



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.8.5

APRIL 8, 2024

## EFFECTIVE DATE

(04-08-2024)

## PURPOSE

- (1) This transmits a revision for IRM 5.8.5, Offer in Compromise, Financial Analysis.

## MATERIAL CHANGES

- (1) The following subsections were revised:

IRM Reference	Summary of Changes
5.8.5.1.7	Added reference to IRM 5.15.1, Financial Analysis Handbook.
5.8.5.2(2)	Modified language to include equity in assets when determining full pay potential.
5.8.5.2(3)	Added paragraph (3) to request withdrawal if taxpayer has ability to full pay. Renumbered existing (3) to (4).
5.8.5.3(2), 5.8.5.3.1.4(1), 5.8.5.20(6), 5.8.5.24(3).	Incorporated IGM SBSE-05-0823-0047, Interim Guidance on Secure Messaging for SCOIC Employees, dated 08-03-2023.
5.8.5.2(4)	Renumbered from (3), added language to consider equity in assets.
5.8.5.3(4)	Clarified language about disclosure to taxpayers living in separate households.
5.8.5.3.1.1(2)	Incorporated IGM SBSE-05-0223-0001, Interim Guidance on OIC-IAT Usage in the Offer in Compromise Process, dated 02-28-2023, to (2). Renumbered existing (2) to (3).
5.8.5.3.1.1(3)	Modified language to utilize appropriate sources to verify the CIS and document the results of investigation in the case history.
5.8.5.3.1.1(3) Table	Added use information to RTVUE/ BRTVUE and IRPTRO.

<b>IRM Reference</b>	<b>Summary of Changes</b>
5.8.5.3.1.1(3) Table	Clarified requirement for securing an RAR.
5.8.5.3.1.1(3) Table	Moved reference to Accurint and modified description.
5.8.5.3.1.1(3) Table	Added Online Real Estate Sources, e.g., Zillow, Redfin for FMV research.
5.8.5.3.1.1(3) Table	Added Internet Sources as a research source.
5.8.5.3.1.1(3) Note	Added note to clarify when to research credit bureau, FATCA, and CKGE research.
5.8.5.3.1.1(5)	Added clarification to copy/paste research information into case history if appropriate and to document results of analysis in case history.
5.8.5.3.1.2(6)	Clarified language for documenting the case history with results of credit bureau research.
5.8.5.3.1.4(2) Table	Added language to review bank deposits or transfers out for undisclosed accounts or income sources.
5.8.5.4.1(2)	Added reference to Fast Track Mediation.
5.8.5.5(1)	Added paragraph to calculate one RCP for married taxpayers with separate offers.
5.8.5.5(2)	Renumbered from (1). Modified language about allocation of RCP between separate offers.
5.8.5.5(3)	Added paragraph to allocate RCP based on the percentage share of liability and to not exceed the liability owed on either offer. Added example.
5.8.5.5(3)	Moved note in (1) to new (3) and modified examples to clarify when it may be appropriate to allocate equity or FIV to separate offers.

IRM Reference	Summary of Changes
5.8.5.6(4)	Modified language about assigning a value to transferred assets.
5.8.5.6(6)	Modified rejection language based on assets or income not related to transferred property, nominee, or alter-ego.
5.8.5.7(1)	Clarified note not to reduce cash by \$1000 if the taxpayer can full pay. Deleted exception.
5.8.5.7(3)	Added note and example to clarify when it may be appropriate to reduce the amount of cash by allowable expenses.
5.8.5.7(6)	Added paragraph to include cash held in peer to peer payment or online gambling applications to the AET. Renumbered (7) through (10).
5.8.5.7(8) and (9)	Deleted reference to offer deposits.
5.8.5.7.1(2)	Deleted references to offer deposits.
5.8.5.8	Renamed to Securities, Closely Held Stock, and Business Interests.
5.8.5.8(3)	Clarified language for valuing publicly traded stocks.
5.8.5.8(4)	Added new paragraph for valuing publicly traded bonds.
5.8.5.8(5)	Added new paragraph for determining the value of closely held stock or interests in a business, added an example.
5.8.5.8(7)	Modified language in first bullet on when to use ALEs in determining excessive officer compensation. Added bullet to address undistributed K-1 income.
5.8.5.8(7)	Deleted paragraph referencing virtual currency.

<b>IRM Reference</b>	<b>Summary of Changes</b>
5.8.5.8.1	Added new subsection Digital Assets.
5.8.5.9(3) Table	Modified note to define selling a life insurance policy as a Life Settlement or Viatical Settlement. Updated guidance and examples on valuing a life insurance policy.
5.8.5.10(4)	Added language to consider large contributions to retirement plans as a dissipated asset.
5.8.5.12	Modified language in the note regarding the determination if a taxpayer can full pay.
5.8.5.13(2)	Added note to consider multiple verification sources when valuing real property. Added example.
5.8.5.13(5)	Added language to note about applying ETA or DATCSC to real property.
5.8.5.13(5)	Added an example to consider a reverse mortgage when applying ETA or DATSC criteria to real property. Modified language in existing example and added potential CNC alternative.
5.8.5.20(2)	Added reference to IRM 5.15.1.12
5.8.5.20(6)	Added example (4) for when to include the monthly cash advance from a reverse mortgage in income.
5.8.5.22.3(3)	Deleted reference to retired debt.
5.8.5.22.3(6)	Increased the age and mileage thresholds for additional vehicle operating expense.
5.8.5.24(3)	Added reference to 5.8.5.5 in table when allocating RCP.
5.8.5.26(3)	Added language on the treatment of cash expenditures in the ongoing operations of a business.
5.8.5.29 (2) & (3)	Modified language in (2) to refer to CSED extensions by waiver and deleted paragraph (3).

IRM Reference	Summary of Changes
5.8.5	Editorial changes made throughout.

- (2) Reviewed and updated website addresses, legal references and IRM references, as necessary.

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

This IRM supersedes IRM 5.8.5 dated 9/24/2021. Incorporates IGM SBSE-05-0223-0001, Interim Guidance on OIC-IAT Usage in the Offer in Compromise Process, dated 02-28-2023 and IGM SBSE-05-0823-0047, Interim Guidance on Secure Messaging for SCOIC Employees, dated 08-03-2023.

#### **AUDIENCE**

SBSE Collection Offer Examiners, Offer Specialists, and other IRS employees who conduct investigations of a taxpayer's offer in compromise.

Rocco A. Steco  
Director, Collection Policy



5.8.5  
Financial Analysis

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5.8.5.1  
(09-24-2021)  
**Program Scope and Objectives**

- (1) **Purpose:** This section provides:
  - Instructions for financial analysis while conducting offer investigations.
  - Guidance on the valuation of assets in determining reasonable collection potential (RCP).
  - Information on research tools available to locate and value taxpayer's income and assets.
- (2) **Audience:** These procedures apply to Internal Revenue Service (IRS) employees who are responsible for investigating offers and to other employees who may review or consider a taxpayer's appeal of an offer:
  - Offer examiners (OE) in Centralized Offer in Compromise (COIC).
  - Offer specialists (OS) in the Field Offer Territories (FOIC).
  - Employees assigned to the offer program and any others who conduct offer in compromise investigations and consider offer in compromise appeals.
- (3) **Policy Owner:** Director, Collection Policy, SBSE.
- (4) **Program Owner:** Collection Policy SBSE, Offer in Compromise (OIC) Program.
- (5) **Primary Stakeholders:** COIC and FOIC employees.
- (6) **Program Goals:** Policy Statement 5-100 explains the objective of the OIC as a collection tool. This Internal Revenue Manual (IRM) section provides the fundamental knowledge and procedural guidance for offer examiners and offer specialists engaged in the investigation of offers. The procedures in this IRM include guidance so employees will be able to complete offer investigations and initiate taxpayer contact, when appropriate. By following the procedures in this IRM, employees will be able to conduct an appropriate financial analysis to support an offer in compromise determination.

5.8.5.1.1  
(09-24-2021)  
**Background**

- (1) An offer in compromise (referred to as an offer or OIC) is a taxpayer's written proposal to the Government to settle a tax liability for an amount less than previously determined and assessed. Revenue Procedure 2003-71 explains the procedures applicable to the submission and processing of offers to compromise a tax liability under **Section 7122** of the Internal Revenue Code. The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) also provided additional requirements for submission of an offer.
- (2) Doubt as to Collectability offers are submitted to one of the IRS locations for consideration and evaluated on the basis of its processability, the taxpayer's ability to pay, and the taxpayer's foreseeable future earnings. 26 CFR 300.3, Offer to compromise fee, and Notice 2006-68 also provide information on the submission of payments and fees associated with an offer submission. During the offer investigation, the taxpayer's individual circumstances are evaluated and the IRS will make a determination for disposition to either return, reject, terminate, or accept the offer, or the offer may be withdrawn. This section provides direction to offer examiners, offer specialists, and IRS employees in the Independent Office of Appeals who conduct financial analysis of a taxpayer's offer in compromise.

5.8.5.1.2  
(09-24-2021)  
**Authority**

- (1) Authorities relating to this section include:
- Internal Revenue Code (IRC) 7122 - Compromises
  - Treasury Regulations 301.7122-1 - Compromises
  - IRC 6702(b) - Civil penalty for specified frivolous submissions
  - Policy Statement 5-100, Offers will be accepted, located in IRM 1.2.1.6.17
  - Policy Statement 5-89, Offer may be rejected for public policy reasons, located in IRM 1.2.1.6.15
  - 26 CFR 300.3, Offer to compromise fee
  - Revenue Procedure 2003-71
  - Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)
  - Notice 2006-68
  - IRM 1.2.1, Servicewide Policy Statements
  - IRM 1.2.2, Servicewide Delegations of Authority

5.8.5.1.3  
(09-24-2021)  
**Responsibilities**

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

5.8.5.1.4  
(09-24-2021)  
**Program Management and Review**

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

5.8.5.1.5  
(09-24-2021)  
**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) ICS is used by FOIC as a method for inventory control and history documentation.

- (3) Managers are required to follow program management procedures and controls addressed in IRM 1.4.52, Resource Guide for Managers.
- (4) Managerial Requirements for case approval are defined in Del. Order 5-1.
- (5) The review conducted by the Office of Chief Counsel on certain offers is in accordance with Treasury Regulations 301.7122-1 - Compromises.

5.8.5.1.6  
(09-24-2021)

**Terms/Definitions/  
Acronyms**

- (1) The following table is a list of common abbreviations, definitions and acronyms used throughout this IRM.

Acronym	Definition
ACS	Automated Collection System
AET	Asset Equity Table
AOIC	Automated Offer in Compromise
ATAT	Abusive Tax Avoidance Transaction
APS	Account and Processing Support
ASTARS(OCI)	Abusive Schemes Tracking and Reporting System (Offshore Compliance Initiative)
CAU	Caution Indicator
CDP	Collection Due Process
CFFC	Collection Functional Fraud Coordinator
CIS	Collection Information Statement
CKGE	Compliance Data Warehouse Knowledge Graph Environment
COIC	Centralized Offer in Compromise
CSED	Collection Statute Expiration Date
DATC	Doubt as to Collectibility
DATCSC	Doubt as to Collectibility with Special Circumstances
DATL	Doubt as to Liability
DP	Decision Point Tool on AOIC
DPC	Designated Payment Code
DVDP	Domestic Voluntary Disclosure Program
EH	Equivalent Hearing
ES	Estimated Tax Payment

Acronym	Definition
ETA	Effective Tax Administration
FATCA	Foreign Account Tax Compliance Act
FTA	Fraud Technical Advisor
FMV	Fair Market Value
FOIC	Field Offer in Compromise
FTD	Federal Tax Deposit
IAT	Integrated Automation Technologies
ICS	Integrated Collection System
IET	Income Expense Table
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
LLC	Limited Liability Company
MFT	Master File Transaction
MOIC	Monitoring Offer in Compromise
NFTL	Notice of Federal Tax Lien
NIBIG	Not in the Best Interest of the Government
NRE	Net Realizable Equity
OE	Offer examiner
OI	Other Investigation
OIC	Offer in Compromise
OS	Offer specialist
OVDP	Offshore Voluntary Disclosure Program
PDT	Potentially Dangerous Taxpayer
PPIA	Partial Payment Installment Agreement
QSV	Quick Sale Value
RAR	Revenue Agent Report
RCP	Reasonable Collection Potential
RO	Revenue Officer
SERP	Servicewide Electronic Research Program

Acronym	Definition
TIPRA	Tax Increase Prevention and Reconciliation Act of 2005
TFRP	Trust Fund Recovery Penalty

5.8.5.1.7  
(03-23-2018)

#### Related Resources

- (1) Additional resources can be found in IRM 5.8, Offer in Compromise, and IRM 5.15.1, Financial Analysis Handbook.
- (2) Employees can find helpful information on these websites:
  - *SERP*
  - *Internal Management Document site*

5.8.5.2  
(04-08-2024)

#### Ability to Pay

- (1) The ability to pay determination will be made on the liability(s) (assessed and unassessed) due at the time the taxpayer submitted the offer .
- (2) Complete a calculation based on the Collection Information Statement submitted with the offer to determine if the taxpayer can full pay through installment agreement guidelines, liquidating or borrowing from equity in assets, or a combination of both. Compute the taxpayer's ability to make payments over the remaining Collection Statute Expiration Date (CSED), based on submitted substantiation and applying installment agreement standards and allowances. Do not include the additional allowances provided in IRM 5.8.5.7, Cash, and IRM 5.8.5.12, Motor Vehicles, Airplanes, and Boats when completing the initial full pay determination. It is appropriate to use Decision Point (AOIC) or Integrated Automation Technologies (IAT) Compliance Suite Payment Calculator (IAT Tools) to ensure accruals are taken into consideration. Complete this computation after the taxpayer's compliance has been verified and prior to initial financial analysis.

**Note:** The OE/OS must not reduce the liability due at the time of offer submission by the initial offer payment or any periodic payments received during the offer investigation when determining ability to full pay. A reduction of the liability based on a refund offset or other type of payment, i.e. levy proceeds, is appropriate.

**Exception:** If the taxpayer indicates special circumstances or effective tax administration criteria may apply, continue the offer investigation without completing the initial calculation to determine if the taxpayer can full pay via an installment agreement or liquidation of assets.

- (3) If the initial calculation indicates the taxpayer can full pay through a lump sum payment, installment agreement, or a combination of both, contact the taxpayer to discuss withdrawing the offer and entering an alternative resolution. If the taxpayer does not withdraw the offer or provide a response that changes the full pay determination, follow the procedures in IRM 5.8.7.7, Rejection, to reject the offer.
- (4) If the initial calculation indicates the taxpayer cannot full pay based on installment agreement guidelines or by utilizing equity in assets, continue the investigation to determine the reasonable collection potential (RCP). Refer to

IRM 5.8.4.3, Doubt as to Collectibility, involving situations when the calculated amount potentially received through a Partial Payment Installment Agreement (PPIA), which does not full pay the liability, is substantially more than the amount of the offer.

- (5) Document the history supporting your determination of the taxpayer's ability to full pay the tax liability including any accrued interest and penalties.

5.8.5.3  
(09-24-2021)  
**Taxpayer Submitted Documents**

- (1) Collection Information Statements (CIS) and related documentation submitted with an OIC should reflect current information as of the date of the OIC submission.
- (2) If during the investigation, the financial information becomes older than 12 months and it appears significant changes have occurred, a request for updated information may be appropriate. Prior to contacting the taxpayer, attempt to secure the necessary verification through internal sources. If taxpayer contact is required, it is preferable to initiate contact via telephone or IRS approved electronic means, such as Secure Messaging, to expedite case processing.
- (3) In certain situations, information may become outdated due to significant processing delays caused by the IRS and through no fault of the taxpayer. In those cases, it may be appropriate to rely on the outdated information if there is no indication the taxpayer's overall situation has significantly changed. Judgment should be exercised to determine whether, and to what extent, updated information is necessary. If there is any reason to believe the taxpayer's situation may have significantly changed (i.e. change of employment, loss of job, etc.), and substantiation cannot be secured via internal research, secure a new CIS or update the CIS information through taxpayer contact.
- (4) The offer specialist/offer examiner (OE/OS) must use caution when taxpayers submit a joint offer in which the taxpayers do not reside together, the IRS must not disclose financial information provided by one spouse to the other spouse who does not live in the same household. In these instances, it may be appropriate to ask the taxpayers to submit two offers since the financial information must be evaluated separately. If the taxpayers are unwilling to submit two offers, securing a Form 8821, Tax Information Authorization, will allow for the ability to share information with the other spouse, if necessary. If the taxpayers refuse to submit two offers or a Form 8821, the offer investigation may proceed if all information is available to make a decision on the taxpayer's offer. If either taxpayer is unable or unwilling to provide requested financial information the joint offer may be returned under the provisions that requested financial information was not provided.

**Note:** If taxpayers are submitting a joint offer and do not reside in the same household, separate Forms 433-A/B(OIC) are required.

5.8.5.3.1  
(09-24-2021)  
**Verification**

- (1) A thorough verification of the taxpayer's CIS, Form 433-A(OIC) and/or Form 433-B(OIC), involves reviewing taxpayer submitted documentation and information available from internal sources. As a general rule, additional documentation will not be requested when the information is readily available from internal sources or it would not change the recommendation.

