



# Offer in Compromise Information

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# What is an Offer in Compromise?

The South Carolina Department of Revenue (SCDOR) allows qualifying taxpayers to settle a tax liability for less than the full amount owed through a lump sum payment, called an Offer in Compromise (OIC). The goal of an OIC is to collect a tax liability through an offer that reasonably reflects collection potential. When a taxpayer accepts the results of an OIC, they get a fresh start with the SCDOR. In return, the SCDOR expects the taxpayer to remain compliant with their tax obligations in the future.

There are two reasons for submitting and accepting an OIC. The first is that the SCDOR doubts it has the ability to collect the full amount owed. The second is an economic hardship where the taxpayer has the ability to pay the liability but cannot due to exceptional circumstances.

After a thorough evaluation of a taxpayer's financial condition, the SCDOR will determine if a taxpayer's financial situation will prevent full payment for the foreseeable future. The SCDOR will not consider the OIC if it determines that the intent of the OIC was to delay collection or otherwise jeopardize the SCDOR's ability to collect the tax debt.

## Determining Basic Eligibility

The SCDOR will evaluate an Offer in Compromise **only** if the following conditions apply:

- The assessment is for at least one South Carolina tax debt of \$10,000 (not including penalties, interest, and court costs) or more for a single filing period.
- The taxpayer is willing to make a non-refundable initial payment of at least 10% of the amount offered in the compromise.
- The taxpayer has completed and submitted all applications and forms.
- The taxpayer has filed all legally required tax returns.
- The assessment is not subject to criminal investigation.
- The taxpayer has made all current year withholding and estimated payments, if required.
- The assessment is not related to South Carolina Sales or Withholding Taxes.

## Additional Required Documentation

- Pay stubs
- Bank account statements
- Federal Income Tax Returns
- Health or disability verification
- Mortgage or vehicle lien verification
- Other claimed lien verification

## Other Additional Documentation

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Depending on your situation, you may also be required to submit the following documents:

- Copy of death certificate
- Proof of funeral costs
- Copy of police reports

## Factors Considered

### Best Interest of the State

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An OIC must equal or exceed the amount the SCDOR can collect over the statutory period of collections. If a taxpayer has the ability to fully pay the tax liability, either immediately or through an installment agreement, or they can pay a greater amount than what is offered in the compromise, the OIC will be denied. If a garnishment of earned income will collect more over the statutory period of collection than the amount offered, an OIC may be denied.

### Tax Compliance History

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If a taxpayer has a history of regular or willful non-compliance with tax collection statutes, the OIC may be denied.

### Net Equity in Assets

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A taxpayer's liquid assets will be evaluated, including, but not limited to: cash on hand, average of all bank account balances, equity in investments, available credit, equity in real property, personal vehicles, and personal assets.

### Disposable Income

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A taxpayer's monthly disposable income will be determined by subtracting actual expenses from total income.

### Lifestyle

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If a taxpayer has made extravagant purchases unrelated to daily living expenses while not filing required returns and paying taxes due, the OIC may be denied.

### Economic Hardship Situation

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A taxpayer's special circumstance affecting their ability to fully pay the tax liability will be taken into consideration when evaluating the OIC.

# Submitting an Offer

Forms and documentation must be submitted to the SCDOR's Taxpayer Advocate by email, fax, or mail. Acceptable forms of payment include a check or money order payable to the South Carolina Department of Revenue.

## Continuation of Collections

Submitting an Offer in Compromise does not suspend collection activity. The SCDOR will continue to enforce all active levies issued prior to receiving an OIC while the OIC is being considered. All payments received will be applied to the balance and not towards the offer amount.

# After Submitting an Offer

## Evaluation of an Offer in Compromise

The SCDOR will only begin evaluating the OIC after the taxpayer has submitted all required forms and documentation. Upon receipt of all required items, the SCDOR has 30 days to evaluate the OIC.

Submitting the OIC does not automatically suspend collection activity. If there is an indication that the taxpayer filed the OIC to delay collection of the tax, or if delay of collection would interfere with the SCDOR's ability to collect the tax, then collection efforts will continue. If a taxpayer has an installment payment agreement prior to submitting the OIC, the taxpayer must continue making payments while the OIC is being considered.

## Acceptance of an Offer in Compromise

If accepted, the SCDOR will mail a Notice of Acceptance to the taxpayer. The taxpayer will have 30 days from the date of acceptance to pay any unpaid offered amounts plus any required interest accrued since the original OIC date.

Taxpayers must comply with all contractual terms and conditions of the Offer. Failure to adhere to the terms and conditions of the OIC will result in a default of the OIC. If the OIC defaults, the SCDOR will reinstate the compromised tax liability, and the collection process will resume.

State tax liens will be released when the offer amount and any additional owed interest is paid in full. Acceptance of an OIC for a specific time period does not prevent the SCDOR from auditing the same tax period within the statute of limitations.

## Denial of an Offer in Compromise

If denied, the SCDOR will mail a Notice of Denial to the taxpayer. The taxpayer must immediately contact the SCDOR to arrange payment of the liability.

# Contact Us

## **Taxpayer Advocate**

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Visit [dor.sc.gov](https://dor.sc.gov) for more information or contact SCDOR's Taxpayer Advocate.