

**KENTUCKY DEPARTMENT OF REVENUE
OFFER IN SETTLEMENT APPLICATION
CHECKLIST**



**I. BEFORE COMPLETING THE APPLICATION, PLEASE VERIFY THAT YOU ARE ELIGIBLE
TO SUBMIT AN OFFER IN SETTLEMENT!**

Check (a) or (b) to each question below. If you check (a), you may proceed to the next question.
If you check (b) to any question, you are not eligible to submit an offer at this time.

1. ☐ a. I/we have filed all required income tax returns for all required tax years OR I/we had no filing requirement for tax year(s) _____ Reason(s) _____

- ☐ b. I/we have not filed all required income tax returns for all required tax years.



You may not submit an offer until you have filed all required income tax returns!

2. ☐ a. I/we do not have an open personal bankruptcy proceeding at this time.

- ☐ b. I/we currently have an open bankruptcy or plan to file in the immediate future.



You may not submit an offer at this time!

3. ☐ a. I/we have made all current year estimated tax payments OR have no estimated tax filing requirement this year.

- ☐ b. I/we have not made all required current year estimated tax payments.



You may not submit an offer until you have made all required payments!

**II. DOCUMENTATION THAT MUST BE SUBMITTED WITH THE OFFER IN SETTLEMENT
APPLICATION:**

Please check that you are submitting the information required below. Offers that do not include all information will be deemed invalid and returned to you. Additional information may be requested from you at a later date.

- ☐ a. STATEMENT OF FINANCIAL CONDITION FOR INDIVIDUALS, Form 12A638(I) (signed & dated)
(Failure to fill this form out in its entirety, with complete and accurate financial disclosure, may result in offer rejection.)
- ☐ b. COPIES OF ALL BANK STATEMENTS (on all household accounts for the most recent 3 months)
- ☐ c. PROOF OF INCOME (copies of the last 3 months of pay stubs for all household earners)
- ☐ d. COPY OF MOST RECENT STATE & FEDERAL INCOME TAX RETURNS (include W-2's, 1099's & all schedules)
- ☐ e. IF YOU ARE SELF-EMPLOYED, YOU MUST ALSO SUBMIT A STATEMENT OF FINANCIAL CONDITION FOR BUSINESSES, Form 12A639 (Plus the most recent corporation tax return, most recent profit/loss statement and all business bank accounts for the most recent 3 months.)
- ☐ f. COPY OF POWER OF ATTORNEY IF REPRESENTED BY SOMEONE OTHER THAN YOURSELF.
- ☐ g. A RECENT COPY OF A CREDIT REPORT.

