



State of California
Board of Equalization

Offer In Compromise Application

What you should know before preparing an Offer in Compromise Application

Are you an OIC candidate?

The Offer in Compromise (OIC) program is for taxpayers/feepayers (hereinafter called “taxpayers”) that do not have, and will not have in the foreseeable future, the income, assets or means to pay their tax liabilities. This program allows a taxpayer to offer a lesser amount for payment of a **non-disputed final tax liability on a closed-out permit. The Board of Equalization (Board) will not entertain an Offer in Compromise on an active permit or for a taxpayer who is involved in the same business or a similar business. A taxpayer wishing to compromise a liability through the OIC process must no longer own the personal property that incurred the tax that could result in an additional tax or fee assessment.**

Generally, we approve an Offer in Compromise when **the amount offered represents the most we can expect to receive from the taxpayer’s current income or assets.**

Although each case is evaluated based on its own unique set of facts and circumstances, we give the following factors strong consideration:

- The taxpayer’s ability to pay
- The amount of equity in the taxpayer’s assets
- The taxpayer’s present and future income
- The taxpayer’s present and future expenses
- The potential for changed circumstances

Can we process your application?

We will only process your Offer in Compromise Application if you meet the following criteria:

- You are no longer associated with the business that incurred the liability to which the offer applies. This includes operating the same type or similar business.
- You have fully completed the Offer in Compromise Application and provided all supporting documentation.

If you have been assessed a fraud penalty, a minimum offer of the outstanding tax and fraud penalty is required for processing. However, if you have been convicted of felony tax evasion, an offer will not be considered.

Will we require you to continue payments on an installment payment agreement?

Yes, we will require you to continue making periodic payments as called for in any existing installment payment agreement while your offer is being considered. The Board will strive to process your offer and provide a decision within 180 days of receiving a completed application along with the required documentation.

Are collections suspended?

Collection action will usually be suspended until the Offer in Compromise evaluation is completed. However, if delaying collection activity jeopardizes our ability to collect the tax, we may continue with collection efforts.

When should offered funds be submitted?

The OIC Section will request that the offered funds be submitted at the time your offer is formally considered. The funds will be held in the form of a deposit, and will be refunded to you if your offer is denied. Credit interest will not be paid to you on the deposited amount if your offer is denied.

Questions and Answers

Q What does the Board of Equalization consider a fair Offer in Compromise in relation to the amount due?

A Generally, an Offer in Compromise will be accepted when the amount offered is more than the Board can expect to collect within a reasonable period of time, typically from five to seven years.

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 in Compromise. If your account is more complex, it may take longer than 180 days.

Q Can I make installment payments on the offered amount?

A No. We require full payment of the offered amount before we will forward the Offer in Compromise for final consideration.

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 in Compromise.

Q My IRS/FTB OIC has been accepted. Will the Board automatically approve my Offer in Compromise?

A No. Your Board offer will be evaluated separately from your IRS or FTB offer, and generally, if the amount of the offer represents the most that we can expect to collect within a reasonable period of time, we will accept your Offer in Compromise.

Q If the Board determines that my Offer in Compromise is not acceptable, will I be contacted?

A Yes. A letter informing you of our discussion will be sent to you. We may also contact you to discuss your account and to determine the most appropriate resolution. 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 that will allow you to pay the liability in full over time.

Q Will state tax liens be released if my Offer in Compromise is accepted?

A We release state tax liens upon final approval of your Offer in Compromise. If another partner existed on the permit, that person's liability will not be canceled nor will the lien be released. A partial release will be issued to release you from the effects of the lien.

Q Do I need to have someone represent me?

A Representation is not required. Offer in Compromise is available to all taxpayers, 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 Can I get relief from the tax liability by filing bankruptcy?

A Part or all of your taxes may be dischargeable under the bankruptcy code. If this is a consideration, you may want to seek legal advice.

Q If my Offer in Compromise 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. If the deposit was posted by a third party, we must obtain their approval before applying the payment.

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

A Usually, if we are in receipt of a relatively complete application. You may also be required to continue payments if you are currently in an Installment Payment Agreement. If delaying collection activity jeopardizes our ability to collect the tax, we may continue with collection efforts.