



IRS Nationwide Tax Forum | 2020

Advocating for Taxpayers with
Collection Information Statements

Learning Objectives

After completing this course, you will understand:

- When it's appropriate to submit Form 433-A, Collection Information Statement; and
- How to complete Form 433-A.

When to Consider Completing Form 433-A

- Unable to pay tax liability in full;
- Economic hardship due to an existing levy;
- Currently Not Collectible (CNC) determination is needed; or
- Monthly streamlined installment agreement payment is too high.

When to Consider Completing Form 433-A (Continued)

- Cannot pay the tax liability within the Collection Statutory Expiration Date (CSED)
- Does not meet criteria for a streamlined, guaranteed, or In Business Trust Fund-Express (IBTF) Installment Agreement
- Large dollar amounts are owed (*e.g.*, > \$25,000 or \$50,000)
- Request relief via an Offer-in-Compromise (OIC)

Form 433-A, Collection Information Statement (CIS)

Form 433-A is used when:

- A wage earner or self-employed individual;
- Has an outstanding tax liability; and
- Wants the IRS to consider his or her ability to pay.

Examples of Other Types of Form 433

- Form 433-B for corporations, partnerships, LLCs (only utilized when the business is the liable party)
- Form 433-F is a shorter version of 433-A for Automated Collection System (ACS) and sometimes used by revenue officers

Best Practice Tips for Interviewing New Clients

- Is tax problem related to a specific event?
- Is the event ongoing?
- Is your client compliant with filings?
- Can your client make estimated payments or federal tax deposits?

Best Practice Tips for Interviewing New Clients (Continued)

- Can your client adjust cash flows or future profits?
- Is your client a wage earner, self-employed or both?
- Does the client work full time, part time, or seasonally?

When a CIS is Not Required

A CIS is not required if the taxpayer qualifies for:

- Guaranteed Installment Agreements;
- Streamlined Installment Agreements;
- Business Trust Fund Express Installment Agreements;
- Some Currently Not Collectible Hardship; and
- Some Offers in Compromise

Allowable Living Expenses (ALE) National Standards

Are your client's expenses less than the ALE national standard amount?

- If so, then no documentation is necessary
- If not, then credible verbal testimony or written documentation required

Allowable Living Expenses (ALE) Local Standards

- Amounts vary by location
- Generally, the taxpayer is allowed the lesser of the amount claimed or the standard
- If the amount claimed is more than the standards, the taxpayer must provide documentation to substantiate those expenses are necessary

Allowable and Necessary Expenses

Necessary expenses test:

- Allows for taxpayer and family members
- Necessary for health and welfare or production of income

Conditional expenses may be allowable based on the circumstances (*e.g.*, reasonable fees for representation to resolve the IRS controversy)

Supplemental Tables and Charts

If additional space is needed to respond completely to questions such as:

- Personal Bank Accounts
- Investments
- Virtual Currency (Cryptocurrency)
- Available Credit
- Real Property

Other Substantiation Considerations

Expenses over the standard or to verify other necessary expenses, such as:

- Vehicle Ownership Costs
- Out of Pocket Health Care Costs
- Other Expenses

Other Substantiation Considerations (Continued)

Other Self- Employed documents:

- Income Statement
- Profit and Loss Statement

Spouses or Cohabitants With Separate Liabilities

- One spouse has a tax liability, both have income: list the total household income and expenses if shared expenses or live in a community property state.
- Do not live in a community property state, do not share expenses: list income and expenses for the liable spouse only.
- Verification of expenses may be requested.

Spouse Requesting Separate Treatment For a Joint Liability

- A divorced or separated taxpayer may request separate treatment on a joint liability
- If approved, Collection can continue for the non requesting spouse.
- Complete the CIS for the requesting taxpayer.
- Verification of expenses may be requested.

Community Property States

- Arizona
- California
- Idaho
- Louisiana
- Nevada
- New Mexico
- Texas
- Washington
- Wisconsin
- Alaska

Completing a CIS

- Wage Earners:
 - Complete Sections 1, 2, 3, 4, and 5
- Self-Employed Individuals:
 - Complete Sections 1, 3, 4, 5, 6 and 7
- If a wage earner and have self-employment income:
 - Complete Sections 1 through 7

Completing a CIS (Continued)

- Answer all questions or write N/A if the question is not applicable.
- Include attachments if additional space is needed to respond completely to any question.
- Additional verification may be required after the IRS reviews the completed Form 433-A.
- Certification for Signature line on page 4 must be signed.

Submitting a Completed CIS

- Submission address depends on IRS office working the case
- Mail or hand deliver to Revenue Officer
- Mail to address stated in notice, publication and/or instructions

Use a CIS to Obtain Relief

- Obtain levy release;
- Stop active collection by placing the account into CNC; and
- Getting the IRS to accept an OIC

Relief from Levy/Seizure

- Release required when economic hardship proven with respect to an individual taxpayer
- Release can be obtained through collection alternative

Currently Not Collectible (Hardship)

- Client unable to pay reasonable basic living expenses
- Applies to individuals, sole proprietors, general partners liable, and single member LLCs



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Health and Welfare Expenses

- Prove living expenses reasonable/necessary
- Prove no ability to pay after living expenses paid
- Prove no equity in assets or the equity is necessary to pay living expenses



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Offer in Compromise

- Gross income minus necessary living expenses multiplied by (12 cash offer, 24 payment offer)
- Current income generally used for calculation
- Situations may dictate estimating income

Offer in Compromise (Continued)

Causes of fluctuating income:

- Unemployment (temporary or long-term)
- Health conditions
- Pending retirement

Homes and Mortgages

- A home in disrepair may distort the picture of a client's ability to pay
- Easier to make the case to a revenue officer than ACS
- Verify that your client has clear title to the property

Ethical/Professional Obligations to Amend a CIS

- Certification for Signature line on page 4 must be signed.
 - **Certification:** *Under penalties of perjury, I declare that to the best of my knowledge and belief this statement of assets, liabilities, and other information is true, correct, and complete.*
- Resubmit Form 433-A and/or supporting documentation if found to be inaccurate.



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2020

Frivolous Submissions Penalty

- Taxpayer may be subject to \$5,000 penalty
- Example: Proposed OIC amount based on position that filing a tax return is voluntary rather than information reported on CIS

Consequences of Filing a False Submission

- Felony
- Fine of not more than \$100,000 (\$500,000 in the case of a corporation)
- Imprisonment of not more than three years, or both

Wrap-Up Review

Today's presentation covered:

- Completing and submitting Form 433-A;
- When to include supplemental documentation; and
- Using a CIS to negotiate various collection alternatives

Resources

- Pub 1854, How to Prepare a Collection Information Statement (Form 433-A)
- Pub 5059, How to Prepare a Collection Information Statement (Form 433-B)
- <https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards>
- IRM 5.15.1, *Financial Analysis Handbook*
- IRM 5.16.1.2.9, *Hardship*

How TAS Can Help

- Determine the status of a claim and whether timeframes are being met
- Ask IRS to reconsider a denial of an OIC or IA or to review at a higher level
- TAS is not a substitute for normal appeal rights

TAS Resources

- www.TaxpayerAdvocate.irs.gov
- www.youtube.com/tasnta
- www.facebook.com/YourVoiceAtIRS
- twitter.com/YourVoiceatIRS
- Call 877.777.4778
- File Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*