



# I.O.U. IRS

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Our client owes taxes.  
What do we do now?

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There are five ways to resolve a collection case:

- \* Bankruptcy
- \* Full Payment
  - \* Loan
  - \* Liquidate asset (Payoff letter - 800-913-6050)
  - \* Extension of time to pay (Up to 120 days)
  - \* Abatement
- \* Currently Uncollectible
  - \* Lien will be filed if amount owed is over \$10,000
- \* Offer in Compromise
  - \* Doubt as to Collectability
  - \* Effective Tax Administration
- \* Installment Agreements

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Installment Agreements:

- \* Guaranteed
  - \* Owes income tax only in the amount of \$10,000 or less (excluding P & I)
  - \* Has timely filed and paid any tax on returns for the preceding five years
  - \* Cannot immediately pay the tax. (Policy: Allow a guaranteed IA even if taxpayer can pay.)
  - \* Fully pays the tax liability + P & I within 3 years
  - \* Agreed to timely file and pay all returns during the term of the agreement
  - \* Has not entered into an IA in the preceding 5 years
  - \* Lien determination does not need to be made (but may be)

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More Types of Installment Agreements:

- \*Streamlined
  - \*Lien determination need not be made but if filed requires managerial concurrence.
  - \*Approval of agreement does not required GM approval
- \*Aggregate unpaid balance under \$25,000 and tax is:
  - \*Individual Income Tax
  - \*Business income tax (1120 or 1065 late filing)
  - \*Any type of tax for out of business taxpayer
- \*Tax plus accruals must be paid within 72 months or before the collection statute expires

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More Types of Installment Agreements:

- \*Aggregate unpaid balance over \$25,000 and under \$50,000 and tax is:
  - \*Individual Income Tax
  - \*Any type of tax for out of business taxpayer
- \*If unpaid balance is greater than \$25K and under \$50K:
  - \*Payment must be made via Direct Debit from bank or
  - \*Payroll Deduction agreement
  - \*If taxpayer refuses, agreement may not be approved and
  - \*Lien will be filed.
  - \*If taxpayer defaults due to missed payments in the past 12 months, must verify taxpayer's ability to pay

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More Types of Installment Agreements:

- \*Aggregate unpaid balance over \$25,000 and under \$50,000 and tax is:
  - \*Must be paid in full within 72 months
  - \*Note: Memo SBSE-05-119-0039 states ACS may divide the aggregate assessed balance by 84.

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More Types of Installment Agreements:

Extended Installment Agreement:

- \*Aggregate unpaid balance over \$50,000 or taxpayer is unable to pay the amount within 6 years
- \*Full payment will be made within the statute of limitations on collection
- \*IRS will apply Collection Standards
  - \*Necessary expenses - Expenses necessary to the health, welfare of the family or production of income
  - \*Conditional expenses - those that exceed the necessary test but taxes will be fully paid in 6 years or within the collection statute.
  - \*Or, Conditional expenses may be allowed for up to one year allowing the taxpayer to adjust their living expenses

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More Types of Installment Agreements:

Partial Payment Installment Agreement:

- \* Full payment will be NOT be made within the statute of limitations on collection
- \* IRS will apply Collection Standards
  - \* Necessary expenses - Expenses necessary to the health, welfare of the family or production of income
  - \* No Conditional expenses will be allowed
  - \* No time will be allowed for the taxpayer to adjust their living expenses
- \* Complete collection information statement required
- \* Mandatory financial review every 2 years
- \* Federal tax lien will be filed

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More Types of Installment Agreements:

In-business Express Installment Agreement:

- \* Aggregate unpaid balance of assessment of \$25,000 or less
- \* No collection information statement required
- \* Taxes must be paid within 24 months or before expiration of CSED
- \* No lien determination must be made although a lien MAY be filed to protect the government's interest
- \* No trust fund recovery penalty investigation required
- \* Must be a direct debit agreement
- \* Managerial approval is required

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More Types of Installment Agreements:

In-business Installment Agreement (NOT Express)

- \* The taxpayer must be making timely and accurate FTDs in the current quarter.
- \* All tax returns must be timely filed.
- \* Generally, a trust fund recovery penalty will be proposed.
- \* A Notice of Federal Tax Lien will be filed.
- \* The IRS generally sets a payment amount to fully pay the taxes in the shortest amount of time.
- \* Managerial approval is required

