



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.19.24

MARCH 13, 2023

EFFECTIVE DATE

(03-13-2023)

PURPOSE

- (1) This transmits revised IRM 5.19.24, Liability Collection, Doubt as to Liability Offer in Compromise.

MATERIAL CHANGES

(1)

IRM 5.19.24 was updated and renumbered to improve the flow of the IRM. Certain sections were added and some were removed as obsolete. The following chart contains a crosswalk of the changes:

Grammatical changes corrected throughout the IRM

5.19.24.5: removed (F) to request additional information for a reconsideration request

5.19.24.5: added (H) IMFOL(t) prints are required for all Exam transfer

5.19.24.6.1: added note under (U) "both taxpayers and representatives are located internationally no phone call is required."

5.19.24.6.1.1: added (E) Where to route amended Form 1040X with an attached Form 2555 .

5.19.24.6.2: added (E) an exception if tax period is in St. 26, do not input TC 470. Added (G) Where to send documentation in return letter. Added (Example)

5.19.24.6.4.(1) 4th bullet: added secure approval for FTA from manager for in-house RO prior to making an adjustment. Added 5th bullet: if the taxpayer provides Form 843 check qualifications prior to forwarding the offer. Added 6th bullet: If taxpayer doesn't qualify for FTA, secure withdrawal and advise to file Form 843.

5.19.24.6.(4)(d) removed "Note" indicating Form 656-L must be signed by both taxpayer's.

5.19.24.6 (4) added (G) for offers where the TC 30x and 3 digit appeals location code and ACDS closing code is 10 or 17 reject the offer

5.19.24.6.4.2 (1) If/then box added to send transfer letter to include exam coordinators area and phone number

5.19.24.7: added (5) if manual TC 480 is input write "TC" in red on the folder.

5.19.24.12.8: added (1) paper records will go to FRC electronic Form 656-L in Exam will be retained in CEAS

IRM 5.19.24 was updated and renumbered to improve the flow of the IRM. Certain sections were added and some were removed as obsolete. The following chart contains a crosswalk of the changes:

5.19.24.13.4: Changed title to “Identification of Paid Preparer Misconduct Issues”

5.19.24.17.2: added (7) “Note” to give no more than 15 calendar days to perfect appeal.

5.19.24.23: added (2) Electronic Exam DATL offers are not retained in FRC, they are retained in CEAS. All other DATL offers can be requested using the DLN located on IDRS with T 290. These are exam only.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 5.19.24, dated March 31, 2020.

AUDIENCE

Small Business Self Employed (SB/SE) campus employees who process Doubt as to Liability Offer in Compromise cases.

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Director, Collection Policy
Small Business/Self Employed

5.19.24

Doubt as to Liability Offer in Compromise

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5.19.24.1
(06-01-2017)
Program Scope and Objectives

- (1) **Purpose:** During the investigation of an offer in compromise (OIC), certain situations may be encountered that require consideration before a final determination can be made. This section discusses how to treat these situations when evaluating a Doubt as to Liability (DATL) offer.
- (2) **Audience:** These procedures apply to IRS employees who are responsible for investigating and processing Doubt as to Liability offers.
 - Tax examiners (TE) in Centralized offer in compromise (COIC).
 - Additional IRS employees assigned to the offer program and employees who conduct OIC investigations.
- (3) **Policy Owner:** Director, SBSE Collection Policy.
- (4) **Program Owner:** SBSE Collection Policy, OIC.
- (5) **Primary Stakeholders:** The primary stakeholders are COIC offer employees.
- (6) **Program Goals:** The government, like other creditors, encounters situations where there is a legitimate dispute as to what is owed. It is an accepted business practice to resolve these issues through negotiation and compromise. This IRM discusses Doubt as to Liability (DATL) offers in compromise. By following the processes and procedures provided by this IRM, employees will process DATL offers in a manner that follows IRS policy and procedures while promoting the best interests of the Government.

5.19.24.1.1
(06-01-2017)
Background

- (1) This section provides direction on special case processing consideration when working Doubt as to Liability offers in compromise. Doubt as to liability exists where there is a genuine dispute as to the existence or amount of the correct tax debt under the law. These offers are different from Doubt as to Collectibility since they are not based on the ability to pay the outstanding liability.

5.19.24.1.2
(03-13-2023)
Authority

- (1) Authorities relating to this section include:
 - IRC 7122, Compromises
 - IRC 6702(b), Civil Penalty for Specified Frivolous Submissions
 - Rev. Proc. 2003-71
 - Treasury Regulation 300.3, Offer to Compromise Fee
 - IRM 1.2.2, Servicewide Delegations of Authority
 - Notice 2006-68, an Offer will be deemed not accepted under section 7122 (f) if the offer is rejected, returned, voluntarily withdrawn or a discretionary withdrawal within the 24 month period.

5.19.24.1.3
(06-01-2017)
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) IRM authors are responsible for writing the policies and procedures and clearing documents through all affected offices.
- (4) Employees in DATL and certain employees in COIC are responsible for the processes and procedures outlined in this IRM.

- 5.19.24.1.4
(06-01-2017)
Program Management and Review
- (1) Operational and program reviews are conducted on a yearly basis with the use of data and reports from the Automated Offer in Compromise system. See IRM 1.4.52, Resource Guide for Managers, Offer in Compromise Manager's Resource Guide.
 - (2) National quality reviews and consistency reviews are routinely conducted to ensure case actions are timely and in accordance with the procedures in this IRM.
- 5.19.24.1.5
(06-01-2017)
Program Controls
- (1) 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.
 - (2) Managers are required to follow program management procedures and controls addressed in IRM 1.4.52, Resource Guide for Managers, Offer in Compromise Manager's Resource Guide.
- 5.19.24.1.6
(06-01-2017)
Terms/Definitions/ Acronyms
- (1) For a list of common abbreviations, definitions and acronyms used throughout this IRM see IRM 5.8.1-1, Common Abbreviations Used in the IRM.
 - (2) Additional acceptable acronyms and abbreviations are found in the Reference Net Acronym Database, which may be viewed at: <http://rnet.web.irs.gov/Resources/Acronymbdb.asp>.
- 5.19.24.1.7
(03-31-2020)
Related Resources
- (1) Employees can find helpful information on these websites:
 - SERP: <http://serp.enterprise.irs.gov/>
 - IMD site for Internal Guidance memorandums (IGM): <http://imdtrack.web.irs.gov/search.asp>
 - (2) Employees should also refer to additional Internal Revenue Manuals for case specific information, including IRM 5.8, Offer in Compromise, as well as other available IRMs as applicable to case related issues.
- 5.19.24.2
(07-14-2016)
Centralized Doubt as to Liability (DATL) Offers in Compromise
- (1) Taxpayers who have a legitimate doubt that they owe part or all of a tax debt, may file an offer in compromise under the Doubt as to Liability basis. Doubt as to liability exists where there is a genuine dispute as to the existence or amount of the correct tax debt under the law.
 - (2) Offers submitted based solely on doubt as to liability are received in COIC and Field Collection Area Offices and forwarded to the Centralized DATL processing unit located at the Brookhaven campus.
 - (3) Offer in Compromise (Doubt as to Liability), DATL offers are submitted on Form 656-L.
- 5.19.24.3
(03-13-2023)
Centralized Doubt as to Liability (DATL) Processing
- (1) The Centralized DATL processing unit located at the Brookhaven campus will receive from COIC and FOIC offices all Forms 656-L submitted on the basis of DATL, except those offers involving Trust Fund Recovery Penalty (TFRP) or Personal Liability for Excise Tax (PLET). COIC and FOIC offices will process TFRP and PLET offers.

- (2) If one Form 656-L is submitted with both TFRP and any other tax liability, the tax examiner should request separate offers. The tax examiner can make a pen and ink change on the original offer and request an additional offer for the other tax liability and then transfer the TFRP to the field.

Note: TFRP cases are identified by the Master File transaction (MFT) 55 with a reference code 618. PLET cases can be identified by an MFT 45 on Non-Master File (NMF) or by an assessment on an SSN for a BMF MFT 03. For additional information, refer to IRM 5.19.7.2.10.3, Trust Fund Recovery Penalty (TFRP) Cases, and IRM 5.19.7.2.10.4, Personal Liability, Excise Tax (PLET).

- (3) When DATL and DATC offers are received simultaneously, the DATL offer determination will take precedence. See IRM 5.8.10.14, Taxpayer files both Doubt as to Liability and Doubt as to Collectibility Offers.

5.19.24.4
(03-31-2020)
Timeliness of Offer Investigations

- (1) The timeliness of case actions in an offer investigation is important not only to ensure the efficiency of the process but also is a key component of taxpayer satisfaction.
- (2) The guidelines for timely case actions defined in this IRM are intended to provide structure for the overall offer process and to ensure investigations are completed in a responsive and efficient manner.
- (3) Managers and employees must make sure communications from taxpayers are addressed in a timely manner. Timeliness of case actions ensures the length of the offer investigation process is appropriate given the taxpayer's specific set of facts and circumstances.
- (4) On July 16, 2006, the Tax Increase Prevention Reconciliation Act of 2005 (TIPRA) was enacted. TIPRA mandates an acceptance of any offer where a decision is not made within 24 months of the offer receipt date. If a liability included in the offer is disputed in any court proceeding, that time period is not included when calculating the two-year time frame. The 24 months does not include the time that a protested, rejected offer is under consideration in Appeals.

Note: Notice 2006-68 states that an offer will not be deemed accepted under section 7122(f) if the offer is rejected, returned, voluntarily withdrawn or a mandatory withdrawal within the 24-month period. Issuance of a determination letter stops the 24-month time frame, even if the offer is later reconsidered.

- (5) If a mandatory acceptance is warranted, refer to IRM 5.8.8.12, 24-month Mandatory Acceptance, under IRC 7122 (f).

5.19.24.5
(03-13-2023)
Initial Processing of DATL Offer in Compromise

- (1) Upon receipt of the offer, the following actions will be performed:
 - a. Date stamp the form in the IRS Received Date Stamp block of Form 656-L.
 - b. Funds received with the DATL offer on Form 656-L will be applied to the liability in the best interest of the government. Document AOIC remarks with the payment information and tax year the funds were applied.

- c. Query the AOIC system by the taxpayer's TIN to ensure the receipt is a new offer and to identify any previous DATL offers filed by the taxpayer that were loaded to AOIC. If there is another open offer on AOIC, do not load the new case. Forward the new amended/related offer to the tax examiner who has the open offer to determine appropriate action.
- d. Load the offer to AOIC if no additional open offers are found.
- e. Enter a history item on the AOIC system to indicate the DATL offer was received and the date it was received.

Note: If the IRS received date is older than two weeks, the offer should be flagged as an expedite.

- f. Write the AOIC offer number on the top right corner of the Form 656-L.
 - g. Send the offer to the DATL unit on Form 3210.
 - h. Assign the offer on AOIC to the DATL unit.
- (2) Tax examiners will perform initial offer actions within 15 days calendar days of IRS received date. These actions include:
- a. Verify the Form 656-L is signed by the taxpayer(s). See IRM 5.19.24.6.4, Processable DATL Offers. If the offer is submitted for a joint tax year, the form requires the signatures of both taxpayers, see IRM 5.8.1.15.8, Signatures.
 - b. Processability Determination, See IRM 5.19.24.6, Processability.
 - c. Verify address on Form 656-L matches IDRS.
 - d. Request internal research documents.
 - e. Offer evaluation when further information is not required.
 - f. Verify the jurisdiction of the offer. See IRM 5.19.24.6.4.2, Routing Cases Based on Jurisdictional Responsibility IMFOLT prints are required for all Exam transfers. Prints are to be made prior to TC 480 request on AOIC for ASER and CSER dates.
 - g. If a TFRP offer is loaded in error and it is loaded under the incorrect area office AO 19 DATL, take the following steps: • Make a processability determination and update AOIC to Y or N. • Update the AOIC remarks. • Transfer the offer to AO 18. • Complete a Form 3210 and send to the clerical area advising of the change. The clerical staff will transfer to the field if processable or return if not processable.
 - h. Research IDRS for entity verification, bankruptcy, cross reference TINS and freeze codes.
 - i. Research CC CFINK. If valid POA information is found, load the information on the AOIC POA screen.

Note: If Form 2848 or Form 8821 are identified in the case file, load the information to the POA screen and forward the forms to the CAF unit for processing.

5.19.24.6
(06-01-2017)
Processability

- (1) Tax examiners are solely responsible for determining processability on all DATL offers received and worked by the Service, with the exception of those offers listed in IRM 5.19.24.3, Centralized Doubt as to Liability (DATL) Processing.
- (2) Each new receipt will fall into one of the following categories:
 - Not processable - The taxpayer does not meet one or more of the minimum established criteria for offer consideration.

- Processable - The taxpayer meets the minimum criteria for offer consideration.

5.19.24.6.1
(03-13-2023)

Not Processable Offers

- (1) An offer will be deemed not processable if one or more criteria below are present:

a) The taxpayer offers no consideration (i.e., zero-dollar amount offered or the dollar amount is blank

b) The CSED for which the liability is in dispute is expired and it is the only tax period included on the offer.

Caution: Check CC IMFOLT for the CSED (FIRST, LAST, NEXT) and if a balance remains associated with an expired CSED, refer the case per Who/Where-CSED referrals campus to zero the liability. See IRM 5.19.10.4.3, CSED Fields on Integrated Data Retrieval Systems (IDRS).

c) The taxpayer currently has an open offer being considered based on DATC or economic hardship ETA for any of the liabilities listed in Section 1 or Section 2 of Form 656-L.

