the 30th calendar day.
 - b. **Timely Mailing Rule:** The postmark and type of delivery service dictate timeliness under this rule. If a request for an appeal is received that is

postmarked by United States Postal Service (USPS) or a designated private delivery service (PDS), no later than 30 calendar days following the date of the rejection letter, the appeal will be considered timely. Refer to Notice 2016-30 or subsequent notice for a list of designated PDS, and see IRM 3.10.72.6.2.3, What is a Designated Private Delivery Service (PDS)?, or IRM 3.10.72.6.2.4, Determining Postmark Date.

Note: Typically, ground or non-express services are not included in the list of designated private delivery services.

- c. Coordination of Timely Mailing Rule and the SSLH Rule: If the 30th day falls on a weekend or holiday, and taxpayer uses USPS or a designated PDS, the appeal will be considered timely if it is postmarked the next business day.

Example: The 30th day falls on Saturday, August 24. The taxpayer mails the appeals package using an approved PDS, and it is postmarked the following Monday. The appeal is considered timely because it was mailed and postmarked the next business day via an approved PDS.

Example: The 30th day falls on Saturday, August 24. The taxpayer mailed the appeal that day, but used a non-approved (ground) PDS. The package arrived on Tuesday, August 27. The appeal does not meet the SSLH rule because it did not arrive the next business day. The postmark under the Timely Mailing Rule is considered only if the appeal is mailed via USPS/designated PDS.

- d. When determining timeliness of a fax, use the time zone of the sender.

Example: The 30th day for appeal falls on Saturday December 18 and the POA faxes the appeal from California by 11:59 PST of the following Monday, December 20. The appeal is considered timely because it was submitted the next business day.

- (2) If the appeal was not received timely, notify the taxpayer that the appeal was not timely and will not be forwarded to Appeals for consideration. Notification may be verbal or in writing but should be documented. Written notification may be completed using AOIC transfer letter, paragraph C.

Note: Although untimely, if the additional information provided allows for acceptance and is provided before the offer is closed, proceed with an acceptance processing.

- (3) If the taxpayer provides additional financial information that does not change the determination, but does not enclose Form 13177 or an appeal letter, make one attempt to reach the taxpayer by phone. Advise them of any change in RCP and that the information does not change the rejection determination. If the appeal window is open, determine if the taxpayer wishes to submit an appeal via fax. The submission of additional information does not extend the 30 day appeal period and is not considered an appeal with perfection issues.
- (4) If the request for appeal is unsigned, the request will not be considered a valid appeal. As soon as the defect is identified, make a reasonable attempt to secure a perfected appeal. See 5.8.7.7.5(7).

Note: If the appeal is signed electronically, it must provide identification of the person. For this reason, use of a script font would not be a valid electronic signature. A graphic or digital image of a handwritten signature can be used to identify and authenticate the individual signing the document.

Reminder: Only authorized representatives can sign an appeal for the taxpayer.

- (5) If a joint offer is rejected and only one spouse signs the request for appeal, an effort should be made to perfect the request. Contact the taxpayers and have the other spouse sign the request for appeal. If there is no response to the request for perfection, then the appeal will only be considered for the spouse who signed the request for appeal. Appeals will secure an amended Form 656 if the offer is ultimately accepted. Change the AOIC entity to the name of the spouse who requested the appeal, and change the indicator on the MFT screen from "B" to "P" or "S" as applicable.

Note: The TC 480 status change does not upload to IDRS. Mirroring action is required to input the corrected TC 480 for each spouse. At the conclusion of the offer investigation, a request for mirroring the accounts (MFT 30/31 and MFT 35/65) must be processed in accordance with the mirroring procedures discussed in IRM 5.19.7.11, Separate OICs on Joint Liabilities . Document AOIC Remarks: **"At case closure, MIRRORING is required because only TPH (or W) appealed. TC 481 for non-appealing spouse is (Date of rejection letter) + 30 days."** Add a prominent red **"M"** after the OIC # on the case folder and clearly document the closing history that a mirroring request is needed when the case is closed by Appeals. When a case is closed on AOIC, it requires a "yes or no" answer regarding the need for mirroring or the need for manual code reversal. The results will appear on the AOIC Summary Screen.

- (6) Any request for Appeals consideration must include a written, signed protest in accordance with guidance provided in the rejection letter issued to the taxpayer. The rejection letter and the Form 13711, Request for Appeal of Offer in Compromise, contain the required language. Additional information may be found in Pub 5 , Your Appeal Rights and How to Prepare a Protest If You Don't Agree. Taxpayer-signed appeals **must** contain the perjury statement, while representatives may select the appropriate declaration:

- "I declare that I have submitted the protest and accompanying documents and to the best of my knowledge, the facts stated in the protest and accompanying documents are true, correct, and complete."
- "I declare that I have submitted the protest and accompanying documents, but have no personal knowledge concerning the facts stated in the protest and the accompanying documents."

Note: Only authorized representatives can sign an appeal for the taxpayer.

- (7) If the request for appeal does not contain the required statements, the request will not be considered a valid appeal and the taxpayer or POA should be notified as soon as the defect is identified. The taxpayer should be provided the opportunity to perfect the appeal.
- (8) While there is no statutory provision for the perfection of an appeal, it is the IRS's practice to make a reasonable telephonic attempt to secure a process-

able appeal. If you receive a timely request for appeal which has not been signed with the required statements, make a reasonable attempt to contact the taxpayer or POA by phone as soon as the defect is identified. A reasonable time (no more than 15 calendar days) shall be allowed to perfect the request by including the applicable signature(s) and/or statement(s). If you make contact, advise that failure to perfect the appeal will result in the offer being closed and the taxpayer not being provided consideration by the Independent Office of Appeals.

Example: An appeal is postmarked on the 30th day. Due to mail time and scheduled annual leave, the OE/OS does not discover the appeal is unsigned until the 46th day. The OE/OS calls the POA that day and advises the appeal cannot be processed without signature. The POA may be allowed up to fifteen days to perfect the appeal, but may expedite processing by providing the signed appeal via e-fax.