**Note:** If the taxpayer does not provide documents required in the Form 656 instructions with the offer submission, in most instances a request will be made for those documents as they are deemed necessary to verify taxpayer's income, expenses, and/or asset ownership. See IRM 5.8.5.3.1.4, Verification through Taxpayer Contact.

- (2) Collection issues that have been addressed during a prior investigation will not be re-examined, unless there is convincing evidence that such reinvestigation is absolutely necessary. Investigative actions that are less than 12 months old may be used to evaluate the OIC, unless the taxpayer indicates there has been a material change or there is evidence indicating their financial situation has changed in the intervening months.

**Example:** If a revenue officer has completed a full CIS analysis, including verification of assets, income, and expenses, and has made a determination of the fair market value (FMV) of assets, equity in assets and monthly ability to pay, this information will not be re-investigated. The OE or OS will use the RO's determinations included in ICS to calculate the RCP. However, any differences between the taxpayer's and the RO's CIS should be resolved by contacting and discussing the differences with the taxpayer, by phone, if possible.

- (3) Prior to accepting an offer, it may be appropriate to contact the taxpayer to determine the source of the offer funds.

5.8.5.3.1.1  
(04-08-2024)  
**Verification through  
Internal & External  
Research**

- (1) Verify as much of the CIS as possible through internal and external research sources.
- (2) Research OIC-IAT to screen for account conditions that may:
  - Preclude consideration of an offer
  - Warrant a "not in the best interest of the government" rejection (see IRM 5.8.7.7.1)
  - Require additional investigation
- (3) Research the following internal and external information sources to verify the CIS. Discuss any major discrepancies between the sources reviewed and the financial statements and/or related documents submitted by the taxpayer/POA. Document the results of your investigation to include assets which require further investigation and verification of ownership such as potential real property ownership, potential nominee/transferee issues, vehicles not listed on the CIS, and recent sales of real property in the AOIC/ICS history. The amount of required research is dependant on individual case needs. The OE/OS should review the appropriate verification sources to verify assets values and income listed on the CIS and any undisclosed assets or income sources found through their research. This list is not all inclusive.



Internal & External Sources	Review to
ENMOD and INOLES	Identify/research cross reference TINs for related business activity not declared on the CIS.
SUMRY, IMFOL, and BMFOL	Verify full compliance and determine if there are any open control bases or freeze codes. Review Total Positive Income (TPI) to determine if any difference is present between TPI and adjusted gross income (AGI) and the impact the difference may have on the determination of future income.
RTVUE (IMF)/ BRTVUE (BMF), TRDBV, or TDS	<ul style="list-style-type: none"> <li>• Compare the amount of reported income and expenses declared on the CIS to verify the amounts are within reason.</li> <li>• Review income sources such as dividends or capital gains for potential assets.</li> <li>• Compare real estate and mortgage interest deductions to the CIS to identify property ownership and expenses.</li> <li>• Review deductions or expenses on Schedules A, C, or E for potential assets.</li> </ul> <p><b>Note:</b> Wages reported on tax returns may not equal the taxpayer's gross wage income because of certain allowable deferred income items or deductions. Compare wage income to what is reported on Form W-2 and use gross wage income for IET purposes.</p>



Internal & External Sources	Review to
IRPTRO	<ul style="list-style-type: none"> <li>• Compare real estate tax and mortgage interest deductions to the amounts declared on the CIS. Discuss any difference with the taxpayer to determine the reason for the increase or decrease.</li> <li>• Identify accounts not reported on the CIS, such as certificates of deposit or investment accounts.</li> <li>• Verify sources of income, such as employers, bank accounts, and retirement accounts.</li> <li>• Identify recent transferred or disposed of assets, such as stocks and bonds.</li> <li>• Review W-2 information to determine if taxable wages are less than FICA wages, which may indicate the taxpayer has an employer sponsored retirement account (401k or 403b) or other non-taxable income.</li> <li>• Identify foreign bank and Financial Account Report (FBAR) transactions.</li> <li>• Review Forms 1099 for income sources or potential assets such as: <ul style="list-style-type: none"> <li>• F1099-MISC/NEC: Income sources</li> <li>• F1099-INT: Cash in interest bearing account</li> <li>• F1099-B or DIV: Stocks or brokerage account</li> <li>• F1099-R: Retirement account</li> <li>• F1099-S: Sale of real estate</li> </ul> </li> </ul> <p><b>Note:</b> Certain income is not reported via Form 1099 unless a specific dollar amount or number of transactions are met. The OE/OS must question the taxpayer when the potential exists they receive income from the gig economy (also called sharing or access economy in which on demand work/services are provided). In these instances, question the taxpayer about additional income sources. These questions are necessary in certain situations such as when the CIS includes expenses which exceed income by a considerable amount or taxpayer does not have a bank account and uses digital payment network e.g. Paypal, Zelle, Venmo, etc.</p>
Accurint	<p>Accurint is a national asset locator tool that searches other aliases, related business entities, UCC filings, property ownership, judgments, and vehicle registrations. It provides interactive research capabilities including hyperlinks to real estate information and records of sale. The OE/OS will only use current information to verify the taxpayer's ownership or interest in assets.</p>

Internal & External Sources	Review to
Revenue Agent Report (RAR) - recently audited returns	Determine if the taxpayer has any hidden assets/income.
State Motor Vehicle Records	If sufficient information is not available via Accurint, state DMV may assist in identifying motor vehicles currently registered to the taxpayer but not declared on the CIS. Also check for ownership in business names.
Real Estate Records	<ul style="list-style-type: none"> <li>Identify real property titled to the taxpayer but not declared on the CIS.</li> <li>Identify property held by transferee, nominee, or alter ego. Also check for ownership in business names.</li> </ul>
Google Maps	Identify the condition of property if owned by taxpayer. <b>Note:</b> The date the image was added to Google Maps should be noted to determine if is still an accurate picture.
Online Real Estate Sources, e.g., Zillow, Redfin, etc.	<ul style="list-style-type: none"> <li>Identify potential FMV of property.</li> <li>Identify sale and tax assessment history.</li> <li>Research comparable sales to determine FMV.</li> <li>Identify property and neighborhood condition.</li> </ul>
CDW Knowledge Graph Environment (CKGE)	<ul style="list-style-type: none"> <li>Identify related entities, including shareholders and partners.</li> <li>Look for an analysis of the relationships between the associated entities. Identify <b>footprints</b> which may indicate shelter activity.</li> <li>Look for a visual representation of structure and linkages between the taxpayer and related entities.</li> </ul> <p>CKGE access requires managerial approval.</p>
Foreign Account Tax Compliance Act (FATCA)	See also, IRM 5.8.5.3.1.3, Researching Foreign Assets. Review when taxpayer may have foreign accounts.
Abusive Schemes Tracking and Reporting System (ASTARS)/Offshore Compliance Initiative(OCI)	The Offshore Compliance Initiatives Information Database is a searchable repository of summonsed information relating to the Offshore Compliance Initiatives program. The OE/OS can search the data base for indication of the virtual currency.

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Internal & External Sources	Review to
Credit Bureau Report	<ul style="list-style-type: none"> <li>Identify past residences and employers.</li> <li>Verify competing lien holders, balances due and payment history.</li> <li>Identify property not listed on CIS.</li> </ul>
Internet Sources	<ul style="list-style-type: none"> <li>Identify potential income sources and assets on a taxpayer's website.</li> <li>Determine the value of assets.</li> <li>Research property ownership and values.</li> <li>Identify possible business interests.</li> <li>Research business industry trends.</li> </ul>

**Note:** Although Credit Bureau Reports, CKGE, and FATCA are required if specific thresholds are met prior to accepting an offer, they may be researched regardless of the amount owed and before an acceptance determination is made. The OE/OS should consider researching these sources at the beginning of the investigation to address any discrepancies with the taxpayer following their initial analysis.

- (4) Employees may refer to the OIC SharePoint site for additional research sites available.
- (5) Copies of documents that impact the financial analysis should be included in the case file e.g., credit report (see IRM 5.8.5.3.1.2 for destruction of credit reports), Accurint, real property ownership/values, motor vehicle ownership, etc. Alternatively, specific information from reviewed documents used to verify the CIS may be copied and pasted to the case history. The analysis of information sources used to verify the taxpayer's financial condition must be documented in the case history and any discrepancies between these sources and the taxpayer's CIS must be fully explained.

5.8.5.3.1.2  
(04-08-2024)  
**Securing Credit Reports  
to Verify Taxpayer  
Information**

- (1) Based on your discretion and judgment, consider securing a full credit report to assist in locating taxpayer assets, verifying financial information, and/or determining an alternative resolution to an OIC. The case history must be documented with the reason(s) for the request.

**Note:** If the taxpayer and taxpayer spouse sign an original offer that includes joint and separate periods, the credit bureau report can be secured on both parties since there are joint liabilities on the form 656.

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- (3) All credit report requests require managerial approval.
- (4) When computing equity in real estate or allowable motor vehicles, and the taxpayer has not submitted substantiation of loan balances claimed on the Form 433-A(OIC), OE/OS should request a credit report and use the loan balance information to determine the current balances of any relevant loans from commercial lenders. If the loan is from a private source, it may be necessary to contact the taxpayer/representative for the information.
- (5) Procedures for destruction of credit reports for OICs is as follows:
  - a. For rejected cases, refer to IRM 5.8.7.11, Destruction of Credit Reports.
  - b. For accepted cases, refer to IRM 5.8.8.15, Destruction of Credit Reports.
  - c. For all other closures (returned, withdrawn, terminated), refer to IRM 5.8.7.11, Destruction of Credit Reports.
- (6) In all cases, where a credit report was secured, document the case history with a summary of the items identified in the report. A summary of the credit report must include any information relevant to the offer recommendation such as loan balances, identification of additional assets, etc.

5.8.5.3.1.3  
(09-24-2021)  
**Researching Foreign Assets**

- (1) When a taxpayer owns or indications are they may own assets outside the country the OE/OS must include those assets in the calculation of RCP. Assets may include, real property, bank accounts, other personal property, or income sources. Information is available in IRM 5.21.3, Collection Tools for International Cases to assist in locating and valuing assets outside the country. In some instances, it may be appropriate to contact an International or Abusive Tax Avoidance Transaction group for assistance in valuing or locating these assets.

5.8.5.3.1.3.1  
(09-24-2021)  
**Securing Foreign Account Tax Compliance Act (FATCA) Data**

- (1) FATCA requires foreign financial institutions (FFIs) and certain non-financial foreign entities to report annually on non-U.S. accounts held by their U.S. account holders. FFIs report FATCA data on **Form 8966**, FATCA Report. Even though the IRS possesses the Form 8966 reports, treaty restrictions may limit or prohibit the IRS from using this information. For additional information relating to disclosures under IRC 6103 see IRM 5.1.22, Field Collecting Procedures, Disclosure, and IRM 11.3.2, Disclosure of Official Information, Disclosure to Persons with a Material Interest.
- (2) An OE/OS should conduct a review of FATCA information on any case in which the taxpayer appears to have an interest in foreign assets or accounts. A FATCA request will also be made if the Form 433-A(OIC) lists foreign income, accounts or other foreign assets. It is also appropriate to request FATCA if the taxpayer has indicated they lived outside the United States or have an interest in a foreign business. FATCA data must be requested from an employee designated as a FATCA Super User. Instructions for submitting a FATCA request form and appropriate use of the information secured is available on the OIC SharePoint site.

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5.8.5.3.1.4  
(04-08-2024)  
**Verification through  
Taxpayer Contact**

- (1) If not present in the file when assigned for investigation and internal sources are not available or indicate a discrepancy, appropriate documentation will be requested from the taxpayer either verbally, in writing, or through the use of secure messaging, to verify the information on the CIS. A request for additional information and verification should be based on the taxpayer's circumstances and the information must be necessary to make an informed decision on the acceptability of the taxpayer's OIC. Do not make a blanket request for information that would have no impact on the case resolution. Do not request any information that is available internally, yet if documents required based on Form 656 instructions were not included, a discussion should be held with the taxpayer/representative about why certain documents were not submitted.

**Note:** Any request for information from the taxpayer that is available via internal sources must include documentation in the AOIC/ICS history with the reason for the request.

- (2) The chart below provides guidance to the types of information that may be needed to verify the CIS if not included or addressed with the original Form 656, 433-A(OIC), or 433-B(OIC). This list is not all inclusive.

**Note:** Generally, current is defined as 3 months as of the date the Form 656 was received.

Taxpayer Documentation	Review to
<p>Wage Earner — three months of wage statements or a current wage statement with year-to-date figures.</p>	<ul style="list-style-type: none"> <li>• Compare earnings to the income declared on the CIS.</li> <li>• Verify adequate tax withholding.</li> <li>• Identify payroll deductions.</li> <li>• Identify deductions to savings accounts, credit union accounts, or retirement accounts.</li> </ul>
<p>Self-employed – proof of gross income, profit and loss (P&amp;L) statement from the most recent 6 - 12 month period.</p> <p><b>Note:</b> In certain instances, more specific information may be required from the taxpayer including accounts receivable listings, commission statements, etc.</p>	<p>Compare earnings to the income declared on the CIS.</p>
<p>Bank statements – three current months showing the monthly transactions, withdrawals, and deposits for IMF accounts and six months for operating businesses.</p>	<p>Compare deposit amounts to income reported on the tax return and CIS. Question deposits that exceed reported income and unusual or large expenses paid. Review for deposits from or transfers to undisclosed bank accounts, peer to peer payment applications (e.g. Venmo, Zelle, Cash App), online gambling applications, or undisclosed income sources. Verification of the actual amount of any large asset purchase expense being paid is also appropriate.</p> <p><b>Note:</b> Only consider requesting specific cancelled checks and deposit items if questionable items cannot be adequately explained. See IRM 5.8.5.7, Cash.</p> <p><b>Note:</b> If regular deposits are identified from peer to peer payment application sources consider requesting activity statements to verify potential income sources.</p>

<b>Taxpayer Documentation</b>	<b>Review to</b>
Retirement account statements and brochures, brokerage account statements, securities, or other investments	Identify the type (mandatory/voluntary), conditions for borrowing, conditions for withdrawal, and current market value. IRM 5.8.5.10, Retirement or Profit Sharing Plans.
Life insurance policies	Identify the cash value or market value of the policy. See IRM 5.8.5.9, Life Insurance.
Motor vehicle statements from the lender	Verify monthly payment and payoff amount. IRM 5.8.5.12, Motor Vehicles, Airplanes and Boats.
Real estate lender statements	Identify the payoff amount and monthly payment expense and verify the property address on the real estate or lender statement. IRM 5.8.5.13, Real Estate.
Court orders and court ordered payments for child support/alimony	Verify responsibility for child support/alimony, that the payments are actually being made, and the length of time payments are required to be made.  <b>Note:</b> If a copy of the court order is not provided and/or the payment cannot be verified, the payment will be disallowed as an expense.

5.8.5.4  
(09-24-2021)  
**Equity in Assets**

- (1) Proper asset valuation is essential to determine RCP. In some cases, it will be necessary to review the following documents to determine undisclosed assets or income and assist in valuing the property:
  - a. Divorce decrees or separation agreements to determine the disposition of assets in the property settlements;
  - b. Homeowners or renters insurance policies and riders to identify high value personal items such as jewelry, antiques, or artwork;
  - c. Financial statements recently provided to lending institutions or others to identify assets or income that may not have been revealed on the CIS.
- (2) For an ongoing business, field calls may be made to validate the existence and value of business assets and inventory. This may require an Other Investigation (OI) to a Collection Field revenue officer. If a field call has been previously made and assets have been valued and documented, a field call would not be required. The offer specialist should make the field call, if practical and managerial approval received, or initiate an OI to request that a field call be made by another RO if the taxpayer operates outside the offer specialist's commuting area. Refer to IRM 5.8.4.22.3, Offers from Operating Businesses, for situations in which a field call is required.



**Note:** If after discussion with field RO group manager, it is determined a field call cannot be made in a reasonable period of time, due to the taxpayer's geographic location or staffing issues, the ICS history will be documented and the offer acceptance recommendation, if appropriate, may be submitted for approval.

- (3) Field calls may be made on non-operating businesses or individual cases after all internal research has been exhausted. In those cases, a Form 2209 or ICS Other Investigation may be issued. Issuance of other investigations in these instances will be rare.
- (4) Do not eliminate assets or value them at zero dollars simply because the taxpayer is unable to borrow against the equity in the asset or the IRS chooses not to take enforcement action against the asset. However, in some situations based on the facts of the case, special circumstances may be present that will allow an offer to be accepted for less than RCP, in accordance with IRM 5.8.11, Effective Tax Administration.

**Note:** If the offer is being rejected or withdrawn based on the equity in an asset which the taxpayer is not able to liquidate or borrow against, the OE/OS must determine an appropriate resolution to the taxpayer's account. Refer to IRM 5.8.7.10, Alternative Resolutions.

