

# Offer In Compromise Application

for Corporations, LLCs, Partnerships, Trusts, and Other Business Organizations





CDTFA-490-C REV. 5 (4-24)

### WHAT YOU SHOULD KNOW BEFORE PREPARING AN OFFER IN COMPROMISE

#### Are you an OIC candidate?

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

Effective January 1, 2009, through January 1, 2028, the OIC program will extend to qualified active businesses where the taxpayer has not received tax or fee reimbursement for taxs 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.

Generally, we approve an OIC when the amount offered represents the most we can expect to receive from the taxpayer's current income or assets and future income for a reasonable period of time, and the OIC is in the best interest of the state. Although each case is evaluated based on its own merit, we give the following factors strong consideration:

- The entity's ability to pay
- The amount of equity in the entity's assets
- The entity's present and future income
- The entity's present and future expenses
- The potential for changed circumstances

#### 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. To make an offer as an individual or an individual of a partnership, please download CDTFA-490, *Offer in Compromise Application*, from our website or contact your local CDTFA office.

#### Can we process your offer?

We will only process your OIC application if you meet one of the following conditions:

- You no longer have a controlling interest or association with the business that incurred the liability or a related business.
- You represent 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 must also fully complete the OIC application and provide all supporting documentation.

# Should you continue to make installment payments while your offer is being evaluated?

Yes. You should continue making timely payments as established in your installment payment agreement while we consider your offer. We will strive to process your offer and respond within 30 days of receiving your completed application and documentation.

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

We will usually suspend collection action while we evaluate your offer. 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.

#### When should you submit offered funds?

We will notify you when it's time to submit your offered amount. We will hold your funds in the form of a noninterest bearing deposit. If we deny your OIC, we will refund the full amount of your deposit to you, or you may choose to apply the deposit to your liability. We will not pay credit interest to you on the deposited amount if your offer is denied.

For more specific information on the OIC process, you may contact the OIC Section at 1-916-322-7931.

#### CDTFA-490-C (S1F) REV. 5 (4-24) OFFER IN COMPROMISE APPLICATION FOR CORPORATIONS, LLCS, PARTNERSHIPS, TRUSTS, AND OTHER BUSINESS ORGANIZATIONS

You must submit the following documentation with your Offer in Compromise application, or we may return your application as incomplete. **Please submit copies only.** We will not return any documents that you send to us. Do not bind, staple, or tape your pages, or include page separators. We may request additional documentation as we proceed with evaluating your *Offer in Compromise*.

#### 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 Expenses

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

#### **Bank Information**

Bank statements for savings and checking accounts for the last 12 months, including final statements 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 years.

#### Vehicle Information

Copies of loan or lease statements for any vehicles.

#### **IRS, FTB, and EDD Information**

Complete copies of Internal Revenue Service (IRS) or Franchise Tax Board (FTB) returns for the past three 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(s) or documentation of other IRS, FTB, and 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

We will mail a form to you if we need to verify financial information.

#### **Power of Attorney**

We require a power of attorney if a designated representative submits this offer or if you want us to direct questions or requests for information to your representative. You may use CDTFA-392, *Power of Attorney*.

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.

Please complete all sections, except shaded areas. Write "N/A" (Not Applicable) in any sections that do not apply. Information should be typed or printed. Attach additional pages as needed.

#### **SECTION 1. BASIS FOR THE OFFER**

I submit the following facts and reasons as grounds for acceptance of this offer.

#### **SECTION 2. SOURCE OF FUNDS**

If any or all of the amount you wish to offer is funded by a loan, please provide the following information:					
LENDER'S NAME	TELEPHONE NUMBER	TOTAL AMOUNT OF THE LOAN			
		\$			
LENDER'S ADDRESS (city, state, ZIP Code)	L	TOTAL AMOUNT FROM OTHER SOURCES			
		\$			
DESCRIBE SOURCE(S) OF OFFERED FUNDS OTHER THAN A LOAN					

#### **SECTION 3. OFFER AMOUNT**

We will tell you when to send the offered amount. Do not send money now.		
SELLER'S PERMIT OR CDTFA ACCOUNT NUMBER(S)	AMOUNT OWED TO CDTFA	AMOUNT OFFERED IN COMPROMISE

It is understood that CDTFA will consider and act upon this offer as quickly as possible. This offer does not relieve the taxpayer(s) of the liability sought to be compromised until CDTFA accepts the offer and there has been full compliance with all agreements. CDTFA may continue collection activities at its discretion.

