ASTPS

OFFER IN COMPROMISE: CALL TO COMPLETION CHECKLIST

1. YOUR MARKETING WORKS, TIME TO ROLL!

☐ You receive a call from a prospect (prospective client) with a tax problem.

Comment: Hooray! This is what you want: New business that commands higher fees.

☐ Make an immediate appointment.

Comment: These prospects are usually in a hurry to see you. Probably because they have procrastinated and finally were motivated to make the call. Their motivation was likely in the form of an IRS notice, a Revenue Officer visit, or an angry spouse.

☐ When they arrive be sure that your office is "staged" to convince them that they are in the right place to get the relief they are seeking.

Comment: If you don't know what "staging" looks like go to ASTPS.org and get the recorded presentation titled *The Sales Process.* It will give you the tools needed to have every prospect become a client right at the initial meeting.

☐ Your staging as noted above has them primed to engage you. They are sitting in front of your desk, now what?

Comment: It's up to you not to blow it! On to the next step: The Fearsome Initial Interview.

2. THE FEARSOME INITIAL INTERVIEW, MINDSET-"I CAN DO THIS."

☐ You won't learn much listening to yourself talk! Your primary task is listening.

Comment: So, shut-up and do so. Focused listening to them relating their story will reveal what you need to say (when it becomes your turn to talk) to have them eager to move forward with you.

☐ You should ask clarifying, confirming, and data-gathering questions.

Comment: A clarifying question might start with, "Is what you're telling me….?" A confirming question might start with, "So, on last Tuesday you told the IRS you would…, correct?" A data-gathering question might be, "What was the last year that you filed your tax return?" or "How much does the IRS *say** you owe?" **Indicates you are on their side, not just accepting IRS position.*

☐ After the prospect has had the opportunity to relate their situation, you are on deck.

Comment: It's time for you to gather any more data you want and to demonstrate your expertise. Your staging has already gone a long way toward convincing them that they are in the right place, but now it's time to finish the job.

☐ It is important to convince the prospect that you understand their problem and have the knowledge, skills, and experience to solve it. However, you should never attempt to resolve their problem on the spot.

Comment: Best practice guidelines are to show the various tools that could be applied to their case, but to explain that you must perform an analysis of their situation before a viable recommendation is possible. This prevents offering solutions that you later find to be unworkable and avoids de-valuing your services by tossing out *easy* answers.

☐ If you have not developed a choreographed, planned, thought out, and scripted interview technique, you should take time to study the process. From that study, create and practice a repeatable approach that will serve you well in every tax problem resolution interview.

Comment: A short-cut to the above recommendation is available in a recorded webinar noted above that is available at ASTPS.org. Studying the approach discussed in this webinar will save hours of work and provide an effective toolset for your tax problem resolution interviews.

3. YOU'RE HIRED, UH-OH, NOW WHAT? CRUNCH

☐ Commence the casework by gathering the data needed to perform your analysis.

Comment: Recommend use of a comprehensive questionnaire that you have the client complete and return to you. Professional level tax problem resolution software may include such a questionnaire. Gathering the client's data is often a challenge. Don't be shy about taking control and instructing them of what's needed and be sure to give them deadlines to provide the requested material to you.

☐ Enter the data on the IRS Collection Information statements in the Form 433 series of forms.

Comment: Most tax problem resolution cases start with an analysis of the taxpayer's financial position. Although you may do the analysis using IRS forms, it is recommended that you use a professional tax problem resolution software.

☐ Completion of the 433-A (OIC), and 433-B (OIC) series forms using the information provided by your client is the first step in your analysis. The 433-B (OIC) will only be needed if the taxpayer has an active non-proprietorship business. The next step is to review every entry on the forms to see if there is any planning that may be applied to enhance the taxpayer's chances for a more favorable outcome to your negotiations with the IRS.

Comment: Planning opportunities never involve any improper actions like hiding assets or mis-representing income. Conversely, it is acceptable to take advantage of the amounts the IRS system allows. Ex. A taxpayer without health insurance might purchase coverage and reduce the amount that would be included in an Offer in Compromise computation.

☐ Next step is to go over each *blank* line throughout the 433-A/B form(s) searching for potential items to add that might enhance the taxpayer's chances to get an Offer in Compromise approved. This process is also useful for alternative solutions like Installment Agreements or Currently Not Collectible (CNC) status.

