

Clients & Friends:

Robbin and I wish you a very Happy New Year and express our wishes for having a year of good health and success in your endeavors.

We hope you enjoy our Newsletters and appreciate any feedback regarding the form and content you would like to see going forward.

Marty



Rate & Other Changes Impacted by Inflation

The following link brings you to our annual changes in tax rates schedule - [click here](#), for the 2014 Tax Chart.

This file, which can be easily downloaded, is a one-page summary of rate and other changes impacted by inflation adjustments.



Robbin R. Weiner - VIP Woman of the Year

I would like to congratulate Robbin for being acknowledged by the National Association of Professional Women as a VIP Woman of the Year, a tribute in recognition of her professional achievements, community service, and future aspirations. To see Robbin's complete VIP profile, [click here](#).

New IRS Forms for Offers in Compromise

On December 31, 2013, the IRS posted the January 2014 revision to Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals, to be used for offers in compromise.

The new IRS instructions answer the question "What is an offer" as follows:

"An offer in compromise (offer) is an agreement between you (the taxpayer) and the IRS that settles a tax debt for less than the full amount owed. The offer program provides eligible taxpayers with a path toward paying off their tax debt and getting a 'fresh start.' The ultimate goal is a compromise that suits the best interest of both the taxpayer and the IRS. To be considered, generally you must make an appropriate offer based on what the IRS considers your true ability to pay."

The IRS defines the "true ability to pay" with a term called Reasonable Collection Potential (RCP), which is defined as the total of the taxpayer's realizable value in real and personal assets, and his/her future net income. Realizable value is, essentially, the gross value of assets less secured debt. Thus, for example, unsecured credit card debt is usually not considered. In addition, the IRS will discount valuations of real estate by 20% based on "Quick Sale Value." Future net income is based on a forecast of the excess of gross income over allowable expenses - food, clothing, housing, transportation, medical and taxes - over a minimum of 12 months. For the most part, other expenses such as court-ordered payments, life and disability insurance, child care, and the cost of tax representation, are also allowable. Many of the expenses are defined by guidelines published by the IRS. And, although the guidelines provide some certainty in the determination, there is room for negotiation where there are unusual circumstances. The Form 433-A (OIC) collects the raw information to compute RCP.

The new Form 433-A (OIC) also institutes an increase in IRS processing fees, effective January 1, 2014, from \$150 to \$186. The most significant changes to the form are as follows:

- The employment area for the form (Section 2) is now entirely separate from the Personal and Household Information and now inquires whether the taxpayer has an ownership interest in their employer. Interestingly, it asks this question separately of each spouse. Yet, the form does not inquire as to whether the wife, for example, has an ownership interest in the employer of the husband and visa versa.
- The subsection on Cash and Investments within Section 3 now includes CDs (Certificates of Deposits) which had previously not been specifically mentioned. We do not see this as a change in policy as it has always been intended that one should disclose all forms of savings and investments.
- The Real Estate section on page 3 now asks for the "Date of Final Payment," presumably requesting the date of final payment due on the mortgage payable by the taxpayer.
- The Vehicles section on page 3 makes two significant changes. The first requests the date of final payment on the vehicle loan. This is an important factor as the IRS considers retiring debt in determining one's expenditures. Also, in valuing the motor vehicle assets, the IRS now clarifies within the form that each taxpayer is allowed to exclude \$3,450 for his/her vehicle. Although this had been the policy for the past several years, few understood how to claim the exclusion.
- The "Other valuable items" portion of the form on page 4 now asks one to include one's "interest in a company or business that is not publicly traded," in addition to artwork, collections, jewelry and items of value in safe deposit boxes. Previously, there was no guidance on where to report such interests and many would go unreported to the IRS. We applaud this change.
- There is a new Section 4 for Self-Employed Information that broadens the information requested regarding business interests previously contained as a subset of Section 2.

The budget information collected within Form 433-A (OIC) remains substantially unchanged.

The IRS also changed the entire Offer in Compromise package which, in addition to Form 433-A (OIC) includes Form 656, the form used to initiate the Offer in Compromise, and Form 433-B (OIC), the financial disclosure forms for most businesses. The changes in the Form 656 are, overall, relatively minor, with the most significant changes being:

- An initial question that asks whether the taxpayer used the IRS "Pre-Qualifier tool" located on the IRS website. Nothing in the 656 instructions suggests that you use the Pre-Qualifier tool and what impact such has on the offer submission. Our guess is that the question is for research by the IRS and an attempt to get more people to use the tool.
- Section 6, which is rarely used for the Designation of Down Payments made in excess of the required 20% deposit for many offers, has been clarified to eliminate unintentional use of the section which currently results in the return of offers to taxpayers.
- The small print within the Offer Terms at the end of the Form 656 now includes the following language:

"I also authorize the IRS to amend Section 2 on Page 1 by removing any tax years on which there is currently no outstanding tax liability."

It is unclear whether the IRS will notify you of such change. Thus, the IRS may eliminate a year from your offer without your knowledge because you have provided a pre-authorization for them to do so. Why is this a problem? Let's say you owe money for a year, but the IRS hasn't yet assessed the proper tax either due to delays in processing or identity theft. They could remove the year without conversation, approve your offer and, once the assessment goes through at a later time, you still have a debt to the IRS. In effect, you lost your fresh start. Also, knowledge of the removal of a tax year from the offer may impact on your decision to make the offer in the first place. For example, possibly the statute of limitations had expired on a tax year for which you had owed a lot of money. Now that the tax year has been removed, would you still pursue the offer? Hopefully, the IRS will provide notification when this authorization is exercised. As we consider our processes going forward, we are considering crossing out the authorization to ensure that we get specific notification of such changes.

Changes to Form 433-B (OIC), less frequently used, is not covered in this article.

E. MARTIN DAVIDOFF'S SPEAKING ENGAGEMENTS

Below are the upcoming dates and topics being presented to tax professionals. For more detailed information regarding the curriculum for each topic, please [click here](#) and select Course Descriptions:

February 21, 2014

Mercer County Bar Association
1245 Whitehorse Mercerville Road
Hamilton, New Jersey
Topic: IRS OIC: A Case Study & Alternatives in a Collection Matter
Times: 9:30 a.m. - 12:00 p.m.
Contact: Christine S. Brennan - (609) 585-6200

May 6, 2014

New Jersey Institute for Continuing Legal Education
One Constitution Square
New Brunswick, New Jersey
Topic: IRS OIC: A Case Study & Navigating the IRS
Time: 9:00 a.m. - 1:00 p.m.
Contact: Customer Service for Registration - (732) 214-8500

July 15, 2014

Nassau Suffolk Chapter of the New York Society of Independent Accountants
Holiday Inn, Plainview, NY
215 Sunnyside Boulevard
Plainview, New York 11803
Topic: Navigating the IRS
Time: 7:00 p.m. - 9:00 p.m.
Contact: Abby Eisenkraft - (347) 598-0111

My very best regards,

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You can now find us on facebook. Please click here to visit our page on [Facebook](#).

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