

Guide to the Offer in Compromise Program

What is an Offer in Compromise?

An Offer in Compromise (OIC) is an agreement between the taxpayer and the Vermont Department of Taxes that settles a tax liability for payment of less than the full amount owed by the taxpayer on a debt that has become final.

The Department will generally accept an OIC 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 1) to resolve a final debt when a taxpayer has demonstrated economic hardship or 2) when the size of the debt requires a lengthy installment agreement. Acceptance of an adequate offer will also result in creating a fresh start for the taxpayer with the expectation all future filing and payment will be made when due.

The success of the OIC 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.

What is the statutory basis for an Offer in Compromise?

The statutory authority is in 32 V.S.A. § 5887(c):

“Notwithstanding subsections (a) and (b) of this section, the Commissioner may compromise a tax liability arising under this title upon the grounds of doubt as to liability or doubt as to collectability or both. Upon acceptance by the Commissioner of an offer in compromise, the liability of the taxpayer in question is conclusively settled, and neither the taxpayer nor the Commissioner may reopen the case except by reason of falsification or concealment of assets by the taxpayer or mutual mistake of a material fact or if, in the opinion of the Commissioner, justice requires it. The decision of the Commissioner to reject an offer in compromise is not subject to review. The Commissioner may adopt rules regarding the procedures to be followed for the submission and consideration of offers in compromise.”

What is unique about an OIC?

The OIC conclusively settles final tax liabilities. Neither you or the Commissioner of Taxes may reopen the case, unless it is determined there is falsification or concealment of assets by you or mutual mistake of a material fact or if, in the opinion of the Commissioner of Taxes, justice requires it. The OIC is distinct and separate from an appeal of a proposed tax assessment or denial of a claim for refund of taxes.

What are the types of OIC?

There are three types of OIC. It is important to pick the type of offer that best matches your situation.

Note: When the taxpayer agrees with the liability, the type of OIC is then determined on the potential ability to pay the liability in full. If the taxpayer cannot pay the liability in full, then he or she should submit a **Doubt as to Collectability** offer. However, if potential exists to pay their liability in full, but the collection of the liability would create an economic hardship, then they should submit an **Economic Hardship** offer.

Type 1: Doubt as to Collectability

This type of OIC means that doubt exists the taxpayer could ever pay the full amount of tax liability owed. The Department will consider this type of OIC when the taxpayer is unable to pay the taxes in full either by liquidating assets or through an installment agreement that would accomplish repayment within a reasonable timeframe. When applying for this type of OIC, the taxpayer must complete Form OIC-671, Offer in Compromise Agreement, and also complete and submit **one** of the following forms:

- Form OIC-672, Collection Information Statement for Businesses **or**
- Form OIC-673, Collection Information Statement for Wage Earners and Self-Employed Individuals

Disclaimer: The information provided here is intended to be an overview only. Vermont tax statutes, regulations, Vermont Department of Taxes rulings, or court decisions supersede information presented here.

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Type 2: Doubt as to Liability

This type of OIC means a legitimate doubt exists the taxpayer owes part or all the assessed tax liability. When applying for this type of OIC, the taxpayer must also include a computation of the claimed corrected tax due, an explanation of how the taxpayer arrived at the amount, and any verifying documentation when submitting Form OIC-671, Offer in Compromise Agreement.

Type 3: Economic Hardship

This type of OIC means the taxpayer does not have any doubt the assessed amount is correct, and there is potential to collect the full amount of the tax owed. However, this type differs from Type 1 because an exceptional circumstance exists that would create an economic hardship if the taxpayer had to repay the total amount owed. To be eligible for an OIC on this basis, a taxpayer must demonstrate that collection of the tax would create an economic hardship. When applying for this type of OIC, the taxpayer must complete Form OIC-671, Offer in Compromise Agreement, and also complete and submit **one** of the following forms:

- Form OIC-672, Collection Information Statement for Businesses **or**
- Form OIC-673, Collection Information Statement for Wage Earners and Self-Employed Individuals

The taxpayer must also submit:

- A written narrative explaining the taxpayer's special circumstances and why paying the tax liability in full would create an economic hardship; and
- Documentation that supports a claim of economic hardship if the taxes were collected in full.

