



It's Called the Offer in Compromise Program,
NOT the "Pennies on the Dollar" Program
Basics of a Federal Offer

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We all know too well that a new year means a new tax season. For families already experiencing financial woes, more taxes can carry serious consequences. An Offer in Compromise ("OIC") is an agreement between the taxpayer and the Internal Revenue Service ("IRS") in which the taxpayer's liability is reduced. If successful, an OIC can provide a fresh start for families burdened by tax liabilities.

Terms and Qualification

When entering into an OIC, the taxpayer must agree to pay the offer amount within a designated timeframe and remain compliant for five years: (i) timely filing all returns and paying any taxes due, (ii) agreeing to the retention, by the IRS, of any tax refunds, payments, and credits applied to the taxpayer's tax debts prior to the acceptance of the OIC and (iii) forfeiting any tax refunds that would have been payable during the calendar year that the OIC is approved. While an OIC is being considered, the IRS will cease all collection action. Once an OIC is accepted and the offer amount is paid in full, the liabilities covered by the OIC will be considered satisfied. If the taxpayer defaults on any of the terms of the OIC, the IRS may reinstate the original tax liability including penalties and interest.

To qualify for an OIC, the taxpayer must be current on tax filings and payments for the current year. If the taxpayer is an employer, they also must be current on any federal tax deposits for the current quarter. Generally, the IRS will not accept an OIC unless the amount offered is equal to or greater than the reasonable collection potential ("RCP") of the taxpayer. The RCP measures a taxpayer's ability to pay their liabilities. It includes amounts that could be realized from the liquidation of the taxpayer's assets, such as real property, retirement accounts, investment funds, and bank accounts. In addition, the RCP calculation also includes the taxpayer's anticipated future income less amounts allowed by the IRS for reasonable living expenses.

Grounds for Acceptance

The IRS may accept an OIC based on one of three grounds: doubt as to liability, doubt as to collectability, or efficient tax administration. First, an OIC may be made on the basis of doubt as to liability where there is a genuine dispute as to the existence or amount of the correct tax debt under the law. Doubt as to collectability refers to when the taxpayer's assets and net income or RCP are less than the full amount of the tax liability. Finally, effective tax administration may be applicable where there is no doubt that the tax is legally owed and that the full amount owed could be collected but requiring payment in full would either create an economic hardship or would be unfair and inequitable due to exceptional circumstances.

Offer Payment Options

There are two options for payment of the offer amount. The first is the lump sum option. For this option, an initial payment of twenty percent (20%) of the total offer amount must be submitted with

the application. Once accepted, the remaining balance of the offer must be paid off within five months. The second option is periodic payment. Under this option, the offer amount must be paid in no more than twenty-four monthly installments, the first of which must be included with the offer application. The taxpayer must continue to make payments while the offer is being considered. Both payment options require a \$186 filing fee with the application. However, if eligible, the IRS may waive the requirement of the initial payment, application fee and monthly installment payments while the offer is pending review.

Conclusion

While the OIC program is an effective means to provide relief to taxpayers experiencing unbearable debt, it is important to note that not everyone will qualify. Having a professional with OIC experience handle the paperwork and negotiation process may help increase the taxpayer's odds of getting their OIC accepted.

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