Internal Revenue Manual Section 5.8.5.20 (09-30-2013)

Future Income

1. Future income is defined as an estimate of the taxpayer's ability to pay based on an analysis of gross income, less necessary living expenses, for a specific number of months into the future. *IRM 5.8.5.25*, *Calculation of Future Income*, table for calculation.

2. As a general rule, the taxpayer's current income should be used in the analysis of future ability to pay.

   Note:
   This may include situations where the taxpayer's income is recently reduced based on a change in occupation or employment status.

3. Consideration should be given to the taxpayer's overall general situation including such facts as age, health, marital status, number and age of dependents, level of education or occupational training, and work experience.

4. Situations that may warrant placing a different value on future income than current or past income indicates are discussed in the table below. Additionally, securing a future income collateral agreement based on the taxpayer's earnings potential may be appropriate and are discussed in more detail in *IRM 5.8.5.21*, *Future Income Collateral Agreements*, and IRM 5.8.6, *Collateral Agreements*.

If…	Then…
Income will increase or decrease or current necessary expenses will increase or decrease	Adjust the amount or number of payments to what is expected during the appropriate number of months.
A taxpayer is temporarily or recently unemployed or underemployed	Use the level of income expected if the taxpayer were fully employed and if the potential for employment is apparent. Each case should be judged on its own merit, including consideration of special circumstances or ETA issues. **Example:** Unemployed – The taxpayer is a construction worker who currently is not employed due to lack of work during the winter months. Since this loss of employment during the winter is normal for the taxpayer, use the taxpayer's previous annual income or you may use income averaging to accurately determine the taxpayer's income. **Example:** Underemployed – The taxpayer is a teacher and is currently employed at a lesser paying job, yet will begin or return to work as a teacher when the school year begins in the fall, the taxpayer

If…	**Then…**
	is considered to be currently underemployed. Use the anticipated income once the taxpayer is fully employed.
A taxpayer is unemployed and is not expected to return to their previous occupation or previous level of earnings	Contact the taxpayer to discuss the expected future level of income. When considering future income, also allow anticipated increases in necessary living expenses and/or applicable taxes. **Note:** Each case should be judged on its own merit, including consideration of special circumstances or ETA issues.
A taxpayer is long-term unemployed	Do not income average. The taxpayer's current income should be used in the future income calculation. If there is a verified expectation the taxpayer will be securing employment then the use of anticipated future income may be appropriate. Anticipated future income should not be used in situations where the future employment is uncertain. **Example:** Taxpayer has been unemployed for over one year. There are currently no employment opportunities for the taxpayer and the household is living on one income. Using the taxpayer's current income with a future income collateral agreement may be appropriate.
A taxpayer is long-term underemployed	Do not income average. Use the taxpayer's current income. **Example:** The taxpayer was previously employed in a manufacturer plant making $75,000 per year. There are currently no opportunities for the taxpayer to secure employment making the same rate of pay as their prior job. Their income is now $25,000 per year with no anticipated increase. Use the current income only.
A taxpayer has an irregular employment history or fluctuating income	Average earnings over the three prior years. The use of a time period other than three years should be the exception and only when specific circumstances are present. **Example:** The taxpayer is a stock broker whose income in 2011 was $150,000 and income in 2012 was $25,000. In this case, you should consider income averaging the prior three years or secure a future income collateral agreement if the offer is accepted. **Note:** This practice does not apply to wage earners. Wage earners should be based on current income unless the taxpayer has unique circumstances.
A taxpayer is in poor health and their ability to continue working is questionable	Reduce the number of payments to the appropriate number of months it is anticipated the taxpayer will continue working. Consider special circumstance situations when making any adjustments.

