



Offer in Compromise (OIC) Guide

Taxpayer Advocate Office (TAO)

Overview of the OIC Program

- An OIC is a formal agreement between you (the taxpayer), and DOR to settle a tax liability for less than the full amount owed.
- The program is to be handled and administered solely by the TAO.
- An OIC is based on the taxpayer's ability to pay and DOR's assessment of collection potential in the best interest of the State.
- Submitting an OIC does NOT guarantee acceptance.
- The OIC Program is available free of charge to all taxpayers, with or without representation, who meet the eligibility requirements. If you would like representation by an attorney, accountant or another party, you must complete and attach **Form POA-1**, Power of Attorney, when you submit your application.

Indiana Department of Revenue (DOR) resources

- **Resources**
 - **Taxpayer Advocate Office**
Phone: 317-232-4692
Email: taxadvocate@dor.in.gov
Website: [Taxpayer Advocate Office](#)
 - **Taxpayer Rights**
Every taxpayer has a set of fundamental rights they should be aware of when dealing with DOR. Read the [Taxpayer Bill of Rights](#) for more information on your rights as a taxpayer.
 - **Note:** DOR's TAO assists taxpayers and protects taxpayer rights. When taxpayers are facing complex and special tax problems, they may be unable to resolve their issue through normal processes. The Taxpayer Advocate Office can assist in different ways.

Disclaimer:

This guide is intended to provide an overview only. Indiana tax statutes, regulations, Indiana Department of Revenue rulings, or court decisions supersede information provided in this guide.

Legal Authority

The OIC is authorized in Indiana Code 6-8.1-3-17(a) which states:

Sec. 17. (a) Before an original tax appeal is filed with the tax court under IC 33-26, the commissioner, or the taxpayer rights advocate office to the extent granted the authority by the commissioner, may settle any tax liability dispute if a substantial doubt exists as to:

- the constitutionality of the tax under the Constitution of the State of Indiana;
- the right to impose the tax;
- the correct amount of tax due;
- the collectability of the tax; or
- whether the taxpayer is a resident or nonresident of Indiana.

What an OIC could do for you

- Settle all or any portion of a final tax liability, plus interest and penalties, for less than the current outstanding amount.
- Allow acceptance of a lump sum payment to satisfy your liabilities for less than your current outstanding balance.
- Satisfy the liability for less than your current balance with a short-term payment plan.

What an OIC cannot do for you

- Cancel or discharge your outstanding tax liabilities without payment.
- Put your tax obligation on hold indefinitely.
- Intervene when a legal action has been filed, such as a wage garnishment, bank account levy, collection, suit, or court-ordered appearance.

Eligibility Checklist

To meet the requirements, you must be able to answer “true” to each of the following statements for DOR to consider your OIC request:

- The tax liability is final, or the proposed agreement is made to settle an appeal in progress.
- You have filed all required returns or are submitting a detailed explanation of circumstances for any returns you didn't file because you believe you were not legally required to file it.
- You will file and pay all required due and future returns while the OIC is pending.
- You are not currently the subject of an open bankruptcy proceeding.
- All estimated payments (if required) for the current year have been paid to date.
- You have not been granted an OIC within the past five years, regardless of status.
- You have not repeatedly applied (more than two attempts within one year) without following the appropriate steps for review.

If you answered “false” to any of these statements, you are not eligible to submit an OIC. Once you meet all the above conditions, you may submit an OIC.

Note: Filing an extension does not constitute filing returns timely or result in eligibility for the program.

Types of Offers

1. Doubt as to Collectability

- There is doubt that the taxpayer could ever pay the full amount of tax liability owed. TAO will consider this type of OIC when the taxpayer is unable to pay the taxes in full either by liquidating assets or through an installment agreement that would accomplish repayment within a reasonable timeframe.

2. Economic Hardship

- The taxpayer does not have any doubt that the assessed amount is correct, and there is potential that they can pay the full amount of tax owed—however, an exceptional circumstance exists that would create economic hardship if the taxpayer had to repay the total amount owed.

Note: To be eligible for an OIC on this basis, the taxpayer must demonstrate that collecting the tax would create economic hardship.