- (9) If the request is signed on the taxpayer's behalf by an unauthorized representative, contact the taxpayer directly to explain the person who signed the appeal is not authorized to do so. The taxpayer may sign the appeal with the required statement, or if applicable, provide a valid Form 2848 to allow for processing of the original appeal. Allow no more than 15 calendar days to perfect the request. If you make contact, advise that failure to perfect the appeal will result in the offer being closed and the taxpayer not being provided consideration by the Independent Office of Appeals.
- (10) If the taxpayer fails to perfect the request for appeal within the time-frame provided, the offer should be closed as "rejection no appeal." Prior to closing on AOIC generate a transfer letter using Option C, to notify the taxpayer the appeal was not timely and cannot be considered by Appeals.

Note: Do not close the offer on AOIC before the 30-day appeal period has expired.

- (11) The taxpayer should provide specific information with the appeal letter, including a list of items of disagreement and evidence to support any of those items. If the letter provides new information not previously considered, the case should be reassigned to an OE/OS for reconsideration.

Note: Caution must be exercised when reviewing a case where new information is received and the offer is reconsidered following issuance of a rejection letter. If the taxpayer's letter requested an appeal, the offer must still be forwarded to Appeals if this reconsideration of the offer results in no change to the initial decision to reject. **A new rejection letter should not be sent.**

- (12) The taxpayer is entitled to an appeal of the offer rejection, even if items of disagreement are not provided or argued. If it can reasonably be determined that the letter is a request for an appeal, the taxpayer should be afforded that right.
- (13) If the taxpayer agrees to increase the offer to the amount you proposed, ensure they understand an amended proposal does **not** extend the appeal period. If they wish to secure appeal rights in case the offer is not approved during the review process, they may submit a signed Form 13711 with the addendum / amended offer.
- (14) If a deposit is associated with the case, clearly notate the file so Appeals knows additional action may be required. Print the AOIC summary screen and

highlight the deposit. Note if the taxpayer provided instruction regarding the deposit on Form 656. If a request was previously sent to MOIC to apply the deposit to the liability, ensure that information is documented in the AOIC Remarks and highlighted in the file for Appeals information.

- (15) If the offer includes MFT 74 or MFT 76 modules, see IRM 5.8.10.16.5.1, Procedures Relating to MFT 74 and MFT 76 Modules - Closing Rejection with Appeal. Because manual inputs are required when closing offers with these assessments, the closing history must advise Appeals that required closing actions are in IRM 5.8.10.16.5.
- (16) The review of the taxpayer's submitted information, preparation of any additional documents, and forwarding the taxpayer's request to Appeals should be completed in a timely manner. Refer to IRM 5.8.4.10 , Follow-Up Actions, regarding timely actions. Managers are responsible for assigning cases in accordance with IRM 1.4.52 , Offer in Compromise Manager's Resource Guide.

Note: Refer to IRM 5.8.7.7.6, Addressing a Timely Appeal Without Ex Parte Communication, regarding issues relating to sharing documents with the taxpayer in accordance with ex-parte communication issues.

- (17) If Appeals returns an offer with an imperfect appeal as a premature referral, the OE/OS should request perfection of the appeal from the taxpayer/POA within 15 days of receipt of the case from Appeals. If the taxpayer/POA does not comply with the request for perfection within 15 days of the request by the OE/OS, the offer should be closed as "rejection no appeal". Generate a transfer letter using Option C, prior to closing the offer.

Note: If the appeal is perfected and the case is sent to Appeals, update the recommended disposition in AOIC to "Rejected with Appeal." The AOIC disposition may be reset when the case is reassigned to Collection.

5.8.7.7.5.1
(06-23-2022)
**Appeals Referral
Investigation (ARI)**

- (1) During consideration of the taxpayer's appeal of a rejected offer, consideration of new information may be provided to Collection via an ARI. The offer remains under Appeals' jurisdiction, but contact may be made with the taxpayer to request additional clarifying information or to discuss acceptance. Collection will provide a written response to Appeals, in accordance with any ex-parte rules in a timely manner.
- (2) The ARI should be assigned to the OE/OS on AOIC in a timely manner. In AOIC, update the CCC to 41 to indicate an ARI was issued. The CCC should remain "ARI" when the case is closed.

Note: If the ARI is related to a CDP, contact Collection Policy to request transfer from AOIC Area 21 back to the Area office so the offer can be assigned to the OE/OS. Update the CCC to 4010. See 5.8.4.15.2, Case Decisions on CDP Offers, for closing actions. The TIPRA 24-month period remains open until a determination letter is issued.

- (3) If the new information supports acceptance of the original offer amount, include a statement with the ARI investigation that the analysis supports acceptance . If a revised amount is acceptable and the taxpayer is willing to amend the

offer, secure an amended offer and provide to Appeals with the ARI investigation. Advise Appeals if the taxpayer was supplied an opportunity to increase the offer but elected not to do so.

- (4) If the offer cannot be recommended for acceptance, forward the results of the ARI to Appeals. It is not necessary to provide the taxpayer an additional opportunity to rebut the RCP. Per IRM 8.23.3.3.1.4, Appeals will provide a copy of the collection documents to the TP/POA.

5.8.7.7.6

(06-23-2022)

Addressing a Timely Appeal Without Ex Parte Communication

- (1) Upon receipt of the taxpayer's appeal, the OE/OS will review the information provided to determine if any new information is identified or additional documentation has been submitted. If after review, the OE/OS determines rejection of the offer is still appropriate, additional discussion with the taxpayer may be necessary. New information is information that was not previously discussed with or raised by the taxpayer, or not previously investigated and documented by the OE/OS.

Example: A taxpayer's appeal states that their actual housing expense, which is higher than the local standard, should be allowed. The OE/OS had previously documented the basis for not allowing the actual expense and determined the local standard was appropriate for the taxpayer. This is not new information.

Example: A taxpayer submits an appeal that includes additional documentation of the taxpayer's current income. Since this documentation was not previously considered, this is new information that requires additional investigation or consideration by the OE/OS.

- (2) If the taxpayer appeal does not include new information requiring additional investigation or consideration by the OE/OS, the OE/OS will:
 - a. Notify the taxpayer that the case is being transferred and provide the telephone number of Appeals Customer Service. Notification may be verbal or in writing but must be documented. If you cannot reach the taxpayer by phone, use the AOIC transfer letter, paragraph B with address code 200.
 - b. Ensure the case history contains the following information: Date the rejection letter was issued; date the appeal was postmarked and date it was received; that no new information was received; that the taxpayer was notified of transfer to Appeals; and the case is being forwarded to the manager for review prior to transmission to Appeals.

Note: To clarify for Appeals that the issues raised in the appeal were previously addressed, you may refer back to a specific history date. Do not include any commentary in the AOIC remarks or ICS histories regarding the merits of the appeal and do not prepare any memorandum discussing the issues or the basis for the original determination in response to the appeal.

- c. Ensure all payments received after the offer was processed are recorded on AOIC Payment screen. If the offer is ultimately accepted, payments on this screen will transfer to the MOIC journal screen.
- d. Print the AOIC Summary and MFT Screens and place on top of the Form 656.
- e. Submit the OIC case file for managerial review.

- (3) If the taxpayer appeal includes new information requiring additional investigation by the OE/OS, the OE/OS will:
- a. Document receipt of the appeal in the AOIC remarks or ICS case history. Annotate history with a statement that the taxpayer's appeal was received on (date), and include **only** the facts concerning the new information requiring additional investigation.
 - b. Conduct additional investigation of the new information as appropriate, and document the AOIC remarks or ICS history with the investigation actions and results of the investigation.
 - c. If the information provided changes the RCP, generate updated collection tables.
 - d. If the additional investigation results in a decision to change the recommendation to an acceptance, follow the procedures in IRM 5.8.8.8, Closing Actions on Accepted Offers.

- (4) If the additional investigation does not result in a decision to change the recommendation to an acceptance, the OE/OS will take the following actions:
1. Attempt to make telephone contact with the taxpayer to explain the results of the additional investigation.
 2. Document the AOIC remarks or ICS history, noting if contact was made with the taxpayer and the details of the discussion. Ensure the case history contains the following information: Date the rejection letter was issued; date the appeal was postmarked and date it was received; that the taxpayer was notified of transfer to Appeals; and the case is being forwarded to the manager for review prior to transmission to Appeals.
 3. If the OE/OS is unable to make contact with the taxpayer within a reasonable time period, forward the offer case file to the manager. Include updated collection tables. Prepare the AOIC transfer letter for the manager's signature, using the open paragraph to provide the taxpayer with a brief summary of the results of the additional investigation.

Example: "After review of the expense documentation provided, a determination was made that the rejection of your offer is still appropriate because (insert explanation). Your offer will be forwarded to the Independent Office of Appeals per your request."

Example: "After review of the expense documentation provided, a determination was made that the rejection of your offer is still appropriate because (insert explanation). Your offer will be forwarded to the Independent Office of Appeals per your request."

- (5) The manager will take the following actions:
- a. Review the OIC case file, AOIC remarks or ICS history to determine if the new information has been sufficiently addressed and documented.
 - b. If the OE/OS did not investigate the new information, the manager will return the offer file to the OE/OS.
 - c. If the new information has been sufficiently addressed and documented, the manager will sign the AOIC transfer letter to the taxpayer.

Note: If the information provided changed the RCP, enclose the updated collection tables in the transfer letter.

- d. Document issuance of the letter to the taxpayer in the history, and place a copy of the letter in the offer case file.
- e. The manager must ensure that no prohibited ex parte communications are included in the offer case file or the case history before approving the transmittal of the case to Appeals. If the case history contains commentary that is determined to violate the ex parte communication rules, the manager will take appropriate action. In most instances, potential ex parte communication can be resolved by sharing the information with the taxpayer. If the manager determines that case history deletion is appropriate, follow the history removal procedures detailed in IRM 5.1.10.8, Case Histories. History deletions must be approved by Territory Manager or Operation Manager. Route approved requests for ICS history deletion to the IQA and route AOIC history deletion requests to OIC Policy mailbox.

Note: The administrative OIC case file transmitted to Appeals is not an ex parte communication since it sets forth the boundaries of the dispute between the taxpayer and the Internal Revenue Service and forms the basis for Appeals to assume jurisdiction. The OIC case file should include all information that supports the original determination.

Example: An OE/OS received an appeal from a taxpayer appealing the offer rejection and documents AOIC remarks or ICS history as appropriate. The OE/OS determined the appeal contains new information. The OE/OS reviews the new information provided, contacts the taxpayer by telephone to discuss their investigation of the new information, and advises the taxpayer the determination to reject the OIC will not change. The discussion with the taxpayer is documented in the AOIC remarks or ICS history. Since the additional investigation was discussed with the taxpayer, there is no prohibited ex parte communication. The OE/OS forwarded the offer case file to the manager, who reviewed it to determine if the new information had been sufficiently addressed and documented that no prohibited ex parte communications were included in the offer case file or the case history before approving the transmittal of the case to Appeals.

Example: An OE/OS received an appeal from a taxpayer appealing the rejection of their OIC. The OE/OS documented the ICS case history that the appeal contained new information. The OE/OS conducted additional investigation of the new information and concluded that the determination to reject the OIC remained appropriate. The OE/OS attempted to contact the taxpayer by telephone to advise the taxpayer of the results of the investigation, but was unable to reach the taxpayer. The OE/OS documented the AOIC remarks or ICS history and generated a transfer letter with open paragraph containing a summary of the results. The OE/OS submitted the offer case file to the manager. After reviewing the case file to determine the new information issue had been sufficiently addressed and documented, the manager issued the AOIC transfer letter. The final determination was documented in AOIC remarks or ICS history, and a copy of the letter was included in the offer case file. No ex parte communication rules were violated in transmitting the administrative file to Appeals because the additional investigation results were shared with the taxpayer in the AOIC transfer letter.

