

Offer in Compromise Booklet

IMPORTANT! THIS BOOKLET CONTAINS INFORMATION AND FORMS THAT YOU NEED IN ORDER TO PREPARE A COMPLETE AND ACCURATE OFFER IN COMPROMISE. PLEASE READ THESE INSTRUCTIONS CAREFULLY BEFORE ATTEMPTING TO COMPLETE THE APPLICATION AND RELATED FORMS.

What is an Offer in Compromise?

An Offer in Compromise (OIC) is an agreement between the taxpayer and the government that settles a tax liability for payment of less than the full amount owed.

The Georgia Department of Revenue will generally accept an Offer in Compromise when it is unlikely that the tax liability can be collected in full and the amount offered reasonably reflects collection potential. An OIC is a legitimate alternative to declaring a case currently not collectible or to a protracted installment agreement. The goal is to achieve collection of what is potentially collectible at the earliest possible time and at the least cost to the government.

The success of the Offer in Compromise program will be assured only if taxpayers make adequate compromise proposals consistent with their ability to pay and the Department makes prompt and reasonable decisions. Taxpayers are expected to provide reasonable documentation to verify their ability to pay. The ultimate goal is a compromise which is in the best interest of both the taxpayer and the Department. Acceptance of an adequate offer will also result in creating a fresh start for the

taxpayer and an expectation of compliance with all future filing and payment requirements.

Doubt as to Collectibility. This means that doubt exists that the taxpayer could ever pay the full amount of tax liability owed. The Department will consider a doubt as to collectibility offer when the taxpayer is unable to pay the taxes in full either by liquidating assets or through current installment agreement guidelines. The taxpayer ***must*** submit the appropriate collection information statement along with all required supporting documents.

Doubt as to Liability. This means that a legitimate doubt exists that the taxpayer owes part or all of the assessed tax liability.

Economic Hardship. This means that the taxpayer ***does not have any doubt*** that the tax is correct and there is potential to collect the full amount of the tax owed, but an exceptional circumstance exists that would allow the Department to consider an offer. To be eligible for compromise on this basis, a taxpayer must demonstrate that collection of the tax would create an economic

hardship. For an economic hardship offer, a taxpayer must submit:

1. A collection information statement with all appropriate attachments, and
2. A written narrative explaining the taxpayer's special circumstances and why paying the tax liability in full would create an economic hardship.

The taxpayer **must** also attach appropriate documentation that will prove that there

would be an economic hardship if the taxes were collected in full.

Note: An important factor in determining the type of offer to submit is the potential ability to pay the liability in full. If the taxpayer cannot pay their liability in full, then they should submit a Doubt as to Collectibility offer. However, if potential exists to pay their liability in full, but the collection of the tax would create an economic hardship, then they should submit an Economic Hardship offer.

Statutory Basis for Offer In Compromise

Section 48-2-18.1 of the Georgia Public Revenue Code provides the authority for the Commissioner of Revenue to entertain an offer in compromise:

§ 48-2-18.1. Settlement or compromise of tax assessments; application fee

(a) The commissioner or his or her designee shall be authorized to settle and compromise any proposed tax assessment, any final tax assessment, or any tax fi. fa., where there is doubt as to liability or there is doubt as to collectability, and the settlement or compromise is in the best interests of the state. The commissioner shall develop procedures for the acceptance and rejection of offers in compromise. The commissioner shall keep a record of all settlements and compromises made and the reasons for each settlement and compromise.

(b) Each offer in compromise shall be accompanied by a \$100.00 nonrefundable application fee. If the offer is accepted by the commissioner, such application fee shall be treated as part of the offer. Such application fee shall not apply if the applicant's total monthly income is at or below levels based on the poverty guidelines established by the United States Department of Health and Human Services. If this is the case, the applicant shall certify as such with their offer.

Step 1: Basic Requirements

Please review the following statements. Each statement must be "True" in order for the Department to process your offer request. If your response to any of these statements is "False," your offer cannot be processed at this time.

