Part 5. Collecting Process

Chapter 15. Financial Analysis

Section 1. Financial Analysis Handbook

5.15.1.13 (10-02-2012)

Business Entity and Collection

1. The Internal Revenue Code does not include specific provisions for liability collection from most state law business organizations. The provisions of state law that shield certain persons or entities from liability are used as guidance for determining the entity liable for taxes incurred in a business.

2. State law determines what rights the taxpayer has in the property the government seeks to reach. Therefore, the attachment of a federal lien to property is highly dependent upon state law.

3. Classification principles must be used to first determine the identity of the liable party. State law definitions of property are then used to determine what property the federal tax lien attaches to.

4. Generally, an assessment of tax in the name of a business entity can be taken as evidence of liability on the part of the party assessed. However, partners who are not assessed may be liable under state law - e.g., general partners may be liable for partnership liabilities.

5. Single owners of certain limited liability companies (LLCs), with respect to employment taxes on wages paid prior to January 1, 2009, could file returns in the name of the LLC even though only the owner was liable. This has created problems since assessments where the single owner is liable are indistinguishable from assessments where the LLC is liable.

   Note:

   See IRM 5.1.21, *Collecting from Limited Liability Companies*, for additional information.

5.15.1.14 (10-02-2012)

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Business Entity Types

1. Business entities fall into five broad categories:

    - Sole Proprietorships
    - Partnerships
    - Corporations
    - Limited liability companies
    - Limited liability partnerships

2. The sole proprietorship (also known as just a proprietorship) is the simplest form of business organization.

    - The proprietorship is a business name for the owner.
    - It is not protected from the liabilities of its owner under state law; because the proprietorship and the owner are considered the same entity, the owner is likewise not protected from the liabilities of the proprietorship under state law.
    - A proprietorship cannot own property in its own name distinct from its owner.
    - The owner and the proprietorship are essentially one and the same.
    - Income of a proprietorship is allocated to the owner for federal income tax purposes.

3. Partnerships are organized under state law through partnership agreements.

    - Partners may be individuals or business entities recognized under state law, e.g., a corporation.
    - State law normally specifies that general partners are liable for the debts of the partnership.
    - Partnership assets generally cannot be attached for liabilities incurred by the partners separately.
    - Partnerships are further categorized into general partnerships and limited partnerships in state law.

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- In general partnerships, the partners are generally held liable for partnership debts as provided in state law.

- In limited partnerships, a general partner, sometimes referred to as a managing partner, is designated the operating partner and is generally held liable for the consequences of actions taken on behalf of the partnership.

- The managing partner is therefore often held responsible for the trust fund recovery penalty authorized by IRC § 6672.

- Partnership Income is allocated to the partners based upon the percentages specified in the partnership agreement by filing Form 1065, *U.S. Return of Partnership Income*, with associated Schedule K-1s, *Partner's Share of Income, Deductions, Credits, etc.* Schedule K-1 income is in turn reported on the partners' income tax returns.

- Under the provisions of Treas. Reg. § 301.7701-3, unless it elects to be treated as an association taxable as a corporation, a state law partnership is classified as a partnership for federal tax purposes if it has two or more members or, if it has a single owner for federal income tax purposes, it is disregarded as an entity separate from its owner.

4. Corporations are chartered by the states under specific incorporation statutes.

- They are organized under the provisions of a corporate charter filed with a designated state official (secretary of state or equivalent position) that specifies the business rights and privileges given the corporation. The corporation is represented by an official registered agent, often the attorney who represented the entity in its incorporation proceedings.

- The charter specifies the duties of corporate officers and the right to issue corporate stock.

- Corporations have a separate legal existence under state law, own property in their own right and have limitation of liability relative to the debts of the owners/stockholders.

- Corporate assets cannot be attached for debts of the owner/stockholders except in circumstances when transferee liability

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or state law alter ego and/or nominee theories are successfully pursued.

- Corporations are usually taxed on the income produced by their activities.

- Subchapter S corporations pass the income to their shareholders using Schedule K-1. The shareholders, in turn, report their distributive share of the corporation's income on their personal returns.

5. Limited liability companies (LLCs) are business organizations chartered by the states under specific limited liability company statutes.

- An LLC is owned by one or more persons known as members. Members may be individuals or other legal entities.

- An LLC is organized as a distinct legal entity under state law by filing articles of organization or a similar document with a designated state official.

- An LLC may own property in its own right and has limitation of liability relative to the debts of the owner(s).

- Assets of the LLC cannot be attached for debts of the owner(s) except in circumstances where transferee liability or state law alter ego and/or nominee theories are successfully pursued. The IRS may levy on the owner's distributive interest in the LLC, levy on the owner's membership interest in the LLC and sell it, or file suit to foreclose the federal tax lien against the ownership interest.

- Under the provisions of Treas. Reg. 301.7701-3, an LLC is classified as a partnership if it has two or more members or disregarded as an entity separate from its owner, if it has a single owner, for federal income tax purposes, unless it elects to be treated as an association taxable as a corporation.

- Unlike state partnership law, state LLC law specifically limits the liability of owners for debts of the LLC.

- Single-member LLCs are generally disregarded as taxable entities, meaning that the owner is the taxpayer. For wages paid prior to January 1, 2009, the employment tax liability of the single-member owner of a disregarded LLC may be reported in the name of the LLC, which creates complications for collection of the tax. The individual

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owner of the disregarded LLC is still the liable taxpayer for any employment tax liability incurred before January 1, 2009, regardless of whether the LLC's name and EIN were used to report the liability.

- For wages paid on or after January 1, 2009, employment taxes will be the liability of the single-member LLC. In other words, the single-member LLC is not disregarded for employment tax purposes.

- Depending on the facts and circumstances, a member of an LLC may be responsible for the trust fund recovery penalty under IRC 6672.

Note:

See IRM 5.1.21, *Collecting from Limited Liability Companies*, for additional information.

6. Limited liability partnerships (LLPs) are formed under a state limited liability partnership law.

- Generally, a partner in an LLP is not liable for the debts of the LLP or any other partner.

- A partner is not liable for the acts or omissions of any other partner, solely by reason of being a partner.

- Under the provisions of Treas. Reg. § 301.7701-3, unless it elects to be treated as an association taxable as a corporation, an LLP is classified as a partnership for federal tax purposes if it has two or more members or, if it has a single owner for federal income tax purposes, it is disregarded as an entity separate from its owner.

- An LLP is generally required to file Form 1065, *U.S. Return of Partnership Income.*

- Depending on the facts and circumstances, a member of an LLP may be responsible for the trust fund recovery penalty under IRC 6672. Refer to IRM 5.17.7.1.1.3, *Partners/Members.*

5.15.1.15 (10-02-2012)

Business Financial Statements

1. The analysis of a business taxpayer’s financial condition provides the basis for the majority of case resolutions. Revenue officers are expected to perform and document a thorough and accurate analysis of the taxpayer’s

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financial information. This assessment of the overall financial condition of the business should indicate the most appropriate case resolution.

2. A complete CIS, Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, or Form 433-B, *Collection Information for Businesses*, enables revenue officers to make sound decisions to resolve cases and to take the appropriate enforcement action when warranted.

3. Many businesses employ accounting firms to maintain records and books or use over the counter software programs. Because of the complexity of business entities, acquiring and reviewing these records are very important in determining the true value of an asset. The statements that may be secured from business entities are described below. While these other financial statements may help clarify or verify Form 433-A and Form 433-B and may provide additional sources of collection, they do not replace Form 433-A and Form 433-B. They may include expenses, such as depreciation, that are not considered an allowable business expense on Form 433-A or Form 433-B. Allowable business expenses are the cost of carrying on a business or trade. Generally, they must be necessary for the operation of the business.