Example: An OE/OS received an appeal of the offer rejection from a taxpayer. The OE/OS documented the AOIC remarks or ICS case history that the appeal contained new information. The OE/OS conducted additional investigation of the new information and concluded that the determination to reject the OIC remained appropriate. The OE/OS documented the results of the additional investigation, but did not contact the taxpayer by telephone to advise the taxpayer of the results of the investigation, and their manager did not send a letter to the taxpayer containing the results of the additional investigation. The OE/OS violated the ex parte communication rules because they communicated with Appeals through the AOIC remarks or ICS case history, which contained documentation regarding the results of the additional investigation of the new information that was not shared with the taxpayer.

Note: The communication to the taxpayer should include a brief summary of the additional investigation and must be at least as detailed about the reason for the rejection as the communication to Appeals. Appeals may not receive details about the basis for the determination that are not provided to the taxpayer.

(6) After review of taxpayer's appeal:

- a. Transfer the case to 90XX on AOIC.
- b. Mail the case to the appropriate Appeals Area office based on the *Appeals Case Routing Tool*.

Note: Monitor for receipt of the transferred case. If receipt of the case is not acknowledged, the manager must take follow up action. See IRM 1.4.52.6.10.1, Semi-Annual Inventory Matches and Inventory Matches for COIC and IRM 1.4.52.6.10.2, Semi-Annual Inventory Matches and Inventory Matches for FOIC .

- (7) If an offer previously forwarded to Appeals is returned as a premature referral, the originating function may not communicate ex parte with Appeals while re-considering the case, other than with respect to ministerial, administrative, or procedural matters, without offering the taxpayer or representative an opportunity to participate in the discussion because Appeals may ultimately review the case. If necessary, the taxpayer should be contacted to discuss the results of any additional investigation or be provided with information by the manager relative to the results of any additional investigation that was not discussed with the taxpayer via correspondence, prior to the offer being returned to Appeals.
- (8) There may be rare instances, after the taxpayer's request for Appeals consideration of a rejected offer in compromise has been forwarded to the Independent Office of Appeals, that Collection will secure significant new information that needs to be provided to Appeals to allow Appeals to fully evaluate the offer in compromise. In these rare instances, supplemental information can be provided to Appeals as long as Collection concurrently provides the same information to the taxpayer/representative. Appeals will give the taxpayer/representative the chance to respond to the supplemental information.
- (9) When supplemental information is provided by Collection to Appeals based on the discovery of new information, a letter, signed by the manager, will be issued to the taxpayer/representative that identifies the new information and

explains that the information is being provided to Appeals. Include with the letter sent to the taxpayer/representative a copy of the written communication to Appeals and any documents being sent to Appeals. Document issuance of the letter in the AOIC remarks or ICS history and include a copy of the letter with the supplemental information sent to Appeals.

Example: After forwarding the taxpayer's request for Appeals consideration, the OE/OS is provided information from a revenue officer indicating that the taxpayer failed to disclose a significant asset on the financial statement and research conducted by the OE/OS did not reveal the existence of the asset. The OE/OS seeks manager concurrence that this is significant new information that needs to be shared with Appeals. The manager concurs and issues a letter to the taxpayer/representative with the information to be shared with Appeals (including copies of any documents/memos/letters being sent to Appeals), documents issuance of the letter in AOIC remarks or ICS history, and sends the supplemental information to the Appeals team manager along with a copy of the letter sent to the taxpayer/representative.

Reminder: The ability to provide significant new information after the case file is forwarded to Appeals does not relieve the OE/OS of completing a thorough evaluation of the taxpayer's offer and ensuring a complete rebuttal is prepared prior to sending the case file to Appeals.

Note: This procedure should only be followed when assets are discovered by the OE/OS that were **not** disclosed by the taxpayer during the OIC or the information that would impact the offer determination was concealed by the taxpayer during the offer investigation. This procedure should **not** be used to provide to Appeals information from the further development of assets that **were** disclosed by the taxpayer during the OIC consideration unless the additional information was concealed by the taxpayer during the offer investigation, the information was provided by the taxpayer after the offer was forwarded to Appeals, or the information being provided is in response to an ARI issued by Appeals.

5.8.7.7.7
(06-23-2022)
**Closing of Offer After
Appeal's Consideration**

- (1) Appeals Account & Processing Support (APS) is responsible for closing cases on AOIC. Accepted offers are forwarded to MOIC. Files for sustained and withdrawn offers will be returned to the originating office for archiving. Additional actions may be appropriate.
- (2) If a NFTL request is in the file, it must be reviewed to ensure the information is current (entity information, periods, and unpaid balance of assessment). Also, it cannot include any SRP liabilities. See IRM 5.12.2.3.1.1, Affordable Care Act's (ACA) Shared Responsibility Payment (SRP) Exception, and IRM 5.12.2.6.1, ACA Shared Responsibility Considerations When filing NFTL.

Note: SRP amounts owed are not subject to penalties or to lien and levy enforcement actions.

Note: Prior to requesting the NFTL, verify the taxpayer has been advised of CAP rights in accordance with IRM 5.8.4.8, Taxpayer Contact, and IRM 5.8.4.13, Notice of Federal Tax Lien Filing.

- (3) If the file contains a red "M" after the offer number on the case file or is otherwise identified as needing mirroring, review to determine if mirroring is required. Process a request for mirroring the accounts (MFT 30/31 and MFT 35/65) in accordance with the mirroring procedures discussed in IRM 5.19.7.11 , Separate OICs on Joint Liabilities.
- (4) Review the file for alternative resolution instructions. See IRM 5.8.7.10, Alternative Resolutions and Collection Assignment, for procedures on forwarding the case for the next appropriate collection action.
- (5) Route the offer file to the closed files.

