

5.15.1.10 (10-02-2009)

Other Expenses

1. Other expenses may be considered if they meet the necessary expense test - they must provide for the health and welfare of the taxpayer and/or his or her family or they must be for the production of income. This is determined based on the facts and circumstances of each case.
2. If other expenses are determined to be necessary and, therefore allowable, document the reasons for the decision in your history.
3. The amount allowed for excessive necessary or conditional expenses depends on the taxpayer's ability to full pay the liability plus projected accruals within five years and on the taxpayer's individual facts and circumstances. If the liability plus accruals can be paid within 5 years, it may be appropriate to allow the taxpayer the excessive necessary and conditional expenses. If the taxpayer cannot pay within 5 years, it may be appropriate to allow the taxpayer the excessive necessary and conditional expenses for up to one year in order to modify or eliminate the expense. (See IRM 5.14.1, *Installment Agreements*)

Expense Item	Expense is Necessary:	Notes/Tips
Accounting and legal fees.	If representation before the Service is needed or meets the necessary expense test. Amount must be reasonable.	Disallow accounting or legal fees that are not related to remaining current, solving the current liability or do not meet the necessary expense test.
Charitable contributions (Donations to tax exempt organizations)	If it is a condition of employment or meets the necessary expense test. Example: A minister is required to file according to his employment contract.	Disallow any other charitable contributions that are not considered necessary. Example: Review the employment contract.
Child Care (Baby-sitting, day care, nursery and preschool)	If it meets the necessary expense test. Only reasonable amounts are allowed.	Cost of child care can vary greatly. Do not allow unusually large child care expense if more reasonable alternatives are available. Consider the age of the child and if both parents work.
Court-Ordered Payments (Alimony, child support, including orders made by the state, and other court ordered payments)	If alimony and child support payments are court ordered, reasonable in amount, and being paid, they are allowable. If payments are not being made, do not allow the expense unless the non-payment was due to temporary job loss or illness.	Review the court order. Payments that are included in a state court order are not necessarily allowable (such as a child's college tuition that would not otherwise be allowable as a necessary expense). See Exhibit 5.15.1-1, Question 16.
Dependent Care (For the care of the elderly, invalid, or handicapped.)	If there is no alternative to the taxpayer paying the expense.	
Education	If it is required for a physically or mentally challenged child and no public education providing similar services is available. Education expenses are also allowed for the taxpayer if required as a condition of employment.	Example: An attorney must take so many education credits each year or they will not be accredited and could eventually lose their license to practice before the State Bar. A teacher could lose their position or in some

Total Operating (for 2 cars)	\$360	\$340	\$340
Total Ownership and Operating Allowed			\$1,278

Example:

If a taxpayer takes a train to work, but drives a vehicle from home to the train station, the actual expenses incurred for vehicle ownership and operating costs and the train fare would be allowable.

- If a taxpayer claims higher amounts of operating costs because he commutes long distances to reach his place of employment, he may be allowed greater than the standard. The additional operating expense would generally meet the production of income test and therefore be allowed if the taxpayer provides substantiation.
- If the amount claimed is more than the total allowed by any of the transportation standards, the taxpayer must provide documentation to verify and substantiate that those expenses are necessary. All deviations from the transportation standards must be verified, reasonable and documented in the case history.

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Involuntary Deductions	If it is a requirement of the job; e.g., union dues, uniforms, work shoes.	To determine monthly expenses, the total out of pocket expenses would be divided by 12.
Life Insurance	If it is a term policy on the life of the taxpayer only.	If there are whole life policies, these should be reviewed as an asset for borrowing against or liquidating. Life insurance used as an investment is not a necessary expense.
Secured or legally perfected debts	If it meets the necessary expense test.	Taxpayer must substantiate that the payments are being made.
Unsecured Debts	If the taxpayer substantiates and justifies the expense, the minimum payment may be allowed. The necessary expense test of health and welfare and/or production of income must be met. Except for payments required for the production of income, payments on unsecured debts will not be allowed if the tax liability, including projected accruals, can be paid in full within 90 days.	Examples of unsecured debts which may be necessary expenses include: Payments required for the production of income such as payments to suppliers and payments on lines of credit needed for business and payment of debts incurred in order to pay a federal tax liability.
Taxes	If it is for current federal, FICA, Medicare, state and local taxes.	Current taxes are allowed regardless of whether the taxpayer made them in the past or not. Delinquent state and local taxes are allowable depending on the priority of the FTL and/or Service agreement with the state and local taxing agencies.
Optional Telephones and Telephone Services (Pager, Call waiting, caller	If it meets the necessary expense test.	