If…	Then…
	Example: Taxpayer has a serious health issue and it is anticipated they will be unable to work after six months. Use the taxpayer’s current income for six months then reduce their income to the anticipated amount they will be receiving after they are unable to work.
A taxpayer is close to retirement and has indicated they will be retiring	If the taxpayer can substantiate retirement is imminent, adjust the taxpayer’s future earnings and expenses accordingly. If it cannot be substantiated, base the calculation on current earnings. At this point, it may be appropriate to discuss other options available to the taxpayer, for example an installment agreement. **Example:** (1) The taxpayer is 65 years of age and has indicated they will retire at the age of 66. They provide copies of documents that have been submitted to their employer discussing their retirement date. Use the taxpayer’s current income until the taxpayer’s anticipated retirement date, then adjust the taxpayer’s income to reflect the amount expected in retirement. **Example:** (2) The taxpayer is 62 years of age, the taxpayer is in good health, and their income has remained stable for the past three years. The taxpayer states they would like to retire at age 65. Use the taxpayer’s current income and if the RCP exceeds the offer amount, discuss the option of securing an installment agreement until the taxpayer actually retires, at which time an offer may be appropriate.
A taxpayer will file a petition for liquidating bankruptcy	Consider reducing the value of future income. The total value of future income should not be reduced to an amount less than what could be paid toward non-dischargeable periods, or what could be recovered through bankruptcy, whichever is greater. When considering a reduction in future income, also consider the intangible value to the taxpayer of avoiding bankruptcy. Refer to IRM 5.8.10.2, *Bankruptcy*.

5. Judgment should be used in determining the appropriate time to apply income averaging on a case by case basis. All circumstances of the taxpayer should be considered when determining the appropriate application of income averaging, including special circumstances and ETA considerations. Below are some examples of when income averaging may not be appropriate.

   Example:
   (1) Taxpayer’s spouse has not worked for over two and one-half years and has no expectations of returning to work. Do not average income for the spouse's past employment.

   Example:

(2) Taxpayer has been unemployed for over one year and provided proof that Social Security Disability is the sole source of income. Do not apply income averaging in this case but use current income to determine the taxpayer's future ability to pay.

Example:
(3) The taxpayer was incarcerated and may have been involved in the transfer of assets. If the OE/OS is unable to complete a thorough asset investigation, consideration should be given whether it would be in the best interest of the government to reject the offer and reassign the case to the field for a determination on any hidden assets.

Example:
(4) The taxpayer recently began working after several months of unemployment. Use the most recent three months pay statements to determine future income. Since the taxpayer is a wage earner, the use of income averaging over the prior three years of income is not appropriate.

6. In situations where the taxpayer's income does not appear to meet their stated living expenses the difference 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. Discussion with the taxpayer/POA and a review of documents submitted by the taxpayer must take place to determine how the taxpayer is paying current expenses and the appropriateness of including an additional amount in the calculation of future income. Verification of the source of unexplained bank deposits or statements from the source of gifts may be required to correctly determine the taxpayer's current income. Telephone contact is recommended to expedite the case processing.

Example:
(1) 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. The gift amount should not be included as income.

Example:
(2) The taxpayer has been receiving an amount each month that only began recently, which they state is a gift from a friend. Further research has determined the taxpayer is in business with the friend and the amount is from their business. This amount should be included as income to the taxpayer. Additionally, consideration should be given to referring the taxpayer and the business income tax return to Examination.

Example:
(3) The taxpayer had gambling winnings over a period of time, but is not consistent. Do not include those winnings as additional income on the IET. This does not apply to professional gamblers.

Example:
(4) The collection information statement (CIS) submitted by the taxpayer included $3.000.00 of monthly income, which is verified by paystubs. The CIS submitted by the taxpayer includes $4,000.00 of expenses. An additional $1,000.00 should not be added to the taxpayer's income based solely on the fact it appears the taxpayer has been meeting the living

expenses included on the CIS. Discussion with the taxpayer or representative is necessary to clarify the discrepancy prior to including the amount as additional income.

7. Employees need to exercise good judgment when determining future income. 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.