5.8.7.7.7.1
(06-23-2022)

Re-Opening a Previously Rejected and Sustained Offer

- (1) When a non-Collection Due Process offer rejection is sustained, Appeals no longer retains jurisdiction of the case. A previously rejected offer can only be reopened based on the following circumstances:
 - a. A rejection was sustained by Appeals because the taxpayer failed to timely provide requested information, and it is later learned that the information was provided timely, but was mis-routed by Collection or Appeals.
 - b. Where the taxpayer failed to respond to Appeals and it is later learned that the taxpayer was unable to respond due to an emergency (medical, natural disaster, etc.).

Note: If a previously rejected offer is re-opened, the proposed disposition code must be updated on AOIC at the time of reopening.

- (2) In these circumstances, the taxpayer's request to have the case reopened must have been postmarked **no more than 30 days** after the date of the determination letter issued by Appeals.

Exception: A previously rejected offer sustained in Appeals may be re-opened later than 30 days after closure **only** upon agreement by the Director, Collection Appeals; Director, Examination Appeals; or Director, Appeals Specialized Examination Programs and Referrals and the Director, Specialty Collection Offers in Compromise (SCOIC).

- (3) Once it is determined the offer should be reopened, a memorandum signed by the Appeals Director should be forwarded to the OIC manager based on location of the original offer for reopening. If approval of the Director, SCOIC is required, concurrence must be secured prior to reopening the offer.
- (4) Advise Appeals to manually input TC 480s (and closing TC) and STAUP to status 71.

5.8.7.8
(12-20-2018)

Authorization to Apply Deposit

- (1) When closing an offer with a deposit as other than an acceptance, IRS employees must determine how the deposit is to be disbursed.

Note: Deposits are automatically applied if the offer is accepted.

- (2) The taxpayer may have provided authorization and instructions regarding deposit disposition in Section 5 of Form 656. If the instructions are not clear, ask the taxpayer if they wish to have the funds applied to the delinquent tax liability whenever soliciting a withdrawal or advising that acceptance cannot be recommended.

- (3) If a taxpayer agrees to the application of the deposit to a tax liability, written authorization is required. The written authorization or Form 3040, Authorization to Apply Offer in Compromise Deposit to Liability, must be retained in the offer file. Upon receipt of the written authorization, or at the point the offer is submitted for closure, submit an e-mail request to MOIC. The e-mail request should be sent to the MOIC unit that works your taxpayer's state. MOIC contact information can be located at <http://mysbse.web.irs.gov/collection/toolsprocesses/CaseRes/oic/deposits/default.aspx> or <http://serp.enterprise.irs.gov/databases/who-where.dr/oic-backend.html>. Use the subject line "**Request to Apply Deposit**" and include the following information in the e-mail:
 - a. OIC number
 - b. Identification of the payments to be moved
 - c. Instruction regarding payment application, including tax periods and DPC codes

Note: Unless the taxpayer has requested the deposit be applied as a required TIPRA payment, the DPC code is 99.

 - d. The type of written authorization: Form 656 checkbox; Form 3040; or Other.
- (4) Document this same information in AOIC Remarks. The employee closing the offer will input **AN** (apply no special instructions), or **AS** (apply with special instructions) in the pop up screen to alert MOIC.
- (5) If a taxpayer does not authorize application of the deposit to a tax liability, in writing, it will be returned to the taxpayer. If the AOIC Remarks contain no information regarding written authorization, the employee closing the AOIC record will input **RN** (refund no special instructions) or **RS** (refund with special instructions), depending whether any special instructions are being provided.
- (6) Occasionally requests for a discharge or subordination are received while an offer is pending. See IRM 5.8.10, Special Case Processing, for instructions on processing the Form 3040 received in conjunction with issuance of the lien certificates.

5.8.7.9
(06-23-2022)
**Potential Subsequent
Actions**

- (1) If the following issues are present, refer to the IRM references listed below for appropriate actions:
 - a. Solely to Delay Collection – IRM 5.8.4.20, Offers Submitted Solely to Delay Collection.
 - b. In-business Trust Fund – IRM 5.8.4.21, Responsibility of Offer Examiners, Offer Specialist, and Field Revenue Officers [Continuing Action on In Business Trust Fund (IBTF) cases] and IRM 5.8.4.22.1, Trust Fund Liabilities.
 - c. Levy/Seizure related action – IRM 5.8.4.21, Responsibility of Offer Examiners, Offer Specialists, and Field Revenue Officers (Levy or seizure related actions).
 - d. Protection of the government's interest required (Notice of Federal Tax Lien (NFTL), nominee NFTL/levy, suit recommendation, etc.) – IRM 5.8.4.21, Responsibility of Offer Examiners, Offer Specialists, and Field Revenue Officers.

Exception: If a taxpayer has been identified as being located in a Combat Zone area, do not file a NFTL unless extenuating circumstances exist.

- e. Development of Potential Fraud – IRM 5.8.4.18, Potential Fraud Referrals. The fraud technical advisor should be consulted and agreement is reached that a more thorough field investigation is required. See IRM 5.8.10.10, Indicators of Taxpayer Fraud, for more information.

5.8.7.10
(06-23-2022)
**Alternative Resolutions
and Collection
Assignment**

- (1) If the investigation does not support acceptance of the offer, determine the appropriate alternative collection resolution. When you advise the taxpayer that an offer cannot be accepted based on RCP, recommend the best collection alternative based on their reasonable collection potential. Solicit a withdrawal and provide assistance with an installment agreement or currently not collectible determination if appropriate.

Note: Do not negotiate alternative resolution for a CDP offer received from Appeals. Appeals has jurisdiction over virtually all outcomes and is responsible to explain taxpayer rights within CDP, including the right to judicial appeal and retained jurisdiction of the final decision.