#### 5.8.5.4.1 (04-08-2024)

#### Net Realizable Equity

- (1) For offer purposes, assets are valued at net realizable equity (NRE). Net realizable equity is defined as quick sale value (QSV) less amounts owed to secured lien holders with priority over the federal tax lien, if applicable, and applicable exemption amounts. See IRM 5.17.2, Federal Tax Liens for more information on lien priorities.
- (2) QSV is defined as an estimate of the price a seller could get for the asset in a situation where financial pressures motivate the owner to sell in a short period of time, usually 90 calendar days or less. Generally, QSV is an amount less than fair market value (FMV). For purposes of determining the taxpayer's reasonable collection potential (RCP), information provided by the taxpayer and third party sources available to the OE/OS will be reviewed to arrive at an appropriate FMV of the property.

**Note:** If the OE/OS determines the FMV of an asset to be greater than the amount listed by the taxpayer, a discussion with the taxpayer/representative is required to determine if the taxpayer has any additional information to assist in correctly determining the FMV of the asset. If the OE/OS cannot reach agreement with the taxpayer on the appropriate value of an asset, a discussion with the manager should be held to determine if any additional resources are available to verify the correct valuation is being used in the calculation of RCP. Fast Track Mediation is an avenue that may be pursued to resolve a dispute over the calculation of RCP, see IRM 5.8.7.6, Fast Track Mediation for Offer in Compromise.

- (3) Normally, QSV is calculated at 80 percent of FMV. A higher or lower percentage may be applied in determining QSV when appropriate, depending on the type of asset and current market conditions. If, based on the current market and area economic conditions, it is believed that the property would quickly sell at full FMV, then it may be appropriate to consider QSV to be the same as FMV. This is occasionally found to be true in real estate markets where real



estate is selling quickly at or above the listing price. As long as the value chosen represents a fair estimate of the price a seller could get for the asset in a situation where the asset must be sold quickly (usually 90 calendar days or less) then it would be appropriate to use a percentage other than 80 percent. Generally, it is the policy of the IRS to apply QSV in valuing property for offer purposes.

- (4) When a particular asset has been sold (or a sale is pending) in order to fund the offer, no reduction for QSV will be made. Instead, verify the actual sale price, ensuring that the sale is an arm's length transaction, and use that amount as the QSV. A reduction may be made for the costs of the sale and the expected current year tax consequence to arrive at the NRE of the asset. Consider reviewing a lender statement that estimates proposed closing costs.
- (5) When the value of an asset is other than the QSV, document the case history defining the decision and the basis for the value used.

5.8.5.5  
(04-08-2024)  
**Jointly Held Assets**

- (1) Taxpayers who file and owe joint taxes together may be required to submit two Forms 656 if one or both spouses also owe a separate liability. However, one RCP is generally prepared for married taxpayers who live together. The RCP will be allocated between offers when appropriate for each contract, yet there is still one RCP and both offers may be accepted or rejected based on the one RCP.
- (2) When taxpayers submit separate offers but have jointly owned assets, allocate equity in the assets equally between the owners. However, it may not be equitable to allocate equity equally if one spouse owns a separate asset with substantial value or their interest in the asset is not equal. When allocating equity consider the following:

If...	Then...
Both spouses have an equal interest in all assets	Allocate equity equally between both offers.
One spouse owns a separate asset	Allocate equity in the separate asset to the offer of the spouse who owns the asset.
Both spouses have an interest in the same property but their interest is not equally divided	Allocate the equity based on each spouse's interest in the asset.
The joint owners have joint and individual tax liabilities included in the offer investigation	Apply the equity first to the joint liability and then to the individual liability.

- (3) Do not allocate a disproportionate share of equity in jointly held assets and future income value (FIV) to separate offers. The allocation of joint equity and FIV should approximate the percentage of the liability owed by each taxpayer and the allocation amount must not exceed the liability owed for the periods listed on either offer.

**Example:** John and Mary owe \$100,000 in joint Form 1040 liabilities and John owes a TFRP for \$5,000. John submits an offer for the TFRP and joint

liabilities and Mary files a separate offer for the joint liabilities. They each offered \$1,000. Their RCP is determined to be \$50,000 with their jointly owned personal residence being the primary asset. John submits an amended offer for \$49,000 and Mary's offer remains the same. While the two offers would equal the RCP of \$50,000 the OE correctly advised the taxpayers the offer terms will be split equally based on the proportionate share of assets and liability.

**Note:** The allocation of equity in assets and future income value (FIV) should be based on the taxpayer's interest in property and share of FIV. In some circumstances, it may be beneficial to the taxpayer and the government to allocate in a different manner.

**Example:** John and Mary owe \$75,000 in joint Form 1040 liabilities and John owes a TFRP for \$20,000. John and Mary submit two offers, one for John's TFRP and the joint liabilities and the other for Mary's joint liabilities. The equity in John and Mary's assets equal \$30,000. Since the equity in assets (\$30K) is greater than the balance of the TFRP owed by John (\$20K) it may be beneficial to both parties for the taxpayers to full pay John's TFRP and then submit one joint offer with a recalculated RCP of \$10,000 (\$30k - \$20k) to compromise the joint liabilities. . Both John and Mary would need to agree that paying John's TFRP would be beneficial to both of them, otherwise the equity in assets will be allocated based on each taxpayer's ownership interest in the assets.

**Example:** Same situation as above except John owes \$100,000 for separate TFRP liabilities. John is employed but Mary does not work. The equity in joint assets equal \$30,000 and the FIV of John's income is \$10,000. In this instance, the OE/OS should allocate all the \$10,000 FIV to John's offer and include \$15,000 of the equity in joint assets (50% of \$30k) for a total offer of \$25,000 (\$10,000 FIV + \$15,000 equity) for John and allocate the remaining \$15,000 equity in assets to Mary's offer.

- (4) For property held as tenancies by the entirety when the tax is owed by only one spouse, the taxpayer's portion is usually 50 percent of the property's NRE. See also IRM 5.8.5.13, Real Estate.
- (5) It may be necessary to review applicable state law, including the effect community property and registered domestic partnership laws have on property ownership rights to determine the taxpayer's interest in assets that should be included in RCP.

**Note:** Review Form 433-A(OIC) to determine if the taxpayer has previously resided in a community property state. Property acquired in a community property state may impact the calculation of RCP. Refer to State Law Guides at *Law Guides (treas.gov)* and community property information available in IRM 25.18.4, Collection of Taxes in Community Property States.

5.8.5.6  
(03-23-2018)  
**Assets Held By Others  
as Transferees,  
Nominees, or Alter Egos**

- (1) A critical part of the financial analysis is to determine what degree of control the taxpayer has over assets and income in the possession of others. This is especially true when the offer will be funded by a third party.

- (2) When these issues arise, apply the principles in IRM 5.17.14, Fraudulent Transfer and Transferees and Other Third Party Liability, also refer to IRM 5.8.4.21, Responsibility of Offer Examiners, Offers Specialists, and Field Revenue Officers. A request for a Counsel opinion, in accordance with local procedures, prior to the offer recommendation may be necessary to determine an accurate value to include in any acceptable offer amount.

**Note:** If any transferee, nominee, or alter ego issues are present and the offer is being recommended for acceptance, an opinion from Counsel may be secured relative to the appropriateness of adding the taxpayer's interest in an asset or other income in the acceptable offer amount. If an opinion is not requested prior to the acceptance recommendation being forwarded for Counsel review, the narrative report must clearly outline the issues identified and if the offer includes any amount in RCP to account for the value of the assets or income in which transferee, nominee, or alter ego issues are present.

- (3) If the taxpayer has a beneficial interest in the asset or income stream, reflect the value of the interest in the RCP. Document the valuation and reason for including any assets held by a transferee, nominee or alter ego, including the identification of any documents which substantiate the determination. Contact the taxpayer/representative to discuss the findings, preferably by telephone to expedite the process, and if necessary, request any additional documents or verification. This may require the taxpayer to submit completed financial statements for the entity identified.
- (4) If the taxpayer is unwilling or unable to provide the financial information requested; consider assigning a value based on available information. If unable to assign a value because information necessary to determine whether the taxpayer's offer should be accepted is not provided, consider a return as discussed in IRM 5.8.7.2.2.4, Return for Failure to Provide Information. The return recommendation must include a thorough discussion on the reasons for returning the taxpayer's offer including the documents requested and why they are necessary to make the offer recommendation.
- (5) Prior to returning an offer because documents relating to the transferee/nominee/alter ego issue(s) are not submitted, review documents already provided by the taxpayer and consider if the existing information is sufficient to calculate the RCP. Document the valuation and reason for including any assets held by a nominee or alter ego, including the identification of any documents which substantiate the determination. If the value of the taxpayer's assets, other than transferred property, alter-ego, or nominee is greater than the offer amount, recommend the offer for rejection. If a rejection recommendation is made, the taxpayer's failure to provide requested information and discussion of the transferee/nominee issues must be included in the closing narrative in the ICS history or AOIC remarks. Additionally, an estimated value of the transferree/alter-ego/nominee property must be included on the asset/equity table (AET).
- (6) If the taxpayer does not respond to a request for verification of possible additional income and the offer has already been determined to be a full pay based on assets or income not related to the transferred property, alter-ego, or nominee, proceed with rejection of the offer. If a rejection recommendation is made, the taxpayer's failure to provide requested information and discussion of the transferee/nominee/alter ego issues must be included in the recommenda-

tion narrative, including placing an estimated value of the income on the income/expense table (IET) and/or assets on the AET.

- (7) It is not necessary to actually seek or obtain any specific legal remedy in order to address these issues in an offer. However, the offer file must be clearly documented with the basis for including the value of a transferred asset, an alter-ego, or a nominee asset in the RCP. Care should be taken so that the determination to include assets held by others is reasonable. Document the case decision.

5.8.5.7  
(04-08-2024)  
**Cash**

- (1) When determining the taxpayer's RCP, use the amount listed on the Form 433-A (OIC) for the amount of cash in the taxpayer's bank accounts, reduced by \$1,000.

**Note:** If a determination is made that the taxpayer can full pay the liabilities from equity in assets, an installment agreement, or a combination of both do not reduce the amount of cash by \$1,000.

- (2) Use the amount listed on the Form 433-B(OIC) for the amount of cash in the taxpayer's bank account.

**Note:** The \$1,000 reduction only applies to individual bank accounts.

- (3) Review checking account statements over a reasonable period of time, generally three months for wage earners and six months for taxpayers who are non wage earners. Look for any unusual activity, such as deposits in excess of reported income, large withdrawals, transfers to/from other accounts, or checks for expenses not reflected on the CIS. The review may also determine mortgage or car payments listed on the CIS are not reflected on the bank statement. Discuss any inconsistencies with the taxpayer.

**Note:** If the ending balances in an individual taxpayer's checking account fluctuate greatly or if you otherwise have reason to believe the amount over \$1,000 will be needed to pay for monthly allowable expenses, do not include it on the AET. If the taxpayer consistently maintains a balance of cash in their checking account after the payment of expenses then do not reduce the amount over \$1,000 by the allowable expenses.

**Example:** (1) The taxpayer lists \$10,000 in a checking account on Form 433-A (OIC) and the ending balance in their account fluctuated between \$6,000 and \$10,000 on the statements reviewed. The taxpayer's allowable living expenses are \$3,000. Include \$6,000 (\$10,000 less \$1,000 less \$3,000) as an asset value on the AET.

**Example:** (2) The taxpayer lists \$3,000 in a checking account on the Form 433-A (OIC) and the ending balance in their account fluctuated between \$1000 and \$3,000 on the statements reviewed. The taxpayer's allowable living expenses are \$2,700. Do not include any amount on the AET since the \$300 difference (\$3,000 less \$2,700) is less than \$1000.

**Example:** (3) The taxpayer lists \$2,500 in a checking account on the Form 433-A (OIC). Review of the bank statements verifies the taxpayer is paying their expenses monthly and the ending balance in the account is consistently around \$2,500. The taxpayer's allowable living expenses are

\$2,700. Do not reduce the amount of cash by the allowable expenses since the taxpayer is able to pay their expenses and maintain a consistent \$2,500 balance of cash in their account. Include \$1,500 (\$2,500 less \$1,000) on the AET.

- (4) If the review of the taxpayer's account shows a substantial difference between the Form 433-A(OIC) and/or Form 433-B (OIC) and the bank statement value, adjust the amount shown on the AET after discussion with the taxpayer, if applicable.
- (5) Review savings account statements over a reasonable period of time, generally three months.
  - If the account has little withdrawal activity, use the ending balance on the latest statement, less \$1,000 (IMF taxpayers) if not previously applied to another account, as the asset value for the AET.
  - If it is apparent that the account is used for paying monthly living expenses, treat it as a checking account and follow the instructions in paragraphs (1), (2), and (3) above to determine its value.
- (6) If the review of the taxpayer's account identifies peer to peer payment applications being used (e.g. Venmo, Zelle, Cash App, etc.) or transfers to or from online gambling applications request account or activity statements to verify any amount of cash being held in these accounts. Use the ending balance on the latest statement as the asset value for the AET.
- (7) If analysis of the bank statement reveals large amounts of recently expended funds, see IRM 5.8.5.18, Dissipation of Assets, for a full discussion of the treatment of dissipated assets.
- (8) If the taxpayer offers the balances of accounts (for example, certificate of deposit, savings bonds, etc.) to fund the offer, allow for any penalty for early withdrawal and the expected current year tax consequence.
- (9) Document AOIC or ICS with how the value of cash listed on the Asset/Equity Table was determined.

5.8.5.7.1  
(09-30-2013)  
**Treatment of Tax  
Increase Prevention and  
Reconciliation Act of  
2005 (TIPRA) Payments  
on the Asset/Equity  
Table (AET)**

- (1) Do not include any TIPRA payments (lump sum or periodic) as a separate asset on the AET.
- (2) Payments in excess of any required TIPRA payment(s) are treated as a tax payment and will not be included on the AET.

5.8.5.8  
(04-08-2024)  
**Securities, Closely Held  
Stock, and Business  
Interests**

- (1) Financial securities are considered an asset and their value must be determined and included in the RCP when investigating an offer.
- (2) When the taxpayer will liquidate the investment to fund the offer, allow associated fees in addition to any penalty for early withdrawal and the current year tax consequence.
- (3) To determine the current value of publicly traded stock, verify the current share price of the stock by researching online stock quotes, other internal sources, or

request the taxpayer provide a current account statement. Multiply the current share price by the number of shares held to arrive at the value of the stock to be added to the AET.

- (4) Publicly traded bonds may be bought or sold through an exchange but most are traded over-the-counter (OTC) between bond dealers without the use of a centralized exchange. The value of bonds fluctuate depending on market conditions but they are not as volatile as other investments. To determine the value of bonds use the stated value on the most recent account statement provided by the taxpayer to determine the value to be added to the AET, request an updated statement if the most recent one provided is over one year old.
- (5) The value of a taxpayer's holding of closely held stock that is either not traded publicly or for which there is no established market, and the taxpayer's interest in a Subchapter S Corporation (S Corp.), Partnership, or Limited Liability Corporation (LLC) needs to be determined and added to the AET. To determine the RCP of a taxpayer's interest in closely held stock or other business entity, consider the following to determine the value of the company's assets and assign a value to the taxpayer's interest that is equal to their percentage share of the company's cumulative value of assets:
  - Secure and verify a CIS for the S Corp., Partnership, or LLC.
  - Review recent year's annual report to stockholders if available.
  - Review recent year's corporate income tax returns.
  - Secure and review statements for bank accounts or other investments, mortgage statements, or other loan documents.
  - Research IRPTRO and internet sources, including online real estate valuation resources, to identify or value assets (see IRM 5.8.5.3.1.1(3)).
  - Determine the net realizable equity (NRE) of the corporate assets (see IRM 5.8.5.4.1) including cash, property interests, or other holdings.
  - Consider requesting an appraisal of the business as a going concern by a qualified and impartial appraiser.

**Note:** Use business appraisals only when the cost of the appraisal is justified by the complexity of the business activity.

**Example:** Taxpayer is a 50% shareholder in a Subchapter S Corporation that owns commercial property. The only asset of the Subchapter S Corporation is the real property. The property has a FMV of \$500,000 and there are no encumbrances. The NRE of the property is equal to the QSV of the property or \$400,000 (80% of \$500,000). The value of the taxpayer's shareholder interest is 50% of the \$400,000 NRE or \$200,000.

- (6) When a taxpayer holds only a negligible or token interest, has made no investment and exercises no control over the corporate affairs, it is permissible to assign no value to the stock.

**Note:** When a taxpayer claims they have no interest in a closely held corporation or family owned business, yet the facts reveal their interest may have been transferred or assigned, refer to IRM 5.8.4.21, Responsibility of Offer Examiners, Offer Specialists, and Field Revenue Officers.

