

# Act Fast to Take Advantage of an IRS Offer-in-Compromise

By Karen Tenenbaum, Esq., LL.M. (Tax), CPA of Tenenbaum Law

**T**he IRS allows qualified taxpayers to settle their tax debts for less than the full amount owed through an Offer-in-Compromise (OIC). An OIC is a settlement agreement in which the taxpayer's liability is generally reduced to an amount that the taxpayer can afford to pay, not what the taxpayer actually owes. This is a lifesaver for people who find themselves in financial trouble unable to pay their taxes and get out of trouble with the IRS. While it is not easy to meet the requirements of an OIC, the pandemic has made this an ideal time to apply for an OIC or revise an existing one in many instances. Taxpayers may be able to get a more favorable settlement now as opposed to waiting until their financial position improves. Further, the IRS has indicated its willingness to work with taxpayers unable to meet the terms of their existing OIC due to COVID-related economic hardship.

## What Are the Grounds for an OIC?

An OIC requires showing one of these grounds:

- (1)** Doubt as to liability. There is a genuine dispute as to the existence or amount of the correct tax debt under the law;
- (2)** Doubt as to collectability. The taxpayer's assets and income are less than the full amount of the tax liability; or
- (3)** Effective tax administration. The taxpayer may be able to fully pay the tax, but such payment would cause an economic hardship or there are compelling public policy or equity considerations.

## How Much Can the Taxpayer Afford to Pay?

In most cases, the IRS will not accept an offer unless the amount offered is equal to or greater than the reasonable collection potential ("RCP") of the taxpayer. The RCP measures a taxpayer's ability to

pay their liabilities and looks at expenses, present and future income, and net equity in assets, including what they would have if they sold off their real and personal property. The taxpayer must show he or she is unable to pay reasonable basic living expenses, which are established by the IRS. Additional documentation may be necessary to support expenses above IRS standards.

As a result of COVID, many taxpayers lost their job or business and are now behind on their bills. It may take months or years for them to fully recover. If they wait to file or amend their OIC and their finances slowly start to improve, the IRS may expect them to pay a higher settlement amount. Applying for or revising their OIC when they are at their worst financially may be advantageous economically as well as help alleviate some of the stress of their situation.

While an OIC is a great option that can provide a fresh start from tax liabilities, it is not appropriate for everyone. Note that New York State also has an OIC program with similar requirements.

If your clients owe taxes, they should discuss their options with a qualified tax attorney. Both the IRS and State offer other solutions to those who may not qualify for an OIC. 🚫



**Karen Tenenbaum ESQ.**

*LL.M (Tax) CPA*

Karen Tenenbaum, Esq., is Founder and Managing Partner of Tenenbaum Law, P.C. ([www.litaxattorney.com](http://www.litaxattorney.com)), a tax law firm in Melville, N.Y., which focuses its practice on the resolution of IRS and New York State tax controversies. Karen can be reached at [ktenenbaum@litaxattorney.com](mailto:ktenenbaum@litaxattorney.com) and at 631-465-5000.