Am I eligible?

There are several basic requirements to qualify for an OIC. Please review the following statements. To meet the basic requirements, you must be able to answer "true" to each of the following statements for the Department to consider your offer request:

- The tax liability is final or the proposed agreement is made to settle an appeal in progress.
- You have filed all required returns.

Note: If you did not file a return for a prior period because you believed you were not

legally required to file, you must submit a detailed explanation of circumstances with the offer.

- You will file and pay all required returns when due while the offer is pending and in the future.
- You are not currently the subject of an open bankruptcy proceeding.
- All estimated payments (if required) for the current year have been paid to date.
- When required, you will include a good faith payment equal to or greater than 5% of the original assessment balance. No good faith payment is required if you qualify for the Low Income Certification.
 - ♦ For Low Income Certification, see Section 4 of the Form OIC-671 for qualifications.
 - ♦ In cases where extreme economic hardship or doubt as to collectability has been demonstrated, the Director or Assistant Director of Compliance may waive the good faith payment.
- You have not been granted an OIC within the past five years.

If you answered "false" to any of these statements, you are not eligible to submit an offer. Once you meet all the above conditions, you may submit an offer.

Do I need to have someone represent me in the process?

The Department does not require you have representation. The OIC Program is available to all taxpayers, with or without representation, who meet the eligibility requirements. Department representatives are available to assist with understanding the forms or information needed when submitting an OIC Agreement.

How do I submit an offer?

1. Review the Form OIC-671 Instructions—Offer in Compromise Agreement.
2. Complete Form OIC-671, Offer in Compromise Agreement, and the appropriate Collection Information Statement, forms OIC-672 or OIC-673
3. Provide all required documents. For information on required documents, see the question "What are the types of OIC?"

4. Submit completed documents and (when required) your good faith payment made payable to the Vermont Department of Taxes to the following:

Offer in Compromise Program
Vermont Department of Taxes
P.O. Box 429
Montpelier, VT 05601-0429

You must send a separate good faith payment with each offer. Please do not combine your good faith payment with any other tax payments as this may delay processing of your offer.

Your offer will be returned to you if the good faith payment and the required forms are not properly submitted, or if your check is returned for insufficient funds.

What is a “Collection Information Statement,” and when do I need to complete it?

A Collection Information Statement is one of two forms that gathers information related to your assets, expenses, and the calculation of the minimum offer amount.

- If you are requesting either a **Doubt as to Collectability** or **Economic Hardship** offer, you must also complete Form OIC-672, Collection Information Statement for Businesses, or Form OIC-673, Collection Information Statement for Wage Earners of Self-Employed. The Collection Information Statement must be signed with appropriate identification numbers and all sections completed.

Note: Items that do not apply to you should be noted with “N/A.”

- If your basis for your offer is Doubt as to Liability, the Collection Information Statement is **not** needed. Instead you must include a computation of the claimed corrected tax due, an explanation of how you arrived at the amount, and any verifying documentation.

How do I know how much to offer?

Generally, an amount offered will be considered reasonable when it equals or exceeds the minimum offer amount calculated on the Collection Information Statements forms (Box 7 on OIC-672 or Box 8 on

OIC-673). The minimum offer amount is defined as the net equity of your assets, plus the amount the Department projects could be collected based on your future income. An offer amount must exceed zero.

Remember, the shorter amount of time you propose to repay your offered amount, the lower the offered amount can be.

Your offer will be rejected if the Department’s financial analysis indicates you can pay a greater amount than offered or you can pay in full, either immediately or through an installment agreement.