- (7) Additional considerations involving offers from closely held entities, S Corps, Partnerships, LLCs, or individuals with interests in these entities:



- Compensation to Corporate Officers – Wages and/or other compensation, (i.e., draws) paid to corporate officers must be evaluated to determine if they are reasonable. Compensation that is determined to be excessive may be disallowed and added back into the business income. Use judgment in determining whether the officer compensation is deemed excessive. The Allowable Living Expense (ALE) standards may be used as a guide when considering whether the officer compensation is reasonable. The ALEs should not be the only factor when determining reasonable compensation to the officer. The officer's ownership interest in the business, individual financial condition, local economy, and any control over the compensation received should also be a consideration.
- Stock Holder Distributions – These expenses are discretionary in nature. Evaluate distributions of this nature made after the incurrence of the tax delinquency under the dissipated asset provisions.
- Repayment of Loans to Officers - Loans to officers should be considered an account receivable and valued according to their collectibility. Loans to shareholders may be an indication the taxpayer is paying personal expenses from the corporation's accounts or receiving payment in the form of loans in lieu of a salary. If the funds are being received on a consistent basis, you may include an amount as income on the IET. Historic activity of the loans to shareholders could provide evidence of consistent payment. Additionally, a determination of an alter ego/nominee situation may also be appropriate based on the amount being received or taken out of the business for personal expenses. Refer to IRM 5.8.4.2(3) table, Responsibility of Offer Examiners, Offer Specialist, and Field Revenue Officers. If you identify a situation in which it appears the taxpayer may be receiving income from loans and their wages are not reasonable, a referral to Examination Division may be appropriate. If the exam referral is accepted, return the offer based on the open examination as *other investigations pending* as discussed in IRM 5.8.4.17, Pending Assessments.
- Undistributed K-1 Income - Schedule K-1 (Form 1065) and Schedule K-1 (Form 1120-S) are used to report each individual partner, shareholder, or LLC member's percentage share of partnership or S-Corp. income. The individual partner, shareholder, or member must report this amount on their individual income tax return even if these funds were never distributed by the business entity, this is sometimes referred to as "phantom income." The amount reported on the K-1 should be used as a source to verify an individual taxpayer's income. If the taxpayer indicates they did not receive the amount reported on the K-1, an adjustment may be necessary to remove the undistributed income from the future income value on the IET. The use of any undistributed K-1 income must still be determined. If the partnership, LLC, or S Corp. is still holding undistributed K-1 income in a bank or other account then the amount of cash being held may be added to the AET as an individual asset. If the undistributed funds were used to purchase an asset in the business name then the asset may be considered when determining the value of the taxpayer's interest in the business, see IRM 5.8.5.8(5) above.
- Stock Held by Beneficial Owner - The value of stock ownership in a closely held corporation/LLC must be included in the RCP of a taxpayer submitting an offer to compromise their individual liabilities. Do not

exclude the value of the stock from RCP solely on the basis that an offer was also submitted by the closely held entity.

5.8.5.8.1  
(04-08-2024)  
**Digital Assets**

- (1) A digital asset is defined in IRC 6045(g)(3)(D) as any digital representation of value which is recorded on a cryptographically secured digital ledger or similar technology defined by the Secretary. Digital assets need to be valued and included in the RCP of a taxpayer.

- (2) Digital assets can take many forms and include the following:

- a. Virtual currency is a broad class of digital assets that can function as a medium of exchange, a unit of account, or a store of value other than currency that is legal tender. Virtual currency may or may not be restricted in its use.

**Note:** Restricted use virtual currency (such as frequent flyer miles or currency for use in specific online gaming platforms) has limited to no value in the real economy and will not be added to RCP.

- b. Cryptocurrency is a type of virtual currency that utilizes cryptography to secure transactions digitally recorded on a distributed ledger such as a blockchain. Cryptocurrency (such as Bitcoin or Ethereum) may be represented by tokens, units, or coins and have a value that can be converted to legal tender. Cryptocurrency can be held as an investment, may be used to purchase goods or services, or may be a method of payment to a taxpayer as income. Cryptocurrency may be valued in a manner similar to publicly traded stock as guided in IRM 5.8.5.8(3).
- c. Non-fungible tokens (NFT) are unique digital files such as photos, audio files, graphics, etc. that are stored on a blockchain and use a digital ledger to provide a certificate of authenticity and proof of ownership. NFTs are not fungible, meaning they cannot be exchanged or replaced with a similar type of asset in a way that other assets (such as gold, cryptocurrency, or traditional currency) can. NFTs may be bought and sold on market exchanges and must be valued for RCP purpose by following the procedures in IRM 5.8.5.4.1 for determining NRE.

- (3) Taxpayers must list their digital assets in Section 3 of Form 433-A(OIC) or Section 2 of Form 433-B(OIC). The type of digital asset, how it is held, and the current market value of the digital asset must be provided. The following may be used to verify the value of a digital asset:

- Request a current account statement from the taxpayer if the asset is held through a brokerage account (cryptocurrency).
- Research the current value of the asset through publicly available blockchain explorers found online.
- Comparison of recent purchase price of a NFT to the taxpayer's stated value.

5.8.5.9  
(04-08-2024)  
**Life Insurance**

- (1) Identify the type, conditions for borrowing or cancellation, and the current loan and cash values.
- (2) Life insurance as an investment (e.g., whole life) is not considered necessary.
- (3) When determining the value in a taxpayer's insurance policy, consider:



If...	Then...
The taxpayer will retain the policy	Equity is the cash surrender value.
The taxpayer will sell the policy to help fund the offer	Equity is the amount the taxpayer will receive from the sale of the policy. Documentation from the broker may be required to verify the selling price and related expenses.
The taxpayer will borrow on the policy to help fund the offer	Equity is the cash loan value less any prior policy loans or automatic premium loans required to keep the contract in force. See IRM 5.8.5.23, Conditional Expenses, for allowance of the payment.

If...	Then...
<p>The taxpayer has a life insurance policy (term or whole life) which if sold would not cause a financial hardship</p> <p><b>Note:</b> A taxpayer may sell their life insurance policy to a third party who will take over the monthly premium and become the beneficiary to the policy. The sale of a life insurance policy may be through a “life settlement” or a “viatical settlement.”</p> <ul style="list-style-type: none"><li>• A policy may be sold as a life settlement when the taxpayer is not terminally ill and has a life expectancy greater than two years. The age and health of the taxpayer and face value of the policy are factors to consider when determining the value of a policy in a life settlement.</li><li>• A policy may be sold as a viatical settlement if the taxpayer has been diagnosed with a terminally ill condition and has a life expectancy of less than two years. Viatical settlements typically have a higher value than life settlements.</li></ul>	<p>Discuss with the taxpayer an appropriate value to be assigned to the policy. Consider the following when determining the value of a life insurance policy:</p> <ul style="list-style-type: none"><li>• Generally, in a life settlement the policy will be valued between 10% to 20% of the death benefit of the policy.</li><li>• In a viatical settlement involving a terminally ill taxpayer with a life expectancy of less than two years, a life insurance policy may be valued at 50% of the policy’s death benefit.</li></ul> <p>When questions arise about the value of the policy, you may request that the taxpayer secure an estimate of the policy’s value from a life or viatical settlement provider. The taxpayer is not required to sell the policy, but the IRS must assign a value to a life insurance policy that may be sold.</p> <p><b>Note:</b> If the taxpayer demonstrates the proceeds of the policy will be required to meet the needs of their beneficiaries, it may be appropriate to apply ETA or Doubt as to Collectibility with Special Circumstance (DATCSC) guidelines when considering the offer.</p> <p><b>Example:</b> Taxpayer is 75 years old and has a life insurance policy with a face value of \$100k. The taxpayer has no identified health issues. The value of the policy is determined to be \$10,000 (10% of \$100k). \$8,000 (QSV) will be added as the NRE to the AET.</p>

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If...	Then...
	<p><b>Example:</b> Taxpayer is 65 years old and has a life insurance policy with a face value of \$100k. The taxpayer has been diagnosed with a terminal condition and has a life expectancy of less than two years. In a viatical settlement the policy is determined to have a value of \$50,000 (50% of \$100K). \$40,000 (QSV) will be added as the NRE to the AET. However, the taxpayer demonstrates the proceeds of the policy will be needed by the non-liable spouse to meet their necessary expenses in the future. The offer may be acceptable under ETA or DATCSC criteria if the amount of the offer is less than the value of a viatical settlement.</p>

- (4) Reasonable premiums for term life policies will be allowed as a necessary expense. Verify the amount of the premiums and ensure payments are being made.

**Note:** If the taxpayer has a whole life policy, then a reasonable amount of the premiums may be allowed which is attributable to the death benefit of the policy. This will be determined by reviewing the policy statement.

**Example:** The taxpayer lists an expense for life insurance on their CIS in the amount of \$250. It is determined this expense is for the cost of a whole life policy. Reviewing the policy statement shows the cost associated with the death benefit is \$100 and the balance accumulates as an investment. The IET will reflect the \$100 cost associated with the death benefit.

5.8.5.10  
(04-08-2024)  
**Retirement or Profit  
Sharing Plans**

- (1) Funds held in a retirement or profit sharing plan are considered an asset and must be valued for offer purposes.
- (2) Contributions to voluntary retirement plans are not a necessary expense. Review of the retirement plan document may be necessary to determine the taxpayer's benefits and options under the plan.
- (3) It may be necessary to secure a copy of the plan to determine the taxpayer's vested interest and ability to borrow.
- (4) When determining the value of a taxpayer's pension and profit sharing plans consider:

If...	And...	Then...
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account	The taxpayer is not retired or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal penalty, if applicable.
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account	The taxpayer is retired or within one year of retirement	<ul style="list-style-type: none"> <li>Equity is the cash value less any tax consequences for liquidating the account and early withdrawal penalty, if applicable.</li> <li>The plan may be considered as income, if the income from the plan is required to provide for necessary living expenses.</li> </ul>
The contribution to a retirement plan is required as a condition of employment	The taxpayer is able to withdraw funds from the account	Equity is the amount the taxpayer can withdraw less any tax consequences and early withdrawal penalty, if applicable.
The contribution to an employer's plan is required as a condition of employment	The taxpayer is unable to withdraw funds from the account but is permitted to borrow on the plan	Equity is the available loan value.
Any retirement plan that may not be borrowed on or liquidated until separation from employment	The taxpayer is retired, eligible to retire, or close to retirement	Equity is the cash value less any tax consequences for liquidating the account and early withdrawal penalty, if applicable, or consider the plan as income if the income from the plan is necessary to provide for necessary living expenses.

If...	And...	Then...
The plan may not be borrowed on or liquidated until separation from employment and the taxpayer has no ability to access the funds within the terms of the offer	The taxpayer is not eligible to retire until after the period for which future income value is being calculated	<p>The plan has no equity.</p> <p><b>Note:</b> If the taxpayer made significant voluntary contributions to a retirement plan after the tax was assessed or within three years prior to submitting the offer and has no ability to access the funds, then it may be appropriate to include those contributions in the reasonable collection potential (RCP) as a dissipated asset. See IRM 5.8.5.18.</p> <p><b>Example:</b> In 2020 and 2021 the taxpayer made voluntary contributions of \$19,500.00 per year to their 401(k) plan. In March of 2022 they submit an offer of \$5,000. Although they cannot access the plan or borrow from it the cumulative \$39,000 in contributions may be included in the RCP as a dissipated asset.</p>

If...	And...	Then...
The taxpayer may not access the funds in the retirement account due to an existing loan	The taxpayer is not eligible to retire until after the period for which future income value is being calculated	Determine what equity remains in the account taking into consideration when the loan was taken out, whether the proceeds were used for necessary living expenses, and the remaining equity in the account. If the loan proceeds were used for necessary and allowable expenses and you confirm the taxpayer cannot further access (borrow against) the account given the outstanding loan, the value of the account will be the equity remaining in the plan less the amount of the loan. If the loan proceeds were not used for necessary and allowable living expenses, determine if the provisions of IRM 5.8.5.18, Dissipation of Assets apply.
The plan includes a stock option	The taxpayer is eligible to take the option	Equity is the value of the stock at current market price less any expense to exercise the option.

5.8.5.11  
(03-23-2018)

**Furniture, Fixtures, and  
Personal Effects**

- (1) The taxpayer's declared value of household goods is usually acceptable unless there are articles of extraordinary value, such as antiques, artwork, jewelry, or collector's items. Exercise discretion in determining whether the assets warrant personal inspection.
- (2) There is a statutory exemption from levy that applies to a number of items including the taxpayer's furniture and personal effects. This exemption amount is updated on an annual basis.

**Note:** This exemption applies only to individual taxpayers.

- (3) When determining the value consider the following:

If...	Then...
The taxpayer qualifies as head of household, single, or married	Grant a reduction in the value of personal effects for the levy exemption amount.
The property is owned jointly with any person who is not liable for the tax	Determine the value of the taxpayer's proportionate share of property before allowing the levy exemption.
Some of the furniture or fixtures are used in a business	They are not personal effects, but they may qualify for the levy exemption as tools of a trade.
If the property has a valid encumbrance with priority over the NFTL	Allow the encumbrance in addition to the statutory exemption.

5.8.5.12  
(09-24-2021)  
**Motor Vehicles,  
Airplanes, and Boats**

- (1) Equity in motor vehicles, airplanes, and boats must be determined and included in the RCP. The general rule for determining NRE, as discussed in IRM 5.8.5.4.1, Net Realizable Equity, applies when determining equity in these assets. Unusual assets such as airplanes and boats may require an appraisal to determine FMV, unless the items can be located in a trade association guide. The case file must document how the values were determined.
- (2) It is not necessary to personally inspect automobiles used for personal transportation. When it appears reasonable, accept the taxpayer's stated value. If the taxpayer failed to provide the value or the value appears to be unreasonable, consult a trade association guide. Generally, the Private Party or equivalent value, not trade in value, should be used. In most cases, the vehicle will be discounted at 80 percent of FMV to arrive at the QSV.
- (3) Exclude \$3,450 per car from the QSV of vehicles owned by individual taxpayer(s) and used for work, the production of income, and/or the welfare of the taxpayer's family (two cars for joint taxpayers and one vehicle for a single taxpayer).

**Note:** If a determination is made that the IMF taxpayer can full pay the liabilities from equity in assets, an installment agreement, or a combination of both, do not reduce the QSV of vehicles by \$3,450.

- (4) When these assets are used for business purposes, they may be considered income producing assets. See also, IRM 5.8.5.15, Income Producing Assets, for a full discussion on the treatment of income producing assets.

5.8.5.13  
(04-08-2024)  
**Real Estate**

- (1) Verify types of ownership through warranty and mortgage deeds.
- (2) The FMV of the property must be established. FMV is defined as the price at which a willing seller will sell and a willing buyer will pay for the property, given time to obtain the best and highest possible price. When a question of value arises, a discussion with the taxpayer and/or representative may be necessary to establish an accurate value. The following information, available through

internal research, should be used to verify the FMV listed on the Form 433-A(OIC)/433-B(OIC) or provided by the taxpayer:

- Accurint or other online real estate database, e.g. Zillow.
- Value listed on the real estate tax assessment statement.
- Market comparable.
- Recent purchase price.

**Note:** In most instances it will be necessary to compare the value of a property from multiple sources to determine an accurate FMV. The OE/OS should avoid using any one source alone when determining the FMV of a property.

**Example:** A taxpayer lists the FMV of their personal residence to be \$250,000 on the CIS and provides a recent tax assessment statement showing an assessed value of \$250,000. The OE/OS researches comparable sales of properties located in the taxpayer's township and finds the average selling price of properties with similar \$250,000 tax assessments to be \$400,000. Zillow estimates the value of the property to be \$410,000. It is reasonable to use \$400,000 as the FMV of the taxpayer's property since multiple sources suggest that is more accurate than the value listed on the tax assessment statement which is typically lower than the actual FMV of a property.

**Note:** If internal research does not provide an accurate valuation, the OE/OS may request additional documentation including:

- An existing contract to sell.
- Recent appraisals.
- Homeowner's insurance policy(s).

**Note:** Additional documentation from the taxpayer should only be requested based on the facts and circumstances of the case.

- (3) Once the FMV of real estate is established, a determination regarding a reduction of value for offer purposes must be made. Procedures outlining reduction to QSV are discussed in IRM 5.8.5.4.1, Net Realizable Equity.
- (4) Equity in real estate is included when calculating the taxpayer's RCP in an acceptable offer amount. See IRM 5.8.5.15, Income Producing Assets, relating to taxpayers whose sole business is real estate rental/leasing and/or development.
- (5) Document what methods were used in determining the value of the property and the reason for applying any value other than the QSV.

**Note:** While the equity in real property must be included in RCP to make a determination whether the offer is acceptable based on DATC, the OE/OS must be aware of circumstances in which an offer under ETA or Doubt as to Collectibility with Special Circumstances (DATCSC) may be appropriate for an amount which does not include some or all of the real property equity. An inability to borrow against the property itself is not a sufficient reason for accepting the offer under ETA or DATCSC criteria, see IRM 5.8.11.6(5).

**Example:** A taxpayer has equity in their residence of \$20,000. The value of the property approximates the median sales price of the local community



and the taxpayer is unable to borrow against the property. If the property is sold, the taxpayer's move may cause the family a hardship, since one of taxpayer's children would not be able to stay enrolled in a program which accommodates their disability and their new school does not have a similar program. Refer to IRM 5.8.11, Effective Tax Administration and determine whether acceptance under ETA or DATCSC is an appropriate resolution.

