



TAXPAYERS DEFENSE INSTITUTE

AN ASSOCIATION OF TAX PROFESSIONALS IN DEFENSE OF TAXPAYERS' RIGHTS

Dan Pilla's E-Bulletin

Dear Member:

Here's an important development you need to know about if you're working an OIC, lien release case or CDP case involving either.

As you know, the IRS is adamant about using income averaging in cases where a citizen is unemployed, underemployed or a self-employed person whose income is down due to the recession. This income averaging often makes it impossible for a person to fund an OIC.

I have long argued that the better idea is a future income collateral agreement. My position is supported by IRM section 5.8.5.6, Future Income (09-23-2008), paragraph (7), which states as follows:

In some instances, a future income collateral agreement may be used in lieu of including the estimated value of future income in RCP. When investigating an offer where current or past income does not provide an ability to accurately estimate future income, the use of a future income collateral agreement may provide a better means of calculating an acceptable offer amount.

It is also supported by the Tax Court case of *Sampson v. Commissioner*, T.C. Summ. Op. 2006-75, in which the Tax Court in a CDP judicial appeal held that the IRS abused its discretion in establishing future income without considering a collateral agreement.

The important development is that the IRS issued IR-2010-29 (see attached) that addresses this issue. The IRS specifically states in the news release that under the current economic conditions, the agency should be using the future income collateral agreement and not projecting future income on the basis of income averaging. You need to be aware of this point and put it good use in your OIC/CDP cases.

That same news release addresses the issue of releasing liens. The IRS says it "will accelerate lien relief" for those who are trying to "refinance or sell" property but cannot "because of a tax lien." As you know, this situation arises in many cases, including CDP lien appeals.

Page Two

On the other hand, SO's across the board say they will not release liens because they have to "protect the government's interest." Well, this new guidance flies in the face of that. Use it to your advantage.

Dan Pilla
Executive Director

IRS News Release

Media Relations Office

Washington, D.C.

Media Contact: 202.622.4000

www.irs.gov/newsroom

Public Contact: 800.829.1040

IRS Outlines Additional Steps to Assist Unemployed Taxpayers and Others

YouTube Videos:

[Owe Taxes But Can't Pay?](#)

[Unemployment Compensation](#) | [SPA](#)

[Job Search Expenses](#) | [SPA](#) | [ASL](#)

IR-2010-29, March 9, 2010

WASHINGTON — The Internal Revenue Service today announced several additional steps it is taking this tax season to help people having difficulties meeting their tax obligations because of unemployment or other financial problems.

The steps — an expansion of [efforts](#) that began more than a year ago — include additional flexibility on offers in compromise for struggling taxpayers, a series of Saturday “open houses” offering taxpayers extra opportunities to work out tax problems face to face with the IRS, special outreach with partner groups to unemployed taxpayers and the availability of more information on a special section of the IRS Web site.

“Times are tough for many people, and the IRS wants to do everything it can to help people who have lost their job or face financial strain,” IRS Commissioner Doug Shulman said. “We continue to make adjustments to key programs and expand ways for people to get help. We’re doing everything we can to help ease the burden on struggling taxpayers.”

New Flexibility for Offers in Compromise

For some taxpayers, an offer in compromise — an agreement between a taxpayer and the IRS that settles the taxpayer’s debt for less than the full amount owed — continues to be a viable option. IRS employees will now have additional flexibility when considering offers in compromise from taxpayers facing economic troubles, including the recently unemployed.

Specifically, IRS employees will be permitted to consider a taxpayer’s current income and potential for future income when negotiating an offer in compromise. Normally, the standard practice is to judge an offer amount on a taxpayer’s earnings in prior years. This new step provides greater flexibility when considering offers in compromise from the unemployed. The IRS may also require that a taxpayer entering into such an offer in compromise agree to pay more if the taxpayer’s financial situation improves significantly.

These immediate steps are part of an on-going effort by the IRS to ensure the availability of the Offer in Compromise program for taxpayers.

Hundreds of Saturday Open Houses to Resolve Taxpayer Issues

In addition, IRS will hold hundreds of special Saturday open houses to give struggling taxpayers more opportunity to work directly with IRS employees to resolve issues. The offices will be open on March 27 and three additional Saturdays in the spring and early summer. Dates, times and locations will be announced shortly.

During the expanded Saturday hours, taxpayers will be able to address economic hardship issues they may be facing or get help claiming any of the special tax breaks in last year's American Recovery and Reinvestment Act, including the:

- Homebuyer tax credit
- American Opportunity Credit
- Making Work Pay credit
- Expanded Earned Income Tax Credit

In addition to these special Saturdays, taxpayers can take advantage of toll-free telephone assistance and regularly scheduled hours at local Taxpayer Assistance Centers. Taxpayers can find the location, telephone number and business hours of the nearest assistance center by visiting the [Contact My Local Office](#) page on IRS.gov.

Special Outreach Efforts to Unemployed

The IRS is working and coordinating with state departments of revenue and state workforce agencies to help taxpayers who are having problems meeting their tax liabilities because of unemployment or other financial problems.

These coordinated efforts may include opportunities for taxpayers to make payment arrangements and resolve both federal and state tax issues in one place.

Special Section of IRS.gov Created

Taxpayers who are unemployed or struggling financially can find information in a new [electronic tax center](#) on the IRS Web site, IRS.gov. This [online tax center](#) has numerous resources including links to information on tax assistance and relief to help struggling taxpayers

Other Options Available for Taxpayers

The IRS will continue to offer other help to taxpayers, including:

- Assistance of the Taxpayer Advocate Service for those taxpayers experiencing particular hardship navigating the IRS.
- Postponement of collection actions in certain hardship cases.
- Added flexibility for missed payments on installment agreements and offers in compromise for previously compliant individuals having difficulty paying.
- Additional review of home values for offers in compromise in cases where real-estate valuations may not be accurate.
- Accelerated levy releases for taxpayers facing economic hardship.

In addition, the IRS will accelerate lien relief for homeowners if a taxpayer cannot refinance or sell a home because of a tax lien. [As previously announced](#), a taxpayer seeking to refinance or sell a home may request the IRS make a tax lien secondary to the lien by the lending institution that is refinancing or restructuring a loan. The taxpayer may also request the IRS discharge its claim if the home is being sold for less than the amount of the mortgage lien under certain circumstances.