4. The Income Statement or Profit and Loss Statement is a financial statement that shows revenue, expenses and profit during a given accounting period, usually either a quarter or a year. Along with the balance sheet, the income statement is a tool used to assess the health and prospects of a company. The income statement shows revenue and expenses, including operating expenses, depreciation, income taxes and extraordinary items. Using the income statement, a taxpayer or revenue officer can quickly figure cash flow, profit margins and other important indicators of how the business is doing.

5. A business' balance sheet is a snapshot of its financial picture on a given day. A balance sheet shows the financial position of a company by indicating the resources that it owns, the debts that it owes and the amount of the owner's equity in the business. One side of the balance sheet totals up assets, moving from most liquid (cash) to least liquid (plant and equipment or goodwill). The other side of the balance sheet lists liabilities in order of immediacy. Remember that assets must equal liabilities plus shareholder's/owner's equity. The balance sheet, along with the income statement, is an important tool for analyzing the financial health of a company. Using the balance sheet, compare current assets and current liabilities to assess equity; and consider hidden value in assets.

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a. Assets are any item of value owned by a business. A firm's assets are listed on its balance sheet, where they are set off against its liabilities. Assets may include factories, land, inventories, off-shore accounts, vehicles and other items. However, not all assets are created equal. Some assets, such as cash, are easy to value and liquidate. In addition to cash, there are assets called cash equivalents.

b. Cash Equivalents are short term, highly liquid investments (three months maturity or less) that are made with idle cash. These can be included as equivalents of cash for cash flow purposes.

c. Others assets, such as buildings and farmland are somewhat more difficult to value accurately. These kinds of assets are collectively known as tangible assets.

d. Intangible assets, such as goodwill, also can be important to the success of the enterprise. Goodwill, for instance, could include a valued brand gained in an acquisition (a famous brand, such as Coca-Cola, doesn't normally show up on balance sheet otherwise). Other examples of intangible assets are patents, franchises, licenses, domain names of web sites and customer lists.

e. In general, firms are required to carry assets on their books at cost less depreciation. This conservative principle means that the balance sheets of most companies understate the true value of their holdings.

f. Liabilities are the opposite of assets. A liability is a debt, an obligation to pay. Thus, short-term debt (less than 1 year to maturity), long-term debt and certain other obligations appear as liabilities on a company's balance sheet.

g. Consult local revenue agents with questions about adjusting the financial information for a particular item.

6. When determining ability to pay, the income and expense information provided must reflect a sufficient time frame to accurately determine the monthly average that could be expected for the entire year. Seasonal variations in business income must be considered, as well as extraordinary events that can lead to excessive increases or decreases in income or expenses at a particular time.

7. Information provided on the CIS, as it pertains to income, assets, and expenses, should match the information provided on other financial statements, tax returns and schedules, and other sources used to verify assets or encumbrances. Discrepancies must be addressed and documented in the case history.

5.15.1.16 (10-02-2012)

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Cash Flow Analysis

1. Taxpayers may substitute business financial statements for the income and expense section of the 433-B, *Collection Information for Businesses*. If the taxpayer does not submit the income and balance sheet, they should be requested, if available, in order to review the viability of the business.

2. The taxpayer may also be asked to submit a cash flow analysis. These are often completed when taxpayers seek loans or investors and may already be available for the revenue officer's review.

3. Cash flow projections are used by a business to forecast future income to meet upcoming expenses. They are based on comparing money owed to expected revenues. This information is most useful when dealing with a business that does not have the ability to full pay on first contact or over a short period of time. Use this to determine if the business can remain current with operating expenses and taxes, and also pay the delinquent taxes.

Example:

The cash flow analysis may show that the business can enter into an installment agreement with increasing payments, as the cash flow of the business improves. There are instances when it may be appropriate to temporarily suspend collection on a business, if the taxpayer cannot pay the delinquent taxes, but current expenses and taxes can be met and the cash flow projections indicate future ability to pay.

4. Cash flow is net income minus preferred dividends plus depreciation (as given in the income statement). Generally speaking, cash flow is the best measure of a company's profits. It is usually calculated by adding depreciation and any other non-cash charges to earnings after taxes. Investors look to cash flow for several reasons:

- Firms have accounting leeway when it comes to reporting net income;
- Depreciation charges, while substantial in many industries, aren't genuine bills that have to be paid; and
- Cash flow is the key to a company's ability to pay dividends, cover debts and so forth. Thus, some analysts focus on the ratio of price to cash flow rather than the traditional price/earnings (P/E) measure. Cash flow is especially useful in assessing firms in capital-

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intensive industries where huge depreciation charges can hide healthy profits.

5.15.1.17 (08-29-2018)

Making the Collection Decision

1. The analysis of the taxpayer's financial condition provides a basis for making one or more of the following decisions:

a. Request payment in full or a partial payment based on the liquid equity in available assets.

b. Consider filing a notice of federal tax lien. See IRM 5.12, *Federal Tax Liens*.

c. Enforce Collection. After taxpayers have been given the opportunity to resolve their accounts and failed to do so, consider enforcing collection. See IRM 5.10, *Seizure and Sale* and IRM 5.11, *Notice of Levy*.

d. Installment Agreement. See IRM 5.14, *Installment Agreements*.

e. Currently Not Collectible. When financial analysis indicates no means of payment, see IRM 5.16.1, *Currently Not Collectible (CNC) Handbook*.

f. Offer-in-Compromise. For detailed Offer in Compromise information see IRM 5.8, *Offer in Compromise*.

2. The following issues should be considered when deciding the best case resolution:

- Past compliance history — How long has the taxpayer been in business? Is there a history of non-compliance?
- Reason for non-compliance — Was the current tax problem related to a specific, identifiable event, e.g. loss of a key supplier, failure of a primary customer, impact from a natural disaster, etc.? Is there reason to believe the taxpayer is recovering from this event?
- Current compliance — Is the taxpayer current and has the cause of past non-compliance been corrected?
- Current financial condition — Can the taxpayer meet current obligations, including FTDs?
- Future financial condition — Can financial adjustments help the taxpayer experience future profits?

- Collection statute — Does the case resolution being considered provide for payment within the collection statute?
- Interest in assets— Is the government's interest in assets protected, will the value of assets increase or decrease, and will the taxpayer's interest in assets change?
- Impact — What impact will the case resolution being considered have on third parties?
- Collection Potential— Will potential for collection increase or decrease for the case resolution being considered?
- Federal Payment Levy Program (FPLP) versus Form 668-A, Notice of Levy - Should federal contractor and vendor payments be systemically levied through the FPLP or by using Form 668-A? See IRM 5.11.6.5, *Government Employees*, for additional information.

3. Address full compliance and ensure taxpayer is current with all filing and paying requirements, including federal tax deposits and estimated tax payments.

4. When analyzing and verifying the financial data, be alert to any indications of fraud. If indications of fraud are identified, refer to IRM 25.1, *Fraud Handbook* or contact the Fraud Referral Specialist (FRS) before further contact with the taxpayer or representative.

5. Trust Fund Recovery Penalty (TFRP). If the delinquency includes trust fund employment taxes, a TFRP investigation must be completed. The finances of any responsible person would be considered in analyzing the potential payment of the account. See IRM 5.7, *Trust Fund Compliance*.

5.15.1.18 (08-29-2018)

Business Expenses

1. The IRC permits a taxpayer entity to reduce its income by deducting expenses paid to earn that income. Often these expenses help to identify assets to pay the tax liability.

2. Deductions may not necessarily be allowed as an expense in determining the ability to pay -- only actual cash expenses are used. If the taxpayer submits their own income and expense statement, the non-cash expenses should be removed from the analysis.

