

STATE OF CALIFORNIA  
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

# Offer In Compromise Application

Corporations

Limited Liability Companies

Partnerships\*

Trusts

Unidentified Business Organizations



\* *When the partner is not an individual*

# WHAT YOU SHOULD KNOW BEFORE PREPARING AN OFFER IN COMPROMISE

## Are you an OIC candidate?

The Offer in Compromise (OIC) program is for taxpayers or feepayers that do not have, and will not have in the foreseeable future, the income, assets, or means to pay their liability in full. It allows a taxpayer or feepayer to offer a lesser amount for payment of a nondisputed final tax liability on a closed-out account.

Effective January 1, 2009, through January 1, 2023, the OIC program will extend to qualified active businesses where the taxpayer or feepayer has not received tax or fee reimbursement for tax and fees owed to the state, to successors of businesses that may have inherited tax liabilities of the predecessors, and to consumers who incurred a use tax liability.

A **qualified active business** is an active business that does not have, and will not have in the foreseeable future, the income, assets, or means to pay their nondisputed California Department of Tax and Fee Administration (CDTFA) assessed liability in full, where the CDTFA finds no evidence that the taxpayer collected sales or use tax reimbursement, and the taxpayer has not previously received a compromise.

Generally, we approve an OIC when **the amount offered represents the most we can expect to collect within a reasonable period of time.** Although each case is evaluated based on its own merit, we give the following factors strong consideration in the evaluation:

- ability to pay
- equity in the entity's assets
- present and future income
- present and future expenses
- potential for changed circumstances
- concealment of assets or existence of fraud

## Who should use this application?

If you are making an offer as a corporation, LLC, trust, organization, or a limited or general partnership, please use this application. For an individual or an individual of a partnership, you should request the OIC package for *individuals* (CDTFA-490) from CDTFA's website or contact your local office. If you are making an offer as an individual **and** another entity (corporation, LLC, trust, or organization), both the individual application and the corporation application should be filled out respectively.

## Who qualifies?

We will only process your OIC application if:

- You no longer have a controlling interest or association with the business that incurred the liability or a related business.
- You are an active business with a final liability that arose from transactions in which you did not receive tax or fee reimbursement.
- You are a consumer who accrued use tax.
- You are a successor that inherited the liability of your predecessor.
- You have fully completed the OIC application and provided all supporting documentation.

## When should offered funds be submitted?

You will be notified when your offered amount should be submitted. The funds will be held in the form of a noninterest bearing deposit. If your OIC is denied, the full amount of your deposit will be refunded to you, or you may choose to apply the deposit to your liability. Credit interest will not be paid to you on the deposited amount if your offer is denied and subsequently refunded.

## Should I continue to make installment payments while my offer is being evaluated?

Yes. You are required to continue making timely payments as established in your Installment Payment Agreement while your offer is being considered. The CDTFA will strive to process your offer and provide a decision within 180 days of receiving a completed application and documentation.

## Will collection action be suspended while my offer is being evaluated?

In most cases, no new collection action will be taken while your offer is being evaluated. However, submitting an offer does not automatically suspend collection activity. If delaying collection activity jeopardizes our ability to collect the amount you owe, we may continue with collection efforts.

The following documentation must be submitted with your *Offer in Compromise Application* or your application may be returned as incomplete. **Please submit copies only.** We will **not** return any documents that you send us. Additional documentation may be required and requested as the evaluation of the *Offer in Compromise* proceeds.

#### **CHECKLIST OF REQUIRED ITEMS FOR THE ENTITY MAKING THE OFFER**

*(Check only those boxes that apply. If it does not apply, please explain in Section 1.)*

**Verification of Income and Expenses**

Year-to-date income and expense statements, cash flow statements, profit and loss statements, a balance sheet, and any other related documents. If entity is subject to annual audit of its financial statements, please submit audited financial statements.

**Bank Information**

Bank statements for savings and checking accounts for the last twelve (12) months. Final statement for any accounts closed within that time. Investment account statements showing the value of stocks, bonds, and mutual funds.

**Current Lease or Rental Agreements**

Include all lease agreements, including property where you are the lessor or lessee.

**Real Property Information**

Mortgage statements, escrow settlement statements, or copies of grant deeds for any property currently owned, sold, or gifted in the last five (5) years.

**Vehicle Information**

Copies of loan/lease statements for any vehicles.

**IRS/FTB/EDD Information**

Complete copies of Internal Revenue Service (IRS) or Franchise Tax Board (FTB) returns for the past three (3) years. Please include all attached schedules. If applicable, include a copy of IRS, FTB, or Employment Development Department (EDD) Offer in Compromise and acceptance letter or documentation of other IRS/FTB/EDD arrangements.