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How to Request an Installment Agreement:

- \* Online Payment Agreement - [www.irs.gov](http://www.irs.gov)
- \* Customer Service
  - \* Practitioner Priority Service 1-866-860-4259.
  - \* Telephone number shown on notice
  - \* Written request to address on notice
- \* Examiner after an audit
- \* ACS
- \* Field Revenue Officer

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Low Income Taxpayers:

- \*Gross income for most recent year is at or below 250% of applicable federal poverty level
- \*Low Income TP making Direct Debit agreement - No fee
- \*If unable to make DDIA, IRS will reimburse fee upon completion of the IA
- \*Online Payment Agreement automatically reflects lower costs for low income taxpayers
- \*If taxpayer believes they met the criteria but IRS charged the full amount - may apply for review within 10 days of acceptance letter
- \*Form 13844, Application for Reduced User Fee for IA
  - \*IRS, P. O. Box 29236, Stop 5050, Kansas City MO 64121-9236

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Installment Agreement Fees 4/10/18 to Present:

Current User Fee Rates	Fee
<u>ORIGINATION USER FEE:</u>	
Manual- *Low-Income Origination -	\$43
*Low-Income DDIA for DDIA's entered into on or after 4/10/18	\$0
DDIA origination	\$107
Regulation IA origination	\$225
<u>ONLINE PAYMENT AGREEMENT (OPA)</u>	
OPA Low-Income Regular Origination	\$43
OPA Low-Income DDIA entered into on or after 4/10/18	\$0
OPA Regular origination	\$149
OPA DDIA origination	\$31
<u>REINSTATEMENT/RESTRUCTURING USER FEE:</u>	
Low-income reinstatement/restructuring	\$43
Low-income DDIA reinstatement/restructuring for DDIA's entered into on or after 4/10/18	\$0
All Other reinstatement/restructuring	\$89

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Offer In Compromise:

- \*Doubt as to Liability
  - \*Form 656-L
  - \*No down payment is required
  - \*No user fee
  - \*Offer is to settle examination assessment - Exam works it
- \*Offer is to settle trust fund recovery penalty - Collection works it
- \*Supporting documentation is submitted with the offer

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Offer In Compromise:

- \*Doubt as to Collectability - Effective when it is doubtful that IRS will collect full payment within the CSED
  - \*Form 656 accompanied by Form 433-A(OIC) or 433-B(OIC)
- \*Two payment methods
  - \*Cash offer - 20% down and remainder paid within 5 months of acceptance
  - \*Deferred Offer - Pays settlement out over 12 months. Initial payment submitted with the offer. If continual monthly payments offered, must continue making them

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Offer In Compromise:

- \*User Fee unless low income - \$186
- \*Taxpayer stays current on all filing and payments during offer + 5 years
- \*Any refund will be applied to balance due through the year OIC is accepted
- \*Only necessary expenses allowed - no conditional expenses.

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Offer In Compromise Effective Tax Administration- Taxpayer is able to pay in full but it would be appropriate to settle for less:

- \*Example 1 - Joe B owes \$100,000:
- \*Joe B had a right leg amputated above the knee
- \*He is an in-board motor repairman and is unable to climb in and out of boats
- \*Joe B inherited house from his mother worth \$150,000
- \*Effective Tax Administration offer accepted to allow him money to learn a new trade.

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Offer In Compromise Effective Tax Administration-

- \*Example 2 - Sam S. owes \$90,000:
- \*Joe B severe case of Parkinson's Disease
- \*Joe is 45 years old. Works as a geologist. Company will continue to pay a good salary.
- \*Neurologist wants to implant a brain pacemaker requiring 6 months rehab.
- \*During this time taxpayer is unable to work so has saved enough to support himself for 12 months
- \*We submitted a video taken by doctor showing before and after meds taken.
- \*Effective Tax Administration offer accepted to allow him to have the surgery plus rehab

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Collection Standards-

- \*National Standards include food, apparels, personal care products & services, misc.

Expense	Number of Persons				
	One	Two	Three	Four	Over Four
Food	\$386	\$685	\$786	\$958	
Housekeeping supplies	40	72	76	76	
Apparel & Services	88	159	169	243	
Personal care products & services	43	70	76	91	
Miscellaneous	170	302	339	418	
<b>Total</b>	<b>\$727</b>	<b>\$1,288</b>	<b>\$1,446</b>	<b>\$1,786</b>	<b>\$420</b>

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Out of Pocket Health Care Expenses-

- \* IRS has established a standard for medical expenses but it could be increased with substantiation
- \* The standard is allowed for the taxpayers and their dependents whether or not that amount is spent monthly.