1. You have filed all required tax returns and reports.
2. You have received a final notice of assessment for all Georgia state taxes that you owe.
3. You are not the subject of an open or active bankruptcy case.

If you answer "False" to any of these 3 statements, **STOP**. Your offer cannot be processed at this time.

Step 2: Preparing to Submit an Offer

1. You must file all tax returns that you were legally required to file prior to submitting the offer. If you did not file a return for a prior period because you were not legally required to file, you must include a detailed explanation of circumstances with the offer. Timely filing and payment of all tax returns is required while the offer is pending.
2. All estimated payments (if required) must be paid to date for the current year. You will be given an opportunity to make the required payments before returning or denying your offer.
3. To submit an offer, Form OIC-1 is required. Moreover, if either Doubt as to Collectibility or Economic Hardship is chosen, either Form CD-14B (Collection Information Statement for Businesses) or Form CD-14C (Collection Information Statement for Wage Earners of Self-Employed) must be completed and signed with appropriate identification numbers and all sections completed. Items that do not apply to you should be notated with "N/A."
4. If your basis for compromise is Doubt as to Liability, please include a computation of the claimed corrected tax due, an explanation of how you arrived at the amount, and any verifying documentation. Neither form CD-14B nor CD-14C are required for Doubt as to Liability.

Step 3: Determining the Amount of Your Offer

For any basis for compromise other than reasonable doubt as to liability, complete financial information must be provided. Your offer amount must equal or exceed the *minimum offer amount*.

Individual taxpayers must submit Form CD-14C (Collection Information Statement for Wage Earners of Self-Employed). Business entities (corporations, partnerships, LLCs, etc.) should submit Form CD-14B (Collection Information Statement for Businesses).

The information provided on Forms CD-14B or CD-14C assists us in determining your minimum offer amount. The minimum collection amount equals the net equity of your assets plus the amount we project we could collect from your future income.

Your offer will be rejected if the Department's financial analysis indicates that you can pay a greater amount than that offered in compromise or you have the ability to fully pay the tax liability, either immediately or through an installment agreement. You must offer an amount greater than or equal to the *minimum offer amount*. All offer amounts must exceed zero.

Does Offering the Minimum Offer Amount Guarantee Acceptance of My Offer?

No. The Department performs an audit of your financial condition as a part of the review process. Here are examples of reasons why your offer for an amount equal to or greater than the minimum offer amount you calculate might be rejected or returned:

Excess Expenses - The Department uses national collection financial standards produced by the IRS to determine maximum allowable amounts for claimed expenses. Expenses that exceed these standards will be adjusted to the maximum allowed.

Insufficient Documentation – Most items on the financial statement must be substantiated. Your offer will be declined if you do not provide sufficient documentation to support income, expenses, and other items claimed.

Property Valuation – The Department will assess the value of all property that you own. Your offer may be rejected if the Department determines the value of the property is greater than shown on your financial statement.

Omitted Items – Your offer may be rejected if you omit income, assets, or other items of significance from your financial statement.

Trust Fund Taxes – Your offer may be rejected if your debt is based on taxes collected from others, such as sales or employee withholding taxes, but not remitted.

History of Non-Compliance—A history of regular or willful noncompliance with Georgia’s state tax laws may constitute grounds for rejection of your offer.

Other – The law gives the State Revenue Commissioner the option to accept an offer but in no way requires it. The offer will be declined in any instance where the Commissioner determines that acceptance is not in the best interest of the State.

Will offers for less than the Minimum Offer Amount be considered?

Yes. Explain your situation if economic hardship causes you to offer an amount less than the minimum offer amount by filling out Section 3 (*Explanation of Circumstances*) on Form OIC-1. You must also attach to Form OIC-1 any pertinent documents to help support your claims of economic hardship.

Economic hardship circumstances may include factors such as advanced age, serious illness from which recovery is unlikely, or any other factors that have an impact upon your ability to pay the total minimum offer amount and continue to provide for the necessary living expenses for you and your family.