- (2) Document the AOIC remarks or the ICS history as appropriate with the proposed actions to be taken on the taxpayer's account, if there remains a liability. If a voluntary resolution is not reached, action is required to update the account to the next appropriate collection action or resolution, as described in the sections below.
- (3) No action will be required on the following cases:
 - Cases in Status 53, 61, 63 or 72. Forward or archive the OIC case file as appropriate.
 - CDP offers.
 - Modules with short CSEDs. If a period is within 6 months of expiration, the status code cannot be updated in IDRS to any other status such as stat 22, 26, or 60. The TC 480 and closing TC 48X or TC 780 can be input, independent of the IDRS status. If the alternative resolution is installment agreement, see below.
- (4) If a sustained rejection offer file received from Appeals is notated for acceleration to status 26, follow the procedures in IRM 5.8.7.10.4, Alternative Collection Assignment - Field Collection.

5.8.7.10.1
(06-23-2022)
**Alternative Resolution
Procedures - Installment
Agreement**

- (1) If the taxpayer's account was previously in stat 60, reinstate the installment agreement (IA). See IRM 5.8.4.25.2, Offers in Status 60. The terms, including the due date of the monthly payment, will be based on the prior agreement, as shown in IADISP. If the taxpayer wants an alternate date, indicate this in the reinstatement request. The first payment will be due in 5-9 weeks and a letter will be issued to confirm the IA. COIC reinstatement requests are routed internally; FOIC may e-mail the request to the appropriate COIC mailbox. User fees are waived for reinstatement after OIC.

Note: If the agreement was DDIA, a new Form 433-D with signature is required. Annotate Form 433-D "Reinstatement of DDIA after OIC request."

- (2) If an agreement is reached to have the taxpayer resolve the liability via an installment agreement, assist the taxpayer with establishing an agreement. Refer

to IRM 5.14, Installment Agreements and the IA table at <http://mysbse.web.irs.gov/collection/toolsprocesses/CaseRes/IA/iatable/default.aspx>, for installment agreement criteria. Guidance for processing new installment agreements can be found on OIC SharePoint (SP) in the Alternative Resolution library. Follow the instructions, including input of the appropriate TC 971 code and STAUP action to prevent the account from progressing to collection status before the agreement can be input.

Note: Installment Agreement User Fees may apply, but are often lower if the agreement is DDIA and/or established through OPA. Information regarding current fees can be found at IRM 5.19.1.6.4.6(5).

- (3) If the liability qualifies for a streamlined agreement, advise the taxpayer to apply using the Online Payment Agreement (OPA) feature at IRS.gov/paymentplans. You may also assist by preparing a Form 433-D, Installment Agreement. If the liability and monthly payment ability do not qualify for guaranteed or streamlined installment agreements, you must prepare and process a Form 433-D. .

Note: Referring the taxpayer to OPA is only permissible for guaranteed or streamlined installment agreements. If the agreement requires managerial approval and/or a Form 433-A to support the payment, secure a Form 433-D.

- (4) If the taxpayer plans to use OPA to submit their installment agreement request, request STAUP to hold collection notices for 9 cycles when the offer is closed on AOIC. Advise the taxpayer to wait approximately two weeks after they receive the letter regarding the offer closure before submitting a request through OPA. They may or may not receive a collection notice depending on when the STAUP posts. If the account is still in offer status 71, any requests for installment agreement cannot be processed.
- (5) For non-streamlined agreements, refer to IRM 5.15, Financial Analysis, when determining the appropriate payment amount.
- (6) A partial pay installment agreement (PPIA) can be recommended if it is the best collection alternative. The first payment should include any liquid funds or obtainable equity shown on the AET. Special rules apply, such as if the taxpayer defaulted an IA within the last 24 months, the agreement must be established as a DDIA. Refer to IRM 5.14.2, Partial Payment Installment Agreements and the Collection Statute Expiration Date (CSED), for PPIA procedures or search PPIA on the Knowledge Management Library.
- (7) If a CSED is within 6 months of expiration, that period will not update to status 60. Unless manually applied or transferred, the taxpayer's installment payments will not post to a non-status 60 module. If the module will be expiring before the taxpayer's first anticipated payment, no action is required. If payments should post to the short CSED period first, utilize the work around instructions for modules with short CSEDs on the OIC SharePoint site, Alternative Resolution Library.

Example: The taxpayer owes \$50,000 for 30-200912 with 6 months remaining on the CSED and an additional \$25,000 for 30-201612. RCP will allow for full payment, but the taxpayer lacks the ability to make a lump sum payment before the 30-200912 CSED expires. You secure an IA for the

\$1,000 monthly payment ability and do the work around to place 30-200912 in status 53 before processing the 433-D. This allows the module to update to status 60.

5.8.7.10.2
(06-23-2022)
**Alternative Resolution
Procedures - Currently
Not Collectible**

- (1) When an offer cannot be recommended for acceptance but the completed offer investigation shows the taxpayer currently has no payment ability, obtain manager approval to place the account in currently not collectible (CNC) status. In most cases this will involve IMF accounts. Defunct BMF entities may be closed CNC if a prior field call to view assets was conducted. To CNC an account and issue the required confirmation letter via IAT, follow current procedures posted to OIC SharePoint under Alternative Resolutions Library. Alternately, you may complete Form 53, Report of Currently Not Collectible Taxes, and e-mail to CCP for input. If the Form 53 is input by CCP, the OE/OS is responsible for issuing the confirmation letter - Letter 4624C if prepared through IAT or Letter 4223 in ICS macros.

Note: The Exhibit 5.16.1-4 in IRM 5.16, Currently Not Collectible, contains a chart of the required investigation. Because IRM 5.16 requires a field call for each closure, SCOIC follows the criteria in IRM 5.19.17.2.4, CNC Unable to Pay - Hardship, when recommending CNC for IMF.

