

Offers in Compromise

An *Offer in Compromise (OIC)* is an agreement between a taxpayer and the IRS that lets the taxpayer pay less than the full amount they owe. If the tax could be fully paid a little bit at a time, the taxpayer will probably not be eligible for an OIC.

In most cases, the IRS will not accept an offer unless the amount offered by the taxpayer is equal to or greater than the reasonable collection potential (the RCP). The RCP is how the IRS measures the taxpayer's ability to pay. The RCP includes the value of the taxpayer's automobiles, bank accounts, and other property. The RCP also includes future income minus basic living expenses.

The IRS may accept an OIC based on three things:

1. *Doubt as to liability.* This ground is only met when there is real evidence that the IRS may have incorrectly determined the amount owed.
2. *Doubt that the amount owed is collectible.* This means that the taxpayer may never be able to pay the full amount owed.
3. *Effective tax administration.* An offer may be accepted when the IRS decides requiring full payment would either be too expensive or would be unfair.

When submitting an OIC, taxpayers must use Form 656 (<http://www.irs.gov/pub/irs-pdf/f656.pdf>), *Offer In Compromise*. In addition, taxpayers usually must submit Form 433-A (<http://www.irs.gov/pub/irs-pdf/f433a.pdf>), *Collection Information Statement for Wage Earners and Self-Employed Individuals*. Form 433-A is not required when the taxpayer submits an OIC based only on doubt as to liability.

In general, a taxpayer must submit a \$150 application fee along with the Form 656. There are two exceptions to this requirement.

1. No application fee is required if the offer is based only on doubt as to liability.
2. The fee is not required if the taxpayer qualifies for the low-income exception. This means that the taxpayer's total monthly income falls at or below poverty guidelines of the Department of Health and Human Services. Low income taxpayers must submit Form 656-A (<http://www.irs.gov/pub/irs-pdf/f656a.pdf>), *Income Certification for Offer in Compromise Application Fee*, instead of the \$150 application fee. The Form 656 package contains a worksheet to help taxpayers find out if they qualify for the low-income exception. Form 656-A and the worksheet must be submitted with Form 656.

Taxpayers may choose to pay the offer amount in a *lump sum* or in *periodic payments*.

- A *lump sum offer* is an offer payable in 5 or fewer payments. If a taxpayer submits a lump sum offer, the taxpayer must include with the Form 656 a nonrefundable payment equal to 20% of the offer amount. This payment is required in addition to the \$150 application fee. The 20% amount is called "nonrefundable" because it cannot be returned to the taxpayer even if the offer is rejected. The 20% amount will be applied to

the taxpayer's tax debt. The taxpayer has a right to pick the particular tax debt to which the IRS will apply the 20% amount.

- The offer is a ***periodic payment offer*** if it is payable in 6 or more payment. When submitting a periodic payment offer, the taxpayer must include the first proposed payment along with Form 656. This payment is required in addition to the \$150 application fee. This amount is nonrefundable, just like the 20% payment required for a lump sum offer. Also, while the IRS is deciding on a periodic payment offer, the taxpayer must continue to make the payments under the terms of the offer. These amounts are also nonrefundable. These amounts are applied to the tax debts and the taxpayer has a right to specify the particular tax debts to which the periodic payments will be applied.

There are 2 situations in which these nonrefundable payments are not required. Payments are waived if:

1. The taxpayer qualifies as a low-income taxpayer or
2. The OIC is based solely on doubt as to liability.

Ordinarily, the statutory time within which the IRS may engage in collection activities is suspended during the period that the OIC is under consideration and is also suspended if the OIC is rejected by the IRS and the taxpayer appeals the rejection to the IRS Office of Appeals.

If the IRS rejects an OIC, then the taxpayer will be notified by mail. The letter will explain the reason that the IRS rejected the offer and will provide detailed instructions on how the taxpayer may appeal the decision to the IRS Office of Appeals.

Additional information about the offer in compromise can be found on Form 656 (<http://www.irs.gov/pub/irs-pdf/f656.pdf>), and in Publication 594 (<http://www.irs.gov/pub/irs-pdf/p594.pdf>), *The IRS Collection Process*, or by visiting www.irs.gov.