**Example:** A taxpayer has equity in their residence of approximately \$8,000 and is unable to borrow against the property. If the taxpayer sells their property the reasonable costs of moving would exceed the equity from the sale of the property. In this instance, it may be appropriate to allow for the taxpayer's offer to be accepted under ETA or DATCSC since it may create a hardship to taxpayer if the taxpayer were required to move. Refer to IRM 5.8.11, Effective Tax Administration and determine whether acceptance under ETA or DATCSC is an appropriate resolution.

**Example:** A taxpayer has equity in their residence of \$100,000 but is unable to secure a conventional loan against the property. Because of their age and amount of equity in the home the taxpayer may qualify for a reverse mortgage that would provide for payment through an installment agreement. In this case it may be appropriate to reject the offer and pursue an installment agreement.

**Example:** A taxpayer has equity in their residence of approximately \$100,000 and is unable to borrow against the property or make payments through an installment agreement. In this case, the appropriate resolution may be to request a withdrawal or reject the taxpayer's offer based on RCP, recommend a currently not collectible alternative, and file a NFTL. See IRM 5.8.5.4

- (6) For real estate and other related property held as tenancies by the entirety when the tax is owed by only one spouse, the taxpayer's portion is usually 50 percent of the property's NRE.

**Note:** When the property does not appear to have been transferred into the tenancy to avoid the tax collection, a determination may be made to reduce the taxpayer's NRE to less than 50 percent based on the difficulty in liquidating or borrowing against the taxpayer's share of the asset.

5.8.5.14  
(03-23-2018)  
**Accounts and Notes  
Receivable**

- (1) Accounts and notes receivable are considered assets unless a determination is made to treat them as part of the income stream when they are required for the production of income. When it is determined that liquidation of a receivable would be detrimental to the continued operation of an otherwise profitable business, it may be treated as future income. See also IRM 5.8.5.15, Income Producing Assets.
- (2) Accounts receivable – The value included in RCP may be adjusted based on the age of the account. Refer to IRM 5.15.1.33, Accounts and Notes Receivable, which provides information on determining the value of an account receivable. Accounts Receivable that are current (i.e. less than or equal to 90 days past due) will generally be discounted at Quick Sale Value (QSV), if the taxpayer presents accounting or industry rules or other substantiation providing

for devaluation of such accounts. If the account is determined to be delinquent it may be discounted appropriately based on the age of the receivable and the potential for collection. However, supporting documentation should be provided by the taxpayer to substantiate accounts the taxpayer claims are delinquent. If the taxpayer fails to provide substantiation, the OE/OS should use good judgment to determine the appropriate value to place on the account.

- (3) To determine the value of accounts receivable:
  - a. When the receivables have been sold at a discount or pledged as collateral on a loan, apply the provisions of IRC 6323(c) to determine the lien priority of commercial transactions and financing agreements.
  - b. Closely examine accounts of significant value that the taxpayer is not attempting to collect, or that are receivable from officers, stockholders, or relatives.
- (4) To determine the value of a note receivable, consider the following:
  - Whether it is secured and if so by what asset(s),
  - What is collectible from the borrower, and
  - If it could be successfully levied upon.

5.8.5.15  
(09-24-2021)  
**Income-Producing  
Assets**

- (1) When investigating the RCP for an offer that includes business assets, an analysis is necessary to determine if certain assets are essential for the production of income. When it has been identified that an asset or a portion of an asset is necessary for the production of income, it is appropriate to adjust the income or expense calculation for that taxpayer to account for the loss of income stream if the asset was either liquidated or used as collateral to secure a loan to fund the offer.
- (2) When valuing income-producing assets:

If...	Then...
There is no equity in the assets	There is no adjustment necessary to the income stream.
There is equity and no available income stream (i.e. profit) produced by those assets	There is no adjustment necessary to the income stream. Consider including the equity in the asset in the RCP.
There are both equity in assets that are determined to be necessary for the production of income and an available income stream produced by those assets	<ul style="list-style-type: none"> <li>• Compare the value of the income stream produced by the income producing asset(s) to the equity that is available.</li> <li>• Determine if an adjustment to income or expenses is appropriate.</li> </ul>
An asset used in the production of income will be liquidated to help fund an offer	Adjusting the income to account for the loss of the asset may be appropriate.
A taxpayer borrows against an asset that is necessary for the production of income, and devotes the proceeds to the payment of the offer	Allow the loan payment as an expense and consider the effect that loan will have on the future income stream.

- (3) As a general rule, equity in income producing assets will not be added to the RCP of a viable, ongoing business; unless it is determined the assets are not critical to business operations.

**Exception:** Include equity in real property in the calculation of RCP.

**Note:** In instances which the taxpayer's business is solely rental property and produces income for the taxpayer, the equity may be excluded from RCP if the FIV inclusive of taxpayer's income from the property is higher than the equity in the property. If a determination is made to include the real property equity in RCP, then generally, net revenue from the property will not be included in FIV. An adjustment to the taxpayer's future income value may also be appropriate, if the taxpayer will be borrowing against or selling the property to fund the offer. The following examples provide some guidance in evaluating equity and income produced by assets:

**Example:** (1) A business depends on a machine to manufacture parts and cannot operate without this machine. The equity is \$100,000. The machine produces net income of \$5,000 monthly. The RCP will include the income produced by the machine, but not the equity. Equity in this machine will generally not be included in the RCP because the machine is needed to produce the income, and is essential to the ability of the business to continue to operate.

**Note:** It is in the government's best interests to work with this taxpayer to maintain business operations.

**Example:** (2) The same business in the prior example, but the business can continue to operate without the machine, i.e. the equipment is not used in the process of generating the key product of the business. The machine generates only \$500 net monthly income. Consider including the equity in the RCP and remove \$500 from the business income

**Example:** (3) A trucking company has ten trucks. Eight are fully encumbered and two trucks have no encumbrances and \$30,000 in equity. The two trucks combined generate net income of \$12,000 per year. The net income from the trucks is included in the calculation of Future Income Value. The equity in the trucks will not be included in RCP.

**Example:** (4) The same trucks described in the previous example generate only \$1000 per year in net income, but have \$30,000 in equity. If the business can successfully operate without the two trucks, consider removing the income from the RCP and including the equity in the RCP.

**Example:** (5) A BMF in-business taxpayer owns real property with net equity of \$50,000. Include the equity in the real property in RCP, yet the taxpayer's net income must be adjusted for the loss of any rent payments they are receiving if the property is sold.

**Example:** (6) The taxpayer has real property with equity of \$50,000 that is rented to a third party and will borrow \$40,000 against the equity to fund the offer. The property generates \$1,500 of net income each month and the loan will require payments of \$1,000 per month. In this instance, the OE/OS will include in the calculation of RCP, the \$50,000 equity in the real property, plus the remaining \$500 (after allowing for the loan repayment) per month for the number of months based on the terms of the offer.

(4) Based on the taxpayer's specific circumstances, there may instances where the income producing assets in a Subchapter S corporation may be treated similar to assets owned by a taxpayer's sole proprietorship business. Factors to consider include:

- Type of business activity
- Taxpayer's occupation
- Current income received from the corporation as salary and the amount of future income that the taxpayer will receive
- Current income received from corporation as dividend
- Ability of the taxpayer to sell their interest in the corporation

**Example:** A taxpayer operates a construction company, as a Sub S corporation, in which their wages from the corporation are \$ 60,000 per year. The taxpayer's future income value of \$12,000 is based on net income of \$1000 per month for 12 months (cash offer). The taxpayer's interest in the corporate assets is equal to \$20,000. It is determined all assets are required for the production of income by the corporation. Since the taxpayer shows a net income from the business, the exclusion of income producing assets may be appropriate in this instance.

**Example:** The same scenario as the previous example, yet the taxpayer does not draw a salary and the corporation shows a loss from the Sub S. Since the corporation is not generating any income for the taxpayer, the taxpayer's interest in the corporation must be included in RCP.

- (5) When considering equity in income producing assets and the effect on income streams and expenses, you must exercise sound judgment consistent with the unique facts of each case.
- (6) Each case must be thoroughly documented regarding equity decisions in income producing property.

5.8.5.16  
(09-24-2021)  
**Inventory, Machinery,  
Equipment, and Tools of  
the Trade**

- (1) Inventory, machinery, and equipment may be considered income producing assets. IRM 5.8.5.15, Income Producing Assets, when it is determined that liquidation of these assets would be detrimental to the continued operation of an otherwise profitable business.
- (2) To determine the value of business assets, use the following:
  - For assets commonly used in many businesses, such as automobiles and trucks, the value may be easily determined by consulting trade association guides.
  - For specialized machinery and equipment suitable for only certain applications, consult a trade association guide, secure an appraisal from a knowledgeable and impartial dealer, or contact the manufacturer.
  - When the property is unique or difficult to value and no other resource will meet the need, follow local procedure to request the services of an IRS valuation engineer.
  - Consider asking the taxpayer to secure an appraisal from a qualified business appraiser.

**Note:** Request business appraisals only when the cost of the appraisal is justified by the complexity of the business activity and where there is a market for similar businesses in the taxpayer's location.

- (3) There is a statutory exemption from levy that applies to an individual taxpayer's tools used in a trade or business, which will be allowed in addition to any encumbrance that has priority over the NFTL.

**Note:** This exemption only applies to tools of the trade for individuals and sole proprietorships. Any property of a LLC, partnership or corporation is not entitled to the exemption.

**Note:** Whether an automobile is a tool of the trade will depend on the taxpayer's trade. The levy exemption amount is updated on an annual basis.

5.8.5.17  
(03-23-2018)  
**Business as a Going  
Concern**

- (1) Evaluation of a business as a going concern is sometimes necessary when determining RCP of an operating business owned individually or by a corporation, partnership, or LLC. This analysis recognizes that a business may be worth more than the sum of its parts, when sold as a going concern.
- (2) To determine the value of a business as a going concern consider the value of assets, future income, and intangible assets such as:

- Ability or reputation of a professional.
- Established customer base.
- Prominent location.
- Well known trade name, trademark, website address, or telephone number.
- Possession of government licenses, copyrights, or patents.

**Note:** Generally, the difference between what an ongoing business would realize if sold on the open market as a going concern and the traditional RCP analysis is attributable to the value of these intangibles.

**Note:** Since the government has the authority to discharge the assets of the taxpayer from the federal tax lien, when an amount not less than the value of the government's interest in the property is paid in partial satisfaction of the liability, an appropriate method to determine the net equity amount to be included in RCP of a business being valued as a going concern is to evaluate in the same manner as a lien discharge request. This evaluation will take into consideration the fair market value of the business and any encumbrances which have priority over the federal tax lien.

**Example:** The taxpayer operates a business which has been in existence for a number of years and has a good reputation with current customers. The assets of the business are valued at \$150,000, yet are encumbered for \$120,000 so it appears there is no equity for purposes of RCP ( $\$150K \text{ FMV reduced to QSV of } \$120K - \text{encumbrance of } \$120K = 0$ ). An appraisal or internal research has determined the business could be sold as a going concern for at least \$200,000. In this circumstance, based on the valuation of the operating business, there is equity of \$40,000 ( $\$200K \text{ reduced to } \$160K - \$120K = \$40K$ ) which must be included in RCP.

- (3) Request the assistance of an IRS valuation engineer when a difficult or complex valuation is necessary.
- (4) When determining the equity to include in RCP for an individual taxpayer who has an interest in a business entity, consideration should be given to the taxpayer's control over the business.
- (5) Generally, the value of a business as a going concern would not be included in RCP of a viable, ongoing business, unless the value is substantially greater than the income produced by the business.

**Example:** The taxpayer operates a business which holds a liquor license which is transferable and valued at \$100,000. The net income from the business is \$1,000 per month. Include the value of the liquor license in RCP, yet the taxpayer's net income must be adjusted and/or anticipated additional expenses allowed.

- (6) Clearly document the justification for the value used in the case history.

5.8.5.18  
(09-24-2021)  
**Dissipation of Assets**

- (1) Inclusion of dissipated assets in the calculation of the reasonable collection potential (RCP) is applicable in situations where it can be shown the taxpayer has sold, transferred, encumbered or otherwise disposed of assets in an attempt to avoid the payment of the tax liability. An attempt to avoid the payment of tax is normally defined as the transfer of assets for less than full value or use of proceeds (other than wages, salary, or other income) for other than the payment of items necessary for the production of income or the health and welfare of the taxpayer or their family, after the tax has been assessed or during a period of up to six months prior to or after the tax assessment.

**Note:** The evaluation of a taxpayer's interest in property held as a nominee, transferee, or alter ego should be considered separately from the determination the taxpayer may have dissipated an asset in an attempt to avoid the payment of tax. See IRM 5.8.5.6, Assets Held By Others as Transferees, Nominees, or Alter Egos

**Reminder:** It is necessary to determine whether the asset transfer, in the form of a gift, occurred after the statutory lien was established. When an asset is gifted subsequent to the statutory lien which attached to the property, the property must be included in RCP as an asset and not a dissipated asset..

- (2) Generally, a three year time frame will be used to determine if it is appropriate to include a dissipated asset in RCP. Include the year of submission as a complete year in the calculation.

**Example:** If the offer is submitted in 2021, any asset dissipated in 2018 or prior should not be included.

**Exception:** Even if the transfer and/or sale took place more than three years prior to the offer submission, it may be appropriate to include the asset in the calculation of RCP if the asset transfer and/or sale occurred during a period of up to six months prior to or after the assessment of the tax liability. If the transfer took place upon notice of or during an examination, these time frames may not apply based on the circumstances of the case. In any instance where the inclusion of a dissipated asset is being considered, a determination on whether the funds were used for health/welfare of the family or production of income is appropriate

- If the tax liability did not exist prior to the transfer or the transfer occurred prior to the taxable event giving rise to the tax liability, generally, a taxpayer cannot be said to have dissipated the assets in disregard of the outstanding tax liability.
- If a taxpayer withdraws funds from an IRA to invest in a business opportunity but does not have any tax liability prior to the withdrawal, the funds were not dissipated.
- Any tax paid as a result of the sale of the dissipated asset may be allowed as a reduction to the value placed on the dissipated asset.

**Note:** Do not expand the scope of an offer investigation beyond the requirements defined in IRM 5.8.5.4, Equity in Assets, for the sole purpose of attempting to locate dissipated assets.



- (3) If it is determined inclusion of a dissipated asset is appropriate and the taxpayer is unwilling or unable to include the value of the dissipated asset in the offer amount, the offer should be rejected, yet if the inclusion of the dissipated asset is the reason for the offer rejection, then the basis for rejection must be *not in the best interest of the government*. Although the offer may be rejected under *not in the best interest of the government* criteria, a calculation of an acceptable offer amount based on the equity in assets, the value of future income, and the amount attributable to the dissipated asset(s) must be provided with the rejection recommendation.

**Example:** A taxpayer is offering \$1,000 which represents RCP, yet dissipated an asset with net equity of \$50,000. The AET must reflect the calculated RCP and the value of the dissipated asset and the offer will be rejected under NIBIG.

**Note:** For the value of a dissipated asset to be considered by Appeals, the offer must be rejected under NIBIG and requires second level managerial approval.

- (4) See below for examples of the types of situations where it may be appropriate to include, or not include, the value of an asset in the calculation of RCP. The examples provided are not meant to be all inclusive as each case must be evaluated on its own merit.

- (5) Examples of situations in which the value of an asset should be included in RCP include, but are not limited to:

**Note:** Each of the examples in paragraph (5) occurred within three years prior to the offer submission or during the offer investigation, and the taxpayer dissipated the assets after incurring the tax liability, within six months prior to the tax assessment, during an examination, or after receiving notice of an examination.

**Example:** (1) The taxpayer dissolved an IRA or other investment account to pay for specific non-priority items, i.e. child's wedding, child's university tuition, extravagant vacation, etc.

**Example:** (2) The taxpayer refinanced their house and used the funds to pay off credit card and non-secured debt. The credit cards were NOT used for payment of necessary living expenses and/or the production of income.

**Example:** (3) The taxpayer inherited funds and used the funds for non-priority items (other than health/welfare of the family or production of income).

**Example:** (4) The taxpayer closed bank/investment accounts and will not disclose how the funds were spent or if any funds remain.

**Example:** (5) A taxpayer filed a CAP to avoid the filing of a NFTL and insisted the lien would impair their credit and ability to successfully operate the business. After the non-filing was granted, the taxpayer fully encumbered their assets, used the funds for non-priority items (items not necessary for the production of income or the health and welfare of the taxpayer and/or their family) and then submitted an OIC.



**Example:** (6) The taxpayer sold real estate and gifted the funds from the sale to family members.

- (6) Situations may occur in which the transfer happened over 3 years prior to the offer submission, yet because of the timing of the transfer (within six months prior to or six months after the tax assessment or after notification of an examination), the inclusion of the asset in RCP may be appropriate

**Example:** The taxpayer filed tax returns for five years (2013 - 2017) in February of 2019, which were assessed in March 2019. In January of 2019, the taxpayer transferred real property to a family member for no consideration. An offer was submitted in January 2023. In this instance, since the transfer was within six months of the tax assessments, it may be appropriate to include the value of the real property in RCP.