KENTUCKY DEPARTMENT OF REVENUE
OFFER IN SETTLEMENT APPLICATION
FREQUENTLY ASKED QUESTIONS



1. **How does submitting an acceptable offer benefit me?** If the Department of Revenue (DOR) accepts your offer, and you maintain the terms of compliance (see terms and conditions on page 5), not only do you resolve your case for less than the actual amount owed, but you also get a “fresh start” towards tax compliance with the DOR.
2. **Do I need an accountant, attorney, or consultant to help me submit an offer?** Our Offer in Settlement forms and program procedures have been designed to be self-explanatory. You have all of the information we need to help us make an informed decision about your offer, and most taxpayers should be able to complete the forms without professional assistance. DOR officials are available Monday - Friday to assist you with any questions you may have, and to assist you through the offer process. You are entitled to hire the services of anyone you wish to represent you; however, DOR must have proof of their power of attorney privileges submitted with the offer.
3. **What happens if I submit an offer without all of the required documentation on the checklist, or if I have not met the prerequisites for submitting an offer?** You may resubmit the offer with all of the required documentation listed on the checklist.
4. **Can I use the IRS Offer in Compromise forms to submit an offer to Kentucky?** No. You must submit the required Kentucky Department of Revenue Offer in Settlement and Statement of Financial Condition forms. See the checklist and instructions for all requirements and documentation required with the offer.
5. **What is “doubt as to collectability?”** Doubt as to collectability means that you agree you owe the liability, but cannot pay the entire amount. There is doubt that the DOR could collect the full amount due. The DOR cannot legally accept an offer based on doubt as to collectability if there is no doubt the DOR could collect the full amount owed.
6. **What is “doubt as to liability?”** Doubt as to liability means that you do not agree that you owe the tax liability, and are making an offer to settle the case based on this doubt. The DOR cannot legally accept a settlement based on doubt as to liability when the amount has already been decided in court, or if you cannot provide adequate proof of the doubt. You must include detailed documentation describing why you believe you do not owe the liability.
7. **How do I know how much to offer?** Generally, the amount of your offer must equal or exceed the amount of money the DOR could otherwise reasonably collect from you, either immediately or through a pay agreement. However, each offer is reviewed on an individual, case-by-case basis. You should explore all possible options for funding your offer, including but not limited to liquidating assets, borrowing from family or friends, and obtaining financing from a lending institution. You cannot include refunds the DOR may owe you, or payments you have previously made, toward your offer amount.
8. **How will the DOR consider my offer?** A DOR officer will examine your assets, liabilities, and your ability to pay. We may request further documentation and will verify the information you provide. If our review of your financial condition indicates you have the ability to pay more than you offered, your offer will be rejected. The officer will make a recommendation to accept or reject your offer, or may decide a larger amount is needed. It should be strictly understood that the acceptance of any offer is at the sole discretion of DOR.
9. **Does the DOR suspend collection activity while reviewing my offer?** No. Any ongoing collection activity before an offer is submitted (payments, levies, etc.) is generally enforced while the offer is in review. **If there is any indication the offer was submitted in order to delay any further collection activity, we will continue collection efforts.** If you have special circumstances you feel the DOR should consider in reference to any current collection activity, you may submit a request in writing with your offer. **To protect our interest, the Commonwealth may file a Notice of State Tax Lien, issue a Final Notice, or Notice of Assessment after the offer is received, if these actions have not already been taken.**
10. **How will I know if my offer has been accepted or rejected?** The DOR Officer assigned to review your offer will notify you by mail regarding the status of your offer. The date of the letter will be considered the official date of acceptance or rejection.
11. **Can I withdraw my offer once I have submitted it to the DOR?** Yes. You may withdraw your offer from consideration at any time, by written notification or by phone. Any amount paid with the offer will be applied to the liability.
12. **May I submit another offer if my first is rejected?** Unless notified otherwise from a DOR Officer, you may submit a new offer. It is unlikely that the second offer will be given more favorable consideration than the original unless the amount of the offer is increased.
13. **What forms of payment do you accept for a settlement?** We accept personal checks, cashiers checks, Visa, MasterCard, and debit cards. There is a 2.5% fee for credit card payments. We can accept payments electronically over the phone for personal checks, debit and credit cards.
14. **Where do I file the offer in settlement?** The offer can be submitted to the collector handling your case, or you can mail the offer and all required documentation to:

**Division of Collections
Offer in Settlement Section
501 High Street, 9th Floor
P.O. Box 5222
Frankfort, Kentucky 40602
Phone: (502) 564-4921
Website: www.revenue.ky.gov
Fax: (502) 564-7348**

**KENTUCKY DEPARTMENT OF REVENUE
OFFER IN SETTLEMENT APPLICATION
INSTRUCTIONS**



1. PREREQUISITES FOR SUBMITTING AN OFFER

- a. **Operating Business**—No offer will be reviewed or accepted on an operating business. The Department will only review and consider offers on a closed business.
- b. **Application Fee**—All applications must be accompanied by a \$500.00 application fee. This fee is non-refundable and will be applied to your tax liability.
- c. **Minimum Case Balance**—Offers will only be reviewed and considered on cases with a balance exceeding \$3,000.00. If your case balance does not exceed \$3,000.00 you will need to contact the Division of Collections @ 502-564-4921, ext. 5354.
- d. **Tax Compliance**—You must file all tax returns that you were legally required to file prior to submitting an offer. If you had no filing requirement for a specific year or period because you were not legally required to file the return, you must note the period(s) on the checklist (page 1), item 1a.
- e. **Bankruptcy Proceedings**—If you currently have an open bankruptcy proceeding, we cannot consider an offer. Once the bankruptcy is closed or discharged, you may submit an offer.
- f. **Estimated Tax Payments**—You must be current on all required estimated tax payments.