Example:

The taxpayer takes a 10K deduction for depreciation - this amount would not be allowed as an expense when determining ability to pay because depreciation is a non-cash expense.

3. Substantiation and verification is required for cash expenses.

4. In analyzing and verifying the business income and expenses or deductions, real or potential assets may be identified. The following charts provide an explanation of the income or expense item and other considerations for identifying assets.

5. **Compensation of Officers** - This amount represents compensation paid to corporate officers during the taxable year.

Expense	Assets/Other Considerations
The compensation paid to the officers in the form of cash.	Compensation is not always in the form of cash. Corporate officers may have compensation packages that include: • Stocks and stock options • Insurance • Automobiles or airplanes • Townhouses or condos located in vacation areas

Tip: Often the officers are also shareholders or close relatives of the shareholders. Make certain:

- The benefits provided during the year are not for personal gain
- The compensation is not excessive for the corporation's ability to pay or the local economy
- The corporation is not inflating the officers' salaries to reduce the net gain

Reminder: If a revenue officer encounters the commingling of corporate and individual assets and/or income, coordinate with Area Counsel and consider pursuing alter ego or transferee assessments. Since sufficient detail is not

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always present on Schedule E of Form 1040, obtain it from the representative or taxpayer.

6. **Bad Debt** - Bad debts are amounts owed to the corporation but uncollectible.

Expense	Asset/Other Considerations
Bad debts are never an expense item.	This deduction represents the amount that remains uncollected after the corporation exhausts all avenues to collect the debt. Determine the relationship between the debtor and the corporation. For example:

- Loans to officers or shareholders that were not repaid.
- Absence of a note or security agreement that proves the existence of the loan to the officer or shareholder.
- The corporation chooses not to pursue the debtor because of a close relationship. For example, a loan made to an officer or shareholder's child.
- The corporation did not attempt to collect the debt.
- The debtor is insolvent and unable to pay the debt.

Tip: This section is critical if the taxpayer is a defunct or bankrupt corporation. Bad debt may have caused the corporation to become insolvent. Determining the next action would depend on how the bad debt was incurred.

Example:

A customer files bankruptcy leaving the taxpayer with an unmanageable bad debt and subsequent bankruptcy, or a taxpayer that transferred assets to a relative then files bankruptcy. In the first example, do not pursue; in the second example, review IRC § 6901, Transferred Assets, and proceed accordingly.

7. **Taxes and Licenses** - This represents deductible taxes and license fees paid on assets by the corporation.

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Expense	Assets/Other Considerations
Determine the type of taxes and licenses included and for which assets they are paid.	They can represent any asset deemed taxable by local, county and state taxing authorities. For example: • Land and buildings • Machinery and equipment • Vehicles • Taxi or Liquor License

Tip: Ask the taxpayer for the location of the assets. Contact or research city, county and state offices to verify the location, description, valuation and other pertinent data for possible enforced collection against the assets. If corporate assets are being used by a shareholder, officer or employee without proper compensation, get the full details. Consider an alter ego or transferee relationship.

8. **Interest** - Interest deduction represents any interest paid or payable on corporate debt.

Expense	Asset/Other Considerations
Interest may be charged on loans of cash to purchase real estate, machinery, or equipment.	Make certain that the interest deduction is not on any asset used by the corporate shareholders or officers for personal gain. For example: • Interest payments to corporate officers on loans they made to the corporation. This is potentially preferential treatment of creditors if other priority debt is not paid, e.g., taxes. • Interest payments to corporate officers on the capital investment they made to the corporation, again a preferential treatment. • Interest payment for personal debts of the corporate officers or other subsidiaries. • Interest payments on fictitious loans from corporate officers.

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Tip: Revenue officers who encounter these arrangements, should consider the possibility of corporate assets being dissipated. Pursue the beneficiary of this arrangement with a transferee or alter ego assessment.

9. **Depreciation** - Depreciation is a method to deduct the purchase price or basis of an asset over its useful life.

Expense	Asset/Other Consideration
Depreciation is never an expense item.	Form 4562, *Depreciation and Amortization*, is used to list the basis and depreciation of assets for tax purposes. Ask for the depreciation work papers or schedules for the prior, current and subsequent years. Comparing one year to another can help determine the true value of the assets. The disappearance of an asset from one year's depreciation schedule could mean the asset was: • Discarded, sold, traded-in or exchanged. • Fully depreciated for tax purposes. There should be either an asset or proceeds from the disposition of the asset.

10. **Tip:** The true value of an asset is not necessarily shown on the Form 4562 or the depreciation work papers. Although the asset may have been fully depreciated, it may have some market value.

11. **Depletion** - Depletion is similar to depreciation, but applies to assets such as oil, gas, coal or gemstones. Since the asset is removed from the ground, the depletion allowance is computed to account for this removal from the source.

Expense	Asset/Other Considerations
Depletion is never an expense item.	Depletion discloses the availability of an asset or a right to an asset. Identify the source of the asset and: • Locate the source of the depletion.

Expense	Asset/Other Considerations
	• Gather the necessary information to levy on the proceeds generated from the depletion deduction. For example, name and address of the payor.

Tip: The right to the asset can be sold. The best customer will be the payor or company removing the item from the ground.

12. **Pension Plans, Profit Sharing Plans and Employee Benefit Programs** - Generally, pension plans, profit-sharing plans and employee benefit programs indicate a retirement account for the employees and corporate officers.

Expense	Asset/Other Considerations
Determine the corporation's interest in the plans.	Some corporations use investment firms for these accounts. Other corporations maintain and operate their own plans. Refer to IRM 5.11.6.3, *Funds in Pension or Retirement Plans* for details on the possibility of pursuing collection action on this asset. For example:
	• The sole beneficiaries for these accounts are the officers or shareholders whose funds may be used to offset the tax liability or the Trust Fund Recovery Penalty assessment. • The deposits are to hide corporate assets under the officers' or shareholders' names. • The deposits can be borrowed against to pay the outstanding tax liability.

Tip: Get the specific details on the owners and share amounts for each contributor and check with an Employee Plans specialist before proceeding.

13. **Other deductions** - Other deductions represent the cumulative total of all deductions that do not have a line entry on the return.

Expense	Asset/Other Considerations
Review schedule of other expenses in order	This may disclose assets not previously identified. Clarify questionable or excessive deductions. Look for business

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Expense	Asset/Other Considerations
to verify necessary business expenses.	expenses that were actually for the personal gain of the officers or shareholders. For example:

- Bonuses
- Excessive travel and related expenses
- Luxury vehicles
- Boats
- Real property not related to business use

TIP: Commingling of personal and business expenses may lead to an alter ego or transferee assessment. Duplicate expenses should be eliminated.

14. **Net Operating Loss (NOL) Deduction** - The net operating loss is not an "out-of-pocket" expense but an artificial amount based upon tax law.

Expense	Asset/Other Considerations
NOL is never considered an expense.	This discloses that the corporation may be able to make a larger payment on the tax liability.

15. **TIP:** Do not let the accountant or the corporation reduce its ability to pay by this amount. This represents a **paper loss** only and not a real reduction in value.

5.15.1.19 (07-24-2019)

Determining Business Income

1. Income represents the return in money from a business, labor or capital investment.

2. **Gross Receipts or Sales**

Income	Other Considerations
Gross receipts represent money received by the corporation for the goods sold or services rendered. This figure is the total before any expenses are reported.	Gross receipts may be deposited in an operating account at regular intervals, such as daily, weekly, or any other time based on business practices.