Note: If the taxpayer currently has an open Effective Tax Administration (ETA) OIC based on public policy or equity, the DATL-OIC must be considered before the ETA-OIC. DATL will contact the appropriate area to discuss the DATL

issue per IRM 5.8.11, Offer in Compromise, Effective Tax Administration

d) It is clearly not the taxpayer's intention to compromise the tax liability based on the belief that it is incorrect. Example: The taxpayer offered \$1000. In Section 5, of the Form 656-L, the taxpayer states he does not have the money to pay the tax in full. It is clear the taxpayer's intent was to file a DATC offer.

e) The taxpayer is currently involved in an open bankruptcy proceeding identified by an open -V freeze and/or TC 520 with applicable bankruptcy closing codes.

f) An innocent spouse claim was previously denied by the Service and the taxpayer is arguing that there is a DATL because the taxpayer is entitled to innocent spouse relief. See IRM 25.15.2.4.2, Innocent Spouse Indicator Transaction Code TC 971 TC 972.

Example: The taxpayer is questioning the liability on a tax year where an innocent spouse claim was previously denied by the Service.

Note: The exception is an innocent spouse request filed under § 6015(f), in which relief was solely denied due to the two-year rule. This is a processable request.

g) The taxpayer seeks to compromise a tax period for an unassessed liability:1) Pending in Automated Underreporter (AUR/BUR), Substitute for Return (SFR/ASFR), combined annual wage reporting (CAWR) or Federal Unemployment Tax Adjustment (FUTA).2) Open examination (-L freeze, CC AMDISA area office status codes 10 - 56), for which the 30-day letter reporting the examination changes or statutory notice of deficiency has been issued

h) The offer includes periods for which a determination is pending before or upheld in a final determination made by the Tax Court, other courts or by the Commissioner's final Closing Agreement authorized under IRC 7121

i) Research for any modules that contain open or closed TC 910 ,912 or 914 (indicates criminal investigation activity). If found, refer the offer to the COIC Revenue Officer to notify Criminal Investigation that an offer was received and request permission to return the offer as other investigations pending. These would be considered processable offers. If there is another issue that would make the offer not processable such as an innocent spouse , return the offer using the other not processable reason, e.g. innocent spouse and then refer the closed offer to the COIC Revenue Officer to notify Criminal Investigation that an offer was filed and returned. Refer to IRM 5.8.4.19, Criminal Investigations

j) For Restitution based assessments, see IRM 5.8.4.23.2, Offers in Compromise Submitted that include Restitutions

k) The offer is submitted on a case under the jurisdiction of the Department of Justice (DOJ), refer to IRM 5.19.24.6.4.2, **Routing Cases Based on Jurisdictional Responsibility**, and for additional information refer to IRM 5.8.1.6.1, Tax Cases Controlled by the Department of Justice.

l) There is an open control on IDRS for the same tax period as the offer, forward a copy of the attached documentation on a Form 3210 to the appropriate area.

m) The offer is submitted solely for the purpose of delaying collection. See IRM 5.19.24.6.3, Solely to Delay Collections

n) Offers requesting compromise for the same tax period that the taxpayer included in an accepted DATL or DATC offer, and the IRS later defaulted the offer.

o) When the liability is due entirely, or in part, to an erroneous refund.

p) If the offer has an MFT 35 Shared Responsibility Payment (SRP) or MFT 65 inform the taxpayer the offer is outside the DATL unit's jurisdiction and advise them to submit a Form 1040-X, Amended U.S. Individual Income Tax Return, to the IRS office per the form instructions.

q) If the offer is submitted with a Form SS-8, Worker Classification Determination request, it will not be considered. Inform the taxpayer this is outside DATL's jurisdiction and forward any documentation or correspondence, except Form 656-L, to the appropriate function.

r) Offer submitted with Form 8379, Injured Spouse Allocation, is outside the DATL unit's jurisdiction. Inform the taxpayer or representative any documentation or correspondence, except Form 656-L will be forwarded to the appropriate function.

s) If the offer is submitted based on an Employer Shared Responsibility Payment (ESRP) assessment, the offer is outside the DATL unit's jurisdiction. Refer to IRM 21.3.1.5.111.1, Resolution of ESRP Notices, relative to the appropriate actions the taxpayer should take if they disagree with the ESRP assessment.

t) If the offer is submitted based on the processing of an original signed Foreign Tax Return, forward the tax return to the Foreign Return Address found at <https://www.irs.gov/filing/international-where-to-file-form-1040nr-1040nr-ez-1040pr-and-1040ss-addresses-for-taxpayers-and-tax-professionals>, and close the offer as not-processable. See IRM 5.19.24.6.2, Closing an Offer as Not Processable Return. For all other foreign returns with exam assessments, refer to IRM 5.19.24.12.2, Research for Referral Criteria.

u) The offer is submitted for a tax year in which there has been an election to defer the assessment of a IRC 965 liability under IRC 965(i) or in which a transfer agreement under IRC 965(h) has been executed.

IF, AND, REVIEW, THEN

IF	AND	REVIEW	THEN
Form 656-L received involving IMF (Form 1040) or BMF (Form 1120/1041) for tax periods for 12/31/2017 and/or 12/31/2018 (or 2017/2018 fiscal year) with IRC 965 liabilities.	TC 971 AC 114 - total net tax liability under section 965(i) reported by the taxpayer (not processable for DATL purposes) or TC 971 AC 115 - total net tax liability to be paid in installment (deferred) under section 965(h)(1). Not Processable	DATL TE should review the tax module to see if the potential for future assessments under IRC 965 exists. (See IRM 3.14.2.7.5, IRC 965 Transition Tax) The following Return Processing Codes (RPC) and Computer Condition Codes (CCC) are used to identify IRC Section 965 tax returns and initiate specific processing: CCC B - Tax returns reporting an IRC Section 965(i) election CCC J - Tax returns reporting an IRC Section 965 liability/inclusion	* A request for consideration under DATL involving tax years in which there is no election to defer the assessment of IRC 965 tax liability. (See previously box (CCC "B") is identifier for deferral of assessments) or in which a transfer agreement has not been executed (the TE will need to verbally discuss with the taxpayer/POA) may be reviewed under current DATL criteria. These offers will be sent to Austin, TX. See IRM 5.19.24.6.4, Processable DATL Offers.

Note: If both taxpayer and the representative are located internationally, no phone contact is required. Ensure the tax examiner's contact information is provided in the letter.

- (2) If the tax examiner is unclear as to what the taxpayer is requesting, the tax examiner needs to make a phone call to the taxpayer.
- (3) If any of the conditions mentioned above apply, follow procedures in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.
- (4) If the taxpayer submits a DATL offer for the processing of an amended tax return or reconsideration of an audit (AUR, BUR, ASFR, 6020b, CAWR, FUTA, 843 Claim or administrative interest), or the processing of a foreign tax return,

the offer may be returned as not processable. The documentation is forwarded to the respective area for consideration and determination. Refer to the below sections for special guidelines on working these offers. When working an offer with these specific issues, see applicable IRM references and SERP Who/Where for routing.

Note: If the taxpayer submits a DATL offer for the previous reconsideration and received an adverse determination that was not appealed, the offer will be processable per the IRM 5.19.24.6.4, *Processable DATL Offers*.

(5) All other offers will be deemed processable.

5.19.24.6.1.1
(03-13-2023)

**Non-Processable Return
Procedures for an
Amended Tax Return**

- (1) When an offer is received with a Form 1040-X, *Amended U.S. Individual Income Tax Return*, or an amended business tax return, including an estate or gift amended return that has not been previously worked, take the following actions:
 - a. Research IDRS for a -A freeze (Duplicate Return Freeze) initiated by a TC 976 return, TC 971 Action Code (AC) 10 or 12-15, TC 971 AC 120, or a TC 977 no action code. If any of these are listed, the taxpayer already submitted the amended return. Return the offer as other investigation pending. If they are not in agreement or cannot afford to pay, they may submit a new DATL/DATC offer after the amended tax return is processed.
 - b. If there is only a TC 150 with a balance due, send the signed amended tax return with Form 1725, Routing Slip, to Image Control Team (ICT) indicated on SERP Who Where at: *Campus Program Locator Guide*, IRM 21.1.7.6.3, Routing of Forms 1040X, Amended Returns. For Form 706, U.S. Estate Tax Return, and Form 709, United States Gift (and Generation - Skipping Transfer) Tax Return, refer to IRM 3.10.72-1, Routing Guide/Local Maildex.
 - c. If the Amended Return is not signed, return to the taxpayer advising the return needs to be signed and supply the address where to send the Amended Return found in <https://www.irs.gov/filing/where-to-file-addresses-for-taxpayers-and-tax-professionals-filing-form-1040x>

Note: Be sure to research IDRS and AMS to ensure it is a true amended tax return.

- d. Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.
- e. If the taxpayer submits a Form 1040-X, Amended U.S. tax return with an attached 2555 Foreign Earned Income forward to: *Where to File Addresses for Taxpayers and Tax Professionals Filing Form 1040X | Internal Revenue Service (irs.gov)*

5.19.24.6.1.2
(03-31-2020)

**Non-Processable Return
Procedures for
Automated Substitute
for Return (ASFR)
assessments**

- (1) Research IDRS for the following transaction codes. ALL must be present if the issue is an Automated Substitute for Return (ASFR) reconsideration. If there is a cross-reference spouse, research must be conducted under the SSN.
 - TC 971 with AC 143 - ASFR selected and Notice 2566 has been mailed to the taxpayer. See IRM 5.18.1.6.1, ASFR TC 971 AC 143

- TC 150 (Dummy) with zero assessment and the SFR literal shown on the right side of the DLN, see IRM 5.18.1.9.2.1.2, Clerical Procedures for Screening Reconsiderations and Unidentifiable Receipts, if and then box.
- TC 494 and/or TC 495
- TC 599 with Closing Code (CC) 88
- TC 290 tax assessment

Note: A TC 599 Closing Code (CC) 89 followed by a tax assessment indicates the assessment was based on the taxpayer's return. Review the documentation to determine if it is an amended tax return.

- (2) When an offer is received with an ASFR reconsideration request. Refer to IRM 5.19.2.6.4.6.12.1, IMF Response with Original Return ASFR or -L Freeze Present, If and Then Chart to determine where the correspondence is routed.

Note: If the ASFR reconsideration was previously sustained by Appeals, the offer is not-processable when the determination was final, or the Tax Court entered a final decision. Refer to IRM 4.13.7-13, Audit Reconsideration of Assessments Made by Appeals Processing Unit.

- (3) The taxpayer must have a signed original tax return with the offer in order to forward to the appropriate area. Forward the signed original return to the ASFR Reconsideration unit per SERP Who/Where <http://serp.enterprise.irs.gov/databases/who-where.dr/asfr-reconsideration-returns-centralized-processing-sites.html>. If they do not have a tax return prepared, or signed, close the offer, and advise the taxpayer/POA once the tax return is completed, they can mail it to the appropriate area and provide the mailing address.
- (4) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.

5.19.24.6.1.3

(03-31-2020)

Not Processable Return Procedures for IRC 6020(b) assessments

- (1) When a person fails to file a business tax return required by the Internal Revenue Code (IRC) or willfully files a false or fraudulent return, the IRS shall prepare the returns under 6020(b) based on the information the IRS collected from a previous filing and/or through testimony obtained from the taxpayer and/or other third parties.
- Types of returns that can be prepared under IRC 6020(b) are Forms 940, 941, 943, 944, 1065, 2290 and 720.
 - To identify a 6020(b) assessment, research IDRS cc TXMOD for a TC 150 with money amount and a 6020b indicator along with TC 599 cc 08,38,39,63, or 64.
 - If a TC 599 cc 063 is present on the account, the 6020b assessment was done by a Revenue Officer (RO), and must go back to the RO for reconsideration. To locate the RO address:
 - 1. Locate the TSIGN assignment number using CC TDINQ
 - 2. http://serp.enterprise.irs.gov/cgi-bin/ROZIP_Lookup.cgi RO Lookup
 - 3. Send documents or requests using Form 3210 to the appropriate RO address.
 - Forward the correspondence per IRM 21.3.3.4.9.2.1.1, BMF Compliance Routing for 6020b Correspondence Replies.

- (2) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.
- 5.19.24.6.1.4
(03-31-2020)
Not Processable Return Procedures for Automated Underreporter (AUR) Reconsiderations
- (1) When an offer is received with an AUR reconsideration request, the offer is deemed non-processable for an open or closed AUR assessment.
- (2) Research IDRS for TC 922. Review IRM 21.3.1.5.52, Status of Individual Master File (IMF) Underreporter Cases, If and Then chart for definitions of the status and corrective action.
- Note:** If the last TC 922 process code is 80, review the account to determine if Appeals sustained the assessment. If appeals sustained the assessment, close the offer as solely to delay collection, IRM 5.19.24.6.3, Solely to Delay Collections.
- (3) Forward the documentation attached to the Form 656-L to the appropriate campus found on SERP Who/Where <http://serp.enterprise.irs.gov/databases/who-where.dr/aur-addresses.html>, AUR Addresses (Open Cases) or AUR Reconsiderations for accounts with a TC 290.
- (4) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.
- 5.19.24.6.1.5
(03-31-2020)
Not Processable Return Procedures for BMF Underreporter (BUR) Reconsiderations
- (1) When an offer is received with a BUR reconsideration request, the offer is deemed non-processable for an open or closed BUR assessment.
- (2) Research IDRS for TC 925. Review IRM 21.3.1.5.110, Letter 2030/2531 - Business Master File (BMF) Underreporter Program - General Information, chart for definitions of the status and corrective action.
- Note:** If the last TC 925 process code is 4800, review the account to determine if Appeals sustained the assessment. If Appeals sustained the assessment, close the offer per IRM 5.19.24.6.3, Solely To Delay Collection.
- (3) Forward the documentation attached to the Form 656-L to the appropriate campus found on SERP Who/Where at: *BUR Program, BUR addresses (open cases) or BUR Reconsideration for accounts showing a TC 290 with an amount other than zero.*
- (4) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.
- 5.19.24.6.1.6
(03-31-2020)
Not Processable Return Procedures for Combined Annual Wage Reporting (CAWR)
- (1) The CAWR program compares employer data reported to the Internal Revenue Service from Forms/Schedules 941, 943, 944, 945, 1041, and Form 1040 Schedule H, against the employer/employee data reported to Social Security Administration from Forms W-2/ W-3/ W-2c/W-3c totals and from Form 1099-R and W-2G withholding amounts.
- (2) To identify a CAWR assessment or penalty check IDRS for TC 290 with blocking series 55 (9th and 10th digits of the DLN) on MFT 01,11 or 14. Or MFT 13 with a Penalty reference number of 549 or 550. See IRM 4.19.22.2.2, Researching on IDRS, to identify IRS-CAWR or SSA- CAWR assessments. Forward the information to CAWR found on <http://serp.enterprise.irs.gov/>

databases/who-where.dr/transshipment.dr/campus_locator_guide/IRS-CAWR.htm, Campus Program Locator Guide.