- (2) If a TC 530 with a hardship closing code is within one year of offer submission, return the account to Status 53. Managerial approval is not required. If the TC 530 is over one year old, and the taxpayer has the ability to full pay through an installment agreement or has substantial equity in assets, which were not considered when the account was reported CNC, reverse the TC 530 with the input of a TC 531 using REQ77/FRM77 and follow the procedures below to refer the case for collection assignment.
- (3) Before proceeding with CNC request procedures on OIC SharePoint, the offer must be closed on AOIC. It is not necessary to wait for the closing TC 48X to post. If the Form 53 is sent to CCP, you must wait until the TC 48X posts to IDRS.

Note: Document CNC discussion and actions taken to process a CNC in either ICS history or AOIC remarks.

5.8.7.10.3
(06-23-2022)
**Alternative Collection
Assignment - ACS**

- (1) Accelerate to ACS status 22 any case that is not being referred for other specific action (such as IA, CNC, or status 26).
- (2) Refer for input of STAUP 22 00 with an assignment code of 0605.

5.8.7.10.4
(06-23-2022)
**Alternative Collection
Assignment - Field
Collection**

- (1) In some cases, the best collection alternative may be to assign the balances to a field RO. Only cases with reasonably established collectibility that potentially require advanced enforcement tools (e.g. seizure, levy on retirement accounts, etc.) should be accelerated to status 26. All others should be accelerated to ACS, per IRM 5.8.7.10.3. At least one year must remain on the CSED for cases being referred to field collection.
- (2) Types of cases that qualify include:
 - A taxpayer's ability to full pay is apparent and the taxpayer refuses to fully pay the liability or enter into an installment agreement to resolve

the outstanding balance. Absent any other supporting factors, potential collection from assets should be at least \$50,000. When determining anticipated collection, use net quick sale value for retirement accounts or investment accounts. For assets such as real estate or virtual currency that require seizure action (vs. a Form 668-A levy), use forced sale value (60%). See IRM 5.10.1.5.3.1, Equity Determination, for additional criteria.

Example: Real estate valued at \$500,000 has a forced sale value (x 60%) of \$300,000. After the \$250,000 encumbrance the anticipated gross forced sale proceeds would be \$50,000.

- It does not appear that liquidation or mortgage of the asset would create an economic hardship.

Example: The taxpayer has sufficient income stream to either refinance the mortgage or pay for alternate housing.

Example: The taxpayer does not have to draw on the 401(k) to cover necessary living expenses.

- The taxpayer is attempting to move assets beyond the reach of the government and failure to take action may result in loss to the government.

Example: Before the NFTL was filed, the taxpayer transferred real property to their new spouse for no consideration. The \$70,000 quick sale equity in the property was included in the RCP but the taxpayer did not increase the offer. There is positive forced sale equity but it is less than \$50,000. Acceleration to field is warranted so the revenue officer can secure the equity and make a seizure determination.

Note: If there is insufficient forced sale equity to warrant seizure, you may issue an OI through ICS so a field revenue officer can determine if a nominee lien can be secured to prevent further transfer or encumbrance of the property. See IRM 5.8.4.21, Responsibility of Offer Examiners, Offer Specialists, and Field Revenue Officers.

- (3) Cases with assets that require advanced enforced collection but may not meet the \$50,000 anticipated collectibility threshold may be accelerated to status 26 if they qualify based on their outstanding liability amounts. See OIC SharePoint "Steps for Issuing an ICS OI" for the amounts.

Note: Do not accelerate large balance due cases to status 26 unless you have also identified a meaningful source of collectibility on the AET and/or IET. Do not refer solely based on outstanding balance.

- (4) Document the justification for field assignment in the final paragraph of the closing narrative. Include specific information regarding the property such as market value and encumbrances, or source of monthly payment ability.
- (5) When reviewing the closing narrative, if the manager agrees that the case meets status 26 criteria and immediate field action is warranted, they will annotate their concurrence in the AOIC remarks or the ICS case history as applicable, and on the case routing sheet. If the criteria is not met, the case should be referred to status 22.

- (6) If the offer is not appealed, COIC or FOIC will take the following actions:
 - a. COIC will process the closing actions on AOIC and forward the offer file to the site RO. If there is not already an existing case in ICS, the site RO will create a case and then create an ICS Incoming OI. Cut and paste the information from the AOIC closing narrative into a new ICS history, and follow the steps below to create an Outgoing OI.
 - b. FOIC will process the closing actions on AOIC and return the offer file to the OS. The OS will follow the steps below to create an outgoing OI.

5.8.7.10.4.1
(06-23-2022)

**Create an ICS OI for
Assignment to Field
Revenue Officer**

- (1) Follow the steps on OIC SharePoint, Alternative Resolution Library regarding issuing an OI in ICS to the field group manager.
- (2) Scan and e-mail the following documents to the COIC or FOIC group manager so they can forward to the RO group manager:
 - Decision letter
 - AET and IET
 - Form 433-A/B OIC
 - Form 657 and/or the RO ID (from ICS history) if previously in stat 26
 - AOIC history (COIC only)
- (3) The COIC or FOIC manager will forward the scanned documents in an e-mail to the RO manager with a CC to *SBSE Coll Policy OIC. Advise an OI has been issued as a placeholder for assignment of BAL DUEs that are being accelerated from stat 71 to stat 26 based on collectibility. If the case was assigned to a specific revenue officer when the offer was submitted, include in the e-mail the RO assignment number.
- (4) Refer the case for TE/PE actions.
 - a. TSIGN/ASIGN to the group hold file AOTOXX00.
 - b. STAUP 22 00. This places the account in stat 50.
- (5) Schedule a follow-up for approximately 15 days to monitor IDRS for status 26. When it updates, close the ICS CIP (FOIC) or Incoming OI (COIC) and archive the offer file.
- (6) Upon receipt of the case in the RO group manager hold file, the RO manager will make an assignment determination following the guidance in IRM 1.4.50.10 , Assigning Work.
- (7) If an RO manager has any questions regarding the assignment criteria, they may e-mail the SCOIC manager with a CC to *SBSE Coll Policy OIC mailbox.