3. **TIP:** Comparing the prior year's gross receipts with the current year's gross receipts gives revenue officers a good idea of the cash flow. This is helpful when projecting future cash flow and considering an installment agreement. Payments from merchant cards and third party networks will be reflected on IRPTRO as Form 1099-K, **Payment Card and Third Party Network Transactions**. Certain third parties who settle payments made in virtual currency on behalf of merchants that accept virtual currency from their customers are required to report payments to those merchants on Form 1099-K. Address situations where reported income from sales is significantly lower than the amount reported for Form 1099-K transactions.

4. **Dividends**

Income	Other Considerations
Dividends represent receivables or money received by the corporation.	These funds may be investment or security accounts; or, they may be reinvested in the entity paying them. This amount may not reflect an entire year's earnings.

5. **TIP:** Determine the length of time needed to earn the amounts reported. A revenue officer may determine that an amount initially thought to be nominal, is in fact worth pursuing. Review bank statements, Forms 1099, and brokerage statements.

6. **Interest**

Income	Other Considerations
Interest income represents money received from bank accounts or investments.	The reported interest income discloses the source that generated the income. Examples include cash, savings accounts and bonds. These interest amounts may be credited to the account on which they were paid; deposited after receipt; or, used to purchase additional investments.

7. **TIP:** A revenue officer may determine that an amount initially thought to be nominal, is in fact worth pursuing. The amount could have been earned over a short period of time, while the corporation was looking for somewhere to invest its money. Ask if the sources of interest are still available to pay or reduce

the tax liability. If the taxpayer says “no”, then ask what happened to the funds and when it happened. If the taxpayer says “yes”, ask where the funds are located, and when the taxpayer can pay.

8. **Gross Rents**

Income	Other Considerations
Gross rents represent payments received for the use of corporate assets and may be in the form of monies, services, assets, bartering or any combination of these.	Establish how payments are made to determine which assets are available and the location and value of assets. For example, the corporation leases space to other businesses.

9. **TIP:** Gross rents disclose the existence of an asset. Determine the asset and the payor, then levy on the receivable or seize the asset if necessary.

10. **Gross Royalties**

Income	Other Considerations
Similar to gross rents but is normally earned on assets such as recordings, films, or mineral rights.	Royalty income can lead to an account receivable that can be levied or the right to that receivable that can be sold.

11. **TIP:** For recordings look for a production company; for films look for a distributor; and for minerals, look for a site or buyer of rights.

12. **Capital Gain Net Income**

Income	Other Considerations
Represents the net of the short-term and long-term gains and losses reported on Schedule D, *Capital Gains and Losses*.	Schedule D discloses proceeds from the sale of an asset and may indicate the taxpayer disposed of an asset. Determine what was sold; to whom it was sold; what happened to the money; if the asset was replaced, and where it is.

13. **TIP:** It is not unusual for someone who sells stock to own other stock and reinvest the sale proceeds into more stock. If land was sold, it could be a

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portion of a larger parcel still held by the taxpayer. Identify the asset and payor to determine possible levy sources. There may be a fraudulent conveyance if assets are sold for a nominal amount to a friend or relative to prevent IRS collection action.

14. **Net Gain (or Loss)**

Income	Other Considerations
Form 4797, *Sales of Business Property*, is used to report the gain or loss generated from the sale of business assets.	This form would include assets that were partially or fully depreciated and then sold.

15. **TIP:** If the funds generated from the sale are still available, apply the funds to the tax liability. If the funds generated from the sale are not available, determine what happened to them.

16. **Other Income**

Income	Other Considerations
Other income represents items that do not fit into one of the specific categories on the business' tax return. For example: • A construction company may have income from scrap construction materials. • A legal firm may have referral fees. • A Medical Professional Corporation may have expert witness fees for serving at a trial.	The other income sources can disclose a wide spectrum of items depending on the nature of the business. Request an explanation of the amount shown and then proceed according to the findings.

5.15.1.20 (11-17-2014)

Assets

1. As described in the previous sections, analysis of the income and expenses identifies many of the assets the taxpayer may have. Additionally,

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each section of the Collection Information Statement (CIS) should be reviewed to ensure that all sections are completed and all assets have been identified.

2. Secure the location (foreign or domestic) for each asset, any debts owed on the assets, the date the debt was acquired and the date the debt will be satisfied.

3. Proper valuation of the assets is necessary to determine the total collection potential of the taxpayer.

4. A field call should be made to locate and personally observe the condition of assets based on the merits and circumstances of the investigation.

Note:

An exception can be made to this requirement when the expense to the government for the revenue officer to personally observe the assets is cost prohibitive. Group Manager concurrence is needed. Tax examiners in Field Collection are exempt from the requirement to make field calls.

5. When the taxpayer owns assets located outside of the United States, contact an International Collection or Collection Abusive Tax Avoidance Transaction (ATAT) group to determine the availability of any administrative or judicial tools described in IRM 5.21.3, Collection Tools for International Cases. When securing input to determine if any collection potential exists in the assets consider:

- The taxpayer’s ability to liquidate or borrow against the asset;
- If the asset was purchased in the ordinary course of life or business, or the purchase was intended to place the asset out of the reach of the IRS;
- The existence of any Mutual Collection Assistance Requests (MCAR) or tax treaties with the country where the asset is located;
- Whether any administrative or judicial remedies can be pursued as well as the likelihood they would be approved and yield any positive results.

Reminder:

Document the guidance received from International Collection or ATAT in the ICS history.

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5.15.1.21 (10-02-2012)

Determining Equity in Assets

1. To determine equity of an asset, revenue officers must determine the value of the asset, encumbrances against the asset and priority of the Notice of Federal Tax Lien.

2. Businesses and individuals have similar types of assets. For example, cash is the same for a corporation or an individual. However, some assets that are unique to businesses can be more complex or difficult to value.

3. The Fair Market Value (FMV) of an asset is the price set between a willing and able buyer and the seller in an arms length transaction with full knowledge of the relevant facts. The FMV can be influenced by market conditions, age of the asset, condition of the asset, zoning requirements, technology, demand, fitness for use, and other factors.

4. The Quick Sale Value (QSV) of an asset is an estimate of the price a seller could get for the asset in a situation where financial pressures motivate the seller to sell in a short period of time, usually 90 days or less. Generally, the QSV is calculated at 80% of the fair market value. A higher or lower percentage may be appropriate depending on the type of asset and current market conditions.

5. Encumbrances can be verified using internal sources, online research and external sources. See *IRM 5.15.1.6*, *Internal Resources and Online Research*, and *IRM 5.15.1.7*, *External Sources*. Refer to the Legal Reference Guide for Revenue Officers (IRM 5.17.2,*Federal Tax Liens*), to determine priority of the Notice of Federal Tax Lien.

5.15.1.22 (08-29-2018)

Jointly Held Assets

1. When taxpayers own assets jointly with others, allocate equity in the assets equally between the owners, unless the joint owners demonstrate their interest in the property is not equally divided. In this case, allocate the equity based on each owner's contribution to the value of the asset.

2. Although the IRS may determine not to enforce the lien on jointly held assets, that would not prohibit the IRS from requesting the taxpayer attempt to secure a loan against the asset, at least to the equity that is allocated to the taxpayer.

5.15.1.23 (10-02-2012)

Income-Producing Assets

1. When determining the reasonable collection potential, an analysis is necessary to determine if certain assets are essential for the production of income. When it is determined that an asset or a portion of an asset is necessary for the production of income, it may be appropriate to adjust the income or expense calculation for that taxpayer to account for the loss of income stream if the asset were either liquidated or used as collateral to secure a loan.