When applying for either of these types of OIC, the taxpayer must complete and submit one or both of the following forms based on the taxpayer’s unique situation:

- **Form CIS-I:** for individuals/self-employed
- **Form CIS-B:** for businesses

Application Process

Step 1 – Gather Financial Information

- For DOR to accurately evaluate your OIC, you will need to gather information about your financial situation, including cash, investments, assets, income, expenses, and debts. This also includes information about your entire household’s gross monthly income and expenses.
 - The entire household includes all those in addition to yourself who contribute money to pay expenses relating to the household such as, rent, utilities, insurance, groceries, etc.

Note: DOR will not consider unnecessary expenses such as cable, internet, tuition, private schools, college expenses, charitable contributions, and other unsecured debt payments as part of the expense calculation.

Refer to “Reasons for Rejection” for more information on what expenses are necessary and unnecessary.

Refer to “Special Circumstances” for more information on additional forms or documents you may need to provide.

Step 2 – Fill out Form CIS-I, Collection Information

Statement for Wage Earners and Self-Employed Individuals

- To be considered for an OIC, you must fill out Form CIS-I as an individual wage earner and/or operate as a sole proprietor or are submitting on behalf of a deceased individual.
- If you are married but living separately from your spouse, then you each must submit the Form CIS-I.
- With the form, you will provide a written explanation of any special circumstances that affect your financial situation and attach supporting documentation.

Step 3 – Fill out Form CIS-B, Collection Information Statement for Businesses

- You will fill out Form CIS-B as well as Form CIS-I **ONLY** if you own a business that is anything other than a sole proprietorship. Form CIS-B includes if the business is a Corporation, Partnership, LLC classified as a corporation, single member LLC taxed as a corporation, or other multi-owner/multi-member LLC.
 - This will be used to calculate an appropriate offer amount based on the business assets, income, expenses, and future earning potential.

Step 4 – Submit Application

- **Mail:**
Taxpayer Advocate Office
Indiana Department of Revenue
PO Box 6155
Indianapolis, IN 46206-6155
- **Fax:** 317-232-5425
- **Email:** taxadvocate@dor.in.gov
- Keep a copy for your records

After Submission

- TAO will review the application for completion within two business days of receipt and contact you to confirm or request additional information.
- If the application is complete, TAO will begin the process of evaluating your proposed agreement based on the criteria listed below.
 - If the application is not complete or additional information is needed, TAO will request the information from you—which will need to be received by TAO within 30 days of the request date.
- Keep in mind, penalties and interest will continue to accrue during consideration of your OIC. Collection activity will not cease until TAO receives all the required information for consideration.
- You must continue to file taxes in a timely manner and pay all required tax returns, estimated tax payments, and state tax payments.
Note: Failure to meet your filing and payment responsibilities during consideration of your OIC will result in it being rejected.
- If your OIC is accepted, you must fulfill all your tax filing and payment obligations through the fifth year after your OIC is accepted (including any extensions).

Evaluation Criteria

TAO considers the following information when analyzing an OIC:

- Total Assets
- Total monthly income
- Necessary monthly expenses
- Percentage of income remaining after paying necessary expenses
- If the OIC will be paid in full within 30 days versus long term payment plan

- The tax type(s) that is owed
- The reason for the tax bills(s) owed
- Other items as necessary

Special Circumstances

- **Spouse Joint/Separate tax debts** – If you and your spouse have joint tax debt(s) and/or are responsible for separate tax debt(s), you will each need to send in separate Form CIS-I and, if applicable, Form CIS-B. List your individual and any separate tax debts, and your spouse will list their individual and any separate tax debts.
- **Individual & Business tax debt** – If you have individual and business tax debt that you wish to compromise, you must send in two Forms. Complete Form CIS-I for individual tax debts and Form CIS-B for business tax debts.
 - Business tax debt for open and operational businesses may not be considered for an OIC unless all options have been exhausted with our Payment Services department.
- **Trust Taxes** – Trust Taxes are collected from a taxpayer on behalf of the state and then paid to the state. These include income taxes withheld from an employee’s wages, retail sales tax, food and beverage tax, county innkeeper’s tax, etc. These taxes are held ‘in trust’ on behalf of the state.
- If your business owes trust taxes, responsible individuals may be held personally liable for the trust tax. (i.e., You withheld taxes from employees and did not submit to the state as required – this amount will be expected to be paid in full as required under state law.)
- **Bankruptcy** – If you or your business is currently in an open bankruptcy proceeding, you are not eligible to apply for an OIC.
 - If you are not sure of your bankruptcy status, contact the Bankruptcy team at 317-232-2289. Be prepared to provide your bankruptcy case number and/or Taxpayer Identification Number.
- **Restitution Orders** – DOR cannot change a restitution amount ordered by court or as part of a judgment.