Comment: Some troubled taxpayers will keep cash on hand to cover living expenses for fear of the IRS levying a bank account. Therefore, the Cash in Bank line of the 433-A (OIC) might be blank. The cash that is not in a bank account will be included in the IRS's calculation of RCP (reasonable collection potential). Advising the taxpayer to deposit the cash may remove it from RCP as current offer rules permit exclusion of $1,000 or more.

4. NUMBER CRUNCHING DONE. PLANNING AND POSITION IMPROVEMENT DONE.

☐ Consideration of the taxpayer's financial position is the next step. If the 433-A (OIC) reflects a meaningful saving and the taxpayer can pay for the services, file an Offer in Compromise. If the offer amount calculated does not save enough to warrant the cost of filing or if it exceeds the tax liability, an Offer in Compromise likely isn't the correct solution.

Comment: Once you have determined a taxpayer not to be a good OIC candidate, either due to the inability to afford the investment in your services or the lack of meaningful savings, it's time to look at other solutions.

☐ Is the taxpayer in poor financial position? Is there little or no equity in assets and is income inadequate to cover allowable living expenses? This taxpayer would have difficulty paying for your services. Consider requesting the IRS to place the taxpayer in Currently Not Collectible status.

Comment: Currently Not Collectible (CNC) status stops enforced collection and allows the Statute of Limitations for collection to continue to run. This may be an affordable solution that would ultimately end the problem due to statute expiration. Or, CNC may simply defer the problem to a time when the taxpayer can afford to resolve it.

☐ If the taxpayer isn't a CNC or an OIC candidate, an Installment Agreement may be the best option. The taxpayer may be able to pay the balance due over as many as seven years.

Comment: Generally, IRS wants the back tax paid as quickly as possible based on the taxpayer's ability to pay. This may result in the IRS demand to pay immediately or in a shorter period. If the taxpayer owes more than $50K a 433-A will be required and will disclose to IRS the ability to pay. If the liability is below $50K you can request the 7 years without disclosing an ability to pay faster. It is permissible to pay a liability down to achieve this situation. If a taxpayer cannot full pay in seven years, but can pay something on a regular basis, there is a Partial Pay Installment Agreement that may be the taxpayer's best option.

OTHER CONSIDERATIONS – WHAT IF THEY DON'T REALLY OWE THE TAX?

- ☐ Your taxpayer says a spouse or ex-spouse is a louse. The spouse-louse left your client with a tax liability that your taxpayer had no part of running up, now what? This is where an Innocent Spouse request for relief is in order.

  Comment: Your taxpayer may still be married to and even living with the spouse-louse and yet be eligible for Innocent Spouse relief. There are three separate categories to Innocent Spouse relief. They are Innocent Spouse, Separation of Liability, and Equitable Relief. The first two are only appropriate for understatement of tax on a return. On the occasion that there is underpayment of tax only the Equitable Relief category is possible. Understatement and underpayment may both exist under Equitable Relief.

- ☐ Other reasons a taxpayer may not owe amounts IRS is attempting to collect could include an expired Statute of Limitations (SOL), an improper assessment, or simply an error by the IRS. (I know, you thought SOL meant something else!)

  Comment: IRS has 3 years to assess tax from the due date of a return or the date filed whichever is later. IRS has 10 years to collect a tax from the assessment date. Certain events may toll (suspend) the running of the statute extending the expiration plus a tack-on period.

- ☐ Items that toll the running of the statute include bankruptcy, filing an Offer in Compromise, requesting an Installment Agreement, or exercising the right to a Collection Due Process hearing.

  Comment: A careful review of the Statutes of Limitation on assessment and/or collection is imperative in <u>every</u> tax problem resolution case.

Collect your fees in advance and not work beyond the amount paid. Your job is to quote the fee, the taxpayer's job is to raise the money to pay you. Do not negotiate with yourself feeling that they may not be able to afford what you quoted.

This quick review of handling a tax problem resolution case isn't your key to being an expert, but a well-intended tool giving you sufficient knowledge to be dangerous. Therefore, please use this knowledge for good not evil. If you do not have a solid command of the IRS practice and procedure area, attend ASTPS training and gain such expertise or refer the matter to a professional who has the expertise. Go forth and multiply, or at least go forth and leave the multiplication to your 10-key calculator.