- (3) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.

5.19.24.6.1.7
(03-31-2020)

**Not Processable Return
Procedures for Federal
Unemployment Tax Act
(FUTA) assessments**

- (1) The Federal Unemployment Tax Act (FUTA) provides for cooperation between State and Federal governments in the establishment and administration of unemployment insurance. The purpose of the FUTA program is to verify that the payment information reported on Form 940, and /or Form 1040 Schedule H, Form 1041 Schedule H, and agrees with information reported to us by the various State unemployment agencies.
- (2) A FUTA assessment can be identified by TC 290 on any of the following:
- MFT 10 module with a blocking series 50/51 (9th and 10th digits of the DLN)
 - MFT 05 module with a blocking series 17 (Schedule H assessment)
 - MFT 30 module with a blocking series 05 (Schedule H assessment)
- (3) FUTA assessments fall into one of two categories, most easily identified by the blocking series of the DLN on the TC 290:
- Blocking series 50 - The payment information reported to the IRS from the State does not match the information reported by the taxpayer.
 - Blocking series 51 – No payment information was reported to the IRS from the State or the State received no payments. In these circumstances, there is frequently a discrepancy with the TIN.
 - Forward correspondence to the FUTA Reconsiderations located on SERP Who/Where http://serp.enterprise.irs.gov/databases/who-where.dr/transshipment.dr/campus_locator_guide/FUTA.htm.
- (4) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.

5.19.24.6.1.8
(03-31-2020)

**Not Processable Return
Procedures for
Administrative Interest
Abatements Offers**

- (1) The following guidance provides routing information for administrative interest abatements.
- a. Forward to the appropriate area per the IRS Knowledge Management Interest Knowledge Base Home page, Interest Abatement coordinators: <https://portal.ds.irsnet.gov/sites/vl022/Lists/InterestAbatement/LandingView.aspx>.
- (2) Follow guideline in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.

5.19.24.6.1.9
(03-31-2020)

**Not Processable Return
Procedures for 843
Claim for Refund and
Request for Abatement**

- (1) If you receive a Form 843, Claim for Refund and Request for Abatement, and the claim or request involves:
- a refund of one of the taxes (other than income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding) or a fee
 - an abatement of FUTA tax or certain excise taxes, or
 - a refund or abatement of interest, penalties, or additions to tax due to:
 - interest was assessed as a result of IRS errors or delays

- a penalty or addition to tax was the result of erroneous written advice from the IRS
- reasonable cause or other reason allowed under the law (other than erroneous written advice) can be shown for not assessing a penalty or addition to tax.

Note: Form 843 should NOT be used for an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding. Inform the taxpayer to file the appropriate amended tax return, for example 1040X, 940X etc. and close the offer. For Forms 843 received for a refund of excise taxes based on the nontaxable use or sale of fuels, or an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290 see IRM 3.10.72-1, Routing Guide/Local Maildex, for where to send the specific form

- Send the Form 843, Claim for Refund and Request for Abatement, to ICT found at http://serp.enterprise.irs.gov/databases/who-where.dr/transshipment.dr/campus_locator_guide/ICT.htm, Routing Guide/Local Maildex, per IRM 3.10.72-1, Routing Guide/Local Maildex.

(2) Follow guidelines in IRM 5.19.24.6.2, Closing an Offer as a Not Processable Return.

5.19.24.6.2
(03-13-2023)

Closing an Offer as a Not Processable Return

(1) For offers that are deemed not processable:

- Issue an AOIC return letter using the appropriate paragraph(s).
- Obtain appropriate signature approval on the return letter see Del. Order No. 5-1 (Rev. 5) in IRM 1.2.2.6, Delegations of Authority for the Collecting Process.
- Stamp the Form 656-L Returned and write the date the offer was closed as not processable. Cross out all prior IRS received dates with a red X.
- Do not sign the Form 656-L.
- When forwarding documentation to another area, update AOIC remarks with your actions, and forward on a Form 3210. If there is a balance due, input a TC 470 with no closing code on all years included with the offer.

Exception: When tax period is in ST 26 do not input TC 470.

- Attempt one phone call to the taxpayer or POA to advise the offer is not processable and their documentation will be forwarded to the appropriate IRS department.
- If the taxpayer did not provide all necessary forms and/or documentation or incomplete documentation, advise the taxpayer what documentation they need to provide to substantiate their request in the return letter. Provide the correct mailing address of where to send information.

Example: Taxpayer submits a DATL offer for an AUR reconsideration (CP 2000) with no substantiation. Research IDRS to identify the reason for reconsideration and include copy (all pages) of CP 2000 with return letter. Provide the taxpayer appropriate mailing address to the correct reconsideration area.

- Return the Forms 656-L and any non-pertinent documentation to the taxpayer. Do not maintain a copy of offers deemed not processable.
- Tax examiners should assign the offer to the manager to sign, date and close the case on AOIC with a final disposition code of 10.

Exception: See IRM 5.19.24.6.3, Solely to Delay Collections.

- j. Caution should be exercised to ensure that no IDRS prints or other internally generated documents are sent to either the taxpayer or the POA. All internal documents not necessary for the offer determination should be destroyed.
- (2) If the offer was originally deemed processable, but it was later concluded that the determination was made in error, processing should stop. The case should be closed using not processable procedures defined above. In these cases, it is important to ensure AOIC is updated to not processable to reverse the TC 480(s). This will result in the generation of a TC 483 posting to the appropriate modules.
- (3) If a payment was received with the offer and was not previously addressed by a tax examiner, take the appropriate action to have the payment applied to the taxpayer's tax liability. The designated payment code (DPC) will be 99.
- (4) Send the Form 656-L, the return letter, Publication 1, Your Rights as a Taxpayer, and Pub 594, The IRS Collection Process, to the taxpayer along with all other documents originally sent. If a POA is authorized to receive correspondence, send the representative a copy of the letter. If disclosure issues exist, use the appropriate paragraph to indicate this in the return letter, and do not send a copy to the representative. Send only a cover letter if the representative is not authorized for all periods.

Note: Tax examiners should make telephone contact with the taxpayer or representative to educate them in regard to the DATL offer process when offers are returned as not processable. If the taxpayer indicates they can't pay the liability, send them the Form 656-B instruction booklet.

5.19.24.6.3
(03-31-2020)
**Solely to Delay
Collections**

- (1) When it is determined that an offer is submitted solely to delay collection, the offer can be returned to the taxpayer without further consideration after securing managerial approval. The term solely to delay collection means an offer was submitted for the sole purpose of avoiding or delaying collection activity. A determination that an offer is submitted solely for the purpose of delaying collection should be apparent to an impartial observer.
- (2) The group manager and the unit manager have delegated authority to return an OIC if it was submitted solely to delay collection.
- (3) An offer is not considered submitted solely to delay collection just because there is an imminent CSED issue or if an offer has been rejected after investigation and the taxpayer exercised appeal rights.
- (4) The following claims and/or circumstances should be considered as possible reasons for returning an offer as Solely to Delay Collection:
 - a. Claims that the liability stems from the operation of a law which is unfair (e.g., liability based on withdrawing funds from a 401 (k) plan).
 - b. Claims based on a divorce decree which stipulates the spouses each owe only portions of a joint liability (the government is not party to such agreements).
 - c. Claims which do not provide a reason for DATL basis.

Example: Section 5 of Form 656-L is left blank and there is no attached statement disputing the liability.

- d. Claims which are based on a Transferee, Nominee and Alter Ego Lien situation when there is no assessment against the party submitting the offer. See definitions in IRM 5.17.2.5.7, Property Held by Third Parties.

Example: A DATL offer is filed by a corporation against which a nominee lien was filed. Since there is no assessment made against the corporation, there is no liability to compromise. The taxpayer should be advised to contact the Revenue Officer to discuss the nominee lien filing.

- e. Frivolous or patently groundless offers such as those that assert the types of tax arguments listed in IRS Notice 2010-33 located at 3..

Example: The taxpayer crosses out any portion of Section 4 or the language above their signature relating to signing under the penalty of perjury on Form 656-L. This is one example but also includes any alteration to the language in the Form 656-L.

Note: See IRM 5.8.10.13, Offer and Compromise Submission with Frivolous, Delaying, or Impeding Issues, and IRM 5.8.4.20, Offer Submitted Solely to Delay Collections, guidance in identifying and asserting the frivolous penalty on a frivolous filed OIC. For guidance on issuing a letter to the taxpayer, refer to IRM 5.8.10-2, Letter Requesting Taxpayer Withdraw Offer Submitted Which Includes a Frivolous Position.

- f. The taxpayer submits an offer that is not materially different from a previous offer that was considered.

- (5) When only claims as per the above are cited, with the exception of E, contact should be made by telephone to advise the taxpayer why their offer cannot be considered. When one of the above is cited, along with other processable issues, the DATL OIC should be processed as normal.

5.19.24.6.3.1
(03-13-2023)
**Procedures for
Processing Forms 657
Submitted Solely to
Delay**

- (1) The DATL team will:
- Screen out all Form 657.
 - Make all Form 657 a priority.
 - Promptly process; and
 - Immediately return the offer as solely to delay collection, if management agrees with the RO's recommendation.
- (2) Form 657 serves to establish coordination between the field RO group and the site to provide case documentation regarding these determinations, and to ensure collection action is not pursued until the offer is closed.
- (3) A DATL offer may be returned as solely to delay if a Revenue Officer has submitted Form 657, Offer in Compromise-Revenue Officer Report, with the Yes block checked for item 9 and includes an acceptable explanation for the decision, including required approval of management. See IRM 5.8.3.14.1, Offers Submitted Solely to Delay Collection per Forms 657.

Note: If the liabilities included on the Form 656-L are on IDRS, in Status 26 and a Form 657 was not received, contact should be made either by telephone or e-mail to the RO assigned the balance due account to advise them a DATL offer was received. Request Form 657 to determine whether to process the offer. Two contact attempts should be made over a one-week period. If no

response is received from the RO, make the offer determination and continue with the offer investigation. The final processability determination should not be made until the Form 657, is received or the time frame for receipt has passed.

- (4) If the DATL unit manager agrees with the determination, the DATL manager or employee will contact the originating RO to advise them the return letter has been issued.
- (5) If the DATL unit manager disagrees with the determination, discussions should be initiated with the field RO manager to reach an agreeable solution.

5.19.24.6.4 (03-13-2023)

Processable DATL Offers

- (1) Although other remedies are available as an alternative, taxpayers may submit DATL offers to compromise liabilities based on a variety of issues that can be addressed within the campus environment. The role of the DATL unit is to utilize campus resources to resolve legitimate issues raised relative to the underlying liabilities. Examples of these issues include:

- Payment tracer or credit transfer research. Follow procedures in IRM 21.5.7.3, Missing Payment Research. See also IRM 21.5.7.4.4, Payment Tracer Forms, and IRM 21.5.7.4.4.2, Form 8765, IDRS Control File Credit Application.
- Claims concerning bankruptcy discharges. Contact Insolvency to find out what periods were included in the discharge. See SERP Who/Where Insolvency (Bankruptcy) Tools at <http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/insolvency.html>.
- Claims involving expiration of the statutory collection period. Several events can suspend or extend the statute. Guidance is provided in IRM 5.19.10.4.4, Determining the Correct CSED. In addition, on the My SB/SE Collection Tools and Processes web page, <http://mysbse.web.irs.gov/collection/toolsprocesses/csedcalculator/default.aspx> there is a downloadable CSED calculator, CCalc, and the CSED Calculator (CCalc) Quick Start Guide which can assist in complex calculations of the CSED.
- Requests for First Time Abatements (FTA): research IRM 20.1.1.3.3.2.1, First Time Abate (FTA). If the taxpayer qualifies for the FTA, secure approval from DATL manager or in-house RO prior to making adjustments.

Note: The taxpayer must be in filing and payment compliance to qualify for FTA.

- If the taxpayer provides the Form 843, check if taxpayer qualifies for FTA before forwarding Form 843 and closing offer as not processable offer per IRM 5.19.24.6.1.9, Not Processable Return Procedures for 843 Claim for Refund and Request for Abatement
- If the taxpayer does not qualify for FTA, secure a withdrawal and advise taxpayer to file Form 843, Claim for Refund and Request for Abatement. If the taxpayer will not withdraw the offer, then reject it.
- Claims made after the Service assessed a liability, the taxpayer appealed the decision and Appeals sustained the liability. Follow procedures in IRM 5.19.24.6.4.2, Routing Cases Based on Jurisdictional Responsibility and forward to Appeals.

Example: The taxpayer was assessed a liability through an audit. The taxpayer appealed the decision and Appeals sustained the decision. The taxpayer submits a DATL offer and does not provide any new information.

