The New and Improved Offer in Compromise (OIC) Program

Following implementation of the IRS Restructuring and Reform Act of 1998 (RRA98), the Service saw an upsurge of applications in its Offer in Compromise (OIC) program. An OIC is an agreement between a taxpayer and the IRS that resolves the taxpayer's tax liability. It allows the IRS to settle, or "compromise," federal tax liabilities by accepting less than full payment under certain circumstances.

In 1998, the IRS made changes to the processibility guidelines. These changes eliminated several OIC "processibility" criteria, making almost all offers processible unless the taxpayer was in bankruptcy or had not filed a tax return. This change led to a tremendous increase in OIC cases nationwide, straining collection staffs and causing long delays in servicing taxpayers and tax professionals. Additionally, RRA98 incorporated some changes to the OIC program that made it more attractive to taxpayers. These changes included criteria for offers filed under Effective Tax Administration guidelines, and a provision that required an independent review of all rejected offers. RRA98 also prohibited the rejection of an OIC based soley on the amount of the offer submitted by a low-income taxpayer.

A comprehensive review of OICs revealed that, while a majority of taxpayers and preparers were making appropriate use of the program, others were merely using an offer as a vehicle to delay the collection process. Collection personnel were investing significant time on cases that might never come to resolution. To focus IRS resources on working offers that represent true opportunities for account resolution, the Service has now clarified when it is appropriate to return an offer.

At the same time, the Service has sought to promote work efficiency by centralizing the locations where OICs are received and processed into two IRS Centers — Brookhaven and Memphis. By using revised procedures at the new consolidated sites, the Agency hopes to streamline the processing of approximately 120,000 applications submitted each year. The centers will assemble files for all new OIC applications submitted to the IRS and make process determinations where appropriate. OIC applications already assigned to other locations will be processed at IRS field offices.

With casework under way in the new OIC sites, the Service then issued Delegation Order 11 to change the levels of authority to accept, reject, return, or acknowledge withdrawal of offers in compromise. Among the changes, the delegation order:

- adds authority for Centralized Service Center officials
- establishes at the Territory Manager's level the authority to accept Effective Tax Administration offers and to reject offers based on special circumstances
- adds authority for issues surrounding the death of a taxpayer

The former procedures required at least two attempts to request information from a taxpayer prior to the return of an offer for failure to provide requested financial information/verification. This procedure has been reduced to require only one request during the offer investigation. The new procedures will allow the Service to focus on opportunities for OIC account resolution, render determinations in a more timely fashion, speed the closure of simple, low-risk cases, and to better control the backlog of inventory.

An OIC application may now be returned, or rejected, based on the following criteria:

- Taxpayer resubmits an offer that is not materially different from a previous offer that was either previously rejected with appeal rights or returned. The resubmission reflects an amount that is substantially similar to, the same, or less than the prior offer without a material difference in the taxpayer's financial situation or appearance of special circumstances.
- Taxpayer resubmits an offer within one year of having defaulted and received a termination letter. The taxpayer has failed to resolve the previous default situation and the new submission is substantially similar to, the same, or less than the prior offer without there being a change in the taxpayer's financial situation or special circumstances.
- An offer is filed solely to delay enforcement actions after a collection employee has determined and communicated to the taxpayer the intent to enforce collection through levy or seizure. The taxpayer has a clear and present ability to pay substantially more than the offer amount and special circumstances do not exist.
- An offer will be returned during the investigation if the taxpayer does not demonstrate compliance with estimated tax payments and fails and/or neglects to make the required estimated tax payment(s).

Offers that are returned based on resubmission after a prior reject, return, or default situation, or for failure to make estimated tax payments, **will not** be subject to independent review. Offers that are returned based on a determination that the offer was submitted solely to delay an enforcement action **will** be subject to an independent review.

The OIC program will be continuously monitored, along with other programs underway across the Service, as part of the strategic planning process. The effectiveness of the changes to the OIC program will be measured over time so that additional improvements can be made as needed.

The re-tooled offer program should better position the IRS to meet customer service goals, as well as the intent of Congress — the quick and fair compromise of tax liabilities for those who are eligible for this collection option.