IRS OFFER IN COMPROMISE PROCESS

How to Submit a Successful Offer in Compromise
You have rights as a taxpayer.

The Taxpayer Bill of Rights

1. The Right to Be Informed
2. The Right to Quality Service
3. The Right to Pay No More than the Correct Amount of Tax
4. The Right to Challenge the IRS’s Position and Be Heard
5. The Right to Appeal an IRS Decision in an Independent Forum
6. The Right to Finality
7. The Right to Privacy
8. The Right to Confidentiality
9. The Right to Retain Representation
10. The Right to a Fair and Just Tax System
Does the IRS have time limits to collect?

- The IRS does not have forever to collect taxes. They have:
  - **Ten years** to collect tax, after a tax is assessed. I.R.C. § 6502.

- These periods are extended where there has been fraud, evasion, or an agreement to extend.

- Other things can extend the ten year period, e.g. a Tax Court case or filing an Offer in Compromise.

- To find out the expiration of the ten year period, you can call the IRS and ask for the “Collection Statute Expiration Date.”
What happens if I can’t afford to pay?

- **Bad News:**
  - The government can file liens, levy bank accounts, and garnish wages without a court judgment.
  - The IRS can levy all property and income unless it is specifically protected:
    - E.g. Supplement Security Income (SSI) and other means-tested benefits, like General Relief or SNAP benefits, are protected from levy, but
    - Pensions and Social Security retirement benefits are not protected.
  - Liens are reported to credit reporting agencies, which damages credit.
You have rights if you can’t pay right away.

- **Good News:**
  - The IRS generally has 10 years from the date of assessment to collect unpaid tax debts. After that, if it’s uncollected, the debt goes away.
  - Taxpayers have rights! You can make monthly payments, or offer a lower lump sum to settle a tax debt.
  - The IRS must consider hardship circumstances.
You have different payment options.

- **Extension to Pay**
  - Can request 120 day extension to pay in full.
  - No fee to request extension.
  - Interest and applicable penalties continue to accrue until balance paid in full.

- **Installment Agreement**
  - Can do this over the phone or online, or by mail.
  - The IRS charges a fee to set it up, which may be as much as $225.
  - The IRS will want you to pay the full amount within 72 months.
  - If you can’t pay within 72 months, you must prove that paying the full amount would create a hardship.

- **Offer in Compromise**
  - Must file a detailed financial report and financial proof.
  - The IRS will expect you to liquidate or borrow against all assets (e.g. house or car) to satisfy the debt, except in special cases.

- **“Currently Not Collectible” status**
  - If you have no assets and low income, the IRS will stop collecting until your circumstances change.
Submitting and Negotiating An Offer In Compromise

- Taxpayer can submit an offer in compromise at any time during collection process.
- Form 656 Booklet provides information and forms on submitting an offer in compromise.
- Forms Used:
  - Form 656
  - Form 433-A(OIC) for individual clients
  - Form 433-B(OIC) for business clients
Offers in Compromise

- **Requirement prior to offer submission**
  - You must file ALL REQUIRED returns before submitting offer.
  - Failure to file will result in return of offer.
  - When in doubt, best to file a return.

- **Types of Offers**
  - Doubt as to Collectability
  - Effective Tax Administration
  - Doubt as to Liability (Use Form 656-L)

- **Offer Terms**
  - Lump-sum offer: must be paid within 5 months of offer acceptance
    - 20% down payment of offer amount must be included unless waived
  - Periodic payment offer: must be paid within 24 months of offer acceptance
    - Initial payment must be included unless waived.
Offers In Compromise

- Application Fee: $186 unless waived
- Waiver: application fee and payments will be waived if you meet low-income certification guidelines.
  - Income guidelines can be found on Section 1 of Form 656.
- Collection activity is generally suspended while the offer is pending.
Along with the Forms 656 and 433-A(OIC), include the following documents:

- **Income Information:**
  - Most recent three months wage statements if employee
  - Most recent Profit and Loss Statement covering 6-12 month period if self-employed

- **Bank Statements:** most recent three months of bank statements

- **Asset Information**
  - Most recent retirement account statements
  - Most recent investment account statement
  - Whole life insurance policy

- **Expense Information**
  - Most recent statements from lenders/loans, mortgages, monthly payments
How does the IRS determine what I can pay in offer?