- (2) Taxpayers may submit Form 656-L prepared incorrectly or claim DATL without supporting documentation to prove their position. If the Form 656-L is prepared incorrectly or the merits of the offer cannot be judged without additional information, contact the taxpayer or his representative by telephone or send the taxpayer and POA an additional information letter specifying corrections or additional information required. The AOIC COMBO letter is used for this purpose.
 - (3) Examples of Form 656-L perfection issues, time frames and documentation to be requested from the taxpayer depending on the grounds of the DATL claim include the following:
 - Section 1 or Section 2 of Form 656-L lists tax periods not addressed in the taxpayer's reason for submission of a DATL offer. See IRM 5.8.8.3, Pen and Ink Changes to Form 656.
 - Documentation to support the doubt as to liability claim.
 - (4) For processable offers take the following actions to perfect the offer:
 - a. If there is another related DATL offer either in a centralized unit, area office or Appeals for the liability(ies) listed in Section 1 or Section 2 of Form 656-L, forward it to the unit or area where the related offer is assigned;
 - b. If there is an open criminal investigation (-Z freeze code) on any tax period, whether included on the Form 656-L or not, refer the offer to your respective campus Revenue Officer for a determination and set a 30-day follow-up date.
 - c. Verify the taxpayer has submitted the most current Form 656-L, Doubt as to Liability.
 - d. Review the offer for appropriate signatures. For additional information refer to IRM 5.8.1.15.8, Signatures.
 - e. In certain instances, Appeals may request a review of additional documents submitted by the taxpayer. In these situations, an Appeals Referral Investigation (ARI) will be routed to the DATL group manager. These offers will not be transferred to the DATL on AOIC, so appropriate controls will need to be established by the group manager. These investigations should be assigned expeditiously, and if possible, closed within 45 days of receipt. If the ARI is not completed within 45 days of receipt, Appeals should be contacted to request an extension. Upon return to Appeals, the ARI must be noted if there remains less than 180 days on the TIPRA statute.
- Note:** Since the offer remains under Appeals' jurisdiction, ex parte rules apply to any discussions with or documents provided to the Appeals employee.
- f. For all other offers where the liability was determined or sustained by appeals, reject the offer. The offer will only be sent to Appeals if the taxpayer submits a timely appeal as a response to the rejection. These offers may include but are not limited to the following:

Note:

Determined by Appeals (TC 30X with a 3-digit Appeals location code present);

Previously sustained by Appeals, such as the denial of a reasonable cause request for penalty abatement (TC 29X with DLN blocking series 96, penalty reason codes 039-042);

Offers on assessments of this nature that were determined by Appeals or that received an Appeal hearing should have a rejection letter mailed to provide the taxpayer appeal rights. Collection is not responsible for any initial development of the case or securing the closed administrative file. The rejection letter should state the offer is being rejected since the initial determination was made by Appeals. The offer file should be transferred to Appeals for consideration if a timely appeal is submitted. If the offer was submitted containing multiple tax years but not all tax years were previously considered by Appeals, request an amended offer. Submit one offer for the tax year (s) which was previously considered by Appeals and a second offer for any additional year (s) that were not previously considered by Appeals. The number of offers will depend on the number of issues the taxpayer is addressing.

Denied innocent spouse treatment by Appeals (TC 971 AC 065) and the Innocent Spouse Tracking System IRM 25.15.14, Relief from Joint and Several Liability, Innocent Spouse Tracking System Inventory Validation Instructions.

- g. For offers with TC 30X and a 3-digit Appeals location code and ACDS has the closing code 10 (DC Settled) or 17 (Tried), reject the offer
- h. If the offer is based on a claim of identity theft, see IRM 5.19.24.13, Identity Theft Overview.

5.19.24.6.4.1
(03-31-2020)

Offers Open in Appeals

- (1) If the offer seeks to compromise liabilities in conjunction with an open Appeals CDP case, research ACDS to ensure the CDP is still open. In addition to re-searching ACDS, the tax examiner must contact the Appeals Settlement Officer to determine if the CDP is still open and if the taxpayer is legally able to challenge the liability in CDP. If the taxpayer can challenge the liability, the offer will be transferred to the Appeals Settlement Officer. If Appeals advises that the CDP case is closed or the CDP case is still open, but the taxpayer is legally precluded (prohibited) from raising the liability in CDP, the DATL tax examiner will proceed with offer processing.

Note: Contacting Appeals and discussing the details listed above is a permissible ex parte communication. See section 2.03(2) of Rev. Proc. 2012-18 regarding ministerial, administrative, or procedural matters.

Caution: Do not send to Appeals if the following two situations are present: 1. If the notice of determination was issued by Appeals during the CDP process or 2. The notice of determination preceded the original assessment.

- 1. Update the processability code to Y. Change the jurisdiction code by manually inputting a TC 480. Use the date the IRS employee signed "IRS

Use Only” box on page 8 of Form 656-L, as the transaction date. Input jurisdiction code 3, for each period listed in Section 1 and Section 2 of Form 656-L.

Note: On all BMF cases a TC 483 must be input prior to the TC 480. The TC 480 should include a posting delay.

2. Add a history narrative to AOIC remarks that the offer was transferred to Appeals and also annotate any manual input of transaction codes.c. Generate and send the taxpayer an AOIC COMBO letter acknowledging that the offer can be processed, and the offer was transferred to the Settlement Officer (SO)assigned to the CDP case. Include the SO’s contact information in the letter.d. Assign the offer on AOIC to AO 21.e. Forward the offer and attachments via Form 3210, Document Transmittal, to the Appeals settlement officer assigned to the CDP case.

Note: Ensure an acknowledged copy of the 3210 is received within 30 days of transferring the case. If not, follow-up to secure the required acknowledgement.

3. Update AOIC remarks to reflect the CDP offer was transferred to Appeals.

Reminder: Remove any follow-up action prior to sending the case to Appeals. Ensure all TC 480 or STAUPs have been input, as appropriate.

4. Send an email to the SO alerting them the offer was transferred to them.

5.19.24.6.4.2
(03-13-2023)

Routing Cases Based on Jurisdictional Responsibility

- (1) The following table provides guidance when it has been determined that the Collection function does not have jurisdictional responsibility:

If responsibility lies with....	Then....
Department of Justice (DOJ)	<p>Refer the offer to the COIC Revenue Officer to contact Area Counsel to determine the status of the litigation and whether Collection has jurisdiction to process the offer.</p> <ul style="list-style-type: none"> • The IRS may not process any offer to compromise a liability previously referred to the Department of Justice for prosecution or defense. • If ALL liabilities have been referred to DOJ, then the offer is closed as not processable because the IRS does not have jurisdiction. • If the IRS retains jurisdiction on any tax liabilities, then the offer is processable and should be referred to the appropriate field office. The COIC RO will give the TE the location where to send the offer. <p>See IRM 5.8.2.4.1, Determining Processability. Route the documentation based on the information received with a Form 3210.</p>

If responsibility lies with....	Then....
Exam (prior audit TC 300)	<p>a. Change the jurisdiction code by manually inputting a TC 480. Use the date the IRS employee signed the "IRS Use Only" box on page 8 of Form 656-L, as the transaction date. Input jurisdiction code 2, for each period listed in Section 1 and Section 2 of Form 656-L.</p> <p>Note: On all BMF cases a TC 483 must be input prior to the TC 480. The TC 480 should include a posting delay. If the taxpayer submitted money with the offer, input a TC 570 to prevent any monies being refunded.</p> <p>b. Add a history narrative to AOIC that the offer was transferred to the area office Examination function and annotate any manual input of transaction codes.</p> <p>c. Write DATL Offer on the case folder.</p> <p>d. Forward the offer and all attachments, via Form 3210, Document Transmittal, to the appropriate Area Office Examination Function Contact Point for consideration.</p> <p>e. Send AOIC transfer letter with the Exam coordinators area and phone number notifying the taxpayer of the transfer and include a paragraph, notifying them they will be contacted within 120 days.</p> <p>f. Assign case to the appropriate area office on AOIC.</p> <p>g. If the offer is based only on ID Theft, follow procedures in IRM 5.19.24.13 Identity Theft Overview.</p>

Reminder: Delete any follow-up action established on AOIC prior to transferring an offer to another area.

5.19.24.7
(03-13-2023)

Processing DATL Offers

- (1) Update Processability code to "Y".
- (2) Complete the Terms Screen on AOIC.
- (3) Sign and date Form 656-L, in "IRS Use Only" box on page 8 on behalf of the IRS.
- (4) Update the AOIC MFT screen to include tax periods listed in the offer.
- (5) If manual TC 48x was input, write "TC" in red on the folder to identify when the offer needs to be closed with a manual TC 48x
- (6) Update status to ST 71, if applicable.

Note: Do not change status if the module is in status 53, 12, 60, 23 or 61.

- (7) Document the AOIC history. Refer to IRM 5.19.24.26, Documentation.
- (8) For processable offers that do not require internal document requests or additional information from the taxpayer, send the AOIC Combo A letter indicating taxpayer contact in 45 days from the date of the letter and proceed with the offer evaluation.
- (9) On initial contact, the tax examiner should include Publication 1, Your Rights as a Taxpayer and, Publication 594, The IRS Collection Process, with corre-

spondence addressed to the taxpayer and the taxpayer's representative. These publications should be sent through the ELITE system, when available.

- (10) For offers that are deemed processable and an internal document request is needed, send the AOIC Combo A letter indicating a tax examiner will contact the taxpayer 45 days from the date of the letter. The tax examiner's follow up date will be 30 days from the date of the internal document request. Document AOIC remarks of action taken.

Note: To ensure the 45-day contact time frame is met the internal document request should be made at the same time the initial letter is sent to the taxpayer. If the offer is not resolved within the initial time frame provided to the taxpayer and/or representative, another letter or telephone contact must be made providing a new contact date.

- (11) If you have completed a request for internal documents and have not received a response within 14 days of the original request, initiate a Special Search. For additional information on a special search refer to IRM 3.5.61.16, Special Search Procedures.
- (12) For processable offers that do not require internal document requests but require additional information from the taxpayer, contact the taxpayer or the representative by telephone. Generally, two attempts to contact the taxpayer/representative via telephone must be made before correspondence is sent requesting a return phone call or additional information. The contacts or attempted contacts must be documented in the history. The attempts to contact the taxpayer should be made within three business days. If contact by telephone cannot be made after two attempts, send a quick note requesting a call back within 10 calendar days of the date of your letter. Document AOIC remarks summarizing the information requested.
- (13) A time frame of 30 days should be given to the taxpayer to send in all requested documentation. Document the AOIC history indicating the deadline for the response. The Combo B will be post-dated five calendar days from the date it was prepared. Allow an additional five days for mail time. Set the follow-up for 45 days from the date the letter was generated. If the taxpayer or their representative requests an extension of time to comply with the request for information, a reasonable amount of time should be granted.

Note: In all circumstances when contact with the taxpayer/POA is needed to clarify an issue or request additional information, the TE should make every attempt to make contact via a phone call.

- (14) If the request is made by telephone, give the taxpayer 14 calendar days to provide the documentation. The taxpayer must be advised that the failure to submit the requested documentation within this time frame may result in the offer being returned without further consideration. Document AOIC remarks.

Note: The time frames listed above are a guideline. Tax examiners should allow an appropriate amount of time to supply information based on the documentation requested.

- (15) TEs are required to initiate the next appropriate action within 10 calendar days on cases where the taxpayer has responded to the Combo letter or have

received internal documents that were requested. All follow up actions must be taken within 10 calendar days of an established deadline.

- (16) The TE should also remember the initial contact time frames are the maximum time frames for contact. Wherever possible, the TE should strive to make initial contact as soon as possible after case receipt to avoid unwarranted delays.
- (17) If the taxpayer or the representative does not send all requested documentation by the follow up date, return the offer as a Processable return. See IRM 5.19.24.10, Processable Return Procedures.
- (18) If the examiner completely agrees with the taxpayer's position regarding the correct tax liability, take the action necessary to resolve the assessment(s), wait for the adjustment(s) to post to IDRS. Once all actions are taken to reconcile the taxpayer's account including the release of -K freeze, TC 820, etc., then send an AOIC combo letter with paragraph V and provide a copy of the account transcript(s) to the taxpayer and the POA, if applicable. Advise the taxpayer that the liability(ies) which were the subject of the offer are resolved and that a compromise is not necessary. If there is no balance due after adjustments are made, a return of the offer is recommended. If there is still a balance due after adjustments are made, a withdrawal of the offer is recommended.
- (19) If the examiner partially agrees with the taxpayer's position regarding the correct tax, take the appropriate action necessary to adjust the liability(ies). Wait for the adjustment(s) to post to IDRS. Once all actions are taken to reconcile the taxpayers account including the release of -K freeze, TC 820, etc. then send AOIC combo letter with paragraph V and provide a copy of the account transcript(s) to the taxpayer and the POA, if applicable. Advise the taxpayer that the assessment(s) which were the subject of the offer have been adjusted and a balance remains, for which the Service expects full payment. Include the amount due, projecting accrued penalty and interest for 30 days. Also, advise that, if the taxpayer agrees with the IRS determination, it is necessary to withdraw the offer.
- (20) If the examiner does not agree with the taxpayer's position regarding the correct tax liability and, therefore, no changes will be made to any of the periods that were the subject of the offer, advise the taxpayer that the balance is still due. Include the amount due, projecting accrued penalty and interest for 30 days. Also, advise that if the taxpayer agrees with the IRS determination, it is necessary for the taxpayer to withdraw the offer.
- (21) If the taxpayer still has a balance due after all account adjustments are made, follow IRM 5.8.7.10, Alternative Resolutions. If the taxpayer withdraws the offer, follow procedures in IRM 5.19.24.16, Withdrawn DATL Offers, to close the offer.
- (22) If the taxpayer does not withdraw the offer, follow procedures, in IRM 5.19.24.17, DATL Offer Rejections, to reject the offer.