**Legal Documents**

Copies of judgments, pending lawsuits, trust documents, and bankruptcy documents.

**Authorization to Release Financial Information to the California Department of Tax and Fee Administration**

A form will be mailed to you if it is needed to verify financial information.

**Power of Attorney**

A power of attorney is required if a designated representative submits this offer or if you want us to direct questions or requests for information to your representative. Forms CDTFA-392, *Power of Attorney*, may be used.

If your offer is related to sales and use tax, please submit your completed and signed application to your designated compliance representative at your local office. If your offer is related to special taxes or fees, submit your application and refer questions to the special taxes division that administers your account.

If you submit a deposit of the amount offered, designate the payment as "OIC Deposit" on the face of the check and include your seller's permit or CDTFA account number(s). If you submit the application without the deposit, you will be notified when it is required.

**OFFER IN COMPROMISE APPLICATION**

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**SECTION 1. BASIS FOR THE OFFER**

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The following facts and reasons are submitted as grounds for acceptance of this offer.

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**SECTION 2. SOURCE OF FUNDS**

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If any or all of the amount being offered is from a loan, please provide the following:

LENDER'S NAME	TELEPHONE NUMBER (       )	TOTAL AMOUNT OF THE LOAN \$
LENDER'S ADDRESS ( <i>city, state, zip code</i> )		TOTAL AMOUNT FROM OTHER SOURCES \$
DESCRIBE SOURCES OF OFFERED FUNDS OTHER THAN A LOAN		

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IF THIS OIC IS DENIED, THE CDTFA IS TO:

- Retain OIC deposit and credit it to the current tax liability     
 Return the amount deposited
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**SECTION 3. OFFER AMOUNT**

(You are not required to send the offer amount with the application.)

SELLER'S PERMIT OR CDTFA ACCOUNT NUMBER(S)	PERIOD(S) OF LIABILITY
AMOUNT OWED TO THE CDTFA \$	TOTAL AMOUNT OF THE OFFER \$

It is understood that this offer will be considered and acted upon as quickly as possible. It does not relieve the taxpayer or feepayer of the liability sought to be compromised until the CDTFA accepts the offer and there has been full compliance with all agreements. The CDTFA may continue collection activities at its discretion.

Except for any amount deposited in connection with this offer, it is agreed that the CDTFA will retain all payments and credits made to the account for the periods covered by this offer. In addition, the CDTFA will retain any and all amounts to which the tax or feepayer(s) may be entitled under the California law, due through overpayments of tax or fees, penalty, or interest, prior to the offer being accepted, not to exceed the liability.

It is further agreed that upon notice to the taxpayer or feepayer of the acceptance of the offer, the taxpayer or feepayer shall have no right to contest in court or otherwise the amount of the liability sought to be compromised. No liability will be compromised until all obligations of each taxpayer or feepayer under the compromise agreement are completely performed.

Under penalty of perjury, I declare that I have examined the information given in this statement and all other documents included with this offer and to the best of my knowledge and belief, they are true, correct, and complete.

SIGNATURE	TITLE	DATE
SIGNATURE	TITLE	DATE

**PROCESSING ACCEPTED OFFERS**

Generally, an offer will not be forwarded for approval until the offer is funded. Once the offer is approved and funded, the OIC Section will process all the necessary adjustments to your account balance. Releases of liens (if applicable) will be mailed directly to the county in which they were recorded. The taxpayer or feepayer making the offer will receive copies of the lien release documents and a statement of balance with the acceptance letter.

Please note that the OIC covers only the final liabilities requested in the OIC application. Any future liabilities that may be assessed or become final after the date of the compromise are not covered.

**PROCESSING DENIED OFFERS**

If we reject or deny the offer, the deposit will be refunded or applied to the liability at the request of the taxpayer or feepayer with an effective date of the date the funds were received. No interest will be granted on returned deposits. If a third party has posted the deposited amount, staff must get written permission from the third party to apply the deposit. The case will be returned to the local district office or headquarters office with a recommendation for case handling based on information analyzed during the offer process.