5.8.7.11
(12-20-2018)

**Destruction of Credit
Reports**

- (1) Procedures for destruction of credit reports for OICs should be as follows:
 - a. For rejected cases, all credit reports should be destroyed upon closure of the case after the 45-day period for appeal has passed. If the taxpayer files for appeal, the credit report should remain with the file and forwarded to Appeals. Appeals will then be responsible for pulling and destroying the report. This is in accordance with IRM 5.1.18.19.2.9, Disposal of Credit Information.
 - b. For returned, withdrawn, and terminated offers all credit reports should be pulled and destroyed after the managerial review and approval.

- c. For accepted offers, see IRM 5.8.8, Acceptance Processing.

Note: The May 2018 revision of Document 9600-B Tab Dividers for Offer in Compromise Case Files has a separate tab for credit bureau. Credit bureau reports should be tabbed separately or tagged, and at case closure, placed near the top of the case file for easy removal.

5.8.7.12
(06-23-2022)
Closed File Retention

- (1) Closed cases (other than acceptances) are to be retained in closed files in the Area or COIC offices. Document 12990 *Records and Information Management Record Control Schedules*, directs that the Area and COIC offices may retire the closed files to the Federal Records Center (FRC) when it is determined they are no longer needed for current business. See IRM 5.8.7.12.1, Shipment of Closed Cases to Federal Records Center (FRC), below for instructions on shipping closed cases to the FRC.
- (2) As space dictates in the offices, the files should be prepared to be retired to the FRC. Instructions for shipping files should be secured from the appropriate AWSS area Records Manager. A record of the cases shipped, including taxpayers name, TIN, and year closed, with a cross reference to the FRC box number and locations should be maintained in the Area or COIC office so the closed case file can be retrieved, if necessary, for litigation or other necessary action. This information should also be input into AOIC under FRC Tracking located on the AO-AOIC Main Menu page under maintenance.
- (3) In rare instances a CDP file may be returned to OE/OS group by Appeals after the offer has been closed.
 - a. If the OIC was accepted by Appeals, the OE/OS group will check to see if the offer is still in MOIC. If the offer is still in MOIC, the file should be forwarded to MOIC to associate with the accepted offer. Send a courtesy e-mail should be sent to the assigned SC employee to advise the CDP file is being forwarded to associate with the offer file.
 - b. If the OIC was accepted by Appeals but AOIC shows the file has already been archived to FRC, send the CDP file to FRC according to regular archiving schedule. Since the offer number is already being used on AOIC, the CDP file should be placed as the last case in one of the boxes and AOIC remarks noted with the statement "CDP case file information shipped to FRC as the last case in box # xxx shipped to FRC MM/DD/YYYY."
 - c. If the OIC was not accepted by Appeals, the OE/OS group who worked the offer will associate the documents with the closed offer file which is being retained in the site/territory/group which closed the offer and sent to FRC according to the regular archiving schedule. If the offer file was already sent to FRC, follow the procedure above to archive the CDP file. Annotate AOIC remarks regarding the location of the CDP file.
- (4) Prior to shipping, purge unnecessary documents so that only the following documents are shipped:

If...	Then ship ...
Returned, Terminated or Withdrawn	Return, Termination or Withdrawal letter to the taxpayer (and POA letter if applicable) <ul style="list-style-type: none"> • All Forms 656 received • Form 2848, if applicable • CIS • Case history sheets • Other significant correspondence/documents
Rejected	Rejection letter to taxpayer (and POA letter if applicable) <ul style="list-style-type: none"> • All Forms 656 received • Form 2848, if applicable • Form 1271 • Narrative report • CIS with supporting verification/documentation • Case history sheets • Other significant correspondence/documents

5.8.7.12.1
(05-10-2011)
Shipment of Closed Cases to Federal Records Center (FRC)

- (1) Document 12990, Records and Information Management Record Control Schedules, , allows local offices to retain closed files until “there is no longer a business need” to retain them at the local level.
- (2) Follow procedures in IRM 1.15.4, Retiring and Requesting Records, when mailing closed cases to the FRC.

5.8.7.12.2
(06-23-2022)
Loading FRC Information on AOIC

- (1) COIC and field Area offices are required to load the FRC information on the AOIC FRC Tracking screen, for each case, prior to mailing the closed file(s) to the FRC. This screen includes the offer number, accession number, box number, FRC date and location. Refer to the AOIC Course User’s Guide for instructions on loading information on the AOIC FRC Tracking screen.
- (2) For any case in which you are unable to record the FRC information on the AOIC FRC Tracking screen, document the accession number, box number, FRC date and location in AOIC Remarks.

Note: In some instances, paper files related to previously closed offers cannot be associated with the original file and must be archived separately. Examples include closed CDP cases referred by Appeals and Other Investigations (OIs) for offer on offer investigations. When the case is boxed, AOIC Remarks should be documented “Shipped to FRC as the last case in box #xxx, shipped on MM/DD/YYYY.”

5.8.7.13
(06-23-2022)
Requesting a Closed Case from FRC

- (1) The AOIC FRC Tracking screen provides information to locate a closed offer file previously shipped to the FRC by entering either the TIN, accession number and/or the FRC date. Refer to the AOIC Course User’s Guide for instructions on how to locate a closed offer using the AOIC FRC Tracking Option.

Note: If information is not available on the AOIC FRC Tracking screen or the AOIC remarks, refer to the Area designee responsible for maintaining the SF 135, Records Transmittal and Receipt, to locate the information.

- (2) If retrieval of a case is needed from FRC, complete NARA Federal Records Center Optional Form (OF 11), which is used to request records without a DLN. Guidance is stored on OIC SharePoint. If additional information is needed, see IRM 1.15.4, Records and Information Management, Retiring and Requesting Records.