5.19.24.8
(03-31-2020)
**Disaster Procedures (-O
and -S Freezes)**

- (1) When the President authorizes disaster assistance through the Robert T. Stafford Disaster Relief and Emergency Relief Act, and the Federal Emergency Management Agency identifies counties as qualifying for individual assistance, the Disaster program office will prepare an IRS Declaration Relief memo.

- (2) On -O freeze cases where contact is unsuccessful and the TIPRA date reaches 12 months, review and determine if the offer can be worked with the information in the file.
 - If it is determined that the offer cannot be worked, return the offer. A returned offer may be reopened under return reconsideration procedures if the TP/POA contacts OIC and criteria is met in IRM 5.19.24.22, Return Reconsideration. Cases that are returned due to the imminent TIPRA date require Operation Manager signature.
 - If the offer can be worked with the documents in the case file, proceed with the offer.

Exception: If an offer meets transfer criteria based on jurisdiction, clearly document AOIC remarks and on the Form 3210 that the offer has a Disaster -O freeze. Notify the receiving office by telephone and transfer the offer on AOIC.
- (3) Establish a follow-up for the FEMA expiration date. Managers will monitor on a monthly basis.
- (4) The TIPRA statute is not suspended due to a disaster freeze code, you must continue to monitor for any imminent statute. Refer to IRM 5.8.1.17 Disaster Procedures (-O freeze and -S freeze) for additional guidance on Disaster procedures.

5.19.24.9
(03-31-2020)
**Passport Certification
Under the Fixing
America's Surface
Transportation (FAST)
Act**

- (1) The FAST Act, signed into law December 4, 2015, created new code section IRC 7345. Under this code section, the IRS may certify that a taxpayer has a seriously delinquent tax debt, and if it does make that certification, it is then required to notify The Department of State (DOS) of that certification. The DOS generally will not issue or renew a passport to an individual after receiving the certification from the IRS. To identify and work these cases, refer to IRM 5.8.1.10, Passport Certification Under the Fixing America's Surface Transportation (FAST) Act, and IRM 5.1.12.27.8, Reversal of Certification.
- (2) If the taxpayer is traveling and they need the reversal to be expedited, complete Form 14794. Form 14794 should be sent directly to the *SBSE Passport Group after all required signatures are secured.

5.19.24.10
(03-31-2020)
**Processable Return
Procedures**

- (1) Prepare an AOIC return letter citing all reasons for the return.
 - a. Generate the POA letter for any authorized representative. 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. Send a cover letter to the POA.
 - b. Obtain appropriate approval and signature on the return letter see Del. Order No. 5-1 (Rev. 5) in IRM 1.2.2.6, Delegations of Authority for the Collecting Process.
 - c. Stamp the Form 656-L Returned, annotate the date below the stamp, and cross out all prior IRS received dates with a red X.
 - d. Keep the original Form 656-L with attachments, and a copy of the return letter for closed file retention. For additional information regarding closed file and records retention see IRM 5.19.24.23, Closed File Retention.
 - e. Mail the return letter, copies of Form 656-L and attachments, to the taxpayer as well as a copy of the return letter to the taxpayer's representative if one is on file.

- f. Close the case on AOIC as a return once the letter is signed.
- g. Payments submitted with a Form 656-L will be applied to the taxpayer's original tax liability.
- h. Add a history narrative to AOIC remarks with the necessary information that the offer was returned.
- i. Prepare a Form 3177, Notice of Action for Entry on Master File, to request input of a Transaction Code (TC) 481 to reverse the TC 480 for any NMF tax period that is listed on the MFT screen and not on Form 656-L.
- j. If the file or case history reflects a TC 480 was manually input, it must be manually reversed by the person inputting closing actions on AOIC. Ensure all TC 480s are reversed with a TC 481.

5.19.24.11
(06-01-2017)

DATL Innocent Spouse Processing

- (1) If relief from joint and several liability innocent spouse claim is the only issue present in the offer, and if:
 - a. The innocent spouse claim was not previously denied, and is not currently being evaluated by the Innocent Spouse Unit, contact the taxpayer and suggest the taxpayer withdraw the offer and file a Form 8857, Request for Innocent Spouse Relief, or complete a signed statement as referenced in the note below which in most cases, will expedite processing of the claim. See IRM 25.15.1.2.7, Offer in Compromise (OIC).
 - b. The taxpayer withdraws the offer, follow procedures in IRM 5.19.24.16, Withdrawn DATL Offers, or;
 - c. The taxpayer declines to withdraw, reject the offer following procedures in IRM 5.19.24.17, DATL Offer Rejections.

Note: A Form 8857 is no longer required to file an Innocent Spouse claim as long as the required information i.e., year and type of relief requested such as IRC 6015 (b), IRC 6015 (c) or IRC 6015 (f) is included and the statement is signed under penalties of perjury. A signed Form 656-L that meets these requirements will be accepted in lieu of a Form 8857.

- (2) If Form 8857, Request for Innocent Spouse Relief, or a signed statement is received:
 - a. Forward Form 8857 to the Innocent Spouse unit.
 - b. Return the offer for other investigations pending.

5.19.24.12
(07-14-2016)

DATL Offers assigned to Specialty Groups

- (1) These procedures apply when DATL receives a processable offer that meets the criteria for Employment Tax, Excise Tax, Estate and Gift Tax, International including Large Business and International (LB&I) cases, Tax Exempt Government Entities- Exempt Organization (TEGE-EO), Tax Exempt Government Entities – Indian Tribal Government (TEGE-ITG), TEGE State and Local Government, TEGE Employee Plans and TEGE Tax Exempt Bonds.

5.19.24.12.1
(07-14-2016)

Customer Assistance for Specialty Groups

- (1) The Brookhaven DATL unit may need to provide assistance with AOIC systemic issues or questions from the Specialty Groups. If the issue cannot be resolved in the DATL unit, it will be elevated to Collection Policy.

Example: A Specialty group is unclear on a DATL procedure. If the group is requesting assistance, assist by explaining the process. If the issue

involves closing the case on AOIC, walk them through the process. The DATL unit will elevate to Collection Policy any trend they identify in the requests received.

- (2) If a Taxpayer Assistance Order (TAO) or Operations Assistant Request (OAR) is received, the Taxpayer Advocate Service (TAS) Liaison for Specialty Collection Offers in Compromise (SCOIC) will be responsible to send the information to the correct Specialty Group Coordinator.

5.19.24.12.2
(03-31-2020)
**Research for Referral
Criteria**

- (1) The DATL unit will conduct all research to determine proper routing and assignment of the offer based on the below criteria. If there are any questions regarding the referral criteria for the Specialty Groups, contact the Specialty Coordinator or local management prior to assigning the case.

Note: Special attention should be made to the Primary Business Code (PBC)

- (2) Estate and Gift :

- Tax period involves an audit assessment previously made by Primary Business Code (PBC) 213 for Estate and Gift Tax (TC300 or TC308); or
- Tax period involves an assessment from an original filed Estate and Gift tax return, Form 706, 706A, 706D, 706NA, and 706 QDT, & 709, that has not had an audit assessment made from another area
- Assign to AOIC 1901006009

- (3) Excise Tax:

- Taxpayer's BOD code is either SBSE or LB&I
- Tax period involves an audit assessment previously made by (PBC) 214 Excise Tax (TC300 or TC308)
- Tax period involves an assessment from an original filed Excise Tax return (Form 720, 730, 11-C, 2290, 8849, that hasn't had an audit assessment made from another area
- Assign to AOIC Assignment 1901006010

Exception: Form 720 includes, but is not limited to, PLET cases. PLET cases are not worked by the DATL unit. Refer to IRM 5.19.24.3, Centralized Doubt as to Liability (DATL) Processing.

- (4) International Tax and LB&I: Offers routed to International, include but are not limited to: Foreign tax credit, Foreign EIC, Foreign Housing exclusion, Bona fide Residency, Non-resident alien, Treaty based return position. This is not an all-inclusive listing. If you are unsure, please contact the International coordinator found on the OIC SharePoint library.

- Primary Business Code (PBC) 330
- PBC 301-307 & 316-317 & 398 LB&I
- Campus Exam assessments only when the taxpayer and/or the POA reside outside the United States
- Assign to AOIC Assignment 1901006008

Note: An assessment with PBC 315 may involve a Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) assessment. When DATL identifies an assessment by TC 300 assessment with a PBC 315, DATL will scan the Form 656-L and the pertinent documentation to the LB&I coordinator. The

LB&I coordinator will research the assessment. If they identify the assessment is based on an agreement by the Tax Matters Partner (TMP) and cannot be compromised or adjusted, they will notify DATL. If LB&I determines the offer cannot be worked, AOIC remarks will be documented by LB&I with the findings and reason(s) for return. Once the response is received, DATL will close the offer as a processable return. If the offer can be worked, the LB&I coordinator will request the transfer of the case file.

(5) Employment Tax :

- Previous TC 300, TC 308 made by PBC 212
- Form 940, 941, 943, 944, 945, MFT 13 Penalty Reference Number (PRN) 549 & 550 that has not had an audit assessment made from another area
- Assign to AOIC Assignment 1901006012

Exception: Employment Tax (ET) determination is based on the taxpayer's Business Operating Division (BOD) and previous audit location. If the taxpayer's issues in Large Business & International (LB&I) or Self - Employed/ Small Business Division (SBSE) were previously addressed by PBC 212 (SBSE ET), the case will be forwarded to ET.

(6) Tax Exempt Government Entities:

- The easiest way to determine which Tax Exempt Organization to refer the offer, is to look at Command Code INOLE. The INOLE screen has an EO section at the bottom. It will list the subsection-code, foundation code, ruling date, etc. It will also list the filing requirements. INOLE "TE-CLIENT-CD" values are
- B - Tax Exempt Bonds (TEB)
- F - Federal, State & Local Government (FSL)
- I - Indian Tribal Governments (ITG)
- 1 - Combo ITG & TEB
- 2 - Combo FSL & TEB
- 3 - Combo Exempt Organization & TEB

(7) Tax Exempt Organizations:

- Form 990, 990EZ, 990PF, 990BL, 990T, 990C
- Assign to AOIC Assignment 1901006011

(8) State and Local Governments:

- Form 4669, Form 941, Form 945, Form 944
- Assign to AOIC Assignment 1901006014

Caution: A Federal Agency cannot file an Offer in Compromise. If a Federal Agency attempts to do so, contact Collection Policy for guidance.

(9) Employee Plans:

- Form 5500, 5500-C/R, 5500EZ, 5500-SF MFT 74 (EPMF, BMF/NMF for Penalties)
- Form 5330 MFT 76 (BMF/NMF)

- Assign to AOIC Assignment 1901006011

(10) Tax Exempt Bonds:

- Form 8038, 8038-G, 8038-GC, 8038-T, 8038-R, 8038-CP, 8703, 8323 MFT 46
- Form 8038-B MFT 85
- Form 8038-TC MFT 86
- Assign to AOIC Assignment 1901006011.

Caution: 8038 – CP: This return is a claim for refundable tax credits allowed for certain types of municipal bonds. This is the only Tax Exempt Bond return for which tax may be assessed. Contact the Tax Exempt Bonds coordinator before processing any of these offers.

Exception: 8038-T, 8038- R: These returns deal with payments that affect the effective investment yields allowable on municipal bonds. These payments do not constitute a tax and cannot be assessed by the Service unless the taxpayer agrees. If the payments are not made, the bonds are simply not exempt. These do not qualify as DATL Offers.

(11) Indian Tribal Governments:

- PBC 40X
- Assign to AOIC Assignment 1901006013

5.19.24.12.3
(03-31-2020)
**Initial Processability
Determination**

- (1) The DATL tax examiner will follow processability procedures per the IRM 5.19.24.10, Processability, and IRM 5.19.24.6.4, Processable DATL Offers.
- (2) If the offer is processable but meets other criteria in the IRM 5.19.24.6.4, Processable DATL Offers, review all criteria, and take appropriate actions.

Note: Offers where the liability was previously determined or sustained by Appeals should be rejected and sent to Appeals, if the taxpayer files a timely Appeal.

Reminder: Open CDP cases: research ACDS to ensure the CDP is still open. In addition to researching ACDS, the tax examiner must contact the Appeals Settlement Officer to determine if the CDP is still open and if the taxpayer is legally able to challenge the liability in CDP.

- (3) If the offer is processable and does not meet other criteria in IRM 5.19.24.6.4, Processable DATL Offers, take the following actions:
 - Send the taxpayer an Automated Offer in Compromise (AOIC) transfer letter informing them that their case is being transferred to the appropriate Specialty Coordinator; use the Specialty group open paragraph and include a statement the taxpayer will be contacted within 120 days. Generate the transfer letter prior to assigning the offer to the Specialty group.
 - Print and attach copy of the Exam/Specialty Checklist to the outside cover of the case file.
 - Case building is not required by DATL. Any requests for internal information (original returns or audit files) or information needed to perfect the offer will be obtained by the Specialty groups.

- Funds received with a DATL offer are applied to the liability in the best interest of the government.
- Document AOIC with the location and contact information of the group where the case is being transferred.
- Update the AOIC assignment number to reflect the correct Area Specialty Coordinator/Group.
- Send the case with Form 3210 to the Specialty Coordinator based upon the coordinator listing for assignment to the appropriate field group.

- (4) The Specialty Coordinators will review the offer within 10 calendar days of receipt to determine if the offer meets their criteria. If they determine the offer does not meet their criteria or was mis-routed, they will contact the DATL unit before returning the case.

Exception: Employment Tax and TEGE have 15 calendar days to review and return to DATL, if the offer does not meet their criteria.

Note: The time frame for returning the offer to the DATL unit may be extended due to case building to validate the offer is processable.

Example: The Specialty Group reviews the offer and any applicable documents and determines the offer is not processable, including Solely to Delay, the offer will be returned to the DATL Unit for review and to take appropriate actions.