2. LINE BY LINE INSTRUCTIONS FOR OFFER PAGES 4 & 5

Item 1—List your full name, address and social security number.

Item 2—List the full name and social security number of a spouse or other person jointly submitting this offer with you.

Item 3—If applicable, enter the name and federal identification number of the business for which you are offering to resolve a tax debt.

Item 4—Check this box if you are/were a corporate officer or equivalent office-holder of the business, and are offering to resolve your personal liability for the trust taxes and/or officer assessable taxes for that business.

Item 5—Enter the total amount you are offering to settle your debt, not including any amounts already paid to or collected by the DOR prior to this offer.

Item 6—Specify the timeframe in which you plan to pay the offered amount. You should pay the full offered amount in the shortest time possible. The quicker you pay, the less interest your debt will accrue. The DOR charges interest from the date of acceptance until the date you pay the full amount offered.

Item 7—Disclose where the source of the funds to pay the offer will be coming from, such as personal savings, borrowing from family or friends, liquidating an asset, etc.

Item 8—Check the tax type(s) that you offer to settle. If the type of liability is not on the form, specify the type of tax and periods of liability in "OTHER TAX TYPES." Example: Omitted Tangible Property Tax, 12/06.

Item 9—Provide a detailed explanation of your circumstances, supplying additional pages or documentation if necessary. **It is your responsibility to show the DOR why it would be in the best interest of the Commonwealth to accept your offer.**

Item 10—Reasons for Settling—The DOR cannot legally accept a settlement based on doubt as to collectability if there is no doubt we can collect the full amount owed. DOR cannot legally accept a settlement based on doubt as to liability when the amount owed has already been decided in court.

Item 11—It is important that you read and clearly understand all of the terms and conditions of the offer.

Item 12—By signing Item 12a or 12b, you agree that:

- a. You give up any overpayments (refunds) for all tax periods prior to and including the tax year that we accept your offer.
- b. Any statutory period for assessment and collection of the amount owed is suspended while the offer is pending. The statute of limitations will extend by the amount of time in OIS plus one year.
- c. You will not contest, in court or otherwise, the amount owed if the DOR accepts your offer.
- d. The DOR can reinstate the entire amount owed if you do not comply with all the terms and conditions of the offer, including the requirement to file returns and pay taxes for five years.

3. GENERAL PROGRAM INFORMATION

Background—Kentucky Revised Statute 131.030(3) allows delegated officials of the Kentucky DOR to settle a tax liability for less than the full amount due. The term "tax liability" is the total amount a taxpayer owes including taxes, penalties, interest, and other additional amounts required by law.

DOR Policy—The goal of this program is a settlement which is in the best interest of the Commonwealth. The DOR will accept an offer in settlement when it is unlikely that we can collect the full amount owed, and when the amount you offer reasonably reflects collection potential. The goal is to collect the most we can at the earliest possible time, at the least cost to the Commonwealth.

Notice About Co-obligors—The parties who are liable for a tax liability with you are co-obligors. Unless a co-obligor signs the offer as taxpayer-proponent, the DOR may pursue them for the remaining amount due after accepting your offer. Under Kentucky law, corporate officers or equivalent office-holders are jointly and individually liable for certain trust taxes. Kentucky Revised Statutes also hold business partners jointly and individually liable for all types of taxes due from the business. Kentucky law also holds husbands and wives who file joint or combined income tax returns jointly and individually liable for the tax due on the return.

Possible Additional Requirements—We may require that you sign a written agreement that requires you to pay a percentage of future earnings, and/or give up certain present or potential tax benefits.

If We Reject Your Offer—If the offer is rejected, you will receive written notice explaining why the offer was unacceptable. If you submit an offer based on doubt as to collectability and the DOR finds you can pay more than the amount offered, the offer will be rejected. If you submit an offer based on doubt as to liability and DOR finds that you are still liable, the offer will be rejected. If you do not provide accurate and complete financial disclosure, or you are not in compliance with filing and payment requirements, the offer will be rejected.