Collections Enforcement
Office 614-466-8360
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150 East Gay Street, 21st Floor
Columbus, Ohio 43215
www.OhioAttorneyGeneral.gov

MIKE DEWINE
★ OHIO ATTORNEY GENERAL ★

OFFER IN COMPROMISE- DETAILS AND ELIGIBILITY

The State of Ohio has established a formal *Offer in Compromise Program* with respect to claims certified by various state agencies, including the State of Ohio, Department of Taxation, to the Office of the Attorney General for collection. Previously, the State of Ohio, Department of Taxation could not compromise a claim for less than the tax amount. Now, pursuant to Ohio Revised Code §§131.02 and 5703.06, the *Offer in Compromise Program* allows the Attorney General, with the consent of the state agency, to compromise a claim for less than the tax, premium or principal liability, without reference to penalties or interest, due to (1) economic hardship, (2) doubt as to liability, or (3) in limited instances, a substantial probability that the claim, if collected, would be subject to refund under the respective agencies' statutes, rules or regulations. To the extent an individual or entity seeks only to waive all or a portion of the penalties, or interest, such a request may be processed through the Office of the Attorney General without regard to the following restrictions and requirements.

ELIGIBILITY:

Any entity or person who demonstrates economic hardship or doubt as to liability of an obligation may participate in the program if the claim has been certified to the Office of the Attorney General. However, the Attorney General will not consider an *Offer in Compromise* while the entity or person is in bankruptcy or if the entity or person has filed a petition for reassessment (appealed an assessment) that has not been resolved. Further, certain clients, such as the Ohio Bureau of Workers Compensation and the Department of Job and Family Services, will not consider offers by employers that are still in operation to settle less than the underlying premium or unemployment compensation contribution amount.

REQUIREMENTS:

To participate in the program, a person or entity must complete and submit an *Offer in Compromise Application* which may be obtained from the web site of the Ohio Attorney General at www.ohioattorneygeneral.gov, or by written request addressed to the Office of the Attorney General, Collection Enforcement Section, Offer in Compromise Program, 150 East Gay Street, 21st Floor, Columbus, Ohio 43215. Submission of any and all outstanding returns or reports due in relation to any State liability is also required prior to the consideration of an *Offer in Compromise Application*.

The completed *Offer in Compromise* form must be signed by the person or entity requesting the compromise. Signature on the *Offer in Compromise* form constitutes an agreement by the applicant to abide by all terms and conditions stated in the *Offer in Compromise* Application, including:

(1) Disclosure of each and every obligation owed to the State of Ohio. The resolution of all existing debt owed to the State of Ohio is the goal of the program. Failure to disclose any obligation may result in the rejection of the offer or, if previously accepted, reinstatement of the full amount owed plus accrued interest.

(2) Payment in full within 60 days of execution of an *Offer in Compromise Agreement* unless otherwise negotiated with the Attorney General's Office; and

(3) Continued compliance with all applicable state reporting and payment requirements for a period of five (5) years after execution of the *Offer in Compromise Agreement*. Failure to comply with all applicable

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state reporting and payment requirements for such period will result in reinstatement of the full amount owed plus accrued interest.

FINANCIAL DISCLOSURE:

Full disclosure is required. Failure to fully and completely disclose and attach any information listed on the *Offer-in-Compromise Checklist* may result in the outright rejection of an offer or, if previously accepted, reinstatement of the full amount owed plus accrued interest. Further, every situation is different and applicants should attach any and all relevant information to their application even if the document in question is not mentioned on the *Offer-in-Compromise Checklist*. **It is the burden of the applicant to prove each basis for the request for relief. If the applicant believes a specific issue should be considered, such as an ongoing medical condition or pending legal proceeding, documentary evidence in support of that issue, such as medical records and/or pleadings, must be submitted along with the application.** Do not rely on the State to request information. Determinations will be made based on the information in the State's possession and, as stated below, there is no appeal of an *Offer-in-Compromise* determination.

ATTORNEY GENERAL AND DEPARTMENT OF TAXATION REVIEW

- **AG review:**
  - Application is denied if incomplete; AG sends a letter to explain denial and the application returned.
  - If no documents exist, and a notarized statement is provided explaining why no records or documents exist and the taxpayer provides an estimate of tax liability owed for the period no records exist, The AG will base its recommendation on the information provided. The Department will investigate further the provided information if they deem it necessary.
  - If applicable, AG will e-mail the Department's Compliance Division for information regarding any missing returns and receive a response from the Department within three (3) business days.
  - If form complete
    - AG reviews and prepares recommendation.
  - Once AG review is completed, as soon as practicable AG sends the Department recommendation along with application and any and all supporting documentation provided by applicant.

- **Department review:**
  - Department accepts
  - Department rejects
    - Lack of sufficient documentation
    - Merit rejection with reason
  - Department provides counter offer with reason
  - Normally, the Department's review process will be completed within thirty (30) days; (exception

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when third party documentation has been requested, e.g. IRS)

AG and the Department's review may include:

- Earning potential, current employment and future employment
- All sources of income, past, present and future
- Applicant's age with respect to earning potential
- Borrowing potential
- Assets
- Dependants
- Litigation, including tax litigation
- AG Collection notes
- IRS and other state and local tax returns
- IRS or other state Offers in Compromise
- Whether the applicant has made a good faith attempt to pay the liability prior to submitting the Offer-in-Compromise Application
- Whether the offer is sincere (rejections and counteroffers are not negotiable)
- Does the Applicant have a history of tax compliance? Applicants who cannot demonstrate that they have filed and paid their taxes timely for at least two years will generally be rejected outright.

AG will send the applicant notice of whether an offer has been approved, denied, or a counter offer proposed.

MISCELLANEOUS

If Applicant is represented by counsel, Applicant must provide name and address of counsel and sign power of attorney (or use ODT's TBOR-1 Form) for future contact.

Submission of an *Offer-in-Compromise Application* will not prevent the filing of liens, tax refund offsets, or stay any other actions to collect any State liability. Further, the filing of an *Offer-in-Compromise Application* will not relieve the applicant from any obligation to make payments under a previously negotiated payment plan.

The Attorney General's Collection Enforcement Section is a debt collection agency and will use any information received, including any information submitted with respect to an *Offer-in-Compromise Application*, for that purpose.

Pursuant to Ohio Revised Code §5703.06(C) all determinations made with respect to an Offer-in-Compromise are final and not subject to appeal.