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From:
Sent: Thursday, October 18, 2012 2:50:34 PM
To:
Cc:
Subject: OIC question

This email confirms our conversation this morning. Treas. Reg. Section 301.7122-1(e)(5) provides that after the IRS accepts an OIC, a tax year can be reopened in only 3 limited situations. The regulation specifically states:

> **(5)** Acceptance of an offer to compromise will **conclusively settle the liability** of the taxpayer specified in the offer. Compromise with one taxpayer does not extinguish the liability of, nor prevent the IRS from taking action to collect from, any person not named in the offer who is also liable for the tax to which the compromise relates. Neither the taxpayer nor the Government will, following acceptance of an offer to compromise, be permitted to reopen the case except in instances where--
>
> **(i)** False information or documents are supplied in conjunction with the offer;
>
> **(ii)** The ability to pay or the assets of the taxpayer are concealed; or
>
> **(iii)** A mutual mistake of material fact sufficient to cause the offer agreement to be reformed or set aside is discovered. (Emphasis added)

We understand in this case that area counsel has determined that none of the three limited situations for reopening are present. Based on the facts provided, we concur with that conclusion. A taxpayer's defaulting an OIC is not listed as one of the criteria for reopening the case. Thus, even if the taxpayer defaults, the tax liability is settled and cannot be reopened. Also note that under the terms of an accepted offer, the taxpayer agrees that the taxpayer will "have no right to contest, in court or otherwise, the amount of the tax liability." Form 656, Offer in Compromise, Item 8(l). This response was coordinated with the OIC experts in the Office of Chief Counsel. If you need further assistance or have any questions, please contact me.