	Out-of-Pocket Costs
Under 65	\$55
65 and Older	\$114

Local Standards-

- \* Housing -
  - \* Includes rent/mortgage, utilities, septic cleaning, telephone, property taxes, homeowners dues and fees
  - \* Amount established based on county and family size

County	Family of 1	Family of 2	Family of 3	Family of 4	Family of 5 or more
Collin	1938	2276	2398	2674	2717
Dallas	1517	1781	1877	2093	2127
Rockwall	1763	2071	2182	2433	2472
Tarrant	1557	1829	1927	2149	2183
Terrell	877	1030	1085	1210	1229

Local Standards-

- \* Transportation allowance is comprised of three amounts:

- \* Ownership

	First Car	Two Cars
National	\$508	\$1,016

- \* Public Transportation - \$217
- \* Operational expenses are determined by:
  - \* Region where the taxpayer lives
  - \* Metropolitan Statistical Area

Region-

Census Region	States Included
Northeast	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New York, New Jersey
Midwest	North Dakota, South Dakota, Nebraska, Kansas, Missouri, Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota, Iowa
South	Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, West Virginia, Virginia, Maryland, District of Columbia, Delaware, North Carolina, South Carolina, Georgia, Florida, Alabama
West	New Mexico, Arizona, Colorado, Wyoming, Montana, Nevada, Utah, Washington, Oregon, Idaho, California, Alaska, Hawaii

Metropolitan Statistical Area (MSA)-

South Census Region			
MSA	COUNTIES (unless otherwise specified)		
Dallas-Ft. Worth	in TX:	Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, Somervell, Tarrant, Wise	
Houston	in TX:	Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller	

Allowable amounts:

South Region	210	420
Dallas-Ft. Worth	281	562
Houston	287	574

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**Example: Computing Allowable Transportation**

John and Sue live in Dallas and own two vehicles -  
 -A fully paid 2010 Jeep Grand Cherokee  
 -A 2018 Lincoln MKZ with a monthly payment of \$650

His gasoline bill averages \$400 a month, tolls \$25, insurance is \$220 and repairs average \$135 totaling \$780.

Allowable Monthly Ownership:	\$508
Operation Expense:	\$562
<b>Total allowable:</b>	<b>\$1,070</b>

How would it change if John had the same expenses but wasn't married?

The IRS would want to allow only operation for one vehicle and no payment unless you convinced them that a second car was necessary for health, welfare or production of income.

Other Necessary Expenses must be substantiated and must meet the necessary test (NT).

- \* Accounting & Legal Fees - Includes representation
- \* Charitable contributions - be a condition of employment
- \* Child Care - NT & reasonable amount
- \* Court Ordered Payments - Taxpayer must be making the payments in order to be allowable
- \* Dependent care - Only necessary if there is no alternative
- \* Education - Required for a physically or mentally challenged child and no public education providing similar services are available. For taxpayer on if it is a condition of employment.
- \* Healthcare - Must meet necessary test.
- \* Involuntary deductions - Allowed
- \* Life insurance - Term policy

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More Necessary Expenses must be substantiated and must meet the necessary test (NT).

- \* Secured or legally perfected debts
- \* Taxes - Whether paid or not. Delinquent state and local taxes may be allowed.
- \* Unsecured debts - Minimum payments may be allowed if substantiated.
- \* Optional telephone including cell
- \* Student loans - Allowed if secured by federal government and only for taxpayer's education.
- \* Internet provider/email
- \* Federal taxes - Repayment allowed if assets are secured and FMV is reasonable. Must meet necessary test.

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## Case Study #1

John owes \$57,000 for 2018 taxes due to sale of stock. He does not have enough money to pay the taxes because he has reinvested the stock proceeds into an airplane partnership with a friend. John doesn't need the plane but loves to fly. He has more stock but doesn't want to sell them yet. Options?

- A) Request an installment agreement now
- B) Wait for collection notices and then call for an installment agreement
- C) Pay the tax down to \$50,000 then request a streamlined agreement
- D) Sell the stock and pay ordinary income on the sale.

