

Offer In Compromise Instruction Booklet



State of North Carolina
Department of Revenue

Help Preparing an Offer In Compromise

- This Booklet provides instructions for taxpayers preparing an Offer In Compromise.
- Additional instructions and web-fill versions of forms are available on the Department's web-site at www.dornrc.com.
- Contact the collection agent handling your account or the local service center for your county of residence for assistance with specific questions. See the last page of this booklet for contact information or visit: http://www.dornrc.com/collect/service_center_map.pdf

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What is an Offer In Compromise?

The North Carolina Offer In Compromise program allows qualifying, financially distressed taxpayers the opportunity to put overwhelming tax liabilities behind them by paying a lump sum amount in exchange for the liability being settled in full. The law provides specific requirements for accepting an offer. The goal of the Offer In Compromise program is to resolve a liability in a way that is in the best interest of both the State and the taxpayer.

You are required to provide reasonable documentation of financial condition and ability to pay with your request for an offer. A complete review of your current financial situation will be conducted as a part of the offer process. You will be re-

quired to complete and submit forms detailing your income, expenses, assets and liabilities. You will also be required to substantiate the information on these forms with documents such as pay stubs, loan records, etc.

During the review of your financial condition, the Department will estimate how much it can collect over time if the offer is not accepted. The review must indicate that your financial situation prevents full payment for the foreseeable future.

An offer will not be considered if it is determined that the offer was filed for the purpose of delaying collection or otherwise jeopardizing the Department's ability to collect the tax debt.

Forced collection actions, such as garnishments, in effect at the time you submit your offer, will not automatically be suspended during the review period. Interest and penalty will continue to accrue on any unpaid tax debt while the offer is being considered.

This booklet provides instructions, forms and other materials you will need to submit a request for an offer in compromise. If you have questions or need additional assistance, please contact your local service center. See the last page of this booklet for contact information or visit:

http://www.dornrc.com/collect/service_center_map.pdf

Do I Need Professional Assistance to Submit an Offer?

The NC Offer In Compromise program is designed to be completed by taxpayers with assistance from NCDOR personnel. We encourage taxpayers to seek assistance from our local

service centers. See the last page of this booklet for contact information or visit :

http://www.dornrc.com/collect/service_center_map.pdf

While you are welcome to seek professional assistance, the NC Offer In Compromise program is designed to meet the needs of taxpayers acting on their own behalf.

Statutory Basis for Offer In Compromise

NC Gen. Stat. 105-237.1 provides the authority for the Secretary of Revenue to entertain an offer in compromise:

§ 105-237.1. Compromise of liability.

(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:



(1) There is a reasonable doubt as to the amount of the liability of the taxpayer under the law and the facts.

(2) The taxpayer is insolvent and the Secretary probably could not otherwise collect an amount equal to or in excess of the amount offered in compromise. A taxpayer is considered insolvent only in one of the following circumstances:

a. It is plain and indisputable that the taxpayer is clearly insolvent and will remain so in the reasonable future.

b. The taxpayer has been determined to be insolvent in a judicial proceeding.

(3) Collection of a greater amount than that offered in compromise is improbable, and the funds or a substantial portion of the funds offered in the settlement come from sources from which the Secretary could not otherwise collect.

(4) A federal tax assessment arising out of the same facts has been compromised with the federal government on the same or a similar basis as that proposed to the State and the Secretary could probably not collect an amount equal to or in excess of that offered in compromise.

(5) Collection of a greater amount than that offered in compromise would produce an unjust result under the circumstances.

(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(a)(10) and (a)(11), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020.

(b) Written Statement. – When the Secretary compromises a tax liability under this section and the amount of the liability is at least one thousand dollars (\$1,000), the Secretary must make a written statement that sets out the amount of the liability, the amount accepted under the compromise, a summary of the facts concerning the liability, and the findings on which the compromise is based. The Secretary must sign the statement and keep a record of the statement. If the compromise settles a dispute that is in litigation, the Secretary must obtain the approval of the Attorney General before accepting the compromise, and the Attorney General must sign the statement describing the compromise.

Step 1

Basic Requirements

Please review the following statements. Each statement must be "True" in order for the Department to process your offer request. If your response to any of these statements is "False," your offer cannot be processed at this time.

1. You have filed **all** required tax returns and reports.
2. You have received a final notice of

assessment for all NC state taxes that you owe.

3. You are not the subject of an open or active bankruptcy case.
4. You have filed the current year's tax return (s) and paid any liabilities shown due in full. The current year's return is the return most recently due.

Preparing to Submit an Offer

1. You must file all tax returns that you were legally required to file prior to submitting the offer. All returns required for the current year must also be filed and any liabilities shown due paid in full. If you did not file a return for a prior period because you were not legally required to file, you must include a detailed explanation of circumstances with the offer. All tax returns that become due while the offer is pending must be filed and paid in full by the due date.
2. All estimated payments (if required) must be paid to date for the current year.
3. The [OIC-100](#) and OIC-1062 (Collection Information Statement for Individuals) or OIC-1063 (Collection Information Statement for Businesses) must be completed and signed with appropriate identification numbers and all sections completed. Items that do not apply to you should be notated with “N/A.” If your source of funds is “third party”, please attach form [OIC-102](#) to your [OIC-100](#).

Documents that must be included with the Collection Information Statement are:

- If wage earner, last 2 months paystubs
 - Complete copies of last 3 bank statements for all accounts
 - Complete copies of last 2 federal income tax returns (if required to file)
 - If you claim to also owe the IRS, you must include a current federal account transcript for each outstanding period and tax schedule.
 - Substantiation for any claims of special circumstances made in section 8 of [OIC-100](#) Explanation of Circumstances (copies of actual monthly expenses, court ordered payments, out-of-pocket medical expenses, physician’s statements detailing illness, etc.)
 - Substantiation of claimed mortgages, vehicle liens and any other claimed judgments or liens
 - Additional information must be provided within the requested time frame
4. Liabilities must be final assessed by the Department in order to be considered for settlement. We cannot process an offer if any liability has not been final assessed.
 5. You must pay 20% of the amount offered in compromise (non-refundable) in certified funds when the offer is submitted. Exceptions exist for taxpayers whose income is below [federal poverty guidelines](#) or when a Third Party Affirmation form ([OIC-102](#)) is submitted with the offