

Calculation of “Gross Income” for Collection Information Statement (CIS) Purposes

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Definition of Gross Income

Gross (Taxable) Income

- Internal Revenue Code (IRC) §61, “**Gross Income Defined**” provides a detailed explanation of the types of income that are required to be recognized and reported as taxable income pertaining to income tax filing purposes.
- The income defined via IRC §61 is required to be reported and is subject to the appropriate personal or corporate tax (subject to certain legally allowable exclusions).
 - Exclusions: For example, income exempt from tax such as child support funds, certain social security benefits, tax exempt interest, etc.
- IRC §61 further explains that “except as otherwise provided, gross income means all income from whatever source derived”.
 - Derived (Income earned, received, constructively received, received via distribution, recognized via a pass-thru entity, etc.)

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Determining, Defining & Calculating CIS Income

Determining Individual Income **Internal Revenue Manual (IRM) §5.15.1.12**

- Income consists of the following:
 - Wages – Other money or compensation received by the taxpayer
 - Interest & Dividends – Funds received, credited to an account or allowed to be withdrawn
 - Net Income from Self-Employment or Schedule C – Amount earned after payment of ordinary and necessary business expenses
 - Net Rental Income - Amount earned after payment of ordinary and necessary monthly rental expenses
 - Pensions – Includes Social Security, IRA, Profit-Sharing Plans, etc.
 - Child Support – Include the actual amount received
 - Other Income - Represents income received that does not fit into a specific category

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Determining, Defining & Calculating CIS Income

Determining Business Income **IRM §5.15.1.19**

- Income represents the return in money from a business, labor or capital investment & includes (but is not limited to):
 - Gross Receipts or Sales – Gross receipts represents money received by the business entity
 - Dividends – Represents receivables or money received by the entity.
 - Interest Income – Represents money received from bank accounts or investments
 - Gross Rents – Payments received for the use of corporate assets
 - Gross Royalties – Payments received (similar to gross rents)
 - Capital Gain Net Income – Proceeds received from the sale of an asset
 - Other Income – Represents income received that does not fit into a specific category

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Determining, Defining & Calculating CIS Income

Cash Flow Basis Analysis

IRM §5.15.1.16

- Based upon the review & analysis of the previous IRM provisions pertaining to “*The Determination of Individual or Business Income*”, it should be clear & irrefutable that the presentation and/or recognition of “Income” related to an IRS “**Collection Information Statement**”, is in-fact based upon the “**Cash-Flow**” theory.
- Additionally, although the “*Cash Flow Analysis*” is explained & discussed via IRM §5.15.1.16, this provision only explains the basis of “cash flow”, but it stops short to state in “**plain English**” that all CIS information should be or is required to be submitted on a “cash flow” basis.
- Also, please note that any accrual basis taxpayer would be required to “convert” their financial information to the cash basis to conform to the IRM provisions noted above.

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Determining, Defining & Calculating CIS Income

Other Determinations of Income Issues

IRM §5.15.1.12-1

- Income earned by a taxpayer's **dependent child**, *claimed on the child's Income Tax Return*, would generally **not be included in the taxpayer's household income**.

IRM §5.8.5.20-5

- If the taxpayer is *a wage earner*, the use of income averaging over the prior three years of income **is not appropriate**.

IRM §5.8.5.20-6

- In situations where the taxpayer's *income does not appear to meet their stated living expenses* the differences **should not be included as additional income** to the taxpayer, unless there are clear indications additional income not included on the collection information statement **is being received** and **will continue to be received** by the taxpayer.

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Determining, Defining & Calculating CIS Income

Other Determinations of Income Issues

IRM §5.8.5.20-6

- The taxpayer has been **receiving gifts** from their parents to meet current living expenses for the past six months. The taxpayer has *no "guaranteed right to the funds"* in the future and the amount does not appear to be based on the transfer of assets to the parents. **DO NOT** include the gift amount as income.

IRM §5.8.5.20-6

- The taxpayer had gambling winnings over a period of time but is not consistent. **DO NOT** include these winnings as additional income on the IET. (This provision does not apply to professional gamblers).

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Determining, Defining & Calculating CIS Income

Determination of Income Discussion

Facts & Circumstances

- A business prepared a proper CIS with respect to resolution of their federal tax liabilities, which included & disclosed all business income received as required. Also, although the taxpayer reported “K-1 Income” via their previous business tax return, the taxpayer did not receive nor was currently receiving K-1 distributions from a third party or related entity. Eventually, the CIS was subsequently reviewed and evaluated by an Appeals Officer pursuant to a Docketed case matter.

Statement Made by Appeals Officer

- *“After obtaining information regarding this income, I have found that distributions are considered income and must be used when calculating the Offer. They, the shareholders, are the ones that decide what to do with the income, but we (the IRS) still consider it income to evaluate the Offer amount and cannot be removed”*

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Determining, Defining & Calculating CIS Income

Determination of Income Discussion

Future & Disposable Income Issue

- The calculation & basis of “Disposable Income” as well as the calculation & basis of “Future Income” are predicated upon the proper “Determination of Income”. If the IRS is allowed to make an inaccurate & improper “Determination of Income”, the outcome of any disposable or future income calculation is therefore inaccurate and possibly substantially overstated.

IRM 5.8.5.20-8

- Revenue Officers, Appeals Officers & other IRS personnel are instructed to:
 - Exercise good judgment when determining future. The history must be clearly documented and support the known facts and circumstances of the case and include analysis of the supporting documents. Each case needs to be evaluated on its own particular set of facts and circumstances. The history must clearly explain the reasoning behind our actions.

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Determining, Defining & Calculating CIS Income

Determination of Income Considerations

Challenge the Veracity of the IRS’s Determination

- As noted above, the IRS’s decision and analysis of the “Determination of Income” must be clearly documented AND support the known facts & circumstances of the case. Also, it further states that the “history must clearly EXPLAIN THE REASONING behind their actions.
- **Considerations:**
 - (1) Elevate the case (Exhaust your administrative remedy)
 - (2) Request the agent’s workpaper’s (to secure the “History”)
 - (3) Raise any appropriate “argument” or “defense” via the context of a Collection Due Process (CDP) Hearing. (if available).

NOTE: Subsequent to the issuance of a “**Notice of Determination**” (regarding a CDP hearing), the taxpayer can only request the court to consider an issue that was properly raised during the taxpayer’s CDP hearing. Therefore, it is imperative that the issues & challenges noted above be raised, discussed & documented at the appropriate level.

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Thank You!

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