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## Case Study #1 - Answers

- \* If you request an installment agreement now, since John owes more than \$50,000, he will have to provide complete financial information. IRS will more than likely set up high monthly payments and may ask him to sell the plane. - Not a good choice for John.
- \* Waiting for notices will not change the IRS requirements. Since John owes more than \$50,000, they will more than likely set him up on high monthly payments and may require him to sell his plane or other assets. - Not a good choice for John.
- \* John can pay the amount down below \$50,000 and then request an installment agreement for about \$700 a month. He could pay on the monthly agreement until his stock qualifies for capital gain treatment. Once the stock qualifies for capital gains, he could sell it and pay that amount towards the tax. Or, he can continue making the monthly payment until the tax is paid in full. - This is a good choice for John because he keeps his assets and has more control over the amount of his monthly payment.
- \* Selling the stock will create a higher tax for the current year. This is not a really good choice for John.

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## Case Study #2

Jim and Lynn are new clients. When preparing their 2018 tax return you find that they owe \$12,579 on their 2016 taxes due to an audit. IRS disallowed all of Lynn's COGS for her direct sales clothing business. IRS believed that she was just buying clothing for herself since her computer died and she had no receipts. Since the audit, Jim's cousin has been able to remove the hard drive from her broken computer and access the receipts. Options?

- A) Request an installment agreement now
- B) Submit an OIC based on DATL or an audit reconsideration
- C) Pay the entire amount then file a claim for refund
- D) Refer them to a tax attorney

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## Case Study #2 - ANSWERS

- A. You may want to advise Jim and Lynn to set up an installment agreement. If an amended return shows that they will owe tax even if IRS abates the additional assessment, it may be a good idea to enter into an installment agreement because penalties and interest will continue to accrue while the audit is being reconsidered.
- B. This is the best choice for Jim and Lynn because new information is now available that could decrease the amount of tax assessed with the examination. If IRS denies the request, either an offer in compromise (DATL) or an audit reconsideration will allow the taxpayers appeal rights.
- C. Paying the tax and then filing a claim for refund requires the taxpayer to come up with a lump of money. Most taxpayers would rather fight the assessment without having to pay it first.
- D. Generally, a tax attorney is not necessary unless the case ends up in court. Of course an attorney may take the case to court but most times that is not a necessary move unless IRS denies the request for reconsideration and Appeals upholds their decision.

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## Case Study #3

Bill and Mary own a plumbing company with approx. 25 employees. Bill manages the men while Mary handles payroll and all administration issues. They were assessed a trust fund recovery penalty in 2018 - \$55,000 each. The corporation is paying \$1,000 a month; Bill's installment agreement is for \$950 monthly while Mary's is \$50 a month on a different agreement.

Bill and Mary explain that they have a daughter, Jill, who is their dependent. Jill was in an accident and suffered severe brain trauma. She goes daily to a rehab and life skill training. She will never be able to live on her own. Bill & Mary are concerned that Bill can't work long enough to pay the taxes and provide for Jill's care after they die. They have no savings. Their house is worth \$273,000 with no mortgage. What can you do to help?

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## Case Study #3 Continued

Options to resolve the case:

- A) Do nothing because they need to pay their taxes.
- B) They could file a bankruptcy
- C) Submit an offer in compromise
  - 1) Doubt as to liability?
  - 2) Doubt as to collectibility?
  - 3) Effective tax administration?
- D) Refinance the house to pay the taxes in full.

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## Case Study #3 ANSWERS

Options to resolve the case:

- A) Although the taxes need to be paid, Congress allows the taxpayer to pay less than the full amount in certain circumstances.
- B) They could file a bankruptcy - They would have to file a personal bankruptcy to pay out the tax over 5 years. Trust fund recovery penalties are not dischargeable so the full amount will have to be paid within the bankruptcy.
- C) Submit an offer in compromise
  - 1) Doubt as to liability? - There is no doubt as to liability. This is not an option.
  - 2) Doubt as to collectibility? - Since they have equity in their house, this is not a viable option.
  - 3) Effective tax administration? - This may be exactly the type of case that Congress was considering when they came up with the effective tax administration offer.
- D) Refinance the house to pay the taxes in full. - This fails to take into consideration the need to provide funds to care for the daughter.