2. When valuing income-producing assets:

IF	THEN
There is no equity in the assets.	There is no adjustment necessary to the income stream.
There is equity and no available income stream (i.e., profit) produced by those assets.	There is no adjustment necessary to income stream.
There are both equity in assets that are determined to be necessary for the production of income and an available income stream produced by those assets.	Compare the value of the income stream produced by the income producing asset(s) to the equity that is available. Consider the impact on the viability of the business if the assets are liquidated. If assets are used as collateral to secure a loan or income producing assets are liquidated, make the appropriate adjustment to the income and expense analysis.
An asset used in the production of income will be liquidated to reduce the tax liability.	After the asset is liquidated and IRS is paid, adjust the income to account for the loss of the asset.
A taxpayer borrows against an asset that is necessary for the production of income, and devotes the proceeds to the reduction of the tax liability.	After the IRS has been paid the proceeds of the loan, adjust the expense analysis to account for the loan payment.

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IF	THEN
The taxpayer is either unable or unwilling to secure a loan on the equity in income producing assets.	Compare the equity in the assets with income produced by those assets. Refer to IRM 5.10.1.3, *Will Pay, Can't Pay and Won't Pay Factors*, if seizure is being considered. If income producing assets are seized and sold, make the appropriate adjustment to the business income.

3. These considerations should be fully documented in the case history. For example:

IF	THEN
A self-employed construction tradesman sells a truck, which he used to haul materials, and devotes the proceeds to the reduction of the tax liability.	Allow the expected cost of delivery services as a business expense.
Instead of selling the truck, the tradesman borrows against it and devotes the proceeds to the reduction of the tax liability.	Allow the loan repayment as a necessary expense.
A loan cannot be secured and loss of the truck would create an economic hardship.	Circumstances warrant allowing the taxpayer to retain the asset without requiring him to borrow. Document the case history accordingly.
An outside salesman drives a luxury car when all that is necessary is a moderate value sedan.	Include the equity in the analysis. Consider allowing only the portion of the loan repayment on the luxury car that would be required to purchase a moderate value replacement vehicle. If the taxpayer can sell the luxury car and purchase a less expensive replacement vehicle, consider the costs associated with the sale and with the purchase of the replacement vehicle, i.e. taxes, tags, title, etc., when determining ability to pay.

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IF	THEN
A business owns a vacation property that is used for annual board meetings.	Include the equity in the analysis. Do not allow any loan repayment.

5.15.1.24 (08-29-2018)

Assets Held By Others as Transferees, Nominees or Alter Egos

1. A critical part of the financial analysis is to determine what degree of control the taxpayer has over assets and income in the possession of others.

2. When these issues arise, apply the principles in the Legal Reference Guide for Revenue Officers (IRM 5.17.14, *Fraudulent Transfers and Transferee and Other Third Party Liability*) or request an opinion from local counsel.

5.15.1.25 (10-02-2012)

Cash

1. Cash assets include currency on hand and bank account balances, including checking, savings, online, mobile and any other accounts. Determine the location (foreign or domestic) of the bank accounts.

2. Determine the taxpayer's interest in bank accounts by ascertaining the manner in which they are held. Apply the principles described in the Legal Reference Guide for Revenue Officers (IRM 5.17.3, *Levy and Sale*).

3. Verify whether deposits in escrow or trust accounts are actually held for the benefit of others.

5.15.1.26 (07-24-2019)

Securities

1. Financial securities are considered an asset and their value should be determined.

2. To determine the value of publicly traded stock, research a daily paper, the internet, other internal sources or inquire with a broker for the current market price.

5.15.1.26.1 (07-24-2019)

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Virtual Currency

1. Virtual currency is an electronic currency that isn't legal tender and isn't issued by any government but is accepted as a means of payment and can be transferred, stored or traded electronically and is referred to by several names including digital assets, digital currency, crypto, digital money, cyber cash, as well as others.

2. Cryptocurrency is one of the more commonly used types of virtual currency. Some popular examples of cryptocurrency include Bitcoin, Ethereum, Ripple, and Litecoin.

3. The taxpayer may also have an interest in some form of virtual currency.

   - For federal tax purposes, the transactions are treated as an exchange of property.
   - Virtual currency can be a capital asset, inventory, a form of payment for goods or services, or compensation.
   - The value may be determined in the same manner as a publicly traded stock.

4. Virtual currency is an evolving topic. Contact your manager or your Area Virtual Currency Subject Matter Expert for updated information. Refer to the following resources:

   - IRS Notice 2014-21 C.B. 938, IRS Virtual Currency Guidance
   - Virtual Currency Contacts and Resources, MySB/SE Collection Tools and Processes web page
   - Virtual Currency on IRS Knowledge Management Portal

5.15.1.27 (07-24-2019)

Life Insurance

1. Life insurance as an investment is not considered a necessary expense. However, reasonable premiums for term life policies may be allowed when the policy is for the life of the taxpayer.

2. Whole life policies should be reviewed as an asset for borrowing against or liquidating. Taxpayers can also own whole life insurance policies, with cash value, on the lives of other people.

3. When determining the value in a taxpayer's insurance policy consider:

IF	THEN
The taxpayer will cash out the policy and apply the proceeds to the tax liability.	Equity is the cash surrender value.
The taxpayer will borrow on the policy.	Equity is the cash loan value less any prior policy loans or automatic premium loans required to keep the contract in force.

5.15.1.28 (08-29-2018)

Retirement or Profit Sharing Plans

1. Funds held in a retirement plan, including a profit-sharing plan, are considered an asset and may be reachable by levy. Revenue officers should follow the guidance in IRM 5.11.6.3, *Funds in Pension or Retirement Plans*, when determining whether to levy. In sum:

   - consider other assets available to collect from,
   - determine whether the taxpayer's conduct has been flagrant, and
   - determine whether the taxpayer depends on the money in the retirement account (or will in the near future) for necessary living expenses.

   Prior to levy, attempt to advise the taxpayer that retirement plans may be subject to levy. If a discussion is not held with the taxpayer, this does not prohibit a levy on the retirement plan from being issued.. Consider consulting TE/GE for any questions concerning the validity or qualifications of a plan, the availability of assets for collection, and withholding for current year federal income tax liabilities of the taxpayer.

2. Prior to levy, attempt to advise taxpayers that contributions to voluntary retirement plans are not a necessary expense. In accordance with IRM 5.15.1.1(11), emphasize to taxpayers how much the Service expects from them rather than how the Service expects them to spend their money. If taxpayers wish to continue making contributions, they must divert the money from

allowed expenses, or use the amount allowed for miscellaneous expenses under national standards, but they must be able to make the payments required on an installment agreement. Advise taxpayers that continuing to make voluntary contributions to retirement accounts, while asserting an inability to pay an amount that is owed, may be considered flagrant conduct, and could result in a levy on retirement accounts. However, if a discussion is not held with the taxpayer after attempts to advise the taxpayer that retirement plans may be subject to levy, it does not prohibit a levy on the retirement plan from being issued.
Review of the retirement plan document is generally necessary to determine the taxpayer's benefits and options under the plan.

