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SHOULD YOU SUBMIT AN OFFER IN COMPROMISE (OIC) TO THE IRS?

By Victor Sy, CPA, MBA

If you cannot pay all your taxes owed to the IRS, you may make an offer to pay a smaller sum to fully pay all taxes, penalties, and interests. This is called Offer in Compromise (OIC). Let's discuss the pros and cons of OIC.

Advantages: If the offer is accepted, you will be left alone; tax liens will be removed and enforced collection avoided. The IRS, through a policy statement, declared that they will accept an offer in compromise when it is unlikely that the tax liability can be collected in full and that the amount offered "reasonably reflects collection potential." The goal is to achieve collection of what is potentially collectable at the earliest possible time and at the least cost to the government. The ultimate goal is to arrive at the compromise that is in the best interests of both the taxpayer and the IRS. Acceptance of an adequate offer relieves you of a financial burden and gives you a fresh start toward compliance with your future filing and payment requirements.

Disadvantages:

1. You must list all your assets. In the process, you are giving them a roadmap to seize and sell your assets if the offer is not accepted and nothing else works.
2. Offers have been tough to get approved. Offers returned (not even considered) increased from 39% to 57% while rejected increased from 12% to 21%. Accepted offers declined from 34% to 16% for 2004.
3. The statute of limitations for the assessment and collection is suspended during the period plus another year thereafter.
4. One missed payment results in a default that gives the IRS the right to resume collection.
5. You must comply with all provisions relating to the timely filing of returns and payment of taxes due for the next five years.

Of course, if things do not work out, you can always consider the alternatives of installment agreements and bankruptcy. In the meantime, there is a hold in the collection process that in itself is an accomplishment as you straighten out your financial affairs. I suggest that you use an enrolled agent, CPA, or tax lawyer to prepare it for you. If you cannot afford their fees, prepare it yourself and just pay a professional to review your offer before submitting it to the IRS.

National Taxpayer Advocate Criticizes IRS's Collection Practices

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." **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.**