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## Case Study #4

Mike installs drywall. The tax return for 2018 showed more income meaning Mike owed \$13,000 in taxes and has NEVER paid any ES taxes. Beginning Feb 2019, Mike began taking care of his mom who is bedridden. He pays a neighbor to stay with her during the day. He takes care of her at night and also takes off frequently to take her to the doctor. He also has rotator cuff surgery on June 25<sup>th</sup>. His doctor says he will be out of work at least 2 months. What options can you offer Mike?

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### Case Study #4 Continued

Options to resolve the case:

- A) Submit a CIS and ask IRS to report the account as currently uncollectible.
- B) Set up a streamlined IA for \$200 a month
- C) Submit an offer in compromise
  - 1) Doubt as to liability?
  - 2) Doubt as to collectibility?
  - 3) Effective tax administration?
- D) Request that IRS give Mike 120 days to pay in full hoping he will be finished with rehab and be able to work before the end of the 120 days.

### Case Study #4 ANSWERS

- A) Submit a CIS and ask IRS to report the account as currently uncollectible. - This seems like the best option for Mike. He will still owe the taxes but it gives him a chance to get on his feet financially. But make sure he begins making estimated payments.
- B) Set up a streamlined IA for \$200 a month - He can't afford this option.
- C) Submit an offer in compromise
  - 1) Doubt as to liability? - There is no doubt as to liability.
  - 2) Doubt as to collectibility? - The problem is that IRS may average his income from the last 3 years to come up with a phantom amount that Mike could supposedly pay.
  - 3) Effective tax administration? - Not an option.
- D) Request that IRS give Mike 120 days to pay in full hoping he will be finished with rehab and be able to work before the end of the 120 days. - Will 120 days allow him enough time to go through rehab and get back on his feet financially?

### Case Study #5

Eric and Laura owe \$70,000 in income taxes. Eric sold his software company which caused the liability. He now earns \$15,000 a month on a guarantee and quarterly received a bonus averaging \$5,000.

Eric and Laura rent a house in Highland Park for \$7,000 a month. Utilities average \$2,000 a month. They dress impeccably. They lease 2 cars, a 2019 Mercedes (\$725) and a 2018 Cadillac for \$957. They spend about \$1,000 a month on gas and operational expenses. They are taking their 25 year old daughter and her fiance to Hawaii for a wedding. Wedding trip to cost \$75,000.

Total Income		Necessary Living Expenses		
Source	Gross	Source	Claimed	Allowed
Wages	\$15,000	National Standard	\$3,500	\$1,288
Wages - Mrs.	\$0	Shelter	\$9,000	\$1,781
Interest	\$0	Transportation - vehicle payment	\$1,682	\$1,016
Net Business Income	\$0	Transportation - Operation	\$1,000	\$562
Rental Income	\$0	Health care - Insurance	0	\$0
Pension (TP)	\$0	Health Care - out of pocket	\$30	\$110
SS Dis (spouse)	\$0	Taxes	\$3,900	\$3,900
Alimony	\$0	Court Ordered payments	\$0	\$0
Child support	\$0	Child/dependent care	\$0	\$0
Other	\$1,666	Life Insurance	\$0	\$0
		Secured or legally perfected debts	\$0	\$0
		Other	\$0	\$0
<b>Total Income</b>	<b>\$16,666</b>	<b>Total Expenses</b>	<b>\$19,112</b>	<b>\$8,657</b>
		<b>Total Income less Total Expenses</b>	<b>-\$2,446</b>	<b>\$8,009</b>

### Case Study #5 Continued

Options to resolve the case:

- A) You could propose an installment agreement for \$8,009 a month.
- B) You could propose an installment agreement for \$50 a month for one year and then it would increase to \$8,009 a month.
- C) You could tell them that they can't afford the wedding in Hawaii.
- D) Recommend that they pay the amount owed down to \$50,000 so that you could set up and installment agreement for \$600 a month.

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### Case Study #5 ANSWERS

- A) You could propose an installment agreement for \$8,009 a month. - Would the taxpayers keep making these payments? Probably not.
- B) You could propose an installment agreement for \$50 a month for one year and then it would increase to \$8,009 a month.
- C) You could tell them that they can't afford the wedding in Hawaii.
- D) Recommend that they pay the amount owed down to \$50,000 so that you could set up and installment agreement for \$600 a month. - This is the best option since you know that Eric will not keep an installment agreement requiring monthly payments of \$8,009.



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