3. When determining the value of a taxpayer's pension and profit sharing plans consider:

IF	AND	THEN
The account is an Individual Retirement Account (IRA), 401(k) or Keogh Account.	The taxpayer is not retired or not close to retirement and age 59 1/2.	Equity is the cash value less any expense for liquidating the account and early withdrawal penalty.
The account is an Individual Retirement Account (IRA), 401(k) or Keogh Account.	The taxpayer is retired.	Determine if the taxpayer needs the income from the plan to provide for necessary living expenses. If not, equity is the cash value less any expense for liquidating the account (and early withdrawal penalty, if under age 59 1/2).
The account is an Individual Retirement Account (IRA), 401(k), or Keogh Account.	The taxpayer is close to retirement and age 59 1/2.	Determine if the taxpayer will need the income from the plan to provide for necessary living expenses. If so, consider the impact on income and expenses when the taxpayer is expected to retire. If income from the plan will not be needed when the taxpayer retires, determine if the plan should be liquidated now or at the time the taxpayer retires to avoid the early withdrawal penalty. If the plan is liquidated early, equity is the cash value less any

IF	AND	THEN
		expense for liquidating the account and early withdrawal penalty.
Contribution to a retirement plan is required as condition of employment.	The taxpayer is able to withdraw funds from the account.	Equity is the amount the taxpayer can withdraw less any expense associated with the withdrawal.
Contribution to an employer's plan is required as a condition of employment.	The taxpayer is unable to withdraw funds from the account but is permitted to borrow on the plan.	Equity is the loan value.
The plan may not be borrowed on or liquidated until separation from employment.	The taxpayer is not eligible to retire and is not being separated.	The plan has no equity.
The plan includes a stock option.	The taxpayer is eligible to take the option.	Equity is the value of the stock at current market price less any expense to exercise the option.

4. When the taxpayer will liquidate the retirement plan, allow any penalty for early withdrawal and the current year tax consequence. Consider requiring the taxpayer to submit an estimated tax payment as applicable.

5.15.1.29 (10-02-2012)

Furniture, Fixtures, and Personal Effects

1. The taxpayer's declared value of household goods is usually acceptable unless there are articles of extraordinary value, such as: antiques, artwork, jewelry, or collector's items. Exercise discretion in determining whether the assets warrant personal inspection.

2. There is a statutory exemption from levy that applies to the taxpayer's furniture and personal effects and an exemption that applies to the value of tools used in a trade or business. These separate exemption amounts are updated on an annual basis. The levy exemption for tools of the trade does not apply to corporate entities, but only to individual business taxpayers.

3. When determining the value consider the following:

IF	THEN
The taxpayer qualifies as head of household, single, or married	Grant a reduction in the value of personal effects for the levy exemption amount.
The property is owned jointly with any person who is not liable for the tax	Determine the value of the taxpayer's proportionate share of property before allowing the levy exemption.
Some of the furniture or fixtures are used in a business	They are not personal effects, but they may qualify for the levy exemption as tools of a trade.

5.15.1.30 (10-02-2012)

Motor Vehicles, Aircraft and Vessels

1. Motor vehicles, aircraft and vessels (boats) are considered assets. Equity in these types of vehicles must be determined and should be considered as possible collateral for loans.

2. Generally, it is not necessary to personally inspect automobiles used for personal transportation since their value is easily determined by consulting trade association guides. If the values are in dispute, the taxpayer should be instructed to secure an appraisal from a knowledgeable and impartial dealer or the revenue officer may adjust the value based on the condition of the vehicle. Adjustments to value based on condition should be documented in the case file.

3. Assets such as airplanes and boats may require an appraisal to determine FMV unless the items can be located in a trade association guide. An explanation of how these values were determined should be documented in the case file.

4. When these assets are used for business purposes they may be considered income producing assets. See *IRM 5.15.1.23*, *Income Producing Assets*, for a full discussion of the treatment of income producing assets.

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5.15.1.31 (07-24-2019)

Real Estate

1. When determining equity in real estate, FMV of the property must be established. FMV is defined as the price a willing buyer will pay for the property in an arm's length transaction with full knowledge of the relevant facts based on the property's current condition and use. The following methods may be used to establish FMV:

- Recent purchase price or an existing contract to sell
- Recent appraisals
- Real estate tax assessment
- Market comparables (secondary market and buy back options should generally be used for timeshare or vacation share valuations)
- Homeowners insurance replacement cost
- Observation

2. In determining the interest of the liable party, and the value of the interest, refer to the Legal Reference Guide for Revenue Officers (IRM 5.17.1.2, *Local Law Section*) and state law for additional guidance. The basis for the valuation should be documented in the case history.

3. In certain situations, the equity in real estate should be pursued as a means to full pay or reduce the tax liability. In these situations, the taxpayer should be asked to secure a loan, or sell the real estate. If enforcement actions are being considered, refer to IRM 5.10., *Seizure and Sale*.

Exception:

Taxpayers will not be required to pursue equity in real property if borrowing on the equity in the property or selling the property will impose an economic hardship.

4. In certain cases, a reverse mortgage may enable a taxpayer to pay the tax liability. A reverse mortgage is a loan where the lender pays the homeowner (in a lump sum, a monthly advance, a line of credit, or a combination of all three) while the homeowner continues to live in his/her home. With a reverse mortgage, the homeowner retains title to the home. Depending on the plan, the reverse mortgage becomes due with interest when the homeowner moves, sells

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the home, reaches the end of a pre-selected loan period, or dies. Because reverse mortgages are considered loan advances and not income, the amount the homeowner receives is not taxable. See IRM 5.12.10.6.2.2, *Subordination to Reverse Mortgages*, if a NFTL has been filed.

5.15.1.32 (10-02-2012)

Mortgage and Real Estate Loans

1. Mortgage and real estate loans represent money loaned to pay for real property. This may disclose real property or real estate notes previously unreported.

2. Determine the status of the loan and who holds the note or mortgage. Determine if the real estate note can be used as collateral for a loan to satisfy the tax liability or be factored or sold to the debtor.

5.15.1.33 (11-17-2014)

Accounts and Notes Receivable

1. Trade notes and receivables are income or "account receivable" amounts owed to the taxpayer by others. Consider the value of accounts for purposes of potential enforcement.

2. To determine the value of accounts receivable:

a. When the receivables have been sold at a discount (factored) or pledged as collateral on a loan, apply the provisions of IRC 6323(c) to determine the lien priority of commercial transactions financing agreements. See Legal Reference Guide, IRM 5.17.2.6.6.1, *Commercial Transaction Financing Agreements.*

b. Determine if the receivable has previously been secured by a lender. Refer to IRC 6323(d), *45-day Period for Making Disbursements*.

c. Examine the age of the receivable. While businesses generally intend to receive payment on these accounts within 30 days, the longer it takes for payment the less likely the business will receive full payment.

d. Examine accounts of significant value from which the taxpayer is not pursuing collection.

e. Examine accounts that are receivables from officers, stockholders or relatives.

3. Careful consideration should be given prior to serving a Notice of Levy on an account receivable when it is determined that liquidation of the

receivable would be detrimental to the continued operation of an otherwise profitable business.

4. Secure a complete listing of accounts receivable:

. Name, address and telephone number

a. Amount due

b. Age and date due

5. Consider federal contracts for potential enforcement. Identify the federal payment source and determine if there is a specific payment schedule. Secure a copy of the contract/agreement if needed.

5.15.1.34 (10-02-2012)

Inventory

1. Inventory is property held for sale by the business entity.

2. The most common inventories are:

- Merchandise or stock in trade
- Raw materials
- Work in process
- Finished products
- Supplies that physically become a part of the item intended for sale.

3. Determine the value of the inventory. This may be used as collateral for a loan or may be seized and sold in the event enforcement action becomes necessary.

5.15.1.35 (10-02-2012)

Machinery and Equipment

1. To determine the value of business assets:

a. For automobiles and trucks, consult trade association guides, such as Blue Books, Automobile Dealers, newspapers, etc.

b. For specialized machinery and equipment, consult a trade association guide, secure an appraisal from a knowledgeable and impartial dealer, or contact the manufacturer.

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c. Contact the Property Appraisal and Liquidation Specialist (PALS) to assist with the valuation of property.

d. For especially difficult valuation problems where no other resource will meet the need, follow local procedure to request the services of an IRS valuation engineer.

5.15.1.36 (10-02-2012)

Tax-Exempt Securities

1. Tax-exempt securities are investments which pay interest which is not taxable.

2. However, these securities are assets. Since they are not taxable, they are not always listed on the return. The earnings from these securities should be listed on line 8b of the Form 1040.