**Example:** The taxpayer received notification the IRS was beginning an audit of their 2015 tax return in January of 2017. The taxpayer transferred an investment account to a family member in February 2017. Additional tax liabilities based on the audit were assessed in March 2017. An offer was submitted in March 2021. In this instance, since the transfer took place after notification of the audit, it may be appropriate to include the value of the account in RCP.

- (7) Examples of situations in which the value of an asset should NOT be included in RCP, include but are not limited to:

**Example:** (1) When it can be shown through internal research or substantiation provided by the taxpayer that the funds were needed to provide for necessary living expenses, these amounts should not be included in the RCP calculation.

**Example:** (2) Dissolving an IRA during unemployment or underemployment. Review of available internal sources verified the taxpayer's income was insufficient to meet necessary living expenses. In this case, do not include the funds up to the amount needed to meet allowable expenses in the RCP calculation.

**Example:** (3) Substantial amount withdrawn from bank accounts. Taxpayer provided supporting documentation that funds were used to pay for medical or other necessary living expenses. This amount will not be included in the RCP calculation

**Example:** (4) Disposing of an asset and using the funds to purchase another asset that is included in the offer evaluation. Do not include the value of the asset disposed of as a dissipated asset.

**Example:** The taxpayer received a Form W-2G showing \$60,000 gambling winnings. The taxpayer provides verification they incurred losses equal to or greater than this amount. The \$60,000 should not be considered a dissipated asset.

- (8) Prior to including the dissipated asset in the RCP, the taxpayer should be contacted (preferably by telephone) and afforded the opportunity to explain or verify the dissipation of the asset.
- (9) Clearly document the case history with the basis for your decision regarding the dissipated asset.

**Reminder:** The value placed on a dissipated asset must be included on the AET which is provided to the taxpayer with the rejection letter. This is necessary, so the taxpayer has an opportunity to dispute the value and/or inclusion of the asset in any appeal submitted.

5.8.5.19  
(09-24-2021)  
**Retired Debt**

- (1) Retired debt is an expected change in necessary or allowable expenses. The necessary/allowable expenses may decrease, which would change the taxpayer's ability to pay.

**Example:** Required child support payments may stop before the future income period ends. It is expected that these retired payments would increase the taxpayer's ability to pay.

- (2) Inclusion of retired debt should not be automatically included in the calculation of the RCP. Use judgment in determining whether inclusion of the retired debt is appropriate based on the facts of the case; such as special circumstances or ETA situations.
- (3) Do not retire loan payments on a vehicle.
- (4) The case histories must be documented to support the inclusion or exclusion of the retired debt.

5.8.5.20  
(04-08-2024)  
**Future Income**

- (1) Future income is defined as an estimate of the taxpayer's ability to pay based on an analysis of gross income, less necessary living expenses, for a specific number of months into the future. See IRM 5.8.5.25, Calculation of Future Income, table for calculation.
- (2) As a general rule, the taxpayer's current income should be used in the analysis of future ability to pay. Consider all sources of current income when determining future ability to pay, refer to IRM 5.15.1.12, Determining Individual Income, for examples of income sources to include in current income.

**Note:** This may include situations where the taxpayer's income is recently reduced based on a change in occupation or employment status.

- (3) Give consideration to the taxpayer's overall general situation including such facts as age, health, marital status, number and age of dependents, level of education or occupational training, and work experience.
- (4) Situations that may warrant placing a different value on future income than current or past income indicates are discussed in the table below. Additionally, securing a future income collateral agreement based on the taxpayer's earnings potential may be appropriate and are discussed in more detail in IRM 5.8.5.21, Future Income Collateral Agreements, and IRM 5.8.6, Collateral Agreements.

If...	Then...
Income will increase or decrease or current necessary expenses will increase or decrease	Adjust the amount or number of payments to what is expected during the appropriate number of months.
A taxpayer is temporarily or recently unemployed or under-employed	<p>Use the level of income expected if the taxpayer were fully employed and if the potential for employment is apparent. Judge each case on its own merit, including consideration of special circumstances or ETA issues.</p> <p><b>Example:</b> Unemployed – The taxpayer is a construction worker who currently is not employed due to lack of work during the winter months. Since this loss of employment during the winter is normal for the taxpayer, use the taxpayer's previous annual income or you may use income averaging to accurately determine the taxpayer's income.</p> <p><b>Example:</b> Underemployed – The taxpayer is a teacher and is currently employed at a lesser paying job, yet will begin or return to work as a teacher when the school year begins in the fall, the taxpayer is considered to be currently underemployed. Use the anticipated income once the taxpayer is fully employed.</p>

If...	Then...
A taxpayer is unemployed and is not expected to return to their previous occupation or previous level of earnings	<p>Contact the taxpayer to discuss the expected future level of income. When considering future income, also allow anticipated increases in necessary living expenses and/or applicable taxes.</p> <p><b>Note:</b> Judge each case on its own merit, including consideration of special circumstances or ETA issues.</p>
A taxpayer is long-term unemployed	<p>Do not income average. Use the taxpayer's current income in the future income calculation. If there is a verified expectation the taxpayer will be securing employment then the use of anticipated future income may be appropriate. Use anticipated future income in situations where the future employment is uncertain.</p> <p><b>Example:</b> Taxpayer has been unemployed for over one year. There are currently no employment opportunities for the taxpayer and the household is living on one income. Using the taxpayer's current income with a future income collateral agreement may be appropriate.</p>

If...	Then...
A taxpayer is long-term under-employed	<p>Do not income average. Use the taxpayer's current income.</p> <p><b>Example:</b> The taxpayer was previously employed in a manufacturer plant making \$75,000 per year. There are currently no opportunities for the taxpayer to secure employment making the same rate of pay as their prior job. Their income is now \$25,000 per year with no anticipated increase. Use the current income only.</p>
A taxpayer has an irregular employment history or fluctuating income	<p>Average earnings over the three prior years. The use of a time period other than three years will be the exception and only when specific circumstances are present.</p> <p><b>Example:</b> The taxpayer is a stock broker whose income in 2018 was \$150,000 and income in 2019 was \$25,000. In this case, consider income averaging the prior three years or secure a future income collateral agreement if the offer is accepted.</p> <p><b>Note:</b> This practice does not apply to wage earners. Wage earners should be based on current income unless the taxpayer has unique circumstances.</p>

If...	Then...
A taxpayer is in poor health and their ability to continue working is questionable	<p>Reduce the number of payments to the appropriate number of months it is anticipated the taxpayer will continue working. Consider special circumstance situations when making any adjustments.</p> <p><b>Example:</b> Taxpayer has a serious health issue and it is anticipated they will be unable to work after six months. Use the taxpayer's current income for six months then reduce their income to the anticipated amount they will be receiving after they are unable to work.</p>

If...	Then...
<p>A taxpayer is close to retirement and has indicated they will be retiring</p>	<p>If the taxpayer can substantiate retirement is imminent, adjust the taxpayer's future earnings and expenses accordingly. If it cannot be substantiated, base the calculation on current earnings. At this point, it may be appropriate to discuss other options available to the taxpayer, for example an installment agreement.</p> <p><b>Example:</b> (1) The taxpayer is 65 years of age and has indicated they will retire at the age of 66. They provide copies of documents that have been submitted to their employer discussing their retirement date. Use the taxpayer's current income until the taxpayer's anticipated retirement date, then adjust the taxpayer's income to reflect the amount expected in retirement.</p> <p><b>Example:</b> (2) The taxpayer is 62 years of age, the taxpayer is in good health, and their income has remained stable for the past three years. The taxpayer states they would like to retire at age 63. Use the taxpayer's current income and if the RCP exceeds the offer amount, discuss the option of securing an installment agreement until the taxpayer actually retires, at which time an offer may be appropriate.</p>
<p>Taxpayer is currently receiving overtime.</p>	<p>If the OE/OS determines the overtime is regular and customary, include overtime in current income. If the overtime is deemed sporadic, then use the taxpayer's base pay.</p>

If...	Then...
The taxpayer is at or above the full retirement age to receive social security benefits and has decided to continue working	If the taxpayer is past the age when the taxpayer's income does not impact receipt of their full social security benefits, including the taxpayer's potential social security benefits in current income may be appropriate. Determine the amount of potential benefits by having the taxpayer secure an estimate from the Social Security Administration.
A taxpayer will file a petition for liquidating bankruptcy	Consider reducing the value of future income. Do not reduce the total value of future income to an amount less than what could be paid toward non-dischargeable periods, or what could be recovered through bankruptcy, whichever is greater. When considering a reduction in future income, also consider the intangible value to the taxpayer of avoiding bankruptcy. Refer to IRM 5.8.10.2, Bankruptcy.

- (5) Use judgment in determining the appropriate time to apply income averaging on a case by case basis. Consider all circumstances of the taxpayer when determining the appropriate application of income averaging, including special circumstances and ETA considerations. Below are some examples of when income averaging may not be appropriate.

**Example:** (1) Taxpayer's spouse has not worked for over two and one-half years and has no expectations of returning to work. Do not average income for the spouse's past employment.

**Example:** (2) Taxpayer has been unemployed for over one year and provided proof that Social Security Disability is the sole source of income. Do not apply income averaging in this case but use current income to determine the taxpayer's future ability to pay.

**Example:** (3) The taxpayer was incarcerated and may have been involved in the transfer of assets. If the OE/OS is unable to complete a thorough asset investigation, consideration should be given whether it would be in the best interest of the government to reject the offer and reassign the case to the field for a determination on any hidden assets.

**Example:** (4) The taxpayer recently began working after several months of unemployment. Use the most recent three months pay statements to determine future income. Since the taxpayer is a wage earner, the use of income averaging over the prior three years of income is not appropriate.



- (6) In situations where the taxpayer's income does not appear to meet their stated living expenses the difference will not be included as additional income to the taxpayer, unless there are clear indications additional income not included on the collection information statement is being received and will continue to be received by the taxpayer. Discussion with the taxpayer/POA and a review of documents submitted by the taxpayer must take place to determine how the taxpayer is paying current expenses and the appropriateness of including an additional amount in the calculation of future income. Verification of the source of unexplained bank deposits or statements from the source of gifts may be required to correctly determine the taxpayer's current income. Telephone or contact via Secure Messaging is recommended to expedite the case processing.

**Example:** (1) The taxpayer has been receiving gifts from their parents to meet current living expenses for the past six months. The taxpayer has no guaranteed right to the funds in the future and the amount does not appear to be based on the transfer of assets to the parents. Generally, do not include the gift amount as income.

**Example:** (2) The taxpayer has been receiving an amount each month that only began recently, which they state is a gift from a friend. Further research has determined the taxpayer is in business with the friend and the amount is from their business. This amount should be included as income to the taxpayer. Additionally, consider referring the taxpayer and the business income tax return to Examination.

**Example:** (3) The taxpayer had gambling winnings over a period of time, but is not consistent. Do not include those winnings as additional income on the IET. This does not apply to professional gamblers.

**Example:** (4) The taxpayer has a reverse mortgage that provides for fixed monthly cash advances for as long as they are living in their home. The amount of the cash advance may be added to income if the terms of the loan does not restrict the use of the funds and the advances are expected to continue.

**Example:** (5) The collection information statement (CIS) submitted by the taxpayer included \$3,000.00 of monthly income, which is verified by paystubs. The CIS submitted by the taxpayer includes \$4,000.00 of expenses. An additional \$1,000.00 will not be added to the taxpayer's income based solely on the fact it appears the taxpayer has been meeting the living expenses included on the CIS. Discussion with the taxpayer or representative is necessary to clarify the discrepancy prior to including the amount as additional income.

- (7) The taxpayer's situation may require an adjustment to income during the term of future income calculation or when determining if the taxpayer can fully pay the liability under current installment agreement (IA) guidelines.

**Example:** The taxpayer receives child support income in the amount of \$500 per month, which will only be received for an additional 18 months. An adjustment to the taxpayer's income will be required when calculating the ability to fully pay the liability under IA guidelines and if the offer was submitted requesting periodic payment terms.

- (8) Exercise good judgment when determining future income. The history must be clearly documented and support the known facts and circumstances of the case and include analysis of the supporting documents. Each case needs to be evaluated on its own particular set of facts and circumstances. The history must clearly explain the reasoning behind our actions.

5.8.5.21  
(09-30-2013)

#### **Future Income Collateral Agreements**

- (1) In some instances, it may be difficult to calculate the taxpayer's anticipated income. While the use of income averaging is one method available to calculate future earnings it may also be appropriate to use the taxpayer's current income and secure a future income collateral agreement. The use of a future income collateral agreement will protect the government's interest in any substantial increase in the taxpayer's earnings.
- (2) A future income collateral agreement is most appropriate in situations where the taxpayer's future income is uncertain, but it is reasonably expected that the taxpayer will be receiving a substantial increase in income.
- (3) A future income collateral agreement must not be used to accept an offer for a lesser amount than the calculated RCP. See IRM 5.8.6.2.1.1, Form 2261/2261-A Completion, for instructions on completing future income collateral agreements.

**Example:** (1) A taxpayer is currently in medical school; upon graduation income should increase dramatically. Consider securing a future income collateral agreement.

**Example:** (2) A taxpayer recently secured a job as an attorney with a starting salary of \$80,000 per year, with potential for significant increases in salary. Consider securing a future income collateral agreement.

**Example:** (3) A taxpayer is a real estate agent who has had two years of high income and the current income is significantly diminished. Based on the current real estate market, it may be appropriate to use the taxpayer's current income and secure a future income collateral agreement in lieu of income averaging.

**Example:** (4) A taxpayer's RCP is \$12,000 but has offered \$10,000 plus a future income collateral agreement. A future income collateral agreement is not appropriate in lieu of the taxpayer increasing their offer to the RCP amount. If the taxpayer is not willing to increase their offer to the RCP amount, reject the offer.

5.8.5.22  
(10-22-2010)

#### **Allowable Expenses**

- (1) Allowable expenses consist of necessary and conditional expenses, as defined in IRM 5.15.1, Financial Analysis Handbook, and further discussed below. Use the amount shown in the expense standard schedules unless that amount would result in the taxpayer not having adequate means to provide for basic living expenses. Once allowable expenses are determined, they are used to calculate the amount that can be collected from the taxpayer's future income. See IRM 5.8.5.20, Future Income, for additional information on future income.

5.8.5.22.1  
(10-22-2010)  
**Necessary Expenses**

- (1) A necessary expense is one that is necessary for the production of income or for the health and welfare of the taxpayer's family. IRM 5.15.1, Financial Analysis Handbook, discusses the national and local expense standards, which serve as guidelines to provide accuracy and consistency in determining a taxpayer's basic living expenses. The standards are available on the IRS web site and are periodically updated.
- (2) Taxpayers are allowed the National Standard Expense amount for their family size, without a need to substantiate the amount actually spent. If the total amount claimed is more than the total allowed by the National Standards, the taxpayer must provide documentation to substantiate and justify that the allowed expenses are inadequate to provide basic living expenses. All deviations from the national standards must be verified, reasonable and documented in the case history.
- (3) National and local expense standards are guidelines. If it is determined a standard amount is inadequate to provide for a specific taxpayer's basic living expenses, allow a deviation. Require the taxpayer to provide reasonable substantiation and document the case file. See IRM 5.15.1.8, Allowable Expense Overview.

**Example:** National Standard Expense amount is \$1,100. The taxpayer's actual expenditures are: housekeeping supplies - \$100, clothing - \$100, food - \$700, personal care products - \$100, and miscellaneous - \$200 (Total Expenses - \$1,200). The taxpayer is allowed the national standard amount of \$1,100, unless the higher amount is justified as necessary. In this example the taxpayer has claimed a higher food expense than allowed. Justification would be based on prescribed or required dietary needs. The taxpayer must substantiate and verify only the food expense. The taxpayer is not required to verify expenses for all five categories if a higher expense is claimed for one category. The standard amounts will be allowed for the remaining categories.

**Example:** The taxpayer is living in a home with a \$2,250 monthly housing expense, including utilities. The present fair market value of the house is approximately equal to the mortgage balance. The local standard allowance is \$1,800 per month. If the taxpayer remains in the home, income and expenses are approximately equal, leaving no disposable income in the calculation of future income value. If the taxpayer is unable to restructure their mortgage payment and the equity in the property is insufficient to pay the costs of selling their current home, related moving expenses, and purchasing or renting a new home that would allow for monthly payments within the national standard, the taxpayer may be allowed a housing amount that exceeds the standard.

- (4) Generally, the total number of persons allowed for national standard expenses will be the same as those allowed as dependents on the taxpayer's current year income tax return. There may be reasonable exceptions. Fully document the reasons for any exceptions.

**Example:** Foster children or children for whom adoption is pending.

**Example:** Custodial parent released the dependency exemption to ex-spouse.

- (5) Do not consider a deviation from the standards merely because it is inconvenient for the taxpayer to dispose of high value assets. In some situations, taxpayers will be expected to make lifestyle choices that will facilitate collection of the delinquent tax.