Reasons for Rejection

- **Excess Expenses** – TAO generally uses national collection financial standards produced by the IRS to determine maximum allowable amounts for claimed expenses. Expenses that exceed these standards will be adjusted to the maximum allowed by Federal Standards.
- **Unnecessary Expenses** – TAO reviews all expenses to determine if they are “necessary,” using the following conditions:
 - Necessary living expenses include, but are not limited to:
 - Rent or mortgage payments
 - Heat or air conditioning
 - Necessary Transportation for work or required travel
 - Medical expenses
 - Reasonable food expenses
 - Utilities (electric, telephone)
 - Living expenses DOR considers unnecessary include, but are not limited to:
 - Private school tuition or college expenses
 - Charitable contributions or voluntary retirement contributions
 - Payments on credit cards

- Payments for cable or similar bills
- Vehicle expenses for multiple cars are not necessary to meet work transportation needs.
- Expenses for items such as boats, recreational vehicles, etc.
- Significant dining out expenses
- **Insufficient Documentation** – You must prove items on the financial statement.
 - You will be required to submit sufficient documentation deemed necessary to support income, necessary expenses, and items claimed to prove your claim. Failure to do so within the requested time frame will result in your application being denied.
- **Value of Property or Other Assets** – TAO will assess the value of all property and assets you own based on information readily available to DOR.
- Your OIC may be rejected if DOR determines the value of the property or assets are greater than shown on your financial statement.
- **Omitted Items** – DOR reserves the right to reject your OIC if you omit income, assets, or other items of significance from your financial statement.
- **Trust Taxes** – Your OIC may be rejected if your debt consists of trust taxes collected from others but not remitted to DOR as required.
- **History of Non-Compliance** – A history of regular or willful noncompliance with Indiana’s state tax laws may be grounds for denial of your OIC.

Final Decisions

- **Accepted** – If your OIC is accepted, TAO will send an agreement letter (via mail or approved electronic communication) with terms of the agreement, and any additional instructions related to the payment option you selected.
- **Refunds** – DOR will keep any refunds or offsets while the tax debt is open—even if there is an approved payment plan. Refunds and offsets are credited to your balance due as DOR considers them to be payments you would otherwise be required to make.
- The refund applied is not considered a payment toward the agreed upon payment plan, and you must continue the regularly scheduled payment.
- **Liens** – DOR will release Indiana state tax liens once a debt is paid in full.
- If an OIC is accepted, the paid in full amount will be considered the amount agreed upon.
- **Denied** – If your OIC is denied, TAO will send you a notification letter informing you why your application was denied and closed.
- **Note:** TAO’s decision on all matters is final. There is no appeal.

Payment Options

You should contact TAO immediately to arrange a suitable repayment plan through a DOR-approved Installment Payment Agreement.

- DOR allows for two types of payment options:
- **Option 1:** Pay the offer in full within 30 days.
- A lump sum could result in an additional reduction of the agreed upon amount of up to 10%, with a maximum reduction of \$10,000.
- **Option 2:** Pay the amount in full, within a reasonable amount of time, over a series of installments. This generally does not exceed 72 months.
- TAO’s decision on the amount of time allowed for each payment plan is considered final.

- Down payment will be required upon acceptance of the Agreement. This down payment will be equal to one monthly payment or \$50, whichever is greater.
- Total payments must equal the total offer amount. You may not pay your offer amount with an expected or current tax refund, money already paid, funds attached by any collection action or anticipated benefits from a capital or net operating loss.
- If you are planning to use your retirement savings from an IRA or 401k plan, you may have future tax debt.