

TO PAY LESS TO THE IRS THAN WHAT YOU LEGALLY OWE, FIND OUT IF YOU QUALIFY FOR AN OFFER-IN-COMPROMISE

Years ago, I remember a TV commercial promising to settle your IRS debt for “pennies on the dollar” and even repeating over and over again it could be done for \$20.00! Well, that lawyer was sanctioned and that commercial stopped running a long time ago.

A very common question from my clients is “Can I pay less than what I owe?” and then they explain a number of reasons they think the tax debt should be reduced. If we were negotiating with a private party we would try to lower the debt and give all of the reason why a lower offer should be accepted. With the IRS things don’t work that way! Let me explain.

The truth is that the IRS does have a tax debt settlement option known as an Offer-in-Compromise (“OIC”) allowing a taxpayer to pay less, often a lot less, than what is legally owed.

Most taxpayers don’t qualify for this option but some do. I personally helped settle a tax debt of over \$50,000.00 for \$500.00 via the Offer-in-Compromise.

The basic consideration by the IRS is whether or not the taxpayer can pay the tax debt in full within the ten year collection period it has to collect. If the taxpayer can pay in full the chances for acceptance of an OIC are low. In some cases even if the taxpayer can pay in full financial hardship to the taxpayer might be enough to qualify for an OIC.

Here is how it works.

An OIC is an agreement with the IRS which settles a taxpayer’s tax liabilities for less than what is legally owed but only if:

- All tax returns have been filed;
- All estimated tax payments have been made for the current year (not all taxpayers are required to make estimated tax payments such as wage earners whose sole source of income is their job);
- If the taxpayer is a business owner with employees, make all federal tax deposits for

the current quarter; and

- In most cases, the amount that the taxpayer offers the IRS must be equal to or greater than the taxpayer's ability to pay.

This ability to pay equals the value that can be obtained from the taxpayer's assets, such as real property, automobiles, bank accounts, and other property. In addition, this also includes anticipated future income for 12 or 24 months (depending on one of two options) less certain amounts allowed for basic living expenses.

If you are currently in open bankruptcy proceedings the IRS cannot negotiate with you for an OIC.

Reasons for the Offer

In addition to the above requirements, the IRS may accept an OIC based on three grounds:

- **Doubt as to liability** when there's a genuine dispute as to the existence or amount of the correct tax debt under the law.
- **Doubt as to collectability** which exists in any case where the taxpayer's assets and income are less than the full amount of the tax liability.
- **Effective tax administration** when there's no doubt that the tax is legally owed and that the full amount owed can be collected, but requiring payment in full would either create an economic hardship or would be unfair and inequitable because of exceptional circumstances.

In order to convince the IRS that there is doubt as to collectability the taxpayer will need to provide financial information about assets, income, and expenses. The IRS uses national standards for some living expenses and local standards for others. Many taxpayers exceed these standards and will have to offer either 12 or 24 months of allowed income after expenses but are able to do by borrowing from friends and family or other sources.

The IRS also has discretion to accept less than is required under the Effective Tax Administration exception to their rules.

Application Fee

Normally a taxpayer must submit a \$186 application fee with the application for an OIC. There are a couple of exceptions when there is doubt as to liability and for certain low-income taxpayers.

Payment Options

Lump Sum Cash Offer - Taxpayers may choose to pay the offer amount in a lump sum or in installment payments.

A "lump sum cash offer" is defined as an offer payable in 5 or fewer installments within 5 or fewer months after the offer is accepted. This option requires a nonrefundable payment equal to 20 percent of the offer amount in addition to the \$186 application fee. If the application is rejected the 20 percent payment will be applied to the taxpayer's tax liability which the taxpayer can specify.

Periodic Payment Offer - An offer is called a "periodic payment offer" under the tax law if it's payable in 6 or more monthly installments and within 24 months after the offer is accepted.

With this option, the taxpayer must include the first proposed installment payment in addition to the \$186 application fee. This amount is also nonrefundable, and while the IRS is evaluating a periodic payment offer, the taxpayer must continue to make the installment payments provided for under the terms of the offer.

These amounts are also non-refundable. These amounts are applied to the tax liabilities and the taxpayer has a right to specify the particular tax liabilities to which the periodic payments will be applied.

Upon acceptance of an OIC, the taxpayer may no longer designate offer payments to any tax liability specifically covered in the offer agreement.

Suspension of Collection

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 further suspended if the OIC is rejected by the IRS and where the taxpayer appeals the rejection to the IRS Office of Appeals within 30 days from the date of the notice of rejection.

Offer Terms

After acceptance of the OIC the taxpayer will have to incur no further delinquencies and must fully comply with the tax laws.

For doubt as to collectability and effective tax administration OICs, the taxpayer must

timely file all tax returns and timely pay all taxes for 5 years from the date of acceptance of the OIC.

If the taxpayer doesn't abide by all the terms and conditions of the OIC, the IRS may determine that the OIC is in default. Upon default, the agreement is no longer in effect and the IRS may then collect the amounts originally owed (less payments made), plus interest and penalties.

Refunds

The IRS will apply any tax refunds you are due while the OIC is being considered and those refunds due to you during the year in which your offer is approved. For example, if the Offer-in-Compromise is submitted in 2016 and is accepted during 2017, the IRS will keep tax refunds for both years.

Thereafter any tax refunds will not be kept by the IRS assuming you comply with the terms and conditions of the accepted OIC.

Unfortunately any refunds that the IRS keeps as described above won't reduce your liability and you cannot count them as part of your offer.

Federal Tax Liens

Once your offer is accepted and you comply with the payments, which will take either five months (Lump Sum Cash Offer) or up to 24 months (Periodic Payment Offer), then you can have the tax lien released.

Obviously this will help your credit score and simplify your attempts to buy or sell a home.

Right to Appeal

If the IRS rejects an Offer-in-Compromise, 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. The appeal must be made within 30 days from the date of the letter.

Return of an Offer

In some cases, an OIC is returned to the taxpayer rather than rejected, because the

taxpayer didn't submit necessary information, filed for bankruptcy, failed to include a required application fee or nonrefundable payment with the offer, hasn't filed required tax returns, or hasn't paid current tax liabilities at the time the IRS is considering the offer.

A returned offer is different from a rejection because there's no right to appeal when the IRS returns the offer. However, once current, the offer may be submitted again.

Alternatives to the Offer-in-Compromise

If the OIC is not available to you for reasons stated above you might qualify to pay less using the Partial Payment Installment Agreement, Currently Not Collectible Status or Expiration of Statute of Limitations.

For more information on these alternatives, contact attorney Tony Ramos through his website at tonyramoslaw.com

If you need help fast, call us directly at 210-610-0828 so we can help you resolve your IRS issues

OR

Visit <https://taxdebtreliefattorney.com/offer-in-compromise/>

Fill out the form on that page and we will contact you (same day) to help you get free from the IRS as soon as possible so you can go back to life on your terms.