

WHAT IS AN OFFER IN COMPROMISE?

I SAW AN AD CLAIMING I CAN SETTLE MY IRS DEBT FOR PENNIES ON THE DOLLAR. IS THAT TRUE?

These advertisements refer to making an "Offer in Compromise." An Offer in Compromise is a collection option available to taxpayers who cannot afford to pay their tax liability in full. When you file an offer in compromise, you offer to make a lump sum payment or a few payments to the IRS towards a portion of the amount of tax that you owe. If the IRS accepts your offer, it will treat your offer as full payment and will not try to collect the rest of the tax that was owed. However, if you do not have any income or assets from which to make a payment, you may not be eligible to file an offer. You should consider another collection alternative, such as asking the IRS to place your account into "Currently not Collectible" status.

There are three types of offers in compromise:

1. Doubt as to liability,
2. Doubt as to collectibility, and
3. Effective tax administration.

Doubt as to Liability

If you do not agree that you owe the tax, or if you do not agree that the amount of tax is correct, you can submit an offer in compromise on the basis of doubt as to liability. You will need to tell the IRS exactly why you do not believe that you owe the tax, or why the amount the IRS claims you owe is incorrect.

Doubt as to Collectibility

If you do not have the income and assets to pay the tax you owe in full, you can ask the IRS to consider your offer on the ground of doubt as to collectibility. You will need to provide the IRS with information that shows that you are financially unable to pay the tax in full. The IRS will also consider any special circumstances that affect your ability to pay, such as unexpected medical expenses.

Effective Tax Administration.

Even if you have the income and assets to pay the tax, you may qualify for an offer in compromise on the grounds of effective tax administration. To qualify for an offer in compromise on the basis of effective tax administration, you must show that paying the tax in full would create an economic hardship, or would be unfair and inequitable. For example, suppose you are unable to work because of a medical condition that requires costly medicine and treatment. It is very likely that you will use all of your income and assets to care for yourself. Suppose you also own a home with equity, and if you borrowed against the equity, you could pay the tax in full. However, if you borrowed against the equity, your mortgage payment would increase and you may not be able to pay for your medicine. This situation would cause a substantial economic hardship for you if you paid the tax in full. The IRS will consider your offer on the basis of effective tax administration.

HOW DO I FILE AN OFFER IN COMPROMISE?

To file an offer based on individual liabilities, you will need to complete IRS Form 656, Offer in Compromise, and IRS Form 433-A (OIC), Collection Information Statement for Wage-Earners and Self-Employed Individuals. These forms are available on the IRS website at <http://www.irs.gov>. Form 433-A (OIC) asks questions about your income and monthly expenses so the IRS can verify your inability to pay the full amount of tax owed. Form 433-A (OIC) also requires that you send documentation to the IRS with your offer to verify your monthly income and expenses. If you own your own business, you will also need to complete a collection information statement for your business, IRS Form 433-B (OIC), Collection Information Statement for Businesses. You must answer all of the questions on the forms, and send all of the requested documents with your offer. The IRS may return your offer without processing it if you do not enclose all of the requested items.

You must file all required federal income tax returns before you request an offer in compromise. If you did not file your tax return for a year in which you were required to file, you must file this return before submitting an offer in compromise. You must continue to file your federal income tax returns as they become due while the IRS considers your offer. After you send your offer and your supporting documents to the IRS, your case will be assigned to an offer specialist. The offer specialist will review your offer and determine whether your offer is acceptable, or whether the IRS needs additional information. If the IRS asks for additional information, do not ignore the request. The IRS can return your offer without further consideration if you do not submit all of the documents that it needs.

The IRS allows you to keep a sufficient amount of money to pay your basic living expenses. The IRS uses national and local standards to determine how much it will allow as necessary living expenses.

DOES THE IRS CHARGE A FEE FOR OFFERS IN COMPROMISE?

The IRS charges a \$186 non-refundable application fee to file an offer in compromise. This fee is payable by check or money order. The IRS will not accept a cash payment. However, if you are submitting an offer on the grounds of doubt as to liability, you do not have to pay the \$186 filing fee. Also, if your income is at or below 250% of the federal poverty guidelines, the IRS will waive the \$186 application fee.

WHAT IF THE IRS REJECTS MY OFFER?

If the IRS rejects your offer, you have 30 days to appeal the rejection in writing. Your offer will then be assigned to an independent IRS Appeals Officer, who will reconsider your offer. The Appeals Officer may ask for additional information about your income and expenses.

WHERE CAN I GET HELP FILING AN OFFER IN COMPROMISE?

If you would like help with filing an offer in compromise, The Community Tax Law Project may be able to assist you. We can help you gather the documentation necessary to determine whether you qualify for an offer in compromise. We can also help you prepare and file your offer with the Internal Revenue Service.

For more information, please contact

The Community Tax Law Project

Phone: (804) 358-5855 or (800) 295-0110

Email: info@ctlp.org Website: www.ctlp.org

This information is not legal advice. We are providing this information as a public service. We have tried to make it accurate as of the date below, but keep in mind that tax laws change frequently.

CTLP is a nonprofit organization that provides free legal help to low-income taxpayers who have tax problems. CTLP receives funding from the IRS but is not part of the IRS or the Virginia Department of Taxation. Your decision to use CTLP will not affect your rights before the IRS.

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