- The IRS looks at reasonable collection potential when determining to accept or reject an offer.
- Allowable standards are used in determining reasonable living expenses.
  - Cost of living adjustment each year.

- National Standards
  - Food, Clothing and Misc. Items
    - One-Person: $727
    - Two-Person: $1,288
    - Three-Person: $1,446
    - Four-Person: $1,786

  - For each additional person, add $420 to four-person total allowance

- Out-of-pocket Health Care
  - Under age 65: $55
  - Age 65 and over: $114
How does the IRS determine what I can pay (cont.)?

- **Transportation**
  - Public Transportation (National Standard): $217
  - Ownership Costs (National Standard):
    - One vehicle: $497
    - Two vehicles: $994
  - Operating Costs (Local Standard): Los Angeles County
    - One vehicle: $273
    - Two vehicles: $546
    - Additional $200 allowed for operating costs if vehicle over 8 years old or 100,000 miles or more

- **Housing and Utilities (Local Standard) Los Angeles County**

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Form 433-A (OIC)

- Section 1: Personal and Household Information
- Section 2: Employment Information for Wage Earners
- Section 3: Cash and Investments, Real Property, Vehicles, Other Valuable Items
- Section 4: Self-Employment Information
- Section 5: Business Asset Information
- Section 6: Business Income and Expense Information
- Section 7: Monthly Household Income and Expense
- Section 8: Calculate Your Minimum Offer Amount
- Section 9: Other Information
- Section: Signatures
Section 3: Cash and Investments

- Cash, checking/savings accounts, money market account/CD, online account, stored value card
  - Reduce amount in bank accounts by $1,000 and include the remainder as part of the offer amount.

- Investment accounts (stocks, bonds, etc.)
  - Include 80% of the current market value of your investments minus any loan balances as part of the offer amount.

- Virtual currency
  - Include 80% of the current market value of your virtual currency as part of the offer amount.

- Retirement Account (401K, IRA, etc.)
  - Include 80% of the current market value of your retirement account minus any loan balances as part of the offer amount.

- Cash value of life insurance policies
  - Include current cash value of whole life insurance minus loan balance as part of your offer amount.
Example 1: The current market value of Mary’s 401K is $100,000. She borrowed against it, and has a current loan balance of $50,000. What amount of her retirement account must Mary include as part of her minimum offer?

$100,000 \times 0.80 = \$80,000$

$\$80,000 - \$50,000 = \$30,000$
Real Property
- Include 80% of the current market value minus any mortgages as part of the offer amount.

Vehicles
- There is $3,450 vehicle exemption.
- Formula for determining asset value of vehicle:
  - 80% of current market value – loan balance – $3,450 = asset value to be included in offer.
- Example: Mary has a Toyota Camry with a current market value of $5,000. She has a $1,000 loan on the car. Would she need to include the equity in her vehicle as part of her minimum offer amount? If so, how much?
  - $5,000 * 0.80 = $4,000
  - $4,000 – $3,450 = $550
This section only needs to be completed if you are self-employed (i.e. file Schedule C, E, F).

If you have a partnership or corporation, you should complete Form 433-B.

Business Information
- Name, telephone number, description of business, employees (if any)

Asset Information
- i.e. bank account, money market/CD, online account, virtual currency

IRS allows deduction of $4,770 for professional books and tools of trade when determining available business equity in assets to add to offer amount

Profit & Loss: Must provide an average of your Profit & Loss for your business.
Must include total household monthly income.