- If the DATL unit disagrees with the return of the offer, it will be elevated to DATL Management. DATL management should review the return issue for concurrence and initiate a conversation with the Specialty Coordinator's manager.
- When the Form 3210 acknowledgement is received, enter a history on AOIC remarks. If the Form 3210 is not received within 15 calendar days, the DATL unit should contact the respective Coordinator. Allow 20 calendar days for the Form 3210 acknowledgement for Employment tax and TEGE.

- (5) If the offer is not processable, follow procedures in IRM 5.19.24.6.1, Not Processable Offers.

5.19.24.12.4
(06-01-2017)
Returning Processable Offers

- (1) All Specialty Groups will handle all actions involved with returning Processable DATL offers. Processable Offers are returned following IRM 5.19.24.10 , Processable Return Procedures.

5.19.24.12.5
(06-01-2017)
Offer Rejections for Specialty Groups

- (1) All Specialty Groups will handle all actions involved with rejections of a DATL offer. Rejected Offers are rejected following IRM 5.19.24.17 ,DATL Offer Rejections.

Note: All groups must complete the Exam/Specialty Checklist on all cases.

5.19.24.12.6
(06-01-2017)

Withdrawal for Specialty Groups

- (1) All Specialty Groups, including TEGE, are responsible for inputting any tax adjustments to the accounts. They are also responsible to contact the taxpayer to request and obtain a withdrawal of the offer, if appropriate.
- (2) All Specialty Groups will handle all actions involved with withdrawals of a DATL offer. The Specialty Coordinator will resolve offers based on IRM 5.19.24.16 , Withdrawn DATL Offers.

5.19.24.12.7
(06-01-2017)

Acceptance of Offers

- (1) All Specialty Group Coordinators must review all recommended acceptances prior to closing an accepted offer on AOIC.
- (2) If there is any question regarding the acceptance, contact should be made with management to determine if it is a valid acceptance.

Note: An offer that was adjusted to a correct tax liability and resolves the liability addressed in the offer should not be an accepted offer.

- (3) For all acceptances, certain case information must be sent to the Public Inspection File. For additional information, please refer to IRM 5.19.24.19, DATL Acceptances, and IRM 5.8.8.7, Required Actions Prior to Closing an OIC as an Acceptance.

5.19.24.12.8
(03-13-2023)

Offer Closure for Specialty Groups

- (1) All Specialty Groups will close their respective offers on AOIC. All paper records should be sent to the Federal Records Center (FRC) per procedures established by the Specialty groups. All electronic Forms 656-L in Exam will be retained electronically on CEAS. For additional information regarding closed file and records retention see IRM 5.19.24.23, Closed File Retention.
- (2) All Specialty Groups should fax the Exam/ Specialty Checklist to the DATL unit with a copy of the withdrawal/rejection letter for the case file.
- (3) The DATL Unit will confirm all closing actions.

Example: Reversing of TC 480 and AOIC updated.

5.19.24.13
(06-01-2017)

Identity Theft Overview

- (1) Identity theft occurs when someone uses an individual's personal information, such as name, Social Security Number (SSN), or other identifying information without permission, to commit fraud or other crimes. Taxpayers should notify the IRS when they believe they have experienced an identity theft incident. tax examiners should become familiar with the IRM 25.23.1, Identity Protection and Victim Assistance - Policy Guidance, for additional information regarding identity theft procedures
- (2) Taxpayers who have experienced identity theft are already victims, either emotionally or financially. IRS employees need to be aware of that impact and handle the contact with an additional level of sensitivity and understanding.
- (3) Identity theft can affect tax administration in two primary ways:
 - Employment or Income Related - This occurs when the identity thief uses the victim's SSN to obtain employment, resulting in what may appear as unreported income under the victims account.

- Refund Related - This occurs when the identity thief uses the victim's SSN to file a false federal income tax return to obtain funds. If the thief files before the victim, the victim may not receive his or her refund within a reasonable time.
- (4) The identity theft issue can be discovered during your offer investigation, or the taxpayer can self-identify by providing any of the following;
- Form 14039, Identity Theft Affidavit
 - Police report
 - Information provided on Form 656-L
 - Statement provided by the taxpayer claiming they are a victim
- (5) In these instances, taxpayers must provide documentation to establish their identity and documentation to support the claim of identity theft.
- (1) The tax examiner will be responsible for:

5.19.24.13.1
(06-01-2017)
**Identity Theft
Procedures**

- a. Identifying the identity theft issue.
- b. Working the identity theft inventory on a first in first out basis. These cases should take priority over other assignments.
- c. Researching what documentation was received with the offer and if additional information is needed to perfect the identity theft claim.
Note: Incomplete or illegible documents will be returned to the taxpayer with a request to resubmit clear complete information. Advise the taxpayer to respond within 30 days to avoid processing delays.
- d. Inputting the appropriate TC 971 code. See IRM 25.23.2.4.4, Initial Allegation or Suspicion of Tax-Related Identity Theft - IMF Identity Theft Indicators.
Note: Reviewing CC ENMOD is necessary to help prevent duplicative (identical) TC 971 AC 5XX entries. Prior to marking an account with TC 971 AC 522 PNDCLM or IRSID research CC ENMOD/CC IMFOLE to ensure the account has not already been marked. If the exact coding already exists for the tax year, do not input it a second time. No tax year should have duplicate identical codes input for that specific year.
Note: When the identity theft victim is the secondary SSN on a joint account, the identity theft indicator is input on the secondary SSN. Identity theft indicators are not input on the primary SSN in these instances. If both primary and secondary taxpayers are victims, place the indicator on both SSNs.
- e. Identifying and addressing the need for input of TC 971/522 on a case with an EIN. Refer to IRM 25.23.2.3.4, Identity Theft Research.
- f. In situations where the taxpayer initially asserts identity theft and provides supporting documents at the same time, follow the procedures in IRM 25.23.2.3, Identity Theft Claims - General Guidelines.
- g. Requesting supporting documentation, when appropriate. Generally, taxpayers alleging identity theft will be required to provide supporting documentation. However, there are situations where the taxpayer will not be required to submit documentation. See IRM 25.23.2.3.5, When to Request Additional Information to Support an Allegation of Identity Theft .
- h. Setting a follow up on AOIC for 45 days for receipt of taxpayer response.
- i. If the taxpayer does not provide substantiation documentation when requested, proceed with case resolution assuming the taxpayer is not an identity theft victim. Follow procedures in IRM 25.23.2.16.4.1, IMF Identity Theft- Taxpayer Initiated Allegations of Identity Theft - TC 971 AC 522 PNDCLM , for additional information.
- j. Ensuring the statute is protected when receiving multiple returns.
- k. Upon receipt of identity theft documentation, research the taxpayer's account to determine if the assessment that caused the liability was the result of an ASFR, AUR or Exam assessment. If the liability was due to a prior assessment, the ID theft determination will be made by the function that input the TC 300 or TC 290. See IRM 5.19.24.13.3, Identity Theft Referral Procedures.
- l. Reporting time spent on identity theft issues - All time associated with working ID theft issues in DATL should be reported to 810 – 61972.
- m. For complex issues where the DATL tax examiner cannot make the Identity theft determination; refer the case to the Collection Identity Theft Liaison for technical review on Form 4442, Inquiry Referral.

5.19.24.13.2
(07-14-2016)

**Identity Theft Offer
Determinations**

- (1) Determine if the identity theft issue was the only basis for the offer or the issue did not affect the tax year in question. See table below for closing instructions:

If ...	Then ...
The identity theft was the only basis for the offer	<ol style="list-style-type: none"> 1. Send AOIC Return letter for other investigations pending. In an open paragraph explain to the taxpayer the identity theft issue was transferred to the appropriate area. 2. A TC 470 CC 90 must be input on the account to suspend collection activity. If the account is in status 71 take the following actions: <ul style="list-style-type: none"> • Monitor for reversal of status 71 • Input TC 470 CC 90 once status 71 is reversed. 3. Document AOIC remarks.
Identity theft was claimed by the taxpayer but did not impact the tax year of the offer	<ol style="list-style-type: none"> 1. Follow normal processing guidelines for working the offer. 2. Follow TC 971/522 guidelines and referral procedures to address the identity theft claim. 3. Call the taxpayer and explain you will continue working the offer and forward the identity theft claim to the appropriate area. 4. Document AOIC Remarks.

5.19.24.13.3
(06-01-2017)

**Identity Theft Referral
Procedures**

- (1) Determine the source of the identity theft liability (Exam, SFR, AUR).
- (2) Go to SERP, Who Where tab and click on ID Theft Liaisons to determine the correct area to route the referral to.
- (3) Prepare Form 4442, Inquiry Referral. Annotate ID Theft and attach any documentation received from the taxpayer or representative. If the Identity theft claim was made on the Form 656-L, before forwarding ensure the Form 656-L is stamped Returned.
- (4) Send the taxpayer Letter 86 C, indicating the ID theft issue has been transferred.
- (5) To address the offer disposition, Refer to IRM 5.19.24.13.2, Identity Theft Offer Determinations.
- (6) Document AOIC remarks with all available research and methods of resolution used to determine the validity of the liability.
- (7) If the liability was not assessed in ASFR, AUR or Exam forward the completed Form 3870 to IDTVA employee found on SERP Who/Where..

Note: Outlook mailbox for electronic submission is *SBSE CCS DITA.

5.19.24.13.4
(03-13-2023)

Identification of Paid Preparer Misconduct Issues

- (1) If Paid Preparer Misconduct issues are identified, take the following actions:
 - a. Follow guidance in IRM 25.24.4, Return Prepared Misconduct Field Collection, to research account and request documentation from the taxpayer.
 - b. Forward documentation to Collection identity theft liaison on Form 4442, Inquiry Referral, for a determination on the validity of the taxpayer's claim.
 - c. Set an AOIC follow up for 14 calendar days to ensure a timely response is received from the liaison.
 - d. To address the offer disposition, see IRM 5.19.24.13.2, Identity Theft Offer Determinations.
 - e. Document AOIC remarks.

5.19.24.14
(06-01-2017)

Bankruptcy Filed During DATL Investigation

- (1) If a taxpayer files bankruptcy during investigation of a DATL offer, stop the investigation, and close the offer as a return.
- (2) Follow procedures provided above in IRM 5.19.24.10, Processable Return Procedures, but cite the bankruptcy filing as reason for return in the return letter.

5.19.24.15
(03-31-2020)

Death of a Taxpayer

- (1) When the Service is notified of the death of a taxpayer who submitted an offer (or either spouse on a joint offer) that is currently under consideration, the Service can no longer consider the offer. A termination letter will be generated and close the offer.
- (2) Offers closed as terminations do not require preparation of the Form 1271, Rejection Memorandum.
- (3) The following actions should be taken to close an offer as a termination;
 1. Prepare an AOIC termination letter inserting the termination paragraph.
 2. Submit termination letter and offer file to the authorized approving official see Del. Order No. 5-1 (Rev. 5) in IRM 1.2.2.6, Delegations of Authority for the Collecting Process. The approving official will indicate concurrence by signing the termination letter.
 3. Date and copy the termination letter for closed file retention. For additional information regarding closed file and records retention see IRM 5.19.24.23, , Closed File Retention.
 4. Mail the termination letter to the taxpayer's address of record and a copy to the taxpayer's representative if one is on file.
 5. Input of TC 540 if the exact date of death is confirmed.
 6. Document the history indicating the date of death and how notification was received.
 7. Document AOIC history.
 8. 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 that is listed on the MFT screen and not on Form 656-L.
 9. If the file or case history reflects a TC 480 was manually input, it must be manually reversed by the person inputting closing actions on AOIC. Ensure all TC 480s are reversed.

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. Be sure to address the letter to "the estate of".

- (4) Many times, the DATL OIC under consideration was submitted jointly by a husband and wife. In that situation, contact the surviving spouse to determine whether there is a probate proceeding pending and whether the surviving spouse will exercise the option to amend the offer to make it for only the survivor. See IRM 5.8.10.4(2), Death of a Taxpayer, and IRM 5.17.13.9, Decedents' Estates, for more information about decedent taxpayers and probate proceedings.

5.19.24.16
(03-13-2023)

Withdrawn DATL Offers

- (1) If the examiner can resolve the issue to the mutual satisfaction of the taxpayer and the Service, a compromise is not required. In such cases, the examiner should take the appropriate action as agreed and request that the taxpayer withdraw the offer. The TE must inform the taxpayer they are waiving their appeal rights when withdrawing the offer. See IRM 5.8.7.4.1 Voluntary Withdrawal, and IRM 5.8.7.4.1.1 Voluntary Withdrawal of a Joint Offer.
- (2) The taxpayer may also decide to withdraw the offer for other reasons unrelated to the examiner's determination.
- (3) A voluntary withdrawal request may be made orally, by fax, or in writing.
- (4) Receipt of a withdrawal request (either in writing or orally) must be clearly documented in the case file as well as how the request was received.
- (5) See IRM 4.18.2.7 (2), Doubt as to Liability Offer Withdrawn, for examples of written statements the taxpayer may submit to withdrawing the offer.
- (6) When an offer in compromise investigation is being closed as a voluntary withdrawal, the TE should discuss alternative resolutions with the taxpayer. Additionally, if an agreement is not reached with the taxpayer on an alternative resolution to the balance due accounts or no discussion was held with the taxpayer regarding an alternative resolution, the TE should take the appropriate actions to assign the balance due account to the appropriate function. See IRM 5.8.7.10 Alternative Resolutions.
- (7) If the taxpayer withdraws the offer:
1. There is no requirement to prepare Form 1271, Rejection or Withdrawal Memorandum.
 2. The effective date of the 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 ...
Personal delivery	When notification of the withdrawal is received by the Service.
Mailing written notification of the withdrawal via U.S. certified mail	On the date the Service receives the certified mail
Non-certified mail or fax	On the date the Service mails (date of the correspondence), or personally delivers a written letter to the taxpayer acknowledging the withdrawal

If taxpayer withdraws an offer in compromise by ...	Then the offer will be considered withdrawn ...
Phone	On the date the Service mails, or personally delivers, a written letter to the taxpayer acknowledging the withdrawal

3. Review the AOIC record to ensure the information is accurate.
4. Generate a withdrawal letter on AOIC, inserting the appropriate paragraph. Use the chart above to determine the correct date to use as the effective date of the withdrawal.
5. Generate the POA letter for any authorized representative, if applicable.
6. Submit the withdrawal acknowledgement letter and offer file to the authorized approving office see Del. Order No. 5-1 (Rev. 5) at IRM 1.2.2.6., Delegations of Authority for the Collecting Process. Approving official will indicate concurrence by signing the letter.
7. Date and photocopy the letter for closed file retention. For additional information regarding closed file and records retention see IRM 5.19.24.23, Closed File Retention.
8. Mail the withdrawal acknowledgement letter to the taxpayer.
9. Funds received with a DATL offer will be applied to the liability in the best interest of the government.
10. Update AOIC remarks with the necessary information that the offer was withdrawn.
11. Prepare a Form 3177, Notice of Action for Entry on Master File, to request input of a Transaction Code (TC) 482 to reverse the TC 480 for any NMF tax period that is listed on the MFT screen and not on Form 656-L.
12. If AOIC remarks indicates a TC 480 was manually input, it must be manually reversed. ..
13. If the aggregate balance is \$10,000 or more, refer the offer to the in-house RO for a lien determination and request.

