

**3. Offer to settle the debt by paying part of the tax
(Offer in Compromise Based on Doubt as to
Collectibility)**

If you owe the tax debt but know you cannot pay all of it, you may be able to get the IRS to agree to take less. You have to prove that all your money goes for needed expenses. You must also prove you do not have enough to sell to pay all the tax debt.

To ask to pay only part, send in IRS Forms 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, and Form 656, *Offer in Compromise*. You must also send 20% of the total amount you want to pay. If you are low income, you may not have to pay the 20%. If you are asking to make monthly payments, start making the payments right away. Do not wait until the IRS decides if they will accept your offer.

It costs \$150 to file these papers. But if you have low income, you can file for free. To find out if you must pay the fees, read the instructions to IRS Form 656-A at www.irs.gov.

Note: If your tax debt is less than \$5,000, the IRS can never file a lien on your home. If you **owe more than \$5,000**, the IRS will not usually try to take your home. A lien does not let the IRS sell your home. The lien only works if **you** sell your home. The IRS takes the taxes you owe from the money you get from the sale.

**What if I Owe the Tax
and Can Pay but Paying
Would Cause Me Problems?
(Offer in Compromise
Based on Effective Tax
Administration)**

If you owe and can afford to pay but paying would cause you problems, you can file an Offer in Compromise Based on Effective Tax Administration to settle the debt. This is for people who have hardships such as medical problems, disabilities, or other situations that prevent them from paying the debt.

If this applies to you, send in Form 656, *Offer in Compromise*.

Remember to open and read each letter you receive from the IRS.

REMEMBER:

This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.

If you have a communications limitation, contact us through the Ohio Relay Service. Interpretation services are available so that anyone can communicate with us in his or her dominant and/or preferable language.

Legal Aid has a Low-Income Taxpayer Clinic to help you with your tax issues. If you are a low-income person and have legal problems, call your county's Legal Aid Office or visit us at www.lasclev.org.



The
Legal Aid Society
of Cleveland
Since 1905

*This brochure was prepared by
Legal Aid which serves low-income
residents of five counties.*

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8 North State Street
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IRS Tax Debts?



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What if I Don't Owe the Tax?

If you don't think you owe the tax debt, you can ask the IRS to review your reasons. There are at least two things you may do - Audit Reconsideration or Offer in Compromise.

1. Audit Reconsideration - Ask the IRS to review your case

After you file a tax return, the IRS reviews it. If the IRS thinks that you made a mistake on your tax return, they can change it. Usually, the IRS has 3 years to change it. The IRS' change may be wrong. You can ask the IRS to fix it. This is called *Audit Reconsideration*. You can do it for free.

You can file Audit Reconsideration any time. To get a refund, generally you should file within 3 years from when your tax return was due or 2 years from the date the taxes were paid, whichever is later. To file, send the IRS information explaining the problem. Include:

- **Audit Reconsideration** as the title;
- your facts including what changes you want the IRS to make;
- why you think the IRS is wrong;
- *copies* of papers that prove your case; and
- a copy of the exam report (IRS Form 4549, *Income Tax Examination Charges*), which explains how the IRS changed your tax return. (If you no longer have this form, you can request it for free from the IRS by calling 800-829-1040.)

If you paid the amount due in full, you must also attach a completed IRS Form 1040X, *Amended U.S. Individual Tax Return*.

Send your explanation with the copies of the papers to the office listed on your exam report letter.

If the IRS fixes your return, you may not owe the tax. You might also get a refund! (Be sure to tell your tax preparer about the refund when you file for the year you received the refund because your total refund check might include interest.)

It is a good idea to file Audit Reconsideration when you have not sent the IRS proof of your claims when the IRS first contacted you about your tax return **OR** if they have lost your proof. If you would like to know more, see IRS Publication 3598.

Example: Karen claimed the Earned Income Tax Credit (EITC) on her tax return. She got a refund check. After writing to her to request proof, and not receiving any response or enough information in Karen's response, the IRS changed Karen's tax return and took away the EITC. The IRS sent her a bill. Since Karen didn't owe the bill, she filed for Audit Reconsideration. She sent proof that she should get the EITC. The IRS took away the tax debt. Karen got to keep her refund.

2. Offer in Compromise - Doubt as to Liability - Offer to settle the debt by paying part of the tax

If you think the IRS made a mistake and you do not owe what they say, you can file an **Offer in Compromise (OIC)** based on doubt as to liability. Filing is free but you will have to pay an amount to settle the debt and you may not get a tax refund.

- To file an OIC:
- send in a complete IRS Form 656, *Offer in Compromise* ;
 - check "doubt as to liability" on Form 656;
 - send proof that you do not owe the tax; and
 - write a letter explaining the reasons why you do not owe the tax.

Example: Jose claimed a \$2,000 business deduction on his tax return. Jose sent the IRS proof of his business deduction. The IRS disagreed with the proof and sent him a \$1,000 bill. Jose filed an Offer in Compromise based on doubt as to liability. The IRS accepted \$500 to settle the \$1,000 tax debt.

It is usually a good idea to file an OIC based on doubt as to liability when the IRS has seen your proof but disagrees with you.

It costs \$150 to file these papers. But if you have low income, you can file for free. To find out if you must pay the fees, read the instructions to IRS Form 656A at www.irs.gov or call **1-800-829-1040**.

What if I Owe the Tax but I Cannot Pay It?

You have at least three choices.

1. Make monthly payments (Installment Agreement)

Agreeing to make monthly payments is called an **Installment Agreement**.

A monthly payment plan costs \$105 to set up. If you let the IRS take the payments out of your bank account each month, you will only have to pay \$52. *You may only have to pay \$43 if you are low income.*

Until you paid all of your tax debt, the IRS will add interest and penalties each month. If you requested an Installment Agreement and the IRS has not approved the agreement yet, you should try to make payments while you are waiting for approval.

- There are two kinds of monthly payment plans.
- **Full Pay** lets you pay **all** the tax debt within the 10 year period that the IRS has to collect tax debts. Generally, the IRS wants full payment within five years and will calculate your payment amount over a five year period.
 - **Partial Pay** lets you make monthly payments, too. But it will **not** pay all that you owe. The IRS may require you to send in proof of your income and living expenses.

Fill out IRS Form 9465, *Installment Agreement Request*, or IRS Form 2159, *Payroll Deduction Agreement*. You can get these forms or any other at www.irs.gov or by calling **1-800-829-1040**.

2. Ask to be placed in Currently Not Collectible (or "hardship") status

If you don't earn enough to make monthly payments, you can ask the IRS to place your account in Currently Not Collectible Status (financial hardship) and request a delay in the collection process.

You have to prove all your money goes for necessary expenses. If paying your tax debt simply makes it hard to pay your bills, the IRS **will not** approve your request.

To ask for this plan, fill out IRS Form 433-F, *Collection Information Statement*. You can get this form at www.irs.gov. You must also call the IRS Collections Department at **1-800-829-7650**. It's a free call.

If the IRS agrees, **you do not have to make any payments! But you still owe the tax.** You will get one letter each year telling you how much you owe. The IRS does not charge a fee, but the IRS will **keep adding** interest and penalties to your tax debt. The IRS might also place a lien on your property. This means if you sell it, the IRS will get the money from the sell to pay the tax debt. The IRS will also keep tax refunds to cover your debt.

You still must file your tax returns each year, if you are required to do so.

The IRS usually has 10 years to collect tax debts. If you have a financial hardship and the 10 year period ends, the IRS should remove the tax.