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12 TIPS IN SUBMITTING OFFERS IN COMPROMISE (OIC) TO THE IRS

By Victor Sy, CPA, MBA

An offer in compromise (OIC) allows you to settle assessments for tax, penalties, and interests at **less than the assessed amounts**. You can apply for an OIC if there is doubt as to liability or as to collectibility. The bases of an OIC are discussed in our other newsletters. Let me give you a few tips in preparing an OIC application for now.

1. If the tax due is a joint assessment, both husband and wife must submit the offer.
2. The offer must reasonably reflect your ability to pay.
3. The amount of the offer should be equal to or greater than the amount that the IRS will be able to recover through normal collection procedures including garnishments, levies, and seizures.
4. Your source of funds could be loans from relatives and friends or loans against your assets. The offer must be generally paid in full upon acceptance. There are few cases when short-term payments are allowed. Any deferred payment must specify the total amount of the offer and specific timeframes for the balance. (Example: "amount offered for \$5,000, terms for \$1,000 to be paid now and \$4,000 to be paid within 30 days of acceptance.")
5. Use Form 656. There have been several revisions so use the most current one.
6. Forms 656 must have original signatures (Copies and fax not acceptable).
7. State why the offer is being submitted. (Doubt as to collectability)
8. On offers based on doubt as to liability, attach documentation as to why you do not owe the tax. This is important because the degree of doubt influences the amount of your offer.
9. On offers based on doubt as to collectability, explain why the IRS cannot collect more from your current assets, present and future income. Document your living expenses, current income, the value of assets owned and the related encumbrances such as mortgages and car loans.
10. In valuing your properties, use "distressed sale" value. Do not use fair market values. Value your house, cars and other properties at about 75 to 85% of fair market value. That is what you would receive anyway if you were to make a quick forced sale.
11. Do not forget to claim exempt properties such as:
 - A. Furniture or personal effects in your household,
 - B. Tools of your trade or profession.
12. The government also looks at your future income by calculating the present value of a stream of income for the next five years at a current fair market rate of interest. In doing so, they consider your education, trade or profession, age and experience, health, and past and present income. (This is presently based on a factor of 49.64 times net monthly cash flow). Generally, you are no longer required to enter into a collateral agreement (except when there are strong indications of available funds as in the case of fluctuating income).

National Taxpayer Advocate Criticizes IRS's Collection Practices

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In her annual report to Congress, National Taxpayer Advocate Nina Olson noted her "continuing concern that IRS collection practices **inflict unnecessary harm on financially struggling taxpayers** and fail to achieve the IRS's

overriding objective of increasing long-term voluntary compliance with the tax laws." While the IRS filed more than 5 million tax liens over the past seven years (and 1.1 million in fiscal year 2010 alone), there is no data showing whether, or to what extent, liens further revenue collection. [By filing a lien against a taxpayer with no money and no assets, "the IRS often collects nothing, yet it inflicts long-term harm on the taxpayer by making it harder for him to get back on his feet when he does get a job," she said.](#) A filed tax lien on a credit report can render someone [unemployable, unable to obtain housing \(owned or rented\), and unable to obtain car insurance or a credit card](#), at least at reasonable rates. A tax lien can be particularly [devastating to small businesses, as it often cuts off their access to credit](#). News Release IR-2011-2.