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distance)		
Student Loans	If it is secured by the federal government and only for the taxpayer's education.	Taxpayer must substantiate that the payments are being made.
Internet Provider/E-mail	If it meets the necessary expense test - generally for production of income.	
Repayment of loans made for payment of Federal Taxes	If the loan is guaranteed by the taxpayer's assets when those assets are of reasonable value and are necessary to provide for the health and welfare of the family.	

5.15.1.11 (05-09-2008)**Determining Individual Income**

- For purposes of determining the taxpayers' ability to pay, total household income must first be determined. Refer to *See IRM 5.15.1.4., Shared Expenses*, for a complete explanation of determining proportionate income and expense calculations. If the taxpayer refuses to provide total household income, allocate 50% (or an appropriate percentage based on the number of household individuals) of household expenses to the taxpayer.

- Income consists of the following:

- Wages** - Wages include salary, tips, meal allowance, parking allowance or any other money or compensation received by the taxpayer as an employee for services rendered. This includes the taxpayer and spouse.

Note:

Use the following formulas to calculate gross monthly wages or salaries:

If paid weekly, multiply weekly gross wages by 4.3.

If paid bi-weekly (every 2 weeks), multiply bi-weekly gross wages by 2.17.

If income is sporadic or seasonal, use the annual income figure from the W-2 or the 1040 and divide by 12 to determine the average monthly income.

- Interest and Dividends**. Includes any interest or dividends that the taxpayer receives or that is credited to an account and can be withdrawn by the taxpayer and used for household expenses. The annual total should be divided by 12 to determine the average monthly income. Look for brokerage accounts for dividends from publicly traded corporations and look for undisclosed bank accounts for interest payers.

Note:

If the interest bearing accounts are used as an asset, and the taxpayer will be withdrawing the funds from the account to reduce the tax liability, the dividends or interest would not be used in the income stream.

- Net Income from Self-Employment or Schedule C**. The amount the taxpayer earned after paying ordinary and necessary business expenses. This amount may be determined from an analysis of the income and expense section of Form 433-A or Form 433-B. It may also be determined using the net profit on Schedule C from the most recent year's Form 1040 if all duplicate deductions are eliminated (e.g., expenses for business use of home already included in Allowable Living Expense for Housing and Utilities). Deductions for depletion and depreciation on Schedule C are not cash expenses and these amounts must be added back to the net income figure. In addition, interest cannot be deducted if it is already included in any other installment payments allowed. If the net business income is a loss, enter "zero". Do not enter a negative number.

Note:

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.

- Net Rental Income**. The amount earned after paying ordinary and necessary monthly rental expenses. If using Schedule E from the most recent year's Form 1040, do not include depreciation or depletion as an expense item. If net rental income is a loss, enter a "zero". Do not enter a negative number.
- Pensions**. Includes social security, IRA, profit sharing plans, etc. Pensions could be used as an asset or as part of the income stream. *See IRM 5.15.1.13., Business Expenses*.
- Child Support**. Include the actual amount received in addition to other debts or bills the spouse is paying. For example, the court order assigns \$200 a week for support but also requires all medical bills to be paid. The child support would include the \$200.00 plus any additive support payments received.
- Alimony**. Includes the assigned payments made by the non-resident spouse. However, consider if other bills are being paid, such as the mortgage, and adjust the expense accordingly.
- Other**. This could include payments from a trust account, royalties, renting a room, gambling winnings, sale of property, etc. Tax return information could include various sources of income.

5.15.1.12 (10-02-2009)**Business Entities**

- Businesses and individuals both have the same type 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. 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 you should secure from business entities are described below.
- Income Statement**. 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