

STATE OF CALIFORNIA  
BOARD OF EQUALIZATION

# Offer In Compromise Application

Corporations

Limited Liability Companies

Partnerships\*

Trusts

Unidentified Business Organizations



\* *When the partner is not an individual*

## What you should know before preparing an Offer in Compromise

### Are you an OIC candidate?

The Offer in Compromise (OIC) program is for taxpayers or feepayers that do not have, and will not have in the foreseeable future, the income, assets, or means to pay their liability in full. It allows a taxpayer or feepayer to offer a lesser amount for payment of a non-disputed final tax liability on a closed-out account.

Effective January 1, 2009 through January 1, 2018, the OIC program will extend to qualified active businesses where the taxpayer or feepayer has not received tax or fee reimbursement for tax and fees owed to the State, to successors of businesses that may have inherited tax liabilities of the predecessors, and to consumers who incurred a use tax liability.

**A qualified active business** is an active business that does not have, and will not have in the foreseeable future, the income, assets, or means to pay their non-disputed board assessed liability in full, where the Board of Equalization (BOE) finds no evidence that the taxpayer collected sales or use tax reimbursement, and the taxpayer has not previously received a compromise.

Generally, we approve an OIC when **the amount offered represents the most we can expect to collect within a reasonable period of time**. Although each case is evaluated based on its own merit, we give the following factors strong consideration in the evaluation:

- ability to pay
- equity in the entity's assets
- present and future income
- present and future expenses
- potential for changed circumstances
- concealment of assets or existence of fraud

### Who should use this application?

If you are making an offer as a corporation, LLC, trust, organization or a limited or general partnership, please use this application. For an

individual or an individual of a partnership, you should request the OIC package for *individuals* (BOE-490) from BOE's website or contact your local district office. If you are making an offer as an individual **and** another entity (corporation, LLC, trust, or organization), both the individual application and the corporation application should be filled out respectively.

### Who Qualifies?

We will only process your OIC application if:

- You no longer have a controlling interest or association with the business that incurred the liability or a related business.
- You are an active business with a final liability that arose from transactions in which you did not receive tax or fee reimbursement.
- You are a consumer who accrued use tax.
- You are a successor that inherited the liability of your predecessor.
- You have fully completed the OIC application and provided all supporting documentation.

### When should offered funds be submitted?

You will be notified when your offered amount should be submitted. The funds will be held in the form of a non-interest bearing deposit. If your OIC is denied, the full amount of your deposit will be refunded to you, or you may choose to apply the deposit to your liability. Credit interest will not be paid to you on the deposited amount if your offer is denied and subsequently refunded.

### Should I continue to make installment payments while my offer is being evaluated?

Yes. You are required to continue making timely payments as established in your Installment Payment Agreement while your offer is being considered. The BOE will strive to process your offer and provide a decision within 180 days of receiving a completed application and documentation.

### Will collection action be suspended while my offer is being evaluated?

In most cases, no new collection action will be taken while your offer is being evaluated. However, submitting an offer does not automatically

suspend collection activity. If delaying collection activity jeopardizes our ability to collect the amount you owe, we may continue with collection efforts.

The following documentation must be submitted with the OIC Application. Please submit copies only. We will **not** return any documentation that you send us. Additional documentation may be required and requested as the evaluation of the OIC proceeds. Your OIC must include the following:

- Completed OIC application
- All required documentation to support the OIC

## **LIST OF REQUIRED ITEMS**

*Please read the required Privacy Notice (BOE-324-OIC)*

### **Verification of Income and Expenses**

Year-to-date income and expense statements, cash flow statements, profit and loss statements, a balance sheet, and any other related documents. If the entity is subject to annual audit, please submit audited financial statements.

### **Bank Information**

Bank statements for all savings, checking, and investment accounts held within the last twelve months. Final statement for any accounts closed within that time. Investment account statements showing the value of stocks, bonds, and mutual funds.

### **Current Lease or Rental Agreements**

Include all lease agreements, including property where you are the lessor or lessee.

## **Real Property Information**

Mortgage statements, escrow settlement statements, or copies of grant deeds for any property currently owned, sold, or gifted in the last five years.

## **Vehicle Information**

Copies of loan/lease statements for all vehicles.

## **IRS/FTB/EDD Information**

Complete copies of Internal Revenue Service (IRS) and Franchise Tax Board (FTB) returns for the last three years filed. Please include all attached schedules. If applicable, copy of IRS, FTB, or Employment Development Department (EDD) OIC and acceptance letter or documentation of other IRS/FTB/EDD arrangements.

## **Legal Documents**

Copies of judgments, pending lawsuits, trust documents, and bankruptcy documents.

## **Power of Attorney**

A power of attorney is required if a designated representative submits this offer or if you want us to direct questions or requests for information to your representative. Use BOE-392, *Power of Attorney*.