5.19.24.17
(03-31-2020)
DATL Offer Rejections

- (1) When the offer is rejected, the taxpayer should be contacted by telephone to discuss alternative resolutions. See IRM 5.8.7.10 Alternative Resolutions.
- (2) 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.

Note: Include Form 13711, Request for Appeal of Offer in Compromise, with the Rejection letter.

- (3) Generally, rejections on offers based on DATL are because the tax is believed to be correct as assessed.
- (4) If the taxpayer does not agree with the examiner's conclusion and does not withdraw the offer take the following actions:
 1. Update the proposed disposition on AOIC;
 2. Prepare Form 1271, entering the reason(s) for the action;
 3. Prepare an AOIC rejection letter citing the reason(s) for the action;
 4. Submit the Form 1271 and offer file to the authorized approving official see Del. Order No. 5-1(REV. 5) at IRM 1.2.2.6, Delegations of Authority for the Collecting Process.

5. Forward the Form 1271 and offer file to the Independent Administrative Reviewer (IAR)
6. Document AOIC remarks before assignment of the offer to the IAR
7. If the IAR sustains the rejection recommendation they indicate approval by signing Form 1271 as reviewer. See IRM 5.19.24.18.3, Rejections Sustained by the Independent Administrative Reviewer;1. Obtain appropriate managerial signature on the rejection letter and Form 1271.2. Date the letter to the taxpayer;3. Enter the date of the rejection letter in the corresponding field on Form 1271;4. Copy the rejection letter for the file and for the representative, if one is indicated;5. Mail the letter(s) to the taxpayer and representative if appropriate. 6. Assign the case on AOIC to the 45 day hold file.
8. If the IAR does not sustain the rejection recommendation, follow guidance outlined in IRM 5.19.24.18.3.1, Rejections Not Sustained by the Independent Administrative Reviewer.

5.19.24.17.1
(03-31-2020)

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 Service 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.
- (3) If no appeal request is received by the 45th day (from the day after the date on the rejection letter) the following actions should be taken:
 1. Close the offer record as a rejection with no appeal on AOIC.
 2. If the aggregate balance is \$10,000 or more, refer to the inhouse Revenue Officer for lien determination
 3. Funds received with a DATL offer are applied to the liability in the best interest of the government
 4. Add a history narrative to AOIC remarks with the necessary information that the offer was rejected.
 5. 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 that is listed on the MFT screen and not on Form 656-L.
 6. If the file or case history reflects a TC 480 was manually input, it must be manually reversed by the person inputting closing actions on AOIC. Ensure all TC 480s are reversed.
 7. Route the offer file to the closed files. For additional information regarding closed file and records retention see IRM 5.19.24.23, Closed File Retention.

5.19.24.17.2
(03-13-2023)
**Taxpayer Response to
DATL Rejection Letter**

- (1) If the taxpayer responds timely, within 30 days of the rejection letter, with new information sufficient to adjust the liability, make the appropriate adjustments as indicated by the new documentation. Contact the taxpayer to advise of the results following consideration of the additional information and:
 - a. If the new information results in the complete resolution of the assessment(s) in question, follow procedures in IRM 5.19.24.7, Processing DATL Offers.
 - b. If the new information results in partial resolution of the liability(ies) in question and the taxpayer filed a timely appeal, follow procedures in IRM 5.19.24.7, Processing DATL Offers, to adjust the account. Then follow procedures (3) below to forward the case to Appeals for further consideration.
 - c. If the taxpayer responds by sending in a signed withdrawal, agreeing in full with the tax examiners decision, follow procedures in IRM 5.19.24.16, Withdrawn DATL Offers, to close the offer.
 - d. Review the Form 13711 to ensure it is signed under penalties of perjury by the taxpayer. The authorized representative is not required to sign under penalty of perjury however, the POA must check the appropriate certification for authorized representative box on the Form 13711, Request for Appeal of Offer in Compromise. If the taxpayer submits a written statement of Appeal, it must include the "under penalties of perjury" statement.
- (2) If a request for an appeal is received within 30 calendar days of the date after the date of the rejection letter, and no new information was provided, the case must be forwarded to Appeals function for consideration.
- (3) If the appeal was received after the 30th day, see IRM 5.8.7.7.5, Rejection Appealed.
- (4) Timely appeals - Upon transfer of the case to Appeals, 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 should be documented. Written notification may be completed using the AOIC transfer letter, paragraph B.
- (5) Assign on AOIC to the appropriate Appeals area.
- (6) Untimely appeals - Notify the taxpayer that the appeal was not timely and will not be forwarded to Appeals for consideration. If the letter provides new information not previously considered, the case must be reassigned to a tax examiner for reconsideration. Notification should be in writing and should be documented. Written notification may be completed using AOIC transfer letter, paragraph C.
- (7) If the request for appeal is unsigned, the request will not be considered timely and the taxpayer should be notified appropriately.

Note: 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 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. See IRM 5.8.7.7.5 , Rejection Appealed. .

- (8) If a joint offer is rejected and only one spouse signs the request for appeal, See IRM 5.8.7.7.5(4), Rejection Appealed.
- (9) 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 must be reassigned to a tax examiner for reconsideration.
- (10) 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.
- (11) If an appeal is received that includes additional or new information to consider but it does not change the rejection determination:
 - 1. Attempt to reach the taxpayer by phone to advise that we have received and considered the information provided, however, the decision to reject the offer has not changed, so the offer will be forwarded to Appeals for consideration as requested.
 - 2. Refer to Rev. Proc. 2012-18, IRM 5.1.9.5, Communications with Appeals, for information regarding ex-parte communication with Appeals to determine what information should be included in the case file going to Appeals.
 - 3. Assign the case to Appeals on AOIC.
 - 4. Mail the case to the appropriate Appeals Area office.
- (12) If the taxpayer's documentation changes the determination, then adjust the account and follow the withdrawal procedures. If the taxpayer does not agree to the withdrawal forward the case to Appeals.

Note: A new rejection letter will not be sent.

5.19.24.17.3
(07-14-2016)

**Appeals Consideration
of Rejected DATL Offers**

- (1) After consideration of a rejected offer, Appeals will make the final determination, adjust accounts, if applicable and close the case on AOIC.
- (2) Appeals will send DATL offers it accepts to the MOIC function for final processing.
- (3) Appeals will not send any offers under their jurisdiction back to the DATL Unit.

5.19.24.18
(07-14-2016)

**Independent
Administrative Review
Overview**

- (1) IRC § 7122(e) requires the Service to conduct an independent administrative review of a proposal to reject an OIC. The review must be conducted prior to the rejection being communicated to the taxpayer.
- (2) The Independent Administrative Reviewer (IAR) is responsible for conducting this review.

5.19.24.18.1
(07-14-2016)

**Role of the Independent
Administrative Reviewer**

- (1) The IAR is responsible for reviewing each case to determine if the proposed rejection is reasonable based on the taxpayer's facts and circumstances. The IAR is not responsible for conducting a quality analysis of the accuracy of the documents used to support the case.

5.19.24.18.2
(07-14-2016)

The IAR Review

- (1) The tax examiner's analysis of the taxpayer's offer should be reviewed to determine if the basis for the rejection determination was appropriate.
- (2) The IAR should consider if the taxpayer's rights have been observed during the offer investigation and during communication and discussions with the taxpayer or POA. These considerations should be based on issues that would impact the recommended rejection.
- (3) The IAR should ensure that all of the facts and circumstances of the case were considered during the investigation and that the decision to reject the offer is reasonable, based on the case analysis.
- (4) The case file should indicate an attempt to communicate the results of the offer investigation with the taxpayer or POA, prior to recommending the rejection. This communication can be accomplished by telephone contact or by letter.
- (5) When circumstances dictate, the employee should use problem solving and negotiation techniques, and in so doing consider the taxpayer's/POA/third party's perspective when working toward case resolution.
- (6) The review must be conducted prior to the final determination of rejection being communicated to the taxpayer.

5.19.24.18.2.1
(03-13-2023)

IAR Case File

- (1) The following items should be present in the file and used as an aid for the IAR to ensure the decision was appropriate.
 - a. Form 656-L, Offer in Compromise
 - b. Form 1271, Rejection or Withdrawal Memorandum
 - c. Preliminary Rejection letter
 - d. Rejection summary
 - e. AOIC Remarks
 - f. Any pertinent supporting documents
- (2) If any information is missing or unavailable that hinders the IAR in making a determination that the decision was appropriate, the case file should be returned, or a memorandum sent to the tax examiner or the manager requesting the missing documentation or supporting information.

5.19.24.18.3
(03-13-2023)

**Rejections Sustained by
the Independent
Administrative Reviewer**

- (1) If the proposed rejection of the offer is sustained by the IAR, the reviewer will:
 1. Update the IAR Check Sheet on AOIC indicating the appropriate disposition.
 2. Sign the Form 1271 as the reviewer, indicating concurrence with the proposed disposition.
 3. Return the case file to the originator using a Form 3210, Document Transmittal.
 4. Assign the offer back to clerical unit to close .

5.19.24.18.3.1
(07-14-2016)

**Rejections Not
Sustained by the
Independent
Administrative Reviewer**

- (1) If the proposed rejection is not sustained by the IAR, the reviewer will:
 1. Update the IAR Check Sheet on AOIC indicating the appropriate IAR disposition.
 2. Document AOIC check sheet providing an explanation of why the determination was not sustained and indicating additional actions necessary by the investigating employee.
 3. Route the case back to originator on a Form 3210. The original Form 1271 and any other documentation regarding second level management involvement and decisions must be retained in the offer file as a record of actions taken during the IAR process.

5.19.24.19
(03-31-2020)

DATL Acceptances

- (1) An offer to compromise a tax liability should set forth the legal grounds for compromise and should provide enough information for the Service to determine where the offer fits within its acceptance policies. Doubt as to liability exists where there is a genuine dispute as to the existence or amount of the correct tax liability under the law. Doubt as to liability does not exist where the liability has been established by a final court decision or judgement concerning the existence of the liability.
- (2) An offer to compromise based on doubt as to liability generally will be considered acceptable if it reasonably reflects the amount the Service would expect to collect through litigation.
- (3) An acceptable offer may be for an amount greater than the taxpayer offered on the original Form 656-L. If you have determined a new offer amount is acceptable, request an amended Form 656-L from the taxpayer. Mark the amended Form 656-L with amended on the top margin of page one of the Form 656-L. Update AOIC by inputting A (amended) on the summary screen of the AOIC record to reflect receipt of an amended offer. Do not change the offer pending date. Refer to IRM 5.8.8.2.1, Amending Form 656, regarding electronic signatures.
- (4) In certain situations, pen and ink changes are acceptable on Form 656-L. For additional information and requirements see IRM 5.8.8.3, Pen and Ink Changes to Form 656.
- (5) Counsel is required to review offers when the total unpaid amount of tax assessed (including any interest, additions to tax, and penalties) for all related offers from the same taxpayer is \$50,000 or more at the time the offer was submitted. The purpose of Counsel's review is to determine whether the offer legally meets the standards of Doubt as to Liability (DATL). Counsel also reviews the offer to ensure it conforms to the Service's policies and procedures. The IRS has the legal right to accept the offer, regardless of Counsel's opinion. However, rejecting Counsel advice is not a preferred course of action. See IRM 5.8.8.13.1, Counsel Review and Concurrence (Legal issue).
- (6) Refer to IRM 5.8.8, Acceptance Processing, and Del. Order No. 5-1 (Rev. 5) in IRM 1.2.2.6, Delegations of Authority for the Collecting Process, for procedures and levels of approval when recommending acceptance of a DATL offer in compromise. However, review and approval authority will remain within the SBSE Compliance Services Department Managers over the Centralized DATL processing units.
- (7) All Appeal and Exam Acceptances will be forwarded to Brookhaven Campus for the input of the Form 7249 and to generate the acceptance letter on AOIC

for public inspection purposes. Prepare a copy of the Form 7249 for the inclusion in the public inspection file. Brookhaven tax examiners will clearly annotate the AOIC Remarks, "Offer was accepted by Appeals or Exam AO XX, generated Form 7249 and Acceptance Letter for public inspection purposes only."