5.8.5.22.2  
(03-23-2018)  
**Housing and Utilities**

- (1) When determining a taxpayer's housing and utility expense, use an amount sufficient to provide for basic living expenses. Use the amount shown in the expense standard schedules as a guideline unless such use results in the taxpayer not having adequate means to provide for basic living expenses. If it is determined that a standard amount is inadequate to provide for basic living expenses, allow a deviation. If the amount of the expense cannot be verified through other sources (such as, bank statements), require the taxpayer to provide reasonable substantiation. Deviations from the expense standards must be verified, reasonable, and documented in the case history. Below are two examples, which are not all inclusive. Each decision must be based on the merits of the particular case.

**Example:** A taxpayer with a physical disability or an unusually large family requires a housing expense that is not covered by the local standard. Require the taxpayer to provide copies of mortgage or rent payments, utility bills and maintenance costs to verify the necessary amount.

**Example:** A taxpayer has owned their home for several years and the payment is above the established standard. Your investigation indicates the taxpayer would not be able to rent an apartment for less than their current mortgage payment. In that case, you should consider allowing the full amount of the loan payment. Document the case history.

- (2) Absent special circumstances, when determining a taxpayer's housing and utility expense, use the amount that is claimed or the standard, whichever is less.
- (3) An allowance may also be provided for reasonable costs associated with a potential or anticipated move. Refer to IRM 5.15.1.10, Local Standards, which discusses when a deviation from the standard may be appropriate.

5.8.5.22.3  
(04-08-2024)  
**Transportation Expenses**

- (1) Transportation expenses are considered necessary when they are used by taxpayers and their families to provide for their health and welfare and/or the production of income. Employees investigating OICs are expected to exercise appropriate judgment in determining whether claimed transportation expenses meet these standards. Expenses that appear excessive should be questioned and, in appropriate situations, disallowed.
- (2) The transportation standards consist of nationwide figures for loan or lease payments referred to as ownership costs and additional amounts for operating costs broken down by Census Region and Metropolitan Statistical Area. Operating costs include maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking and tolls.
- (3) Ownership Expenses – Expenses are allowed for purchase or lease of a vehicle. Taxpayers will be allowed the local standard or the amount actually paid, whichever is less, unless the taxpayer provides documentation to verify and substantiate that the higher expenses are necessary.

- (4) Operating Expenses – Allow the full operating costs portion of the local transportation standard, or the amount actually claimed by the taxpayer, whichever is less. Substantiation for this allowance is not required unless the amount claimed is more than the total allowed by any of the transportation standards.
- (5) If a taxpayer claims higher amounts of operating costs because they commute long distances to reach their place of employment, they may be allowed greater than the standard. The additional operating expense would generally meet the production of income test and therefore be allowed if the taxpayer provides substantiation.
- (6) In situations where the taxpayer has a vehicle that is currently over nine years old or has reported mileage of 125,000 miles or more, an additional monthly operating expense of \$200 will generally be allowed per vehicle (up to two vehicles when a joint offer is submitted). If the vehicle(s) meets the age and/or mileage threshold, written documentation would not be required to determine the exact additional operating costs, unless additional allowance exceeds the \$200 provided.

**Example:** (1) The taxpayer who has a 2013 vehicle with 90,000 miles, will be allowed the standard of \$231 per month plus up to \$200 per month operating expense (because of the age of the vehicle), for a total operating expense allowance of \$431 per month.

- (7) Except as noted in paragraph (6) above, deviations from the transportation standards must be verified, reasonable and documented in the case history.

5.8.5.22.4  
(09-24-2021)  
**Other Expenses**

- (1) Other expenses may be allowed in determining the value of future income for offer purposes. The expense must meet the necessary expense test by providing for the health and welfare of the taxpayer and/or their family or must be for the production of income. This is determined based on the facts and circumstances of each case.
- (2) Repayment of loans incurred to fund the offer and secured by the taxpayer's assets will be allowed, if the asset is necessary for the health and welfare of the taxpayer and/or their family, i.e. taxpayer's residence, and the repayment amount is reasonable. The same rule applies whether the equity is paid to IRS before the offer is submitted or will be paid upon acceptance of the offer. IRM 5.8.5.15, Income-Producing Assets, to determine when to allow repayment of loans on those type of assets if they are used to fund the offer.

**Example:** (1) The taxpayer has secured a 2nd mortgage against their residence which will be paid toward the offer amount upon acceptance. The payment is reasonable based on the amount borrowed and terms of repayment. The payment will be allowed as an expense on the Income/Expense Table.

**Example:** (2) A taxpayer may have a liability for a court ordered judgment that is senior to the NFTL. Unless the taxpayer is actually making payments on that liability, it is not considered as an allowable monthly expense.

- (3) Minimum payments on student loans guaranteed by the federal government will be allowed for the taxpayer's post-high school education. Proof of payment must be provided. If student loans are owed, but no payments are being made,

do not allow them, unless the non-payment is due to circumstances of financial hardship, e.g. unemployment, medical expenses, etc.

- (4) Education expenses will be allowed only for the taxpayer and only if it they are required as a condition of present employment. Expenses for dependents to attend colleges, universities, or private schools will not be allowed unless the dependents have special needs that cannot be met by public schools.
- (5) Child support payments for natural children or legally adopted dependents may be allowed based on the taxpayer's situation. A copy of the court order and proof of payments should be provided. If no payments are being made, do not allow the expense, unless the nonpayment was due to temporary job loss or illness. In situations where a court order is pending, additional verification may be required. For example, a draft or copy of the court order may be requested.

**Example:** The taxpayers are separated and a court date has not been established but child support payments are being made and the taxpayer provided verification of payments.

**Note:** Do not allow payments for expenses, such as college tuition or life insurance for children, made pursuant to a court order. The fact that the taxpayer is under court order to make payments with respect to such expenses does not change the character of the expense. Therefore, that the taxpayer is under court order to provide a payment will not in the ordinary course elevate that expense to allowable status as an offer expense, when the IRS would not otherwise allow it.

- (6) Substantiation of claimed health care expenses of less than the allowable standard is not required.

**Note:** Review the taxpayer's paystub for Health Reimbursement Arrangement (HRA) and allow the related deduction for health insurance costs.

- (7) When a taxpayer owes both delinquent federal and state or local taxes, and does not have the ability to full pay through the liquidation of assets, an installment agreement, or combination of both, then monthly payments to state taxing authorities will be allowed in certain circumstances. The guidance in this section should be followed when determining the appropriate expense allowance in the calculation of the taxpayer's future income value for delinquent state taxes. The calculation discussed in this section for purposes of an offer is appropriate, even in circumstances where the state has a memorandum of understanding (MOU) regarding allowance for delinquent state taxes when calculating an installment agreement payment or the state has issued a notice of levy.

**Note:** State or local liens may enjoy a priority in fixed payment streams such as annuity payments. If necessary, consult with Area Counsel to determine lien priorities.

- a. Determine the disposable income on a Collection Information Statement (CIS), Forms 433-A (OIC) or 433-B (OIC). Do not include any amount that is being paid for outstanding state or local tax liabilities in the calculation of the future income value component (FIV) of the reasonable collection potential (RCP). FIV is the difference between gross income and allowable living expenses. Calculate the dollar amounts for IRS and



state or local payments based on the total liability owed to each agency (including penalties and interest to date).

**Example:** The taxpayer owes the state \$20,000 and owes the IRS \$100,000, a total of \$120,000 ( $\$20,000/\$120,000 = 17\%$ ;  $\$100,000/\$120,000 = 83\%$ ). The taxpayer has disposable income of \$300 per month. A monthly payment to the State Taxing Authority of \$51 may be allowed until the debt is retired. See the If/Then table below for examples.  
 Seventeen percent (17%) of \$300 = \$51  
 Eighty-three percent (83%) of \$300 = \$249

- b. To determine allowable payments for delinquent state or local tax debts follow the procedures below:

If...	And...	Then...
(1) The taxpayer does not have an existing agreement for payment of the delinquent state or local tax debts,	Provides a complete CIS and verification of state or local tax debts,	Follow procedures in paragraph (a) above to establish the calculated percentage amount that will be determined as the allowable monthly payment for delinquent state or local taxes.
(2) The taxpayer has an existing agreement for delinquent state or local tax debts, which was established after the earliest IRS date of assessment,	The payment amount on the state or local agreement is less than the calculated percentage amount,	The monthly amount due on the existing state or local agreement will be listed as the allowable delinquent state or local tax payment. Example: The calculation based on the example in paragraph (a) above shows the taxpayer should pay \$51 but the State agreement is for \$50. Allow the State agreed payment of \$50. The payment to IRS will be increased by the amount allowed for the monthly state or local payment when the state or local liability is scheduled to be full paid.

If...	And...	Then...
(3) The taxpayer has an existing agreement for delinquent state or local tax debts, which was established after the earliest IRS date of assessment,	The payment amount on the agreement is more than the calculated percentage amount,	The amount allowed as the delinquent state or local tax payment will be the calculated percentage amount. Advise the taxpayer that they can use the amount IRS allows for Miscellaneous expenses under National Standards to pay the additional amount due for the delinquent state or local tax payment. Example: The calculation based on the example in paragraph (a) above shows the taxpayer should pay \$51 but the State agreement is for \$52. Allow the calculated payment of \$51. The payment to IRS will be increased by the amount allowed for the monthly state or local payment when the state or local liability is scheduled to be full paid
(4) The taxpayer has an existing agreement for delinquent state or local tax debts, which was established prior to the IRS earliest date of assessment,	The payment is not greater than the taxpayer's net disposable income,	Allow the state or local tax agreement.

- (8) Generally, charitable contributions are not allowed in the RCP calculation. However, charitable contributions may be an allowable expense if they are a condition of employment or meet the necessary expense test.

**Note:** A minister is required to tithe according to their employment contract. IRM 5.15.1, Financial Analysis Handbook.



- (9) Payments being made to fund or repay loans from voluntary retirement plans will generally not be allowed. Taxpayers who cannot repay these loans will have a tax consequence in the year that the loan is declared in default and that consequence should be estimated and allowed as an additional tax expense on the IET for the required number of months necessary to cover the additional tax consequence. Request the taxpayer or their representative estimate the tax ramification of the failure to re-pay the loan, or request assistance from the Examination function or Customer Service to determine the tax consequences. Analyze payments made to repay loans relative to a mandatory retirement to determine if they meet the health and welfare of the family and/or production of income test.
- (10) Current taxes are allowed regardless of whether the taxpayer made them in the past or not. If an adjustment to the taxpayer's income is made, an adjustment of the tax liability must also be made. Current taxes include federal, state, and local taxes. In a wage earner situation, allow the amount shown on the pay stub. If the current withholding amount is insufficient or was recently adjusted to substantially over-withhold, the tax expenses will be based on the actual tax expense.
- (11) Offers may be received where the taxpayers have not provided either proof of payment for certain monthly expenses claimed on the Form 433-A(OIC) or statements. Often the taxpayers are not actually paying claimed expenses, or they are not allowable under offer program guidelines. If a taxpayer does not substantiate claimed expenses for Form 433-A(OIC) categories of court ordered payments, child/dependent care, life insurance, other secured debt, or other expenses the OE/OS will complete the IET assuming that the taxpayer is not making any payments for the particular unsubstantiated expense.

**Example:** (1) Taxpayers frequently list their unsecured credit card bills under secured debt or other expenses. Since the miscellaneous allowance in the National Standard expense includes credit card payments, these will not be considered as an additional allowable monthly expense.

**Example:** (2) A taxpayer may have a liability for a court ordered judgment that is senior to the NFTL, unless the taxpayer is actually making payments on that liability; it is not considered as an allowable monthly expense.

5.8.5.23  
(09-30-2013)  
**Conditional Expenses**

- (1) Conditional expenses are defined in IRM 5.15.1, Financial Analysis Handbook, as those that may be allowed when the tax will be paid in full by an installment agreement within 6 years. For offer purposes, the full amount of the tax will not be collected, therefore, the rules for conditional expenses do not apply. However, an offer may be accepted for less than the RCP when special circumstances are present in accordance with IRM 5.8.11, Effective Tax Administration.
- (2) The one year rule which allows time for a taxpayer to adjust current expenses to meet the terms of an installment agreement is not allowed for Offers in Compromise.
- (3) The purchase of discretionary investments is not allowed in the calculation of the RCP.

**Example:** Payroll savings plans, purchase of whole life policies, mutual funds, or voluntary retirement plan contributions.

5.8.5.24  
(09-24-2021)  
**Shared Expenses**

- (1) Generally, a taxpayer will be allowed only the expenses the taxpayer is required to pay. Consideration must be given to situations where the taxpayer shares expenses with another. Shared expenses may exist in one of two situations:
- An offer is submitted by a taxpayer who shares living expenses with another individual who is not liable for the tax.
  - Separate offers are submitted by two or more persons who owe joint liabilities and/or separate liabilities and who share the same household.
- (2) Generally, the assets and income of a not liable person are excluded from the computation of the taxpayer's ability to pay. Treasury Reg. 301.7122-1(c)(2)(ii)(A) only applies in non-labile situations.

**Exception:** Related offers including both joint and separate liabilities. The amount of both offers must equal the total amount collectible from the shared household. IRM 5.8.5.5, Jointly Held Assets, provides that the equity in jointly owned assets should be applied first to the joint liabilities and then to the separate liabilities.

- (3) Below are some examples of joint and separate liabilities.

**Exception:** Community property states. Follow community property laws in these states to determine what assets and income of the non-labile person are subject to the collection of tax. See IRM 25.18.4, Collection of Taxes in Community Property States and IRM 5.8.5.5, Jointly Held Assets.

**Exception:** Domestic partnership states. Follow domestic partnership laws in these states to determine what assets and income of the non-labile person are subject to the collection of tax.

If...	Then...
A joint offer was submitted on joint tax liabilities and a separate offer was also submitted by one spouse with a separate tax liability or separate offers are submitted by joint taxpayers	Compute the RCP including the joint income and assets. Allocate the total RCP to both offers. If the offer is to be accepted, it may be necessary to secure amended Form(s) 656 from the taxpayers reflecting the proportionate amount of the RCP on the joint liability(s) and the remaining amount of the RCP on the separate liability(s). The total offer amount must equal or exceed the total RCP. See IRM 5.8.5.5 for further consideration on the allocation of RCP.

If...	Then...
A joint offer was submitted on joint tax liabilities and a separate offer was also submitted by one spouse with a separate tax liability or separate offers are submitted by joint taxpayers and taxpayers own assets individually which are listed on separate Forms 433-A(OIC)	Compute the RCP including all income and assets. When sharing and discussing the calculated RCP, if the taxpayers have not provided Form 8821, Tax Information Authorization, it may be necessary to provide separate AET/IET to the taxpayers and advise them they may share and discuss to determine if amended offers will be submitted. The total offer amount must equal or exceed the total RCP.
A separate offer is submitted by only one taxpayer who owes joint liabilities	Compute the RCP based on the taxpayer's separate income, household expenses they are required to pay, individually owned assets, and jointly held assets using the allocations described in IRM 5.8.5.5, Jointly Held Assets, taking into consideration community property laws, if applicable. Refer to para. 5 of this section regarding shared expenses.

If...	Then...
A joint offer was submitted from taxpayers residing in separate households	<p>Compute two separate RCPs based on their separate income(s) and expenses. If the combined RCP is less than the offer amount, proceed with acceptance.</p> <p>If the combined RCP is greater than the offer amount or additional information/documentation is needed, contact the taxpayers individually to discuss the RCP based on their individual financial analysis, preferably by telephone or through Secure Messaging. Advise them that the RCP is based on their individual income and assets and they should discuss the outcome with the related party to determine if an increase in their joint offer amount will be submitted. If they agree to submit a joint offer that is greater than their total individual RCPs secure an addendum to revise the offer amount.</p> <p><b>Caution:</b> Do not disclose the financial information of the individual to the other taxpayer. It will be at the taxpayer's discretion to discuss their financial information and determine whether an amended offer should be submitted to include both RCPs.</p>

- (4) The OE/OS should secure sufficient information concerning the non-liable person's assets and income to determine the taxpayer's proportionate share of the total household income and expenses. Review the entire household's information and:
- Determine the total actual household income.
  - Determine what percentage of the total household income the taxpayer contributes.
  - Determine allowable expense amounts using the rules in this chapter and IRM 5.15.1, Financial Analysis Handbook.

- d. Determine which expenses the taxpayer and others have agreed to share, e.g., taxpayer and non-liable spouse pay their expenses from joint checking account. If there is no agreement, then the expense isn't shared, as is typical for child support, allowable educational loan, or union dues.
  - e. Apply the taxpayer's percentage of income to the shared expenses.
  - f. Verify that the taxpayer actually contributes at least this amount to the total household expense. National Standard expenses do not require verification unless the taxpayer claims more than the standard amount.
  - g. Do not allow the taxpayer any amount paid toward the non-liable person's discretionary expenses.
- (5) Shared expense calculations between spouses are used when the parties live in a separate property state or state law permits the parties to separate their incomes and the non-liable spouse does not agree to have their income considered in the repayment of the liable spouse's tax debt, refer to IRM 5.15.1.5, Shared Expenses. If the non-liable spouse does not agree to have their income considered in the repayment amount, determine the income percentages as stated in paragraph (4).

