



AVOIDING DANGER OFFER IN COMPROMISE

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Today's Discussion



- Decision on whether we File an OIC
- Prerequisites to filing an Offer in Compromise
- Other Collection Alternatives
- Looking for the perfect fit to file an Offer
- Three categories of Offers to decide on
- Ground Rules for the current tax year

Today's Discussion



- New guideline on filing Form 433-A
- Strategies on filing Form 656
- What happens if OIC is Denied? or Approved?
- Quiz

Decision to File an OIC



- What happened to push them to your door
- Not all taxpayers should file for OIC
- Need to take a test run on the 433-A & B
- OIC is based on the taxpayer's collection potential sheet (not negotiation skills)
- TV Commercials have tricked millions
- Honesty with the taxpayer
- Do they have \$205 + 20% of the offer?

Prerequisites to filing an OIC



- Are all their tax returns up-to-date?
- Are they being paid on W-2 or 1099
- If Self-employed can they pay their estimated payments for 2021
- Are they under investigation by DOJ, filing for Bankruptcy, behind on Payroll Taxes or frivolous/delay?

Other Collection Alternatives



- Are trying to stop a bank seizure or garnishment?
- Filing Form 1127 can give them up to a 6-month on paying
- Filing an Installment Agreement
- Requesting a CDP, CAP, or Equivalent Hearing; or bankruptcy

Looking for the perfect fit



- Can taxpayer pay the \$205 + 20% down on the offer?
- Does the Collection Potential Worksheet show a big savings?
- Can the taxpayer keep everything current for the next 5 years?
- Just like the Cinderella Slipper, it has to be a perfect fit

Three Categories of Offers



- Doubt as to Collectability
- Effective Tax Administration aka Exceptional Circumstances
- Doubt as to Liability – Different Form 656-L

Ground Rules for Current Tax Year



- File tax return timely or request an Extension
- Pay Estimated Tax Payments and keep them up-to-date
- Don't file for Bankruptcy before or after filing for an OIC
- Send in the required applic. funds

New guideline on filing Form 433-A



- The Fresh Start Rules have added some helpful changes to the form
- Section 3, L.1 subtracts \$1,000 on the total in bank account balance
- Section 3, L.6 subtracts \$3,450 off the adjusted vehicle value (MFJ x 2)

New guideline on filing Form 433-A



- Section 3, L.7 subtracts \$9,790 off the Personal Assets of the taxpayer
- Section 7, L.39 might consider the '2021 Allowable Living Expenses National Standards' in completion of the worksheet

OIC Filing Requirements



There are also “requirements”

- 3 months statements on bank accounts and all monthly obligations
- All account numbers and balances
- Take your time with the 433A, 433B, and the 656 forms (show detail)
- 2021 Allowable Living Expenses
National Standard from the internet

Strategies on filing Form 656



- Need to Quiz the taxpayer for a reasonable cause (illness, death, lost job, disaster, or dilemma)
- Perfect & refine a convincing cause and argument for the OIC
- How will taxpayer payoff an offer that is accepted by IRS (IA, PIF)

Other OIC Options



- If denied, you have 30 days to file for a CDP Hearing or a petition for Tax Court (if CDP was denied)
- You can also request a CAP or an Equivalent Hearing
- Consider bankruptcy an option (can file against IRS debts over 3yrs old)

Offer in Compromise Accepted



- Remember your payment option? It's time to start paying (IA or PIF)
- You must now be a model taxpayer for the next 5 years (or the Offer is revoked). Filing & paying on time
- Hopefully the tax professional got paid up front (because \$ is short)

Other OIC Facts



- Fees are non-refundable
- IRS will take a while to review, but Collections & SOL are suspended
- If IRS cannot decide after 2 years, it is deemed accepted

Missing the Deadline



- Your client misses the 90-day deadline on filing a Tax Court Petition – now what?
- Audit Reconsideration – Your last chance to fix things (no appeal)
- Next stop is Collections
- You still have some options

Collection Due Process (CDP)



- Letter 1058 or LT11– Notice to lien and levy allows 30-days to request a CDP Hearing (Form 12153)
- If deadline is missed, there remains 1 year for an Equivalent Hearing (no appeal or Tax Court)

Collection Due Process (CDP)



- CDP Ruling, if not acceptable to TP, allows 30-days to petition U.S. Tax Court for a discussion on collection alternatives
- Underlying tax issues may only be discussed if TP has never been given the opportunity before

Collection Appeals Program (CAP)



- Form 9423 must be filed - requests a Hearing Officer intervene, discusses collection alternatives when the TP and the Collection Officer cannot come to terms
- This stops bank account seizures and garnishments temporarily

Collection Appeals Program (CAP)



Collection alternatives include:

- Partial Pay Installment Agreements
- Fresh Start Program allowing 72 months on balances \leq \$50,000 (\$25k for Businesses)
- Form 9465 or on-line at www.irs.gov
- Lien subordination on mortgage refi
- “Currently not collectible” status

Questions?



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