What is a “Minimum Offer Amount”?

A “Minimum Offer Amount” is the amount you propose to pay in settlement of your balance due the Department. The Minimum Offer Amount is less than the full amount owed and is generally based on your ability to pay, with consideration to your assets and expenses. The amount of time you propose to repay the offered amount also has an impact on the Minimum Offer Amount. The shorter amount of time you propose to repay your offered amount, the lower the offered amount can be.

Your Minimum Offer Amount is calculated on Forms OIC-672 (Section 5, Box 7) or OIC-673 (Section 7, Box 8) and included in the Form OIC-671 Offer in Compromise Agreement.

Does offering the Minimum Offer Amount guarantee acceptance of my offer?

No. The Department will use your financial statements to assist in performing an audit of your financial condition as a part of the review process.

What are some reasons my offer might be rejected?

The Department expects an offer to be based on factual information recorded in the documents. Here are examples of reasons why your offered amount 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.
- **Unnecessary Expenses**—The Department

reviews all expenses to determine if they are “necessary,” using the following conditions:

Necessary living expenses include, but are not limited to:

- ◆ Rent or mortgage payments
- ◆ Heat or air conditioning
- ◆ Transportation necessary for work or required travel
- ◆ Medical expenses
- ◆ Reasonable food expenses
- ◆ Utilities (electric, telephone)

Living expenses the Department considers **unnecessary** include, but are not limited to:

- ◆ Private school tuition or college expenses
 - ◆ Charitable contributions or voluntary retirement contributions
 - ◆ Payments on credit cards
 - ◆ Payments for cable or similar bills
 - ◆ Vehicle expenses for multiple cars not necessary to meet work transportation needs
 - ◆ Expenses for “toys” such as boats, recreational vehicles, etc.
 - ◆ Significant dining out expenses
- **Insufficient Documentation**—You must prove most items on the financial statement. Your offer will be declined if you do not provide sufficient documentation to support income, expenses, and other items claimed.
 - **Value of Property or Other Assets**—The Department will assess the value of all property and assets you own based on information readily available to the Department. Your offer may be rejected if the Department determines the value of the property or assets are 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 Taxes**—Trust Taxes, such as Sales, Meals and Rooms, and Withholding taxes, are taxes collected or withheld by a taxpayer in “trust” for the State of Vermont. Your offer may be rejected if your debt is based on taxes collected from others, but not remitted to the Department as required by law.

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

Does the Department have to accept my offer?

No. The law provides a taxpayer the opportunity to submit an OIC to the Commissioner of Taxes, but in no way requires the offer to be accepted. The offer will be declined in any instance where the Commissioner of Taxes determines that acceptance is not in the best interest of the state.

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

Possibly. It depends on your specific circumstances. When requesting an OIC, the most important thing to do is to provide truthful and complete information to the Department. It is also important to respond to any follow-up questions in a timely manner. The Department is committed to work with any taxpayer who presents a reasonable OIC that is factually supported.

May I apply for an OIC if I have no funds to offer?

No. We will not accept a zero-dollar offer. If you qualify for **Low Income Certification**, you do not need to include a good faith payment with your offer. Your offer must represent the most we can expect to collect over a reasonable period of time.

What documents do I send with my offer?

- 1: Complete, sign, and submit the OIC Agreement, Form OIC-671.
- 2: Complete, sign, and submit the appropriate Collection Information Statement.
 - If you are a **wage earner or self-employed individual**, complete, sign, and submit Form OIC-673.
 - If you have a **business**, complete sign, and submit Form OIC-672.
- 3: Checklists detailing documents that need to be submitted with your agreement are included on Forms OIC-671, OIC-672, and OIC-673. Please use the checklists to ensure you are submitting all required documents.
- 4: Certified check or money order for 5% of the amount owed as a good faith payment, unless you qualify for **Low Income Certification** under Section 4 of Form OIC-671. This is non-

refundable and will be applied against the outstanding liability if the Department accepts your offer.