Must include total monthly household expenses

Use the collection financial standards provided in this section, if applicable.

Completing Form 433-A(OIC)

- **Section 8: Calculating Your Minimum Offer Amount**
  - If lump-sum offer:
    - Disposable Income * 12 = Future Remaining Income
  - If periodic payment offer:
    - Disposable Income * 24 = Future Remaining Income
  - Add your available equity in assets and future remaining income to determine your offer amount.

- **Section 9: Other Information**
  - Answer questions regarding litigation, bankruptcy, trust information, etc.

- **Section 10: Sign and date your offer**
Form 656

- Section 1: Individual Information
- Section 2: Business Information
- Section 3: Reason for Offer
- Section 4: Payment Terms
- Section 5: Designation of Payments, Electronic Federal Tax Payments System (EFTPS), and Deposit
- Section 6: Source of Funds, Making Your Payment, Filing Requirements, and Tax Payment Requirements
- Section 8: Signatures
- Section 9: Paid Preparer Use Only
Section 1: Individual Information

Include your name, SSN and contact information

Include all tax periods for which you owe a tax liability

Low-income certification

Page 2 of Form 656

Check box if you qualify as low-income based on the income guideline

What qualifies as low-income?

One-person household: Annual **Gross** Income of $30,348

Two-person household: Annual **Gross** Income of $41,148

Three-person household: Annual **Gross** Income of $51,948

Three-person household: Annual **Gross** Income of $51,948

Four-person household: Annual **Gross** Income of $62,748
Section 2: Business Information

- If you are trying to settle a business tax debt, complete this section.
  - Business name, address and EIN
  - Tax periods for which you have a liability

Section 3: Reason for Offer

- Doubt as to Collectability or Effective Tax Administration
- Explain reason for offer
  - i.e. medical reason, financial hardship
Section 4: Payment Terms
- Lump sum or periodic payment offer?
- Indicate amount of your offer
- Indicate how you plan to pay your offer

Section 5: Designation of Payment
- Do you want your initial payment to be applied to a specific tax year?

Section 6: Source of Funds
- Explain how you plan on obtaining funds for offer
  - i.e. borrowing from friends or family, liquidating an asset
- Indicate if you have filed all required tax returns or years that you were not required to file a tax return
- Indicate whether you have made required estimated tax payments or if you are not required to do this.
Section 7: Offer Terms

IRS will keep all refunds extending to calendar year in which it accepts your offer.

Payments made with offer will not be returned if offer rejected or returned.

If the offer is accepted, you must timely file all required returns and pay all taxes due for the next five years or you will be in default of your offer. If you default your offer, you will be responsible for original liability.

IRS may request a consumer report from a credit bureau.

Section 8: Signatures

Sign and date your offer.
Submitting Your Offer

- Mail your forms (original signatures), substantiating documents, and payments (unless waiver) to the Centralized Offer In Compromise Department.
- Address can be found on Form 656 Booklet.
- Keep copies of all documents mailed to IRS.
- Make sure you send via certified mail.
- IRS will mail an acknowledgement letter that notifies you offer has been received. The letter will have an approximate contact date.
Where can I go for extra help?

- For tax preparation, use the Volunteer Income Tax Assistance (VITA) program. Call 800-906-9887 to find the nearest site.
- For general questions about your taxes, call the IRS at 800-826-1040.
- If you get a letter from the IRS or the Franchise Tax Board, contact a Low-Income Tax Clinic, such as Bet Tzedek Legal Services. Call 323-939-0506.
- Contact the Taxpayer Advocate Service for help communicating with the IRS after you’ve tried to resolve your problem with the IRS. Call 213-576-3140.
THANK YOU FOR ATTENDING!

CONTACT INFORMATION:
BET TZEDEK TAX CLINIC
3250 WILSHIRE BLVD., 13TH FLOOR
LOS ANGELES, CA 90010
TEL.: (323) 939-0506