SUMMARY:

Mr. & Mrs. Brandon have both IMF & BMF balances. The BMF balance is from a sole proprietorship for employment tax in periods from 2015-2019. They have been in an installment agreement since 2022 on the IMF balance. At the time of setting up the IA, TP asked about adding the BMF balance but was unable to get help with it.

Taxpayer's bank statements, business P&L and previous years' tax returns show TP to have household income of ~$5,335 and allowable expenses of $6,201. With very little variance, all sources show the same conclusion and support each other.

IRS is proposing TP enter into an installment agreement of $1,000 per month and increase that payment to $2,400 in July of 2025, when they make final payment of another loan. This proposal does not consider the currently active IMF agreement, nor acknowledge TP's financial analysis showing them to be CNC.

The other proposal of the IRS is for TP to sell home, or the IRS will seize it. This also ignores the issue of TP being Currently not Collectible and the financial hardship it would cause by TP not being able to afford housing.

ISSUES:

1. TP & sole proprietorship business should be treated as one entity.
    a. A sole proprietorship is an individual's alter ego. The entity is the same. To set up an installment agreement on the sole proprietorship liabilities and another with the individual liabilities is tantamount to an individual having two installment agreements. TP is currently in an installment agreement of $400 monthly on IMF balances.

    b. 5.14.4.4 (03-04-2011) Installment Agreements and Multiple Entities
    (2) When a request for an IA involves an SSN and EIN (Sole Proprietor) or two SSN's, some years filed joint and some single, combine the aggregate unpaid balance of assessment (CC SUMRY) of all modules. Determine if the taxpayer meets the requirements to qualify for an IA. An IMF account and related BMF account must be included in one IA.

2. The enforcement of levy against taxpayer's personal residence will create economic hardship. A levy that creates an economic hardship for a taxpayer must be released.

    a. Vinatieri v. Commissioner, 133 T.C. No. 16 (2009)
    Tax Court held that pursuant to section 6343(a)(1)(D), a levy that creates an economic hardship for a taxpayer must be released.

    b. 8.22.7.7 (09-23-2014) Currently Not Collectible (CNC)
    If the taxpayer's CIS confirms hardship per IRM 5.16.1.2.9, Hardship, It is not appropriate to sustain the proposed levy action.

IRC 6343(a)(1) requires release of a levy if the IRS determines the levy is causing economic hardship to the taxpayer due to the taxpayer's financial condition.

3. Financial analysis conclusively shows taxpayers to be Currently Not Collectible
    a. TP is paying another loan at $1,900 per month. That loan will be paid in full in June of 2025. TP is committed to re-directing that payment to their IRS debt starting the following month, July of 2025.
    b. The amount of the payments RO is requesting have no basis in reason or facts. There is no indication that there has been an actual analysis of the financial documents provided.
4. IRS is not considering reasonable collection alternatives.
    a. *§ 301.6334-1(d)(1)*
    The Government must demonstrate that no reasonable alternative for collection of the taxpayer's debt exists.

    b. RO's collection solutions are not reasonable nor based on IRS standards of financial analysis.
        i. The revenue officer has offered an installment agreement of $1,000, increasing to $2,400 in July of 2025. This does not include the IMF balance as RO maintains they are separate issues/cases.
        ii. RO's alternative solution is for TP to get a loan on equity in home or for the IRS to seize TP's home.
            1. TP has tried to get a loan on equity from multiple sources. The banks denied a loan, primarily due to debt-to-income ratios.
            2. Even if TP were able to get a loan on equity, they would not be able to afford the payments on that loan.
            3. TP purchased land in 1998 and built their home on that land in 1999. At that time, market conditions were such that TP was able to afford the home.
            4. The property is ~2 acres of which TP's business uses ~20-25% for a material & storage yard. Sale or seizure of home would cause even more of a financial hardship.
                a. The median home price in the area is $1.2m.
                Assuming they find a home priced the same as their current home, the down payment would be $144k and payments would be $3,821. They would not have the down payment because proceeds from sale of house would be applied to IRS balance.
                Additionally, the monthly payments would be $1,047 more than the payments on their current home.

To rent an apartment would be, on average, $2,456. But, they would also have to lease commercial space for the business material yard. This would run an additional $1,700 per month (10k sf (1/4 acre) at $2.08sf annual).

PROPOSAL:

TP proposes to continue the $400 payments (currently made on IMF only) to an IA on both IMF & BMF (sole prop) balances. The payment amount would increase (after the debt payoff) in July 2025, to $2,300 per month.

While this may result in a PPIA, the service could re-evaluate after a couple of years to see if increasing IA payment is justified.