

A Publication of the
Louisiana Department of Revenue
Offer in Compromise Program
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LOUISIANA
DEPARTMENT *of* REVENUE

Form R-20212 (Rev 7/15)

Louisiana Department of Revenue

Offer in Compromise Program

This Booklet Contains:

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Note: This booklet may be downloaded from our website at
<http://www.revenue.louisiana.gov>

Offer in Compromise Policy Statement

An Offer in Compromise will be considered when it is determined that the tax liability cannot be collected in full and the amount offered reasonably reflects collection potential. The success of the Offer in Compromise Program will be assured only if the taxpayer makes an adequate compromise proposal consistent with ability to pay and LDR makes a reasonable decision. The taxpayer is required to provide documentation of financial condition. The goal of the Offer in Compromise Program is to achieve a compromise that is in the best interest of both the taxpayer and the state. Acceptance of an offer should create for the taxpayer a fresh start regarding compliance with current and future tax filing and payment requirements. A nonrefundable **application fee of \$186** payable to Louisiana Department of Revenue along with an initial payment of 20% of the amount being offered must be submitted with each application.

Basic Information Concerning Offers in Compromise

- The Secretary of Revenue, with the written approval of two assistant secretaries under Revised Statute 47:1578(4), may compromise any judgments for taxes of \$500,000 or less, exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments upon a determination that any of the following apply:
 - a. There is serious doubt as to the collectibility of the outstanding judgment.
 - b. There is serious doubt as to the taxpayer's liability for the outstanding judgment.
 - c. The administration and collection costs involved would exceed the amount of the outstanding liability.

In addition, under Revised Statute 47:295, the Secretary may waive, reduce, or compromise any of the taxes, penalties, or interest or other amounts provided by the individual income tax statutes.

- An approved Offer in Compromise is not protected by the confidentiality provisions of Revised Statute 47:1508. An Offer in Compromise, signed by all parties and including the reason, **is a public record and is open to public inspection upon request.** A list of approved Offers in Compromise is required to be published in LDR's annual report.
- An offer will not be considered if it is determined that the offer was filed for the purpose of delaying collection or otherwise jeopardizing LDR's ability to collect the tax debt. Any installment payment arrangement already in effect will be continued while the offer is considered. Interest and penalty will continue to accrue on any unpaid tax debt while the offer is being considered.
- Any payment made with the application will be applied as partial payment to the applicant's tax liability regardless of the disposition of the offer.
- A LDR representative will evaluate the offer and make a recommendation to accept or reject. The representative may request additional documentation to verify financial or other information concerning the offer. The financial investigation may require verification of financial data by visual inspection of records and personal interview. The representative may determine that a larger offer amount is necessary to justify acceptance. The applicant will have the opportunity to amend the offer if indicated. Any amendment to the offer must be in writing from the applicant or their Power of Attorney.
- All information and statements provided by the applicant are subject to verification and are under the jurisdiction of Revised Statutes. 47:1604 and 1642, concerning the giving of false statements.
- The offer application must be submitted on Form R-20212A and must include the required financial disclosure forms. Separate applications must be submitted for individual and business taxes. All business taxes can be included on one application. Depending on the legal structure of the applicant, the following financial disclosure forms are required:

<u>Legal Structure</u>	<u>Form(s) Required</u>
Individual	R-20223 (Individual)
Corporate Officer	R-20223 (Individual)
Proprietorship	R-20222 (Business) & R-20223 (Individual)
Partnership	R-20222 (Business) & R-20223 (Individual)
Corporation	R-20222 (Business)
Trust/Estate	R-20222 (Business)

- If a Federal Offer in Compromise application has been requested within the last three months, it may be accepted in lieu of the required financial disclosure forms.
- Any collection by LDR before the offer or any refund to which LDR is entitled under its offset provision cannot be considered as part of an offer.
- Tax liens will be released only after an offer is accepted and the amount offered is paid in full.

- Compliance with all terms and conditions of the offer is required, including the timely filing and payment of all required tax returns for a period of 10 years from the date the offer is accepted. Failure to comply may result in the offer being voided and resumption of collection on the total balance due.
- No Offer in Compromise will be considered while a criminal investigation or prosecution is pending, or while the applicant is under bankruptcy court jurisdiction.
- All documents included on the Form R-20211 checklist must be included with the application.