Please submit your completed and signed application to the BOE representative handling your account.

## Questions and Answers

**Q What does the BOE consider a fair offer in relation to the amount due?**

**A** Generally, an offer will be accepted when the amount offered is more than the BOE can expect to collect within a reasonable period of time, generally from five to seven years. The BOE will generally give more favorable consideration to those offers that include repayment of at least the tax or fee portion of the liability.

**Q How long will it take to get a decision on my OIC?**

**A** Generally, if we accept your offer for processing, we will have a decision to you within 180 days after receiving your offer. If your account is more complex, it may take longer than 180 days.

**Q Can I make payments on the offered amount?**

**A** Yes. Beginning January 1, 2009, both qualified active businesses and closed out businesses can make monthly installment payments towards the offered amount as long as the total amount of the offer is paid in full within twelve months. Or you may choose to pay the offered amount in a lump sum payment. If you choose to make installment payments and the offered amount is not paid within 12 months, your offer will be denied and all funds received through the offer will be retained.

**Q Can prior payments be applied to the offered amount?**

**A** No. Prior payments are not accepted towards the offered amount. However, prior payments and the offered amount compared to the total liability are taken into consideration when evaluating your offer.

**Q My IRS/FTB/EDD OIC has been accepted. Will the BOE automatically approve my offer?**

**A** No. Your BOE offer will be evaluated separately from your IRS, FTB, or EDD offer.

**Q If the BOE determines that my offer is not acceptable, will I be contacted?**

**A** Yes. In most cases, we will contact you to discuss your account and to determine the most appropriate resolution of your account. For example, if we determine that you have the ability to make monthly payments that will exceed the amount offered, we will work with you to establish an Installment Payment Agreement. You will receive a written response concerning your offer.

**Q Will state tax liens be released if my offer is accepted?**

**A** Yes. We release state tax liens upon final approval and funding of your offer. If another partner existed on the permit, the other partner's liability will not be cancelled nor will the other partner's lien be released.

**Q Do I need to have someone represent me?**

**A** No. Representation is not required. An OIC is available to all tax or fee payers, whether or not they are represented. If you think you need representation, there are many tax professionals who have experience with the OIC process.

**Q If my offer is rejected, can I choose to apply the deposit to my liability?**

**A** Yes. If you choose to do so, the effective date of the payment is the date the deposit was made.

**Q Where can I get a Power of Attorney, BOE-392?**

**A** Many BOE forms and publications, including BOE-392, can be downloaded from our website [www.boe.ca.gov](http://www.boe.ca.gov). If you do not have access to the Internet or you prefer to speak to someone, you can contact your local district office or our customer service representatives at 1-800-400-7115.

Unless you have been otherwise directed, you must submit your offer to the representative assigned to your account. If you do not know the name of the representative assigned to your account, please contact your local district office. For more specific information on the OIC process, you may contact the OIC Section at 1-916-322-7931.

## Field Offices

City	Phone Number
Bakersfield	1-661-395-2880
Culver City	1-310-342-1000
El Centro	1-760-352-3431
Fairfield	1-707-427-4800
Fresno	1-559-248-4219
Glendale	1-818-543-4900
Irvine	1-949-440-3473
Norwalk	1-562-466-1694
Oakland	1-510-622-4100
Rancho Cucamonga	1-909-257-2900
Rancho Mirage	1-760-770-4828
Redding	1-530-224-4729
Riverside	1-951-680-6400
Sacramento	1-916-227-6700
Salinas	1-831-754-4500
San Diego	1-858-385-4700
San Francisco	1-415-356-6600
San Jose	1-408-277-1231
Santa Clarita	1-661-222-6000
Santa Rosa	1-707-576-2100
Suisun City	1-707-428-2041
Ventura	1-805-677-2700
West Covina	1-626-480-7200

### Out-of-State Field Offices

Chicago, IL	1-312-201-5300
Houston, TX	1-713-739-3900
New York, NY	1-212-697-4680
Sacramento, CA	1-916-227-6600

## Taxpayers' Rights Advocate

Toll-free number	1-888-324-2798
Phone	1-916-324-2798
Fax	1-916-323-3319

## Taxpayer Information Section

You can call our toll-free Customer Service Center for answers to your general tax questions. Representatives are available to assist you Monday through Friday 8:00 a.m. - 5:00 p.m., (Pacific time) excluding state holidays.

Toll-free number 1-800-400-7115

TDD service for the hearing impaired:

From TDD/TTY 1-800-735-2929

Visit us on the Internet [www.boe.ca.gov](http://www.boe.ca.gov)

*Telephone numbers are current as of December 2015, but are subject to change. We recommend you call the field office before visiting.*