**Please note:** *If you choose to make installment payments and the offered amount is not paid within twelve months, your offer will be denied and all funds received through the offer will be retained.*

**SECTION 4. BUSINESS ENTITY INFORMATION** *(attach additional pages as needed)*

NAME OF BUSINESS ENTITY	STATUS	CALIFORNIA BUSINESS NUMBER	DATE INCORPORATED
ADDRESS	FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)		TELEPHONE NUMBER (     )
CORPORATE OFFICER/DIRECTOR/SHAREHOLDER'S NAME AND ADDRESS			
TITLE			TELEPHONE NUMBER (     )
AUTHORIZED REPRESENTATIVE'S ADDRESS <i>(attach power of attorney)</i>			TELEPHONE NUMBER (     )

**List of entity officers, general partners, managing members.**

NAME OF OWNER(S)	BUSINESS ADDRESS	TELEPHONE NUMBER	TITLE

**Other related businesses. List any of the business' parent or subsidiary corporation relationships.**

TRADE OR BUSINESS NAME	BUSINESS ADDRESSES OR CORP. NUMBER	TELEPHONE NUMBER	FEIN

**SECTION 5. GENERAL FINANCIAL INFORMATION** *(attach additional pages as needed)*

**Bank Accounts** *(payroll, general, savings, certificates of deposit, etc.)* List accounts held during the past 3 years.

NAME OF INSTITUTION	ADDRESS	TYPE	DATE OPENED	ACCOUNT NUMBER	BALANCE
<b>TOTAL</b> <i>[Enter this amount on line 2, Section 6 (Asset and Liability Analysis)]</i>					

**Bank credit available** *(lines of credit, etc.)*

NAME OF INSTITUTION	ADDRESS	CREDIT LIMIT	CREDIT AVAILABLE	AMOUNT OWED	MO. PAYMENT
<b>TOTAL</b>					
<b>TOTAL</b> <i>[Enter this amount on line 19, Section 6 (Asset and Liability Analysis)]</i>					

**Vehicles**

YEAR, MAKE, MODEL, LICENSE NUMBER	LENDER/PINK SLIPHOLDER	CURRENT MARKET VALUE	CURRENT PAYOFF	AVAILABLE EQUITY
<b>TOTAL</b> <i>[Enter this amount on line 3, Section 6 (Asset and Liability Analysis)]</i>				

**List any vehicles, equipment, or property sold, given away, or repossessed during the past three years.**

YEAR, MAKE, MODEL OF VEHICLE, DESCRIPTION, OR PROPERTY ADDRESS	WHO TOOK TITLE OR POSSESSION	VALUE

**Securities** *(stocks, stock options, bonds, mutual funds, money market funds, other securities, etc.)*

TYPE	BROKERAGE NAME	OWNER OF RECORD	QUANTITY OF DENOMINATION	CURRENT VALUE
<b>TOTAL</b> <i>[Enter this amount on line 5, Section 6 (Asset and Liability Analysis)]</i>				

**Judgments**

NAME	CASE NUMBER	DATE RECORDED	WHERE RECORDED	PAYABLE OR RECEIVABLE?	AMOUNT
<b>TOTAL</b> <i>[Enter receivable amount on line 10, Section 6 (Asset and Liability Analysis)]</i>					
<b>TOTAL</b> <i>[Enter receivable amount on line 24, Section 6 (Asset and Liability Analysis)]</i>					

**REAL PROPERTY** *(include a copy of the deed)*

PHYSICAL ADDRESS AND DESCRIPTION <i>(single family dwelling, multi family dwelling, lot, etc.)</i>		PARCEL NUMBER
MORTGAGE LENDER'S NAME	ADDRESS <i>(city, state, zip code)</i>	
HOW IS TITLE HELD?	PURCHASE PRICE \$	PURCHASE DATE
PHYSICAL ADDRESS AND DESCRIPTION <i>(single family dwelling, multi family dwelling, lot, etc.)</i>		PARCEL NUMBER
MORTGAGE LENDER'S NAME	ADDRESS <i>(city, state, zip code)</i>	
HOW IS TITLE HELD?	PURCHASE PRICE \$	PURCHASE DATE
PHYSICAL ADDRESS AND DESCRIPTION <i>(single family dwelling, multi family dwelling, lot, etc.)</i>		PARCEL NUMBER
MORTGAGE LENDER'S NAME	ADDRESS <i>(city, state, zip code)</i>	
HOW IS TITLE HELD?	PURCHASE PRICE \$	PURCHASE DATE

**Accounts and notes receivable** *(loans to shareholders, officers, partners, members, etc.)*

NAME	ADDRESS	STATUS	DATE DUE	AMOUNT DUE
<b>TOTAL</b> <i>[Enter this amount on line 9, Section 6 (Asset and Liability Analysis)]</i>				

**Machinery and equipment**

DESCRIPTION <i>(manufacturer, model number, etc.)</i>	NAME AND ADDRESS OF LIEN/NOTE HOLDER	BALANCE DUE	FAIR MARKET VALUE
<b>TOTAL</b> <i>[Enter this amount on line 11, Section 6 (Asset and Liability Analysis)]</i>			

**Merchandise inventory**

DESCRIPTION	COST	BALANCE DUE	LIQUIDATION VALUE	CURRENT MARKET VALUE
<b>TOTAL</b> <i>[Enter this amount on line 12, Section 6 (Asset and Liability Analysis)]</i>				



**SECTION 5. GENERAL FINANCIAL INFORMATION (Continued)**

Please provide additional information relating to the financial condition of the corporation, LLC, partnership, or trust. If yes is checked, please provide dates, explanation, and documentation. Documentation should cover the last three years.

