

Offers In Compromise

An offer in compromise (OIC) is an agreement between a taxpayer and the Internal Revenue Service that resolves the taxpayer's tax liability. The IRS has the authority to settle, or compromise, federal tax liabilities by accepting less than full payment under certain circumstances. An OIC is considered only after all other collection alternatives have been explored.

The minimum offer amount must generally be equal to, or greater than, a taxpayer's reasonable collection potential (RCP). The RCP is defined as the total of the taxpayer's realizable value in real and personal assets, plus future income.

The IRS may legally compromise for one of the following reasons: doubt as to liability, when doubt exists that the assessed tax is correct; doubt as to collectability, when doubt exists that the taxpayer could ever pay the full amount of tax owed; or effective tax administration. Under effective tax administration, there is no doubt that the assessed tax is correct and no doubt that the amount owed could be collected, but the taxpayer has an economic hardship or other special circumstances which may allow the IRS to accept less than the total balance due. Absent special circumstances, taxpayers that have the ability to pay the tax liability in a lump sum through an installment agreement will not be eligible for an OIC.

Effective November 1, 2003, taxpayers must use the most current version of Form 656 (PDF), Offer-in-Compromise. In addition, taxpayers must submit Form 433-A (PDF), Collection Information Statement for Wage Earners and Self-Employed Individuals, and/or Form 433-B (PDF), Collection Information Statement for Businesses, when submitting an OIC under doubt as to collectability or effective tax administration. A Collection Information Statement is not necessary when filing an OIC solely under the basis of doubt as to liability.

Effective November 1, 2003, a \$150 application fee or Form 656-A, Income Certification for Offer in Compromise Application Fee, must be submitted with the Form 656. The \$150 fee is required unless the offer is based solely on doubt as to liability, or the taxpayer's total monthly income falls at or below income levels based on the Department of Health and Human Services poverty guidelines. Taxpayers who claim the poverty guideline exception must certify their eligibility using Form 656-A. The poverty guideline exception applies only to individuals. The Form 656 package contains a worksheet to assist taxpayers in determining whether they qualify for the income exception. The Form 656-A and the worksheet must be submitted with the Form 656 at the time of submission.

Taxpayers requesting an OIC must have filed all required federal tax returns. If in business, they must also have filed and paid any required employment tax returns on time for the two quarters prior to filing the OIC, and be current with deposits for the quarter in which the offer in compromise was submitted. Taxpayers must also not be a debtor in a bankruptcy case.

Taxpayers may choose to pay the offer amount in a lump sum, in monthly payments over the remainder of the statutory time allowed for collection, or a combination of a lump sum and monthly payments. Generally, it is to the taxpayer's advantage to pay the amount in the shortest time possible because longer payment terms will require a larger offer amount.

Ordinarily, the statutory time allowed for collection is suspended during the period the OIC is under consideration, and is extended further if the OIC is later submitted to the Appeals Office. If the IRS grants a fresh start by accepting the OIC, it is expected the taxpayer will have no further delinquencies. If taxpayers do not abide by all the terms of the agreement -- including filing all future returns and making all payments when required for 5 years or until the offered amount is paid in full, whichever is longer -- their OIC may be declared in default. If the IRS rejects the OIC, taxpayers will be notified by mail. In the IRS letter, it will explain the reason for the rejection and provide detailed instructions on how to appeal the decision.

Additional information about the offer in compromise can be found on Form 656, and in Publication 594 (PDF), The IRS Collection Process, or by visiting [www.irs.gov Offers in Compromise](http://www.irs.gov/OfferInCompromise) web page.