3. These securities can include:

- Municipal bonds
- State and local government bonds that are exempt from Federal taxes
- U. S. Government bonds exempt from state taxes

5.15.1.37 (10-02-2012)

Loans to Shareholders

1. These assets represent an account receivable due to the corporation by its shareholders. Sometimes the corporation grants a loan to a shareholder or relative of the shareholder with no intention of repayment.

2. Determine the following to verify the existence of the loan:

a. Is there a written note?

b. Are there periodic payments made to the corporation by the shareholder?

c. Is a reasonable rate of interest received or paid?

d. Does the loan represent funds or assets?

e. Has the loan been forgiven subsequent to this return?

f. Make sure no corporate money is used for the personal gain of corporate officers or shareholders. Think about the factors that would indicate the commingling of assets.

5.15.1.38 (10-02-2012)

Intangible Assets

1. Intangible assets are those without physical form or substance. The most common are:
    - Patents
    - Trademarks
    - Franchises
    - Licenses
    - Goodwill
    - Domain Name of a web site

2. The existence of an intangible asset can indicate a potential future benefit. While not "physical" , these are valuable assets and thus subject to amortization.

3. Amortization, like depreciation, is the write-off of an investment expense over a specified period or the economic useful life of the intangible asset. The amount on the return is the unamortized residual balance of the intangible. In other words, it is the amount that has not been written off.

4. The value of the intangibles can be obtained through the sale of the asset. Examples include:
    - Restaurants and bars that may have a liquor license
    - TV or radio stations that have an FCC license
    - Athletic teams that may possess a league franchise
    - A manufacturer that may have a trademark or patent
    - A long time and well established operation may have "goodwill " , that is a favorable consideration shown by its customers. In other words, a good reputation that is valuable for business income.

5.15.1.39 (11-17-2014)

Medicare/Medicaid Providers

1. Consider Medicaid/Medicare payments paid to providers for potential enforcement.

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2. Information regarding Medicaid payments:

- States have traditionally provided Medicaid benefits using a fee-for-service system. The providers submit their claims to the state for payment and the state is responsible for claim processing and payment. Under fee-for-service arrangements, states pay providers directly for services.
- Recently, many states have implemented a managed care delivery system for Medicaid benefits. In a managed care delivery system, beneficiaries get most or all of their Medicaid services from an organization under contract with the state.
- When considering a Medicaid provider levy, determine if the provider is paid directly by the state (fee-for-service) or through a managed care program. The levy should be served on either the state or the appropriate managed care program, not both.

3. For information regarding Medicare payments, see IRM 5.11.6.7.2, *Medicare Payments Paid to Providers*

Exhibit 5.15.1-1

Questions and Answers to Assist in Financial Analysis

Question	Answer
1. If, as a condition of employment, a minister is to tithe, a business executive is required to contribute to a charity, or an employee is required to contribute to a pension plan, will these expenses be allowed?	Yes. The only thing to consider is whether the amount being contributed equals the amount actually required and does not include a voluntary portion.
2. A taxpayer has a child in a university. She has already paid the university $25,000 for tuition and housing for the school year. and she intends to pay another $25,000 next July for the following school year. Should this expense be allowed?	Yes, if the taxpayer can pay the liability plus accruals within six years, and prior to the CSED. Otherwise, the expense will not be allowable. The taxpayer may be eligible for an allowable expense to cover the child's enrollment at a local college if the reduced education expense could make it possible for the taxpayer to take advantage of the six-year rule. When an expense is not allowed the taxpayer is responsible for deciding what

Question	Answer
	expense modifications or eliminations are needed to pay the tax liability.
3. A taxpayer is starting the second year of two-year lease for a luxury car. Car payments are $1,200 a month. Should the taxpayer be allowed this expense?	Maybe. The taxpayer must justify the expenses in excess of the local transportation standards. There are rare exceptions where an occupation may require a luxury car. The type of car can also depend on the location. A real estate agent will probably drive a more expensive car if she is working a suburb with very expensive homes rather than a middle class suburb. If the taxpayer could be expected to drive a more reasonably priced car, then steps should be taken to eliminate the expense. Ask the taxpayer what the penalty would be to return the car to the dealer. With only one year left on the contract, the penalty may or may not be negligible compared to the amount the IRS could receive if the taxpayer leased a moderately-priced car. If the car payment of $1,200 is allowed, the installment agreement amount should be increased when the lease is scheduled to expire in one year.
4. A taxpayer is living in an apartment which rents for $2,000 per month. The lease has another six months to run. The lease agreement includes a termination penalty equal to the lesser of two months rent or the monthly rent due for the balance of the lease. The taxpayer has a $500 security deposit. Local rental data indicated that an acceptable rental apartment in the same general neighborhood can be rented to house the family at a cost of $1,500 per month. The taxpayer cannot full pay within six years. Should the taxpayer be required to move to cheaper living quarters as a condition of an installment agreement?	Since breaking the lease would cost more than keeping it until expiration, an installment agreement may be written which allows the taxpayer to live in his present quarters for the balance of the lease but which requires an increase of $500 with the seventh month.
5. A taxpayer is a commissioned sales person living in a home with a $3,000 monthly	Maybe. The difference between the cost of renting and owning indicates that a significant payment can be

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Question	Answer
mortgage. The property was purchased in 2002 at the peak of the local real estate market and has lost approximately 25% of its value in that time due to local market declines. The present value is approximately equal to the mortgage balance. A single family home of a size adequate to house the family is available in a middle class neighborhood convenient to work and schools for $1,800 per month, including utilities. If the taxpayer remains in his home, income and expenses are approximately equal, leaving no disposable income to apply to the delinquent federal taxes. Should the account be reported currently not collectible?	made if the residence were sold; however, the loss of equity, as well as the costs of sale and moving should be considered. Options for resolution may include: • recommending the taxpayer try to restructure their mortgage to reduce the monthly payment, • asking the taxpayer to sell the property if there is adequate equity for the taxpayer to pay the mortgage, costs of sale and moving costs, • securing an installment agreement for a minimal amount until the taxpayer can adjust expenses (See IRM 5.14.2.1, *Partial Payment Installment Agreement Requirements*) , or • recommending the account be reported CNC with a mandatory follow-up if property values are expected to increase.
6. A taxpayer claims that she needs more for food than the amount provided by the National Standards because she has five teenage children. Can she get an increased amount?	Yes, if she can fully pay the tax liability plus accruals within six years, and prior to the CSED. Otherwise, she has to substantiate and justify the higher food expenses included within the National Standards. She would still be allowed the standard amounts for housekeeping supplies, apparel and services, personal care products and miscellaneous.
7. Should a self-employed taxpayer who is currently making contributions to an Individual Retirement Account (IRA) be allowed to continue the contributions if it will take seven years for her to fully pay the tax liabilities?	The IRA payments would not be listed on Form 433-A as an allowable expense. Advise the taxpayer that if she wishes to continue making IRA payments, she must divert the money from allowed expenses, or use the amount allowed for miscellaneous expenses.
8. A married couple owes a joint tax liability. They have submitted a Form 433-A. The financial analysis indicates that it will take a four-year installment agreement to fully pay the tax liability. The husband is a truck driver	The expenses for food and lodging are allowed as business expenses and should appear on Form 433-B or the business section of Form 433-A. These expenses should not appear on the personal expense section of Form 433-A. The business expenses would have already

