Offer in Compromise

If you find yourself in a situation where you owe money to the IRS and you can't pay it in full, there are several options available to you. One of them is Offer in Compromise or an OIC, where you offer to pay the IRS less than the total you owe. The IRS accepts OIC's on a case-by-case basis, considering each case unique. The IRS will look at the following:

- Whether you can pay in full or if paying in full creates a hardship
- What your income is
- What your expenses are
- Your asset equity

The IRS will of course require a full financial work up in order to assess your ability to pay. Before they will even look at your application, you must have explored all other options for repaying your debt, including submitting a payment plan. Submitting an offer in compromise can be complex and time consuming. Miller & Company can assist you with getting everything together, confirming your eligibility and generally taking the stress out of the situation by handling all the paperwork for you.

Do you Qualify?

As with all requests to the IRS when handling large debt, you must be current on all tax returns except for the year in which you are requesting an offer in compromise. You may not be in the process of filing for bankruptcy either. If you are, all debts must be included in your bankruptcy filing and that includes debts to the government. If you own a business, all your business taxes for the quarter must be paid and current.

The government will also expect that you have done things like liquidated assets where appropriate, sold extra vehicles or even homes in order to pay your debt before you apply for any kind of plan or settlement. The IRS would prefer you pay in full and in a lump sum, and if your financial statement shows you can do that by selling off some of your assets, your OIC will be rejected. If, however, you can show that paying in full would cause an economic hardship, such as in the case of being on a limited income, where you can show that paying the IRS would leave you unable to make your basic living expenses, you could get an OIC approved.

The only other circumstance that would cause the IRS to consider an offer in compromise is if the amount you owe is somehow in doubt. This is a rare occurrence and can usually be sorted out quite quickly. You'll want to make payments on the tax liability balance shown by the IRS until the correct amount is verified.

Calculating Your Minimum Offer

If you still think you'll qualify for an OIC, then Miller & Company can pre-qualify you, confirm your eligibility and put a proposal together for you. From there, Form 433-A for individuals or Form 433-B for businesses must be completed as well as Form 656(s).

First, you'll need to figure out the total you will propose for the IRS settlement. There is a formula to figure out the lowest percentage of the total debt owed that the IRS will accept. It looks something like this:

The net realizable value of your assets + (your excess monthly income - your monthly expenses) = Your Offer in Compromise

Take that total and multiply it by the number of months in your repayment period, which would be 12 or 24.

Finally, all payment plans or requests for debt assistance require an application fee and offers in compromise are no exception. Here you will pay a non-refundable $186 application fee as well as an initial payment. You can choose how to pay that initial payment:

- Lump Sum Cash in the amount of 20 percent of the total amount you are offering to pay. This payment is absolutely not refundable even if your OIC is not accepted. Once you get acceptance in writing from the IRS of your proposal, you will be expected to pay the remaining balance. The IRS will allow you to do this in up to five payments.

- Periodic Payment requires you to submit an initial payment which is again non-refundable, and to continue paying the IRS every month until you get written confirmation of your offer being accepted. At that time, you can make monthly payments until the amount proposed is paid in full.

IRS Acceptance Guidelines

Getting an offer in compromise accepted will rely on three things:

1. Doubt of Liability. That is, there is a genuine and vigorous dispute by the tax payer as to whether they owe the debt at all or disputing the amount of the debt. Additionally, you would not have to pay the application fee if your case falls under Doubt of Liability.

2. Doubt as to Collectibility. In this instance, your income plus your assets are not enough to cover the full amount owed.

3. Effective Tax Administration. Here, the IRS is sure the debt is yours and the amount owed is correct. However, paying the debt in full would mean an economic hardship. Furthermore, if you qualify for a low income exception, you would not have to pay the application fee.

After Your Offer is Submitted

In the event your OIC is rejected, you'll have 30 days to file an appeal. Again, the IRS will not continue collections efforts while you are in the midst of this process, not even during the 30 day appeal window. Rejections are delivered by mail and come with explanations for the rejection.

You should be aware that even if you have an accepted OIC, the IRS may still take part or all of your federal tax return every year and apply it to the balance owed. For OIC's accepted under Doubt as to Collectibility or Effective Tax Administration, you will be required to pay all taxes on time and to file your tax returns on time every year for five years. If you don't, or if you miss a payment on your OIC agreement, the IRS can declare you in default and come after you for the full amount of the balance owed at that point, to include all penalties and interest owed.