



APPEALS



Offers in Compromise Consideration in Appeals



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APPEALS MISSION

To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.



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What Can You Expect from Appeals?

- Independence
- Review Strengths and weaknesses of case;
- Explain your appeal rights and the Appeals process
- Listen to your concerns, be courteous and professional
- Be timely and responsive
- Be fair and impartial



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Conference/Settlement Practices

- Appeals may not disregard established policies or procedures.
- Appeals will take an independent look at the Reasonable Collection Potential (RCP) determination and issues disputed on appeal.
- Generally, we will consider only the items disputed.



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How does Offer get to Appeals?

- Appeal of Offer rejected by Compliance Function (Traditional Offer cases)
 - COIC
 - Field Compliance
- Collection Due Process Offer
- Doubt as to Liability Offers rejected by Exam



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Traditional Offer Cases

- Timely appeal must be made
- Timely appeal is one made within the 30-day period commencing the day after the date on the letter of rejection.
- Form 13711 may be used.
- The Collection Statute will remain suspended if there is a timely appeal.



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Traditional Offer Cases, continued

Preliminary Offer Review. Appeals will:

- Review offer, rejection narrative, and tables prepared by Collection;
- Verify taxpayer is in full compliance;
- Review Form 13711/written appeal;
- Conduct conference;



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"Obvious Full Pay" Cases

- Appeals will send letter explaining why offer was rejected and offer the taxpayer an opportunity to dispute Collection's findings or full pay.
- If there is no response or information doesn't change Full Pay determination, the offer rejection will be sustained.



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CDP Offers

- Offers are submitted as a collection alternative in a Collection Due Process (CDP) hearing for either lien or levy;
- Offers can be submitted in conjunction with an Equivalent Hearing as well;



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CDP Offers, continued

- Appeals will inform taxpayers of:
 - General Offer policies and procedures including processability requirements and how Reasonable Collection Potential (RCP) is determined;
 - Offer application fee and refund provisions of fee;
 - Up-front TIPRA payment requirements;



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CDP Offers, continued

- Appeals will inform taxpayers of:
 - Taxpayer's right to designate application of TIPRA payments;
 - Application fee/TIPRA payment requirements don't apply to DATL or low-income qualified offers;
 - Approval levels required if SO/AO is able to make an acceptance recommendation.



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CDP Offers, continued

- *Effective October 22, 2007, processing of CDP offers has changed;*
- *Offers that were submitted prior to 10/22/2007 are being considered under the previous procedures;*



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CDP Offers, continued

- Previous CDP offer procedures:
 - If SO/AO received an offer, the offer would be date stamped (to start the 24 month clock under TIPRA);
 - Offer would then be forwarded to COIC (Memphis for Phoenix Appeals) for processability determination;



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CDP Offers, continued

Previous CDP offer procedures:

- If offer wasn't processable, Memphis would return it to the taxpayer;
- If offer is processable, Memphis would then return it to the SO/AO for determination of acceptable offer;
- Appeals would then investigate and make determination on viability of offer;



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CDP Offers, continued

Previous CDP offer procedures:

- If Offer was accepted, Appeals would process the recommendation and send acceptance letters;
- If an acceptable offer couldn't be negotiated, the rejection would be communicated in the CDP Notice of Determination or the Decision Letter;



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CDP Offers, continued

- *New Procedures in effect 10/22/2007:*
 - Appeals will date stamp the Offer;
 - Appeals will forward the offer package to COIC with a transmittal sheet;
 - For offers meeting COIC criteria, COIC will retain and investigate the offers;



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CDP Offers, continued

- New Procedures in effect 10/22/2007:
 - **COIC Criteria for retaining the offer:**
 - Individuals
 - Sole-Proprietors
 - Out of Business Self-Employed



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CDP Offers, continued

- If Offer isn't processable, COIC will:
 - Mail not-processable letter;
 - Refund application fee and payment;
 - Return case to Appeals with no further action;



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CDP Offers, continued

- *Following DC NOI meet COIC criteria for retention:*
 - Corporations, Partnerships, Estates & Trusts;
 - Any business with employees;
 - Closely-held corporations, LLP's and LLC's;
 - Partners in a partnership which serves as a primary source of income;



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CDP Offers, continued

- *Following DC NOJ meet CCIC criteria for retention:*
 - Sole-proprietorships with gross receipts greater than \$500,000;
 - Trust Fund Recovery Penalty - Doubt as to Liability;
 - Currently incarcerated taxpayers;



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CDP Offers, continued

For COIC investigated Offers, COIC will:

- COIC will work to completion all "acceptable" offers;
- Provide a preliminary recommendation to Appeals on denied Offers.
- Appeals will make the final determination on denied Offers;



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CDP Offers, continued

- For Offers that COIC accepts:
 - Appeals will solicit a waiver on the CDP case;
 - COIC will:
 - Issue the Acceptance letter;
 - Process the Offer file to the Backend Unit;
 - Notify Appeals of the determination and forward copies of the acceptance letter and Offer;



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CDP Offers, continued

- For preliminary "Rejected" Offers, Appeals will make the final determination;
- If Appeals independently agrees with COIC, Appeals will consider other collection alternatives, as appropriate;
- Appeals may accept the offer or negotiate an amended offer;



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CDP Offers, continued

- Taxpayers or their authorized representatives do not have the option to request that Appeals, rather than COIC, investigate their offer unless the taxpayer or their representative provides extenuating circumstances.



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CDP Offers, continued

- For CDP offers that don't meet COIC criteria for investigation, the offers will be returned to the SO/AO for investigation and final determination;



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Doubt as to Liability Offers

- If actual liability is incorrect, the assessment will be adjusted and the offer either withdrawn or rejected;
- DATL offers are usually accepted only if there is doubt as to liability based on hazards of litigation;



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General Changes from TIPRA

- Processability changes, especially compliance prior to offer submission
- Payment Terms (Lump Sum Cash, Short-term Periodic Payment, Deferred Periodic Payment)
- 24 month mandatory acceptance period
- Designation of Payments



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Documentation for ETA Offers

- Expenses incurred when making accommodations or a disabled family member, proof may include:
- Photographs, invoices or receipts related to home modifications
- Additional transportation costs
- In-home care costs
- Bills for additional medical expenses for an extended illness
- Physician's report



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On-Line Self Help Tools

- Available at www.irs.gov/appeals
- Simple Decision Trees
 - Penalty Appeals,
 - Innocent Spouse, and
 - Offer in Compromise
- Resources for you
- Resources for your client



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FYI

Mario Scilipoti, Settlement Office

Phone 410 962-7210, FAX 410 962-9963

IRS Appeals Office

31 Hopkins Plaza Room 1310

Baltimore Maryland 21201