Question	Answer
who is responsible for his own food and lodging expenses on the road. He usually pays as he goes with a personal credit card. He requests that this monthly payment be allowed. Should this expense be allowed?	been deducted from business income to arrive at personal income. How the expenses are paid, cash or credit card, do not change the financial analysis. If the taxpayer needs to pay an additional amount on his credit card, he should be told that the IRS includes a monthly Miscellaneous allowance under the National Standards to be used for any expenses not included as allowable in the determination of ability to pay.
9. A taxpayer completed a CIS which indicates that she can fully pay the liability plus accruals within six years. Since the assessment of the tax liability, she has purchased a car for personal use, which has increased her expenses by $2,000 a month. Should the provisions of the six-year or the one-year rule apply?	If it appears the taxpayer was aware of the tax liability and still committed part of her disposable income to excessive or conditional expenses, the Service is not obligated to allow these expenses even though the liability could be fully paid within six years. The excessive car payment would not be an allowable expense. Allow the standard amount for ownership costs on the CIS.
10. A taxpayer has a child in a parochial school. Should the taxpayer be allowed this expense?	Yes, if the taxpayer can pay the liability plus accruals within six years, and prior to the CSED. Otherwise, the expense will be allowed only if it is for a physically or mentally challenged child and no public education providing similar services is available. If the expense is not to be included among allowable expenses, tell the taxpayer that he or she is responsible for deciding what expense modifications or eliminations are needed to pay the tax liability.
11. Because of budget constraints, a public school district has begun charging fees for certain services which were previously provided for free. Should a taxpayer be allowed the expense of paying these fees?	Yes, if the fees are required of all children in the school district. Fees for optional services, such as music lessons, are allowable if the tax liability including projected accruals will be paid within six years.
12. An area has an arrangement with Consumer Credit Counseling Services (CCCS) in which CCCS submits installment agreement proposals on behalf of the taxpayer. Are these cases subject to the allowable expense procedures?	Yes, unless the agreement falls under the streamlined installment agreement procedures. Any installment agreement in which financial analysis is required will be subject to the allowable expense guidelines. The area office must share allowable expense procedures with CCCS.

Question	Answer
13. A corporation owes a $75,000 tax liability of which $55,000 is trust fund. The corporation does not have sufficient assets to pay, but two of the officers have in excess of $100,000 in assets. Does IRS need to assess the Trust Fund Recovery Penalty (TFRP) before pursuing payment of the liability from the responsible persons?	No, the IRS does not need the TFRP assessed before looking to the responsible officers for payment of the corporate liability. The investigation of the corporation should include an investigation of the officers or responsible persons. In this scenario, the officers should be asked to loan the full payment to the corporation. However, no enforcement actions could be taken against the officers until the assessment is made. Also, the IRS would be limited to the collection of the trust fund only from the officers.
14. A taxpayer lives with his fiancé. Both of them are wage earners. The home is owned by the fiancé but the taxpayer claims he pays all the household bills, including the mortgage. They have a joint checking account and all wages are electronically deposited to that account. The taxpayer's proportionate share of household income is 64%. The house has a Quick Sale Value of $35,000 after encumbrances. How is the excess income determined and should the real property be considered when making a determination of payment ability?	The total allowable and conditional expenses would be determined for the entire household the same as a married couple. The taxpayer would then be allocated 64% of those expenses when determining the monthly installment agreement amount. A determination must be made on how income is allocated to expenses whether or not the occupants have a legal relationship (e.g., roommates, spouses) or the liability is joint or not. Unless it can be substantiated that the expenses are entirely separated, the IRS will generally allocate expenses proportionate to income. In regards to the home, additional information is needed. If the taxpayer transferred the home to the fiancé or if the taxpayer has an interest in the property, IRS may be able to pursue the equity in the property. If the taxpayer has no interest in the real property, none of the equity can be used in determining the taxpayer's ability to pay. This does not preclude the fiancé from borrowing against the equity in the property to assist the taxpayer, but it should not be viewed as equity within the reach of the taxpayer.
15. A taxpayer submits a state court order that specifies the taxpayer will pay for his daughter's college tuition and other expenses of his former spouse that would not otherwise be considered necessary	Yes, if the taxpayer can fully pay the liability plus accruals within six years. Otherwise, the expenses will not be allowable. He is responsible for deciding what expense modifications or eliminations are needed to pay the tax liability. If additional guidance is required, consult with area counsel.

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Question	Answer
expenses. Should the taxpayer be allowed these expenses?	
16. If a taxpayer does not own a vehicle, but uses a vehicle owned by a parent or friend, is the taxpayer allowed any vehicle expenses or only the standard amount for Public Transportation?	At a minimum, a taxpayer who does not own a vehicle, is allowed the Public Transportation Allowance. He/she can use the allowance for public transportation or to pay someone for the use of a vehicle. If the taxpayer claims to spend more than that, employees must use their judgment to determine what should be allowed. For example, if the taxpayer cannot afford to buy a vehicle, and pays a friend for insurance, gas, and repairs which exceed the Public Transportation Allowance, it may be appropriate to allow the additional amount, especially if public transportation is not readily available between the taxpayer's home and work. However, if it is apparent that the vehicle is in the name of someone other than the taxpayer to avoid collection actions, the taxpayer would only be allowed the standard amount for Public Transportation.
17. If a taxpayer does not own a vehicle, but uses a vehicle owned by a spouse or live-in girlfriend/boyfriend and they share expenses, is the taxpayer allowed any vehicle expenses or only the standard amount for Public Transportation?	If a taxpayer is using a vehicle that is titled to the non-liable person, and the taxpayer's shared expense calculation for transportation operating costs exceeds the Public Transportation Allowance, the additional amount may be allowed. However, if it is apparent that the vehicle is in the name of someone other than the taxpayer to avoid collection actions, the taxpayer would only be allowed the standard amount for Public Transportation.
18. If a taxpayer defaults on an installment agreement and had previously been allowed a payment for delinquent state taxes, which was never paid, should payment for state taxes be allowed a second time if the installment agreement is being reinstated or a new installment agreement is granted?	No, a payment to the state would not have to be allowed, unless the non-payment of the state tax liability is due to circumstances of financial hardship, e.g. reduced income, unemployment, medical expenses, etc.
19. A taxpayer completes a CIS that includes a minimum payment on a credit card. The taxpayer can full pay the liability including	Yes, under the six-year rule, if the liability can be full paid within six years or prior to the CSED, whichever is

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Question	Answer
accruals in six years, and within the CSED. Should the payment be allowed?	earlier, a minimum payment on a credit card should be allowed.
20. A taxpayer completes a CIS that includes a credit card payment. The taxpayer cannot full pay the liability including accruals in six years. Should the payment be allowed?	No, the full amount of the credit card payment would not be allowed. It may be appropriate to reduce the credit card payment to an amount that would allow the taxpayer to pay within six years. If the credit card is being used for necessary expenses that exceed the standards, a deviation may be appropriate, and the expense item would be increased. This would allow the taxpayer to use the extra amount allowed for expenses to pay the credit card. Advise the taxpayer that any additional amount needed to pay the credit card payment would come from the miscellaneous allowance.
21. A taxpayer completes a CIS that includes a credit card payment. The taxpayer can full pay the liability including accruals in six years, but the payment is excessive. For example, the taxpayer is paying $400 monthly on a credit card, but the minimum payment required is $100. Should the payment be allowed?	No, even if the liability can be full paid within six years, the payment is excessive. Only the minimum payment required would be allowed. Advise the taxpayer that if he wants to pay more than the minimum payment, he would have to use the miscellaneous allowance.

Exhibit 5.15.1-2

Financial Analysis: Online Access to the Allowable Expense Tables (Reference 5.15.1)

The Allowable Living Expense Tables (Collection Financial Standards) are web-based and are located on the following URLs:

- Internet access:https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards
- Intranet access: http://mysbse.web.irs.gov/Collection/toolsprocesses/AllowExp/default.aspx

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