

REQUEST FOR RECORDS DISPOSITION AUTHORITY <i>(See Instructions on reverse)</i>		LEAVE BLANK (NARA use only)	
		JOB NUMBER NI-058-09-2	
TO NATIONAL ARCHIVES and RECORDS ADMINISTRATION (NWML) 8601 ADELPHI ROAD, COLLEGE PARK, MD 20740-6001		DATE RECEIVED 12/17/08	
1 FROM (Agency or establishment) Department of the Treasury		NOTIFICATION TO AGENCY	
2 MAJOR SUBDIVISION Internal Revenue Service (IRS)		In accordance with the provisions of 44 U.S.C. 3303a the disposition request, including amendments, is approved except for items that may be marked "disposition not approval" or "withdrawn" in column 10	
3 MINOR SUBDIVISION Small Business/Self Employed, Campus Compliance Services			
4 NAME OF PERSON WITH WHOM TO CONFER Daniel W Bennett, IRS Records Officer Linda Salvato, Senior Tax Analyst		5 TELEPHONE (202) 283-9359 (631) 687-3805	DATE 3/4/2009
5 AGENCY CERTIFICATION		ARCHIVIST OF THE UNITED STATES <i>Kuan R Cummings</i> <i>Deputy Director, NWML</i>	
<p>I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for disposal on the attached <u>1</u> page(s) are not now needed for the business of this agency or will not be needed after the retention periods specified, and that written concurrence from the General Accounting Office, under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies,</p> <p><input checked="" type="checkbox"/> is not required, <input type="checkbox"/> is attached, or <input type="checkbox"/> has been requested</p>			
DATE November 17, 2008	SIGNATURE OF AGENCY REPRESENTATIVE <i>Daniel W Bennett</i> IRS Records Officer		TITLE IRS Records Officer National Office, OS A RE SC Washington, DC 20224
7 ITEM NO	8 DESCRIPTION OF ITEM OF PROPOSED DISPOSITION	9 GRS OR SUPERSEDED JOB CITATION	10 ACTION TAKEN (NARA USE ONLY)
	<p>Update to IRM 1.15.28 for Collection, Item 50</p> <p>Internal Revenue Service Offers in Compromise:</p> <p>Records Control Schedule 28 for Collection.</p> <p>The records covered by this schedule are created in the Small Business/Self Employed (SB/SE) Business Unit</p> <p>This schedule change will affect Offers in Compromise engaged by the Small Business/Self Employed Business Unit only.</p> <p>(See attached)</p>		

Background:

**Internal Revenue Manual 5.8 (9-23-2008)
Offers in Compromise Overview**

An Offer in Compromise (OIC) is an agreement between a taxpayer and the Internal Revenue Service that settles the taxpayer's tax liabilities for less than the full amount owed. If the liabilities can be fully paid through an installment agreement or other means, the taxpayer will in most cases not be eligible for an OIC. In most cases, the IRS will not accept an offer unless the amount offered by the taxpayer is equal to or greater than the reasonable collection potential (the RCP). The RCP is how the IRS measures the taxpayer's ability to pay. The RCP includes the value that can be realized from the taxpayer's assets, such as real property, automobiles, bank accounts, and other property. In addition to property, the RCP also includes anticipated future income, less certain amounts allowed for basic living expenses.

The IRS may accept an OIC based on three grounds. First, acceptance is permitted if there is doubt as to liability. This ground is only met when genuine doubt exists that the IRS has correctly determined the amount owed. Second, acceptance is permitted if there is doubt that the amount owed is collectible. This means that doubt exists that the taxpayer could ever pay the full amount owed. Third, acceptance is permitted based on effective tax administration. An offer may be accepted based on effective tax administration when there is no doubt that the liabilities have been correctly determined and no doubt that the full amount owed can be collected, but requiring payment in full would either create an economic hardship or would be unfair and inequitable because of exceptional circumstances.

A lump sum offer is defined as an offer payable in 5 or fewer installments. The offer is called a "periodic payment offer" under the tax law if it is payable in 6 or more installments.

Ordinarily, the statutory time within which the IRS may engage in collection activities is suspended during the period that the OIC is under consideration and is further suspended if the OIC is rejected by the IRS and the taxpayer appeals the rejection to the IRS Office of Appeals.

If the IRS accepts the taxpayer's offer, it is expected that the taxpayer will have no further delinquencies and will fully comply with the tax laws. If the taxpayer does not abide by all the terms and conditions of the OIC, the IRS may determine that the OIC is in default. To avoid a default, the taxpayer must timely file all tax returns and timely pay all taxes for 5 years or until the offered amount is paid in full, whichever period is longer. When an OIC is declared to be in default, the agreement is no longer in effect and the IRS may then collect the amounts originally owed, plus interest and penalties.

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Justification for changing retention period:

Once an Offer in Compromise case is accepted, it is sent the Monitoring Offers-In-Compromise (MOIC) staff in Brookhaven & Memphis CSCO Operations to ensure the terms of the offer are met and to ensure the taxpayer remains compliant in filing and payment for 5 years from the acceptance date of the offer. Up until a few years ago, the files were maintained in the campus until the 5-year monitoring period was complete and the offers were closed. They were then forwarded to a Federal Records Center and the offers were destroyed "6 years after close of case" (ref IRM Exhibit 1 15 28, Item 50)

In 2004, the timing of sending the case files to a Federal Records Center (FRC) changed and the Program was permitted to retire records when no longer needed. Due to the severe space limitations in the campus and improved functionality of the Automated Offers In Compromise (AOIC) system, the monitoring process (with a few exceptions for "manually monitored" cases) became a paperless function and cases began to be retired to FRCs shortly after the acceptance date of the offer. This is problematic because the actual "closed" dates of the offers are in the future and the offers are sent to the FRC based on the "acceptance" dates of the offers. However, the FRC destroys the offers 6-years after closure and this cannot be determined.

The IRS is recommending a change in retention wording that will align with the practice of retiring OIC records after acceptance of the offer. This will result in a retention of the records for 6 years after closing (the approved retention), but will allow the records to be retired immediately after acceptance of the letter and worked for a five year period (the maximum payment period allowed)

Description:

Offers in Compromise. *Case files including data concerning offers in compromise by cash, installments, transmittals, and acceptance of offers with related correspondence*

Disposition:

RETIRE to Federal Records Center when no longer needed for current business (P&I 12/01/03)
DESTROY 11 years after acceptance of offer

NEW

(NC1-58-79-5, Item 16)

RCS 28
Item 50