

## Offers-in-compromise

Dear Reader:

If IRS is after you to collect a tax liability that's beyond your capacity to pay, you should be aware of a technique that may allow you to settle your tax debt for a fraction of its face value. It's called an offer-in-compromise.

Like any creditor, IRS prefers a partial payment to no payment at all. Thus, IRS is sometimes willing to settle a tax liability for less than the full amount if (a) the taxpayer is unable to pay the full amount, (b) there is doubt as to how much the tax liability is, (c) collection of the liability would create economic hardship for the taxpayer (such as where the taxpayer is out of work due to health problems, or where sale of assets to pay the tax would leave the taxpayer without enough money to meet basic living expenses), or (d) compelling public policy or equity considerations exist, and due to the exceptional circumstances IRS's collection of the full liability would undermine public confidence that the tax laws are being fairly and equitably administered. Exceptional circumstances for this purpose might include situations where a taxpayer relies on erroneous advice from IRS, or a medical condition prevents a taxpayer from managing his financial affairs.

The taxpayer starts the settlement process by making an offer-in-compromise. If the offer is grounded on any reason other than doubt as to how much the tax liability is, financial information must be submitted along with the offer. If it is grounded on doubt as to the liability, IRS is not permitted to request a financial statement.

The taxpayer is required to make partial payments to IRS while the offer is being considered by IRS. For lump-sum offers (which include single payments as well as payments made in five or fewer installments), taxpayers must make a down payment of 20% of the amount of the offer with the application. For periodic payment offers, the taxpayer must comply with the taxpayer's own proposed payment schedule while the offer is being considered.

Except where the offer is based only on doubt as to liability, the taxpayer must agree to comply with all tax law rules on filing returns and paying taxes for five years or until the offered amount is paid, whichever period is longer. If these requirements are not met, the compromise terminates and IRS can seek collection of the original liability amount.

A \$5,000 penalty applies to any person who submits an application for a compromise (or submits any one of certain other types of specified submissions) if any portion of the submission is either based on a position which IRS has identified as frivolous, or reflects a desire to delay or impede the administration of federal tax laws. However, the penalty is clearly aimed at those who abuse the process and should not deter taxpayers with legitimate offers from using the compromise process.

Please call if you would like to discuss whether submitting an offer-in-compromise would be beneficial to you.