\$100 Application Fee

The law requires each offer in compromise to include a \$100.00 nonrefundable application fee. Payment must be submitted in the form of certified check or money order. If the offer is accepted by the commissioner, the application fee will be treated as part of the offer. The application fee is not needed if the applicant's gross income falls below the poverty guidelines established by the United States Department of Health and Human Services. The poverty guideline exception applies only to individuals. Offers received without the application fee will not be processed unless the

applicant is exempt from this requirement by qualifying for low income certification under Section 4 of Form OIC-1.

What Do I Send With My Offer?

1. Form OIC-1 completed and signed
2. CD-14B (Collection Information Statement for Wage Earner and Self-Employed) or CD-14C (Collection Information Statement for Businesses) completed and signed unless your offer is based on reasonable doubt as to liability
3. Supporting Documentation
 - If wage earner, must enclose last 2 paystubs
 - Must include complete copies of last 3 bank statements
 - Must include substantiation documentation for any claims of special circumstances made in Section 3 of Form OIC-1 Explanation of Circumstances (copies of actual monthly expenses, out-of-pocket medical expenses, physician's statements detailing illness, etc.)
 - You must respond within the requested time frame for additional information.
 - Liabilities must be assessed by the Department in order to be considered for settlement. We cannot process an offer for a period that has not been assessed.
 - Any money sent with the offer will not be returned and will be applied to your liability.
4. Certified check or money order for \$100 application fee unless you qualify for low income certification under Section 4 of Form OIC-1. This is non-refundable and will be applied against the outstanding liability if the Department accepts your offer.
5. If your basis for compromise is reasonable doubt as to the amount of liability, please include a computation of the claimed corrected tax due, an explanation of how you arrived at the amount, and any verifying documentation.
6. Information should be submitted to the Department's Offer in Compromise Program. The last page of the Form OIC-1 application provides contact information.

What Happens After My Offer is Submitted?

How we evaluate your offer in compromise: First, the Department makes an initial review of the file to determine whether the offer may be processed and may request additional documentation to verify the information you provide. The Department then performs a complete review and evaluation of the complete offer packet. You may be contacted if additional information is needed or documentation is needed. A recommendation will then be made to the State Revenue Commissioner or his/her duly authorized representative.

Will Collections Stop?

Not necessarily. There are certain circumstances when the Department will suspend collection activities while we consider your offer. After an offer is determined to be complete and submitted

for processing, we will generally not act to collect the tax liability while we consider and evaluate your offer. We will also allow 14 days for you to respond after we send a letter notifying you of the Department's intention to deny your offer.

It is important to note that the Department will not suspend collection if we determine that you submitted your offer to delay collection or cause a delay which will jeopardize our ability to collect the tax.

If Your Offer is Accepted

The Department will notify you and your designated representative by mail if the offer is accepted. Payment of the accepted offer must be made either by the payment due date as indicated on the acceptance letter or under an installment payment agreement. A recorded state tax execution will be released when the Department receives full payment of the accepted offer amount.

If Your Offer is Declined

Notification: You will be notified by mail if the offer is declined. You should immediately contact the Department to arrange payment of the entire liability.

Installment Payments: If immediate payment of the entire liability is not possible, you may request payment through a Department-approved installment payment agreement.

Counter Offers: We will contact you if we believe you may qualify for an offer in compromise at an increased amount. At that time, you may offer an increased amount based on the Department's recommendation, normally without submitting additional paperwork.

Where to Submit an Offer or for Assistance Completing an Offer

Either log on to your Georgia Tax Center account at <https://gtc.dor.ga.gov> to fill out an application and attach documents **or** mail the application and all attachments to:

Georgia Department of Revenue
Central Collections Section
2595 Century Parkway NE
Suite 339
Atlanta, GA 30345-3173

Contact the Department at (404) 417-6543 if you need assistance in completing the application.