- (8) Prepare a copy of the Form 7249, Offer Acceptance Report,
- (9) Review the Form 7249 and transcripts and redact any visible taxpayer identification information. If the information is not systemically redacted, a grease pencil is the most effective method when manual redaction is required. Do not use marker, ink pens, or white out.

Note: For additional information see IRM 5.8.8.7, Required Actions Prior to Closing an OIC as an Acceptance, IRM 5.8.8.8, Closing Actions on Accepted Offers, IRM 5.8.8.9, Public Inspection File.

- (10) Forward the accepted offer file to the appropriate Monitoring Offer in Compromise (MOIC) function based on the taxpayer's state of residence. MOIC will process offer payments and input appropriate OIC transaction codes.

5.19.24.19.1
(06-01-2017)
Mandatory Acceptance

- (1) On July 16, 2006, the Tax Increase Prevention Reconciliation Act of 2005 was enacted. TIPRA provides that any offer is deemed accepted if the offer is not rejected by the Service within 24 months of the date the IRS received the offer. Furthermore, Notice 2006-68 provides that offers are not deemed accepted if they are returned by the IRS to the taxpayer as non processable or no longer processable, withdrawn by the taxpayer, or deemed withdrawn under IRC 7122(c)(1)(B)(ii) because of the taxpayer's failure to make the second or later installment due on a periodic payment offer. Any period during which any liability that is included in the offer is in dispute in any judicial proceeding will not be taken into account in determining the expiration of the 24-month period. Additionally, for any period when a timely filed appeal from a rejection is being considered by Appeals the 24-month period is not taken into consideration.
- (2) If a mandatory acceptance is warranted, refer to IRM 5.8.8.12, 24-month Mandatory Acceptances under § 7122 (f).

5.19.24.20
(07-14-2016)
Indicators of Taxpayer Fraud

- (1) The following are potential fraud warning signs most identifiable during an interview:
 - a. Failing to keep proper books and records in a business or profession.
 - b. No records, poorly kept records, or attempts to falsify or alter records.
 - c. Destroying books and records without plausible explanation or refusal to make certain records available.
 - d. Extent of taxpayer's control of sales and receipts and the apparent unwillingness to delegate this function to employees.
 - e. Engaging in illegal activities.
 - f. Personal living standard and asset acquisition is inconsistent with reported income.
 - g. Indications that valuable assets belonging to the taxpayer are being acquired and held in the name of others.
 - h. Self-serving statements with no documented proof.

- i. Repeated procrastination on the part of the taxpayer in making and keeping appointments.
 - j. Hasty agreement to adjust and undue concern about immediate closing of the case may indicate a more thorough examination may be necessary.
- (2) The following are potential fraud warning signs most identifiable during verification of the financial statement:

Uncooperative attitude displayed by: <ul style="list-style-type: none"> • Not providing requested information. • Refusal to make certain records available. • Not furnishing adequate explanations for discrepancies or questionable items.
Trying to conceal a pertinent fact or record.
Failing to deposit all receipts to the business account.
Use of nominees or false names.
Unusual depletion of assets shortly before filing an offer.
Inflated salaries, payment of bonuses or cash withdrawals by officers, directors, shareholders, or other insiders.
Transfers of property to insiders, shareholders, or relatives shortly before filing the offer.
Payoff of loans to directors, officers, shareholders, relatives, or other insiders shortly before filing of the offer.
Complicated corporate structures and relationships.
Undervaluing of assets.
Overstatement of liabilities.

- (3) The fraud indicators below can fall into any of the categories in paragraphs (1) and (2) above:
- a. Making false, misleading, and inconsistent statements.
 - b. Using currency instead of bank accounts or making large expenditures in currency.
 - c. Concealment of bank accounts and other property.
- (4) If indications of fraud are identified, follow the procedures outlined in IRM 5.8.4.18, Potential Fraud Referrals.
- (5) Refer to IRM 5.8.4.19, Criminal Investigations, relative to the appropriate actions if the taxpayer is involved in an open criminal investigation.

5.19.24.21
(06-01-2017)
**Third Party
Authorizations**

- (1) Taxpayers should submit a properly executed Form 2848 Power of Attorney and Declaration of Representative in order to authorize another individual to represent the taxpayer before the IRS. If POA information is located on CFINK, load the information on the AOIC POA Screen and follow procedures as defined below. Input the representative's information on AOIC and retain a copy of the form in the paper case file. Forward the original for recording on

the Centralized Authorization File (CAF). If there are multiple POA's listed, refer to IRM 5.8.2.3, Initial Processing of Offers in Centralized Offers in Compromise Sites.

- (2) Send all original correspondence to the taxpayer and provide a copy to the representative unless the taxpayer has indicated they do not want their representative to receive correspondence. Send a copy of the letter to the authorized representative regardless if the box is checked on the Form 2848 only if the POA is authorized for all periods. If the POA is not authorized for all periods, send the POA a cover letter. .
- (3) Individuals who are not entitled to practice before the IRS with respect to a collection matter (such as unenrolled return preparer) may accompany taxpayers to meetings with a completed Form 8821, Taxpayer Information Authorization, or other proper authorization, and receive and provide information that relates to the offer investigation. They are not authorized to represent the taxpayers or sign documents relating to offers in compromise. An 8821 cannot negotiate the terms of the offer.
- (4) If the Form 2848 does not include the matter(s) and year(s) that are included on the offer, send a redacted letter to the representative. The letter to the taxpayer may inform him/her that he/she can file a Form 8821 or new Form 2848 that includes all matter(s) and year(s) covered in the offer.
- (5) If during the investigation it is discovered that the representative authorized under the POA no longer represents the taxpayer, secure a letter from the taxpayer revoking the POA and document the case history. Remove the POA information from AOIC.
- (6) Attorneys, Certified Public Accountants (CPA), enrolled agents, or enrolled actuaries are generally the only practitioners authorized to represent taxpayers before the IRS on collection matters.

Note: An unenrolled return preparer is an individual, other than an attorney, CPA, enrolled agent, or enrolled actuary, who prepares and signs a taxpayer's return as a preparer, or who prepared a return but is not required to sign the return. An unenrolled return preparer generally cannot represent a taxpayer before the IRS on any collection matter. An unenrolled return preparer, however, may represent a taxpayer before the IRS in certain other limited situations. Students working in LITCs and STCP who have submitted a Form 2848 and authorization letter from the Office of Professional Responsibility are also authorized to represent taxpayers before the IRS on collection matters.

- (7) During the course of the investigation, a taxpayer may submit a Form 2848 designating a third-party as their representative or power of attorney, or the taxpayer may submit a Form 8821 designating an appointee. When properly completed and filed by the taxpayer, each of these documents should be recognized during an investigation, and interaction with the third party should be governed by the parameters allowed within each of these authorization forms.
 - Form 2848 authorizes an eligible individual (e.g., attorney, CPA, enrolled agent, or enrolled actuary) to represent as well as receive confidential information.
 - Form 8821 authorizes an appointee to inspect and/or receive the taxpayer's confidential tax information.

- (8) If Form 8821 is missing critical information that can only be provided by the taxpayer (e.g., tax years, type of tax, missing taxpayer signature, date) it will be returned to the taxpayer.
- (9) Information that may be disclosed to the designee is limited to the type of tax, tax form number, tax years or periods, or specific tax matter that is listed on the Form 8821, item 3.
- (10) If Form 8821, item 5a is checked, the designee is also entitled to receive copies of tax information, notices, and other written communication on an ongoing basis for the type of tax, tax form number, tax years, or specific tax matter listed under item 3.
- (11) The designee is not authorized to act as the taxpayer's representative. For example, the designee may not advocate the taxpayer's position when responding to IRS correspondence.
- (12) Where a recognized representative has unreasonably delayed or hindered an examination, collection, or investigation by failing to furnish, after repeated request, non-privileged information necessary to the examination, collection or investigation, the Internal Revenue Service employee conducting the examination, collection, or investigation may be given permission to bypass the representative and contact the taxpayer directly for such information. 26 C.F.R. § 601.506(b) (Statement of Procedural Rules). Prior to contacting the taxpayer directly, the IRS employee must first complete bypass procedures. See IRM 5.1.23.5, By-Passing a Taxpayer's Representative, for procedures to bypass a POA.

5.19.24.22
(03-31-2020)

Return Reconsideration

- (1) This section does not apply to the return of offers deemed not processable or processable 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
 - R, V, W — solely to delay submissions
 - S — collection is in jeopardy
 - X — other investigations are pending that may effect ...
 - Y — original assessment fully abated
- (2) Situations may arise when the reconsideration of a returned offer would best serve the interests of both the Service and the taxpayer. Upon receipt of a return letter, taxpayers may telephone to object to the return of an offer. Below are the criteria for possible reconsideration.

Note: Notice 2006-68 states that an offer will not be deemed accepted under section 7122(f) if the offer is rejected, returned, voluntarily withdrawn or a discretionary withdrawal 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, withdrawn), 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 with the 24 months.

Refer to IRM 5.8.7.3.3 Reconsideration Procedures to process reconsideration requests and loading instructions.

5.19.24.23
(03-13-2023)
Closed File Retention

- (1) Closed offer cases (other than acceptances) will be retained within the centralized DATL processing units for a period of 2 years. Write or stamp Closed with the closed date on the case file. This file can be sent to the Federal Record Center (FRC). Document AOIC history and case history sheet with the FRC location, box number, ascension number, and date. Refer to Document 12990, Records Control Schedule, and IRM 1.15.4, Retiring and Requesting Records. In addition, this information should be input into AOIC under FRC tracking.
- (2) Electronic Exam DATL offers are not retained in FRC, they are retained in CEAS. All other DATL offers can be requested using the DLN located on IDRS with T 290. These are exam only.
- (3) For additional information, record retention requirements and input requirements, See IRM 5.8.7.12, Closed File Retention.

5.19.24.24
(06-01-2017)
DATL Reports

- (1) In order to summarize activity occurring each week, the centralized DATL units will prepare reports for DATL offers to include:
 - a. Opening inventory;
 - b. Offer receipts;
 - c. Offers returned because they could not be processed;
 - d. Offers returned after processing;
 - e. Offers withdrawn;
 - f. Offers accepted;
 - g. Offers rejected, not appealed;
 - h. Appealed offer rejections;
 - i. Offers transferred to the Area Office Examination function;
 - j. Offers transferred to the Appeals function (other than those included under h above;
 - k. Ending inventory;
 - l. Dollar amounts of adjustments, abatements, etc.
- (2) The report will cover the weekly period ending on Thursday.

5.19.24.24.1
(06-01-2017)
AOIC Inventory Management Reports

- (1) There are multiple AOIC inventory Management reports available on AOIC that should be used to track and monitor inventory, management responsibilities and reviews which should be adhered to. See IRM 1.4.52, Resource Guide for Managers, Offer in Compromise Manager's Resource Guide, for additional information.

5.19.24.25
(06-01-2017)
AOIC Transaction Listing

- (1) 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 XXXXXXXXXX (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.
- (2) Management must keep a binder of all reports pulled throughout the fiscal year with annotations on actions taken to resolve errors that appear on the report. If there are no errors for a certain day those pages must also be placed in the binder for a complete audit trail.

- (3) Any unusual errors or an increase of a particular error should be elevated to the SCOIC and Policy staffs.

5.19.24.26
(03-31-2020)
Documentation

- (1) Documentation must include, but is not limited to:
 - a. The basis of the processability determination.
 - b. The tax type and periods covered on the 656-L.
 - c. Perfection issues.
 - d. Case actions.
 - e. Requests for information/documentation.
 - f. Publications sent.
 - g. Conversations with taxpayers or representatives and the fact disclosure was verified.
 - h. Results of internal information analysis.
 - i. Special issues or circumstances.
 - j. Case decisions.
- (2) All documentation must be entered on AOIC.
- (3) As is the case with all offer determinations, employees must exercise good judgment. This good judgment needs to be clearly evident and articulated in the case file documentation and should be supported by the known case facts, circumstances, and supporting documents.
- (4) Prior to final processing, AOIC must be updated to indicate the correct basis for closing the offer and the dollar amount of the offer considered or adjusted. This will ensure that all final closing reports generated from AOIC reflect the correct basis and dollar amount. The approval levels indicated on closing reports and letters must be consistent with the basis for closure.
- (5) Documentation must be recorded the day the action occurs or as soon as practical thereafter.
- (6) Specific date must be documented when providing a time-frame to the taxpayer or POA.

5.19.24.27
(06-01-2017)
Usage of IAT Tools

- (1) IAT provides tools that simplify research, reduce keystrokes, eliminate repetitive typing, and increase the accuracy of regular work processes.
- (2) The use of IAT is mandatory and limited to the certain IAT Tools listed below. For User Guides, see the IAT web site at <http://iat.web.irs.gov/JobAids/iat.asp>
- (3) If an IAT tool is not available, or an employee has a problem with the IAT Task Manager, the case should be processed through IDRS, following established procedures. The employee must report the issue to the manager to determine if the issue should be reported to the IAT team. See the IAT Website, for how to report/fix problems with IAT tools.
- (4) Additional IAT tools will be added to the following list when one is deemed beneficial and seen as adding quality to Campus Specialty Offer work processes.
- (5) IAT tool users can visit the IAT Website, to become a subscriber to the IAT newsletter. The iNews details all ongoing IAT activity with tool retirements and rollouts.

- (6) The use of IAT tools are mandatory, if applicable, during the work process. Below is a list of IAT tools used in the DATL unit.

Manager Tool
EMT- Case Monitor
Refund Hold
Manual Refund
Erroneous Refund
Stop Refund
Reissue Refund
Disclosure (Phone Calls Only)
REQ54
Compliance Suite
Credit Transfer
Fill Forms
CAWR BRAT
aMend
BMF Penalties
BMFO RCA
CSI- Code Search Look up
ESTAB
FRM49
Payment Tracer
Quick CC
Phone Number
REQ 77
XClaim