- 5: Attach Form PA-1, Power of Attorney, if you would like your attorney, accountant, or other party to represent you and you do not have a current form on file with the Department.
- 6: Attach a copy of an IRS OIC and acceptance letter or other IRS arrangements (if applicable).

What happens after I submit my offer?

First, the Department will review the OIC Agreement for completeness within 15 days of receipt. If the OIC Agreement is complete, the Department will issue an acknowledgment letter advising you the agreement is being considered and begin the process of evaluating your proposed agreement.

If the OIC Agreement is not complete or additional information is needed, the Department will promptly request the information from you. The additional requested information needs to be received by the Department within 30 days from the date of the request.

What do I need to do while my offer is pending review?

If you are in an existing installment payment plan, you must continue to make payments until the OIC Agreement request is determined. You must also file and pay all required returns in a timely manner.

How long will it take to get a decision on my OIC?

We strive to accept or deny an offer within 60 days of sending the acknowledgment letter. If your account is complex or additional information is required, it may take up to 90 days.

My OIC has been accepted by the IRS. Will Vermont automatically approve my offer?

No. The Vermont Department of Taxes will evaluate your offer separately.

Will collections effort stop after I submit an offer?

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 initiate collection of the tax liability while we consider and evaluate your offer. However, if you have an installment agreement, it is expected that you will

continue to make timely payments. Additionally, automated collection actions, such as vendor payment, refunds, or other types of offsets, will continue.

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

Will you release state tax liens after you accept my offer?

We will release Vermont state tax liens once a debt is considered to be paid in full. If an OIC is accepted, the paid in full amount will be the amount agreed upon.

May I apply prior payments to the offered amount?

We cannot apply prior payments toward the offered amount. However, we consider prior payments and the offered amount compared to the total liability when evaluating your offer.

May I make payments on the offered amount?

The Department allows for two types of repayment options:

- **Payment Option 1:** Pay the offer in full within 30 days.
- **Payment Option 2:** Pay the amount in full over a period of electronic ACH debit installments within a reasonable amount of time, generally not to exceed 36 months.

What will happen if my offer is accepted?

The Department will send a notification letter advising your OIC agreement offer has been accepted. The letter will include the terms of the agreement and any additional instructions related to the payment option you selected.

What will happen if my offer is declined?

The Department will send you a notification letter explaining to you the reason(s) why the offer was denied. You should contact the Department immediately to arrange a suitable repayment plan through a Department-approved Installment Payment Agreement.

Will the Department continue to offset refunds?

Yes. The Department will keep any refunds or offsets while the tax debt is open—even if there is an approved payment plan. Refunds and offsets

are credited to your balance due as the Department considers them to be payments you would otherwise be required to make.

Are there limitations on an OIC request?

The short answer is “yes.” An OIC request:

- is not an appeal;
- does not extend the time to file an appeal to Vermont Department of Taxes or to the Vermont courts; and
- it does not result in you being considered in “good standing” for purposes of renewing a professional license.

What are some of the things an OIC can do for you?

- Settle all or any portion of a final tax liability, plus interest and penalties, for less than the

current outstanding amount

- Allow acceptance of a lump sum payment to satisfy your liabilities for less than your current outstanding balance
- Satisfy the liability for less than your current balance with a short-term payment plan

What are some of the things an OIC cannot do for you?

- Cancel or discharge your outstanding liabilities with no payment
- Put your tax obligation on hold indefinitely
- Intervene when a legal action has been filed, such as a wage garnishment, bank account levy, collection suit, or court-ordered appearance

Where do I submit an offer or request assistance for completing an offer?

Write us: Offer in Compromise Program
Vermont Department of Taxes
PO Box 429
Montpelier, VT 05601-0429

Call us: (802) 828-2518

Email us: tax.collections@vermont.gov