From the desk of
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Offers in Compromise

The Offer in Compromise program is for taxpayers who cannot pay their tax liabilities in full.

The process is complex, and work intensive, and unfortunately, and OIC must be done correctly the first time as generally those which are incorrect, or incomplete are rejected without much recourse thereafter.

During 2018 the IRS accepted 24,000 offers which amounted to $261.3 million in settled matters but also rejected 34,000 others offers.

The acceptance rate over the years has increased from 25 percent in 2010 to around 41 percent in 2018.

The IRS is more likely to approve offers that propose the presumed maximum amount of money they can expect to collect within a reasonable time period.

A delinquent taxpayer needs to demonstrate one of three things:

1. That they cannot pay the full tax debt owed (doubt as to collectibility);
2. That the tax is not actually owed (doubt as to liability); and
3. That another unique situation applies where an offer is in the best interest of both your client and the IRS (effective tax administration).

When it comes to specific eligibility requirements, the taxpayer must:

- Have filed all tax returns;
- Have received a bill for at least one tax debt included on their offer;
- Make all required estimated tax payments for the current year; and
- Make all required federal tax deposits for the current quarter (if they are a business owner with employees).

The IRS requires full financial disclosure with the OIC which is reported on the Form 433-A (OIC) along with numerous factors including income, expenses, asset equity, lifestyle, age, level of education and Collection Statute Expiration Date.

If the applicant's lifestyle is contradictory to the fact that they cannot pay their taxes it may be a serious obstacle for approval.

If that is the case an installment agreement maybe the alternative to consider where the total amount due is paid in full over a six year period.

Forms required when filing an OIC are as follows:

- Form 656 (Offer in Compromise) - Required to make the offer.
- Form 433-A (OIC): Collection Information Statement for Wage Earners and Self-Employed Individuals - Helps the IRS determine the nature and extent of the financial hardship.
- Form 433-B (OIC): Collection Information Statement for Businesses - This is a form similar to Form 433-A (OIC), but for businesses.

Mistakes to avoid

- **Math errors on Form 433**
  - This form requires a significant amount of complex calculations and it is imperative to get it right.
  - If something is calculated incorrectly, the whole OIC process comes to a screeching halt until the mistake is sorted out.

Negotiating the OIC

If an OIC is rejected it is possible to submit an appeal via Form 13711 within 30 days of the date of the rejection notice.

If accepted the appeal will give the taxpayer the opportunity to renegotiate their rejected offer.

To be successful in an appeal it is necessary to justify the new position by referencing documentation and tying it together with court decisions or other pertinent information.

If all other issues have been exhausted using case law is always appropriate.

While it can be effective to emphasize on the emotional side of your client's situation this is rarely an effective approach, and generally will end with a rejected OIC.

Rejected OIC

If an OIC is rejected then other options should be planned for in advance. .

Installment agreements are one of the other options for taxpayers who cannot pay what they owe immediately.

Taxpayers who owe $50,000 or less will have 72 months to repay debt, or can waive the statute of limitations if it cuts their repayment short.

Taxpayers who owe $50,0000 to $100,000 have 84 months to pay off their debt.

A **payment extension** can also be an option if your client simply needs additional time to pay off their debt.

The IRS can grant a 120-day extension, however if a taxpayer's account is already being handled by IRS Collections, that extension can only be 60 days.

"Currently Not Collectible" (CNC) status can be awarded to taxpayers who owe back taxes to the IRS but cannot pay.

This can also be for taxpayers whom the IRS cannot locate or who have died with no heirs.

However once this status is given all collection will halt until further notice.

In order to quality, the person needs to prove significant hardship.

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