DIVIDEND DISTRIBUTIONS *(If yes, please list dates and amounts of 3 most recent distributions.)*

Yes  No

PENDING LITIGATION OR JUDGMENTS *(If yes, please provide case number and court location.)*

Yes  No

REPOSSESSIONS

Yes  No

ANTICIPATED INCREASE IN INCOME

Yes  No

BANKRUPTCIES/RECEIVERSHIPS *(If yes, please include chapter, case number, and date filed.)*

Yes  No

RECENT TRANSFER OF ASSETS *(If yes, please include details on disbursements of entity's assets.)*

Yes  No

BUSINESS SOLD *(If yes, please provide a copy of the sales contract.)*

Yes  No

ENTITY OFFICIALLY DISSOLVED *(If yes, please include details on disbursements of entity's assets. List all disbursements during the last 6 months on a separate page.)*

Yes  No

BENEFICIARY TO TRUST, ESTATE, ETC.

Yes  No

ARE FORECLOSURE PROCEEDINGS PENDING ON ANY REAL ESTATE THAT THE ENTITY OWNS OR HAS AN INTEREST IN? *(If yes, please give the location of the real estate.)*

Yes  No

**SECTION 6. ASSET AND LIABILITY ANALYSIS**

**Current assets**

1. Cash	
2. Bank accounts/balance <i>(from Section 5)</i>	
3. Vehicles/available equity <i>(from Section 5)</i>	
4. Loan <i>(from Section 5)</i>	
5. Securities <i>(from Section 5)</i>	
<b>TOTAL CURRENT ASSETS</b>	

**Real property *(from Section 5)***

ADDRESS OR LOCATION	A CURRENT MARKET VALUE	B MORTGAGE PAYOFF VALUE	C EQUITY
6.			
7.			
8.			
<i>(Column A minus Column B equals Column C)</i> <b>TOTAL EQUITY</b>			

**SECTION 6. ASSET AND LIABILITY ANALYSIS (Continued)**

<b>Other assets</b>	<b>Value</b>
9. Notes/accounts receivable (from Section 5)	
10. Judgments/settlements receivable (from Section 5)	
11. Machinery and equipment (from Section 5)	
12. Merchandise inventory (from Section 5)	
13. Aircraft, watercraft (please list CF number or Hull ID number)	
14. Interest in partnerships	
15. Interest in trusts	
16. Other assets (include description)	
17. Other assets	
<b>TOTAL OTHER ASSETS</b>	
18. <b>Subtotal of assets (current, equity, and other)</b>	

**Current liabilities (attach additional pages as needed)**

19. Lines of credit (amount owed from Section 5)	
20. Notes/accounts payable (include description)	
21. Taxes owed to IRS (provide a copy of recent notices)	
22. Taxes owed to FTB (provide a copy of recent notices)	
23. Taxes owed to EDD (provide a copy of recent notices)	
24. Judgments (provide a copy)	
25. Other liabilities (include description)	
<b>TOTAL LIABILITIES</b>	

**SECTION 7. MONTHLY INCOME AND EXPENSE ANALYSIS**

**Income** (Please furnish the information requested below from income tax returns, as adjusted, for the past three years.)

	YEAR _____	YEAR _____	YEAR _____
26. Gross receipts from sales, services, etc.			
27. Gross rental income			
28. Interest			
29. Dividends			
30. Royalties			
31. Other income (include description)			

**SECTION 7. MONTHLY INCOME AND EXPENSE ANALYSIS** *(Continued)*

**Income** *(continued)*

	YEAR _____	YEAR _____	YEAR _____
32. Other income			
33. Other Income			
34. Other Income			
35. Other Income			
36. Other Income			
37. Other Income			
<b>TOTAL INCOME</b>			

**Expenses**

	YEAR _____	YEAR _____	YEAR _____
38. Compensation of officers <i>(attach detailed list)</i>			
39. Net wages and salaries <i>(including stock options, bonuses, loan payments, and cash pay-outs)</i>			
40. Materials purchased			
41. Rents			
42. Installment payments			
43. Supplies			
44. Utilities/telephone			
45. Gasoline/oil			
46. Repairs and maintenance			
47. Insurance			
48. Taxes			
49. Other expenses <i>(include description)</i>			
50. Other expenses			
51. Other expenses			
52. Other expenses			
53. Other expenses			
54. Other expenses			
<b>TOTAL EXPENSES</b>			
<b>Net difference</b> <i>(total income less expenses)</i>			

## Questions and Answers

**Q What does the CDTFA consider a fair offer in relation to the amount due?**

**A** Generally, an offer will be accepted when the amount offered is more than the CDTFA can expect to collect within a reasonable period of time, generally from five to seven years. The CDTFA will generally give more favorable consideration to those offers that include repayment of at least the tax or fee portion of the liability.