If the Offer Is Accepted

LDR will notify the applicant by mail if the offer is accepted. Payment of the accepted offer must be made by the payment due date indicated on the acceptance letter. Failure to pay by this date may cause the accepted offer to become null and void. Payment of the offer by electronic means or payment by cashier's check or money order will assure faster satisfaction of the lien. If payment is made by personal check and the check later becomes NSF, the accepted offer will be null and void and the entire liability will immediately become due. In addition, NSF check penalties will apply.

If the Offer Is Declined

The applicant will be notified by mail if the offer is declined. The applicant should immediately contact LDR to arrange for payment of the entire liability. If immediate payment is not possible, the applicant may request payment through a LDR-approved installment payment agreement. Louisiana law makes no provision for appeal of a declined offer. LDR will only accept one offer from any applicant in a 10-year period.

Returning the Offer

LDR may reject the application for any of the following reasons:

1. The applicant is not adequately identified (name, address, Louisiana Account Number, etc.) or required signatures are not provided.
2. An offer of "zero" or "none" will not be considered.
3. The offer includes an amount already collected or subject to refund offset.
4. The tax liability is not adequately identified.
5. The offer does not show a reason ("Doubt as to Collectibility" and/or "Doubt as to Liability") or the summary statement supporting the reason for the offer has not been provided.
6. Financial statements have not been included or are incomplete.
7. LDR's records indicate noncompliance with filing of required returns.
8. The applicant is currently under bankruptcy court jurisdiction.
9. Power of Attorney Form (if indicated) has not been included.
10. Criminal investigation or prosecution is pending.
11. The mandatory 20 percent down payment was not included with the offer.

Instructions for Completing the Offer in Compromise Application (Form R-20212A)

- Item 1 Enter the applicant's full name, street address, Social Security Number, Louisiana Account Number (if applicable), and daytime telephone number. If the tax liability is owed by more than one person, identify each person or business for which the offer is made.
- Item 2 Enter the mailing address, if different from the street address.
- Item 3 Place an "X" in the box next to the term or terms that identify the applicant's legal structure.
- Item 4 Enter the offer amount. An application fee of \$186 and a nonrefundable payment of at least 20 percent of the offered amount is required and must accompany an Offer in Compromise. In the event the Offer in Compromise is rejected, the deposit shall be applied to the taxpayer's outstanding tax liability.

Item 5 Place an "X" in the box next to the method of payment. All payments made with the application will be applied as partial payment toward the applicant's tax liability and will not be returned, regardless of the disposition of the offer. The acceptance of this payment constitutes neither a waiver of LDR's rights nor an acceptance of the offer.

Item 6 Place an "X" to identify the involved tax types. Specify the account number, the period, the amount due, and the amount offered for which the offer is made. Please contact LDR if you need to confirm any periods of liability.

Item 7 LDR may compromise a tax liability for one or both of the following reasons:

- "Doubt as to Collectibility" – The applicant doubts his ability to ever pay the full amount of tax owed.
- "Doubt as to Liability" – The applicant believes that the tax liability is not correct or he is not liable.

Note: LDR will not accept a compromise based on doubt as to collectibility when there is no doubt that the full amount can be collected. LDR will not accept a compromise based on doubt as to liability if the amount owed has already been determined to be legally correct by a court or the Board of Tax Appeals. Provide a detailed statement explaining the reason for the offer. You may attach any documents that support the statement.

Item 8 Provide name of offer funding source.

Item 9 Attach completed and signed Power of Attorney Form R-7006 if an attorney, accountant, or any other agent represents you.

Item 10 It is important that the Terms and Conditions listed in this section are understood. Also, the applicant authorizes LDR to obtain bank and financial information, as well as a credit history from any consumer reporting agency, for the purpose of verifying the financial information provided by the Offer in Compromise applicant. All persons submitting the offer must sign and date the application.

Item 11 The applicant may at his discretion allow LDR to exchange information regarding a pending or completed offer with the IRS. All information in this section must be provided including applicant(s) signature(s) and date.