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

It is further agreed that upon notice to the taxpayer(s) of the acceptance of the offer, the taxpayer(s) 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 under the compromise agreement are completely performed. In the event of a default by the taxpayer(s) on the agreement, it is agreed that CDTFA may disregard the amount of the offer and retain all amounts previously deposited under the offer and proceed to collect the balance of the original liability.

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.

APPLICANT (please print)	APPLICANT (signature)	DATE
CO-APPLICANT (please print)	CO-APPLICANT (signature)	DATE

#### **PROCESSING ACCEPTED OFFERS**

Generally, we will not forward an offer for approval until the offer is funded. Once the offer is approved and funded, CDTFA will process all the necessary adjustments to your account balance. We will mail releases of liens (if applicable) directly to the county in which they were recorded. The taxpayer 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, we will refund any deposit already obtained or apply it to the liability at the request of the taxpayer with an effective date as the date the funds were received. We will not grant interest on returned deposits. If a third party posted the deposited amount, we must get written permission from the third party to apply the deposit. We will return the case to the field office with a recommendation for case handling.

There is no formal appeal process for rejected or denied offers in compromise.

#### 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 (EIN)		TELEPHONE NUMBER
CORPORATE OFFICER/DIRECTOR/SHAREHOLDER'S NAME AND ADDRESS			

TELEPHONE NUMBER

TELEPHONE NUMBER

AUTHORIZED REPRESENTATIVE'S ADDRESS (Attach power of attorney.)

#### 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	EIN

#### 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 three years.

NAME OF INSTITUTION	ADDRESS	TYPE	DATE OPENED	ACCOUNT NUMBER	BALANCE

TOTAL (Enter this amount on line 2, Section 6 [Asset and Liability Analysis])

#### VEHICLES

PURCHASE PRICE	LENDER/PINK SLIP HOLDER	CURRENT MARKET VALUE	CURRENT PAYOFF	AVAILABLE EQUITY

TOTAL (Enter this amount on line 3, Section 6 [Asset and Liability Analysis])

### SECTION 5. GENERAL FINANCIAL INFORMATION (Continued) VEHICLES, EQUIPMENT, OR PROPERTY SOLD, GIVEN AWAY, OR REPOSSESSED DURING THE LAST THREE YEARS

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

#### CHARGE CARDS AND LINES OF CREDIT

NAME OF INSTITUTION	ADDRESS	CREDIT LIMIT	CREDIT AVAILABLE	AMOUNT OWED	MO. PAYMENT
		TOTAL			

**TOTAL** (Enter this amount on line 19, Section 6 [Asset and Liability Analysis])

#### SECURITIES (stocks, stock options, bonds, mutual funds, money market funds, other securities, and others.)

TYPE	BROKERAGE NAME	OWNER OF RECORD	QUANTITY OF DENOMINATION	CURRENT VALUE

**TOTAL** (Enter this amount on line 5, Section 6 [Asset and Liability Analysis])

#### JUDGMENTS

NAME	CASE NUMBER	DATE RECORDED	WHERE RECORDED	PAYABLE OR RECEIVABLE?	AMOUNT

TOTAL Receivable (Enter receivable amount on line 10, Section 6 [Asset and Liability Analysis])

TOTAL Payable (Enter payable amount on line 24, Section 6 [Asset and Liability Analysis])

#### SECTION 5. GENERAL FINANCIAL INFORMATION (continued)

## **REAL PROPERTY** (Include a copy of the deed and list quit claims within the last five years. Attach additional

pages as needed.)