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

**A** Generally, if we accept your offer for processing, we will have a decision to you within 180 days after receiving your offer. If your account is more complex, it may take longer than 180 days.

**Q Can I make payments on the offered amount?**

**A** Yes. Beginning January 1, 2009, both qualified active businesses and closed out businesses can make monthly installment payments towards the offered amount as long as the total amount of the offer is paid in full within twelve months. Or you may choose to pay the offered amount in a lump sum payment. If you choose to make installment payments and the offered amount is not paid within 12 months, your offer will be denied and all funds received through the offer will be retained.

**Q Can prior payments be applied to the offered amount?**

**A** No. Prior payments are not accepted towards the offered amount. However, prior payments and the offered amount compared to the total liability are taken into consideration when evaluating your offer.

**Q My IRS/FTB/EDD OIC has been accepted. Will the CDTFA automatically approve my offer?**

**A** No. Your CDTFA offer will be evaluated separately from your IRS, FTB, or EDD offer.

**Q If the CDTFA determines that my offer is not acceptable, will I be contacted?**

**A** Yes. In most cases, we will contact you to discuss your account and to determine the most appropriate resolution of your account. For example, if we determine that you have the ability to make monthly payments that will exceed the amount offered, we will work with you to establish an Installment Payment Agreement. You will receive a written response concerning your offer.

**Q Will state tax liens be released if my offer is accepted?**

**A** Yes. We release state tax liens upon final approval and funding of your offer. If another partner existed on the permit, the other partner's liability will not be cancelled nor will the other partner's lien be released.

**Q Do I need to have someone represent me?**

**A** No. Representation is not required. An OIC is available to all taxpayers or feepayers, whether or not they are represented. If you think you need representation, there are many tax professionals who have experience with the OIC process.

**Q If my offer is rejected, can I choose to apply the deposit to my liability?**

**A** Yes. If you choose to do so, the effective date of the payment is the date the deposit was made.

**Q Where can I get a Power of Attorney, CDTFA-392?**

**A** Many CDTFA forms and publications, including CDTFA-392, can be downloaded from our website [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov). If you do not have access to the Internet or you prefer to speak to someone, you can contact your local office or our customer service representatives at 1-800-400-7115 (TTY:711).

Unless you have been otherwise directed, you must submit your offer to the representative assigned to your account. If you do not know the name of the representative assigned to your account, please contact your local office. For more specific information on the OIC process, you may contact the OIC Section at 1-916-322-7931.

## Offices

<b>City</b>	<b>Phone Number</b>
Bakersfield	1-661-395-2880
Cerritos	1-562-356-1102
Culver City	1-310-342-1000
El Centro	1-760-352-3431
Fairfield	1-707-427-4800
Fresno	1-559-440-5330
Glendale	1-818-543-4900
Irvine	1-949-440-3473
Oakland	1-510-622-4100
Rancho Mirage	1-760-770-4828
Redding	1-530-224-4729
Riverside	1-951-680-6400
Sacramento	1-916-227-6700
Salinas	1-831-754-4500
San Diego	1-858-385-4700
San Francisco	1-415-356-6600
San Jose	1-408-277-1231
Santa Clarita	1-661-222-6000
Santa Rosa	1-707-576-2100
Ventura	1-805-677-2700
West Covina	1-626-480-7200

### Out-of-State Offices

Chicago, IL	1-312-201-5300
Houston, TX	1-713-739-3900
New York, NY	1-212-697-4680
Western States	1-916-227-6600

## Taxpayers' Rights Advocate

Toll-free number	1-888-324-2798
Phone	1-916-324-2798
Fax	1-916-323-3319

## Customer Service Center

You can call our toll-free Customer Service Center for answers to your general tax questions. Representatives are available to assist you Monday through Friday 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

Toll-free number 1-800-400-7115 (TTY:711)

Visit us on the Internet at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)

*Telephone numbers are current as of August 2020, but are subject to change. We recommend you call the office before visiting.*