**Reminder:** Community Property States: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. In addition, Alaska is an opt-in community property state; property is separate property unless both parties agree to make it community property through a community property agreement or a community property trust. The territories of Puerto Rico, Guam and the Commonwealth of the Northern Mariana Islands also allow property to be owned as community property.

- (6) After determining the percentage of income of the liable taxpayer, that percentage is multiplied against the ALE standard amounts for the household, refer to IRM 5.15.1.5, Shared Expenses. If the taxpayer's calculated percentage amount for National Standards for Food, Clothing and Other Items and for Out-of-Pocket Health Care Costs, is less than the standard amount for one person, the liable taxpayer will be allowed the standard amount. For the other ALE expenses (Transportation and Housing/Utilities), allow the liable taxpayer the calculated percentage amount or the standard amount, whichever is less. Also give consideration to any separate expenses the liable taxpayer is solely responsible for paying, such as alimony, child care, etc.
- (7) If the non-liable person's income is not provided or cannot be verified internally, allow the liable taxpayer only the national and local standards for 1 person plus any allowable and verifiable dependents. In those cases where the non-liable person refuses to provide the supporting documentation (if the expenses are reasonable) you may consider allowing up to 50 percent of the additional necessary household expenses.
- (8) If the non-liable person is a minor who is receiving survivor benefits, a decrease in certain allowable expenses may be appropriate. Prior to reducing any allowable expense, the OE/OS must determine the reduction will not cause a hardship to the household.

**Example:** Taxpayer submits an offer and includes 2 dependents, who are non-liable persons, who are also minors that are receiving a total of \$2,500 per month in survivor benefits. The Form 433-A(OIC) expenses are

based on a 4 person household (taxpayer, spouse, and 2 non-liable minor dependents) and does not include the survivor benefits in household income. A method to correctly calculate the taxpayer's gross income would be to include the \$2,500 survivor benefit in total household income to account for the allowable expense amounts attributable to the non liable minors.

**Example:** Using the example above, as an alternative to the taxpayer including the \$2,500 monthly benefit in gross income, it would be appropriate to reduce the allowable National Standard, Housing Standard, and/or Medical allowance amount(s) to two persons, as long as the reduction is less than the \$2,500 being received and does not cause a hardship to the household.

- (9) If an in-house verification is conducted on the not liable person, this information cannot be relayed to the taxpayer. It is considered an unauthorized disclosure if any information is shared with the taxpayer.
- (10) When the taxpayer can provide documentation that income is not mingled (as in the case of roommates who share housing) and responsibility for household expenses are divided equitably between cohabitants (as documented by rental agreements, bank statement analysis, etc.), the total allowable expenses must not exceed the total allowable housing standard for the taxpayer, plus any allowable dependents. In this situation, it would not be necessary to obtain the income information of the other person(s). However, sufficient financial information must be secured to verify the total household expenses and prove that the taxpayer is paying their proportionate share. The investigating employees should exercise sound judgment in these situations to determine which approach is most appropriate, based on the facts of each case.

**Example:** When the taxpayer is renting an apartment or room and the owner of the property is not the taxpayer, the rental agreement or signed statement from the owner of the property should support the decision not to require the owner to divulge any personal information regarding income or household expenses. In this case, the investigating employee will accept the information provided by the taxpayer and make a determination based on that information.

5.8.5.25  
(09-24-2021)  
**Calculation of Future  
Income**

- (1) The use of Decision Point or IAT Compliance Suite Payment Calculator is recommended to assist in this calculation to determine if the taxpayer can fully pay under installment agreement guidelines or to determine the future income component of RCP. If Decision Point or IAT Compliance Suite Payment Calculator is not available, follow the procedures shown below.
- (2) Future income is defined as an estimate of the taxpayer's ability to pay based on an analysis of gross income, less necessary living expenses, for a specific number of months into the future. The number of months used depends on the payment terms of the offer.

If...	Then...
The offer will be paid in 5 months or less and 5 or fewer payments	Use the realizable value of assets plus the amount that could be collected in 12 months.
The offer is payable in six to 24 months	Use the realizable value of assets plus the amount that could be collected in 24 months.

- (3) Generally, the amount to be collected from future income is calculated by taking the projected gross monthly income, less allowable expenses, and multiplying the difference by the number of months applicable to the terms of offer.
- (4) For lump sum cash and periodic payment offers, when there are less than 12 or 24 months remaining on the statutory period for collection on all tax periods, use the number of months remaining on the statutory period for collection.

**Example:** The taxpayer submits an OIC for tax year 2012 only. When the OIC was filed, there were only 10 months remaining on the CSED for the 2012 period. In this situation, the taxpayer's future income will be calculated using 10 months (amount remaining on applicable CSED) rather than 12/24 months.

**Example:** The taxpayer submits an OIC for tax year 2012, 2015 and 2021. When the OIC was filed, there were only 3 months remaining on the shortest CSED (2012), but there were 40 months remaining on 2015 and 111 months left on 2021. A determination is made the taxpayer does not have the ability to full pay within the remaining 111 months so, future income value will be calculated using either 12 or 24 months and not limited to the three months remaining on the shortest CSED.

5.8.5.25.1  
(09-30-2013)  
**Calculation of Future  
Income – IRC 6503(c)  
(Taxpayer Out of the  
Country)**

- (1) The 16 year limitation from the date of assessment discussed in IRM 5.1.19.3, Case Actions That Can Suspend And/Or Extend A CSED, should also be taken into consideration in the calculation of the taxpayer's Future Income Value (FIV) as discussed in IRM 5.8.5.25, Calculation of Future Income. These provisions only apply to taxpayers who are cooperative. In situations where the taxpayer is uncooperative, an offer in compromise is not an appropriate case resolution.

**Note:** If the number of months remaining until the 16 year limitation period is less than the 12 or 24 month factor in certain cash or periodic payment offers, then the number of months remaining until the 16 year limitation period will be used in the FIV calculation. The 16 year limitation period will also be used as the factor in Periodic Payment offer situations where the taxpayer has returned from outside the country and the CSED calculation in accordance with IRC 6503(c) is longer than 16 years.



5.8.5.25.2  
(09-24-2021)

**Calculation of Future  
Income – Cultivation and  
Sale of Marijuana in  
Accordance with State  
Laws**

- (1) The value of future income used in the determination of an acceptable offer amount is calculated in a different manner when a taxpayer is involved in the cultivation and sale of marijuana, in accordance with applicable state laws. The method of calculating future income will be based on the following guidance:

1. Determine the taxpayer's gross income over a specific time period (normally annually);
2. Limit allowable expenses consistent with Internal Revenue Code 280E, where a taxpayer may not deduct any amount for a trade or business where the trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances;

**Note:** Since only expenses which are allowable based on current federal law will be included in determining future income value, the taxpayer's most recent income tax return is the most appropriate document to use when completing the income/expense table.

**Reminder:** These provisions are specific to the marijuana industry, where state statutes allow the activity, and are not intended as guidance for other instances involving taxpayers who are in violation of federal law.

- (2) Contact the Examination Division, if appropriate, for assistance in determining if the cost of the product or any related expenses, may be allowable under current examination guidelines. A referral to Examination may also be appropriate, if it appears the taxpayer is including expenses on their income tax return for other than cost of goods sold contrary to IRC 280E.
- (3) If the taxpayer is unwilling to increase their offer to the value of the equity in assets plus a future income component calculated based on this subsection, the offer will be rejected under public policy.

5.8.5.26  
(04-08-2024)

**Business Income and  
Expenses**

- (1) A taxpayer who operates a business or has an interest in a business enterprise, LLC, partnership, and/or corporation will be required to provide sufficient information to determine the value of their interest and expected income from the entity. The financial information may be provided on a Form 433-B, Collection Information Statement for Businesses, current balance sheet, income statement, profit and loss statement, or combination thereof. Any information should be verified via appropriate internal and external sources. Refer to IRM 5.8.4.22.3, Offers from Operating Businesses relative to issues which should be reviewed and considered.
- (2) Reported income must be verified by the OE/OS. This financial review should include bank statements and may include income tax returns, or other financial documents available to the taxpayer. In circumstances in which entity information is being reviewed in conjunction with an offer submitted by an individual, a determination must be made whether the entity is retaining earnings which should be distributed to the taxpayer which would increase FIV or RCP of the individual submitting the offer.
- (3) Expenses should also be verified to determine the correct net income is being reported and distributed to the owners/shareholders. A component which must be evaluated is the reporting of depreciation and the impact it has on the net income of the business. Depreciation and other non-cash expenditures will not be allowed as an expense when calculating FIV. Actual cash expenditures



required to be paid in the ongoing operations of the business, including any payments of principal on debt incurred to purchase assets used in the production of income, are allowable.

**Note:** If the taxpayer is using the standard mileage deduction, the OE/OS should be adjusting the vehicle expense allowed on the income expense table to account for the depreciation component. Refer to Financial Analysis Library on OIC SharePoint for a depreciation chart and Pub 463, Travel Gift and Car Expenses to determine the appropriate adjustment.

- (4) Refer to the following IRM subsections to assist in reviewing business financial statements, income and expenses. IRM 5.15.1.15, Business Financial Statements, IRM 5.15.1.18, Business Expenses, and IRM 5.15.1.19, Determining Business Income.

5.8.5.27  
(09-24-2021)  
**Limited Liability  
Companies (LLC) Issues**

- (1) Collection from a LLC involves unique issues especially when the liabilities include employment or excise taxes. Refer to IRM 5.1.21, Collecting from Limited Liability Companies (LLC) for a complete discussion on the characteristics of a LLC and issues involving collection of liabilities owed by the LLC.
- (2) While investigating an offer in compromise that involves an LLC, knowing the classification for federal tax purposes is necessary. Yet, classification of the LLC for federal tax purposes does not negate state law provisions concerning the legal status of the LLC. For example:
  - Classification of an LLC as a partnership does not mean the member/owners have liability for LLC debts as would be the case in a state law partnership.
  - Under certain circumstances, an LLC will be disregarded as an entity separate from its owner. This classification does not mean that an LLC owned by an individual is the equivalent of a sole proprietorship.

**Note:** As with any closely held entity, the OE/OS must determine if income or assets of the individual and LLC are being commingled. If necessary, bank statements or other financial information will be requested from owner/member to determine appropriate RCP.

5.8.5.27.1  
(10-22-2010)  
**Financial Analysis of an  
LLC**

- (1) As with any entity, sufficient information must be secured so an informed decision can be made on the acceptability of the taxpayer's compromise proposal.
- (2) In all instances, a financial statement will be required from the LLC. This includes employment tax liabilities for wages paid prior to January 1, 2009, where the classification of the LLC is a disregarded entity even though the LLC is not the liable taxpayer.
- (3) Secure financial information of all member owners. When a member owner holds only a negligible or token interest, has made no or minimal investment and exercises no control over the corporate affairs, financial information may not be required unless other factors are present to indicate the information is necessary to determine the acceptability of the taxpayer's offer. Judgment relative to the information required from the member owners should be exercised in situations where a transfer of assets/interest may have taken place.

- (4) If the taxpayer is unwilling or unable to provide the financial information requested and the information is necessary to determine whether the taxpayer's offer should be accepted, consider a return as discussed in IRM 5.8.7, Return, Terminate, Withdraw, and Reject Processing.

5.8.5.28  
(03-23-2018)  
**Financial Analysis of a  
Partnership Interest**

- (1) Since the taxpayer's interest in any asset must be included in RCP, if the taxpayer has any interest in a partnership, a determination must be made on the appropriate value to include in an acceptable offer amount. The taxpayer's interest may be as a general or limited partner.
- (2) Generally, the value of the taxpayer's interest would either be the taxpayer's share of the underlying assets or the value of the transferable interest. The determination of the correct valuation would also be based on other factors, including whether the taxpayer is a general partner, how the taxpayer's interest was acquired, how the assets of the partnership were acquired, the taxpayer's relationship to the other partners, and the liquidity of the transferable interest.

**Note:** In some instances, it may be necessary to review the partnership agreement and/or contact Area Counsel to determine the taxpayer's partnership interest and an appropriate valuation based on state law.

5.8.5.29  
(04-08-2024)  
**Offer in Compromise  
Submitted on Cases  
Involving Collection  
Statute Expiration Date  
(CSED) Extensions**

- (1) Taxpayers that previously extended the **CSED in connection with an installment agreement** may request approval of an OIC. In accordance with IRM 5.8.4.3 Doubt as to Collectibility, an offer should not be accepted if the liability can be full paid under current installment agreement guidelines.
- (2) IRC 6502(a)(2)(A) provides that the CSED may be extended in connection with granting installment agreements. CSED extensions by waiver are only permitted when securing partial payment installment agreements (PPIA) and only for specific situations. See IRM 5.14.2.3, Collection Statute Expiration Date (CSED): Law, Policy, and Procedures for further guidance on the policy of the IRS for extending the CSED by waiver.

5.8.5.30  
(03-23-2018)  
**Payment Terms**

- (1) Payment terms are negotiable, but should provide for payment of the offered amount in the least time possible. If a taxpayer is planning to sell asset(s) to fund all or a portion of the offer, the payment terms for the offer should provide for immediate payment of the amounts received from the sale. If the taxpayer is planning to borrow a portion of the money, the OE/OS should determine when the loan will be received and the payment terms of the offer should provide for payment of the borrowed portion at the time the funds are received.
- (2) For those taxpayers who agree to shorter payment terms, fewer months of future income are required:

Payment Type	Payment Terms	Number of Months Future Income Required
Lump Sum Cash	5 or less installments within 5 months	12 months or the remaining statutory period, whichever is less
Periodic Payment	Within 6 to 24 months	24 months or the remaining statutory period, whichever is less

- (3) While a periodic payment offer is being evaluated by the IRS, the taxpayer must make subsequent proposed periodic payments as they become due. Even though there is no requirement that the payments be made monthly or in equal amounts, base offer payments on the taxpayer's specific situation and reflective of the taxpayer's ability to pay. While the calculation of RCP and consideration of any special circumstances will assist in determining an acceptable offer amount, the IRS is not bound by either the offer amount or the terms proposed by the taxpayer. In situations where the OE/OS determines that the proposed offer payment terms are too protracted to recommend acceptance, the OE/OS will discuss with the taxpayer what may be appropriate payment terms based on the taxpayer's circumstances.

**Example:** (1) Determining Appropriate Payment Terms for a Periodic Payment Offer – The taxpayer's offer of \$10,000 was received by the IRS on January 1, 2022 and the taxpayer remained current on all required payments during the investigation based on the payments listed on the original Form 656 of \$100 every other month. The original terms also provided for the balance of \$8,800 to be paid in the 24th month. Since the terms requested by the taxpayer included minimal payments every other month and required a substantial lump sum payment in the 24th month, if the offer amount is acceptable based on RCP, the OE/OS should determine a more appropriate monthly payment based on the facts of the investigation. Since the taxpayer is current on required periodic payments during the 10 months the offer was under investigation and has paid at total of \$500, an amended offer providing for payments to begin upon acceptance of the offer for a period of 24 months, in the amount of \$395 per month for 23 months and a final payment of \$415 will be discussed with the taxpayer, as the original terms are not in the government's interest. If the taxpayer is unwilling to amend the offer providing for acceptable payment terms, the offer will be rejected with appeal rights.

- (4) A third party source of funds may be required to make the portion of the monthly payment that is greater than we determined the taxpayer can afford from future income. Document the case history with source of the funds, if relevant to the case decision.

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**Exhibit 5.8.5-1 (09-24-2021)****Periodic Payments Limited by Small Amount Due**

For example the taxpayer accrued the following liability:

<b>MFT-Period</b>	<b>CSED</b>	<b>Liability</b>
30-201212	07/20/2023	\$100,000
30-201312	09/27/2024	\$ 1,200
30-201412	09/20/2025	\$ 600

The offer was determined processable on May 31, 2022. The taxpayer has no equity in assets and can pay \$300 per month.

<b>MFT-Period</b>	<b>Months on the statute</b>	<b>Installments Due</b>	<b>Installments Applied</b>
30-201212	14	333	14
30-201312	28	4	4
30-201412	40	2	2
Total	-----	-----	20

The amount collectible from future income is \$300 times 20 months = \$6,000.

**Exhibit 5.8.5-2 (09-24-2021)****Periodic Payments Limited by Application of Payment From Equity in Assets**

For example the taxpayer accrued the following liability:

<b>MFT–Period</b>	<b>CSED</b>	<b>Liability</b>
30-201212	07/20/2023	\$30,000
30-201312	09/27/2024	\$ 1,200
30-201412	09/20/2025	\$ 9,000

The offer was determined processable on May 31, 2022. The taxpayer has \$30,000 equity in assets which they will pay within 90 calendar days and can pay \$300 per month which they will begin paying within 30 calendar days.

<b>MFT–Period</b>	<b>Months on the statute</b>	<b>Installments Due</b>	<b>Installments Applied</b>
30-201212	14	0	0
30-201312	28	4	4
30-201412	40	20	20
Total	-----	-----	24

After applying the \$30,000 payment for the equity in assets, the amount collectible from future income is \$300 times 24 months = \$7,200 Reasonable collection potential is \$37,200