A) PHYSICAL ADDRESS AND DESCRIPTION (single-family dwelling, multi-family dwelling, lot, etc.)		
MORTGAGE LENDER'S NAME AND ADDRESS		
HOW IS TITLE HELD?	PURCHASE PRICE	PURCHASE DATE
B) PHYSICAL ADDRESS AND DESCRIPTION (single-family dwelling, multi-family dwelling, lot, etc.)		PARCEL NUMBER
MORTGAGE LENDER'S NAME AND ADDRESS		
HOW IS TITLE HELD?	PURCHASE PRICE	PURCHASE DATE
C) PHYSICAL ADDRESS AND DESCRIPTION (single family dwelling, multi-family dwelling, lot, etc.)		PARCEL NUMBER

#### MORTGAGE LENDER'S NAME AND ADDRESS

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

#### TOTAL (Enter this amount on line 9, Section 6 [Asset and Liability Analysis])

#### MACHINERY AND EQUIPMENT

DESCRIPTION (manufacturer, model number, etc.)	NAME AND ADDRESS OF LIEN/NOTE HOLDER	BALANCE DUE	FAIR MARKET VALUE

TOTAL (Enter this amount on line 11, Section 6 [Asset and Liability Analysis])

#### **MERCHANDISE INVENTORY**

DESCRIPTION	COST	BALANCE DUE	LIQUIDATION VALUE	CURRENT MARKET VALUE
	· · · · · · · · · · · · · · · · · · ·	· · · · · · · · · · · · · · · · · · ·		

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

Please provide other information relating to your financial condition. If you check yes, please provide dates, explanation, and documentation. Documentation should cover the last three years.

DIVIDEND DI	STRIBUTIONS	(If yes, please list dates and amounts of three most recent distributions.)
YES	NO	
PENDING LIT	FIGATION OR JUDGMENT	(If yes, please provide case number and court location.)
YES	NO	
REPOSSESS	IONS	
YES	NO	
ANTICIPATE	D INCREASE IN INCOME	
YES	NO	
BANKRUPTC	CIES/RECEIVERSHIPS	(If yes, please include chapter, case number, and date filed.)
YES	NO	
RECENT TRA	ANSFER OF ASSETS	(If yes, please include details on disbursements of entity's assets.)
YES	NO	
BUSINESS S	OLD	(If yes, please provide a copy of the sales contract.)
YES	NO	
ENTITY OFFI	CIALLY DISSOLVED	(If yes, please include details on disbursements of entity's assets. List all disbursements during the last six months on a separate page.)
YES	NO	
ARE FORECL	OSURE PROCEEDINGS PE	ENDING 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 (from section 5)	
3. Vehicles and available equity (from section 5)	
4. Loan (from section 5)	
5. Securities (from section 5)	
TOTAL CURRENT ASSETS	

#### **REAL PROPERTY** (from section 5)

ADDRESS OR LOCATION	A CURRENT MARKET VALUE	B MORTGAGE PAYOFF AMOUNT	C EQUITY
6.			
7.			
8.			
		TOTAL FOURTY	

(Column A minus Column B equals Column C) TOTAL EQUITY

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

OTHER ASSETS (Please include names and addresses. Attach a separate listing if necessary.)

		1
	DESCRIPTION	VALUE
9. Accounts or notes receivable (from section 5)		
10. Judgments or settlements receivable (from section 5)		
11. Machinery and equipment (from section 5)		
12. Merchandise inventory (from section 5)		
13. Aircraft or 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		
	TOTAL LIABILITIES	
18. Subtotal of assets (current, equity, and other)		
CURRENT LIABILITIES (Attach additional pages as needed)		
19. Lines of credit (amount owed from section 5)		
20. Notes and 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 ( <i>provide a copy</i> )		
25. Other liabilities (include description)		
	TOTAL LIABILITIES	

#### 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			

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

#### **INCOME** (Continued)

37. Other income			
36. Other income			
35. Other income			
34. Other income			
33. Other income			
32. Other income			
	YEAR	YEAR	YEAR

TOTAL INCOME

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#### EXPENSES (continued)

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

Net difference (total income less expenses)

#### **QUESTION AND ANSWERS**

- Q What does the California Department of Tax and Fee Administration (CDTFA) consider a fair Offer in Compromise (OIC) in relation to the amount due?
- A Generally, we will accept an offer when the amount offered is more than we can expect to collect within a reasonable period of time (typically four years), and the offered amount is in the best interest of the state. We generally give more favorable consideration to offers that include repayment of at least the tax or fee portion of the liability.

#### Q How long will it take to get a response on my OIC?

A We are able to respond to most offers within 30 days of receipt. However, more complex accounts may take longer than 30 days to review.

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

A The department may, in its discretion, enter into a written agreement that permits the taxpayer to pay the compromise in installments for a period not exceeding one year.

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

A No. We do not accept prior payments towards the offered amount. However, we do consider prior payments and the offered amount compared to the total liability when we evaluate your offer.

#### Q My IRS, FTB, or EDD OIC has been accepted. Will CDTFA automatically approve my offer?

A No. We evaluate your offer separately from your IRS, FTB, or EDD offer(s).

#### Q Will CDTFA contact me if my offer is declined?

A Yes. We will send you a letter informing you of our decision, and 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 exceed the amount offered, we will work with you to set up an installment payment agreement that will allow you to pay the liability in full over time.

#### 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, we will not cancel the other partner's liability nor will we release the other partner's lien.

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

A We do not require you to have representation. The OIC application and process are available to all taxpayers, with or without representation. If you think you need representation, there are many tax professionals who have experience with the OIC process.

#### Q If my OIC is declined, can I apply the deposit to my liability?

A Yes. In this case, the effective date of the payment will be the date the deposit was made.

#### Q Where can I find forms such as CDTFA-392, Power of Attorney?

A Many CDTFA forms and publications, including CDTFA-392, Power of Attorney, can be downloaded from our website at 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 Center at 1-800-400-7115 (TTY:711). Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

For more specific information on the OIC process, you may contact the OIC Section at 1-916-322-7931.

For additional information or assistance, please take advantage of the resources listed below.

#### CUSTOMER SERVICE CENTER 1-800-400-7115 (TTY:711)

Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

#### OFFICES

Please visit our website at www.cdtfa.ca.gov/office-locations.htm for a complete listing of our office locations. If you cannot access this page, please contact our Customer Service Center at 1-800-400-7115 (TTY:711).

#### INTERNET

www.cdtfa.ca.gov

You can visit our website for additional information—such as laws, regulations, forms, publications, industry guides, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on our website (see Verify a Permit, License, or Account).

Multilingual versions of publications are available on our website at www.cdtfa.ca.gov/formspubs/pubs.htm.

Another good resource - especially for starting businesses - is the California Tax Service Center at www.taxes.ca.gov.

#### TAX INFORMATION BULLETIN

The quarterly Tax Information Bulletin (TIB) includes articles on the application of law to specific types of transactions, announcements about new and revised publications, and other articles of interest. You can find current TIBs on our website at *www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm*. Sign up for our CDTFA updates email list and receive notification when the latest issue of the TIB has been posted to our website.

#### FREE CLASSES AND SEMINARS

We offer free online basic sales and use tax classes including a tutorial on how to file your tax returns. Some classes are offered in multiple languages. If you would like further information on specific classes, please call your local office.

#### WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

For written advice on general tax and fee information, please visit our website at www.cdtfa.ca.gov/email to email your request.

You may also send your request in a letter. For general sales and use tax information, including the California Lumber Products Assessment, or Prepaid Mobile Telephony Services (MTS) Surcharge, send your request to: Audit and Information Section, MIC:44, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0044.

For written advice on all other special tax and fee programs, send your request to: Program Administration Branch, MIC:31, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0031.

#### TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see <u>publication 70</u>, *Understanding Your Rights as a California Taxpayer*, or contact the Taxpayers' Rights Advocate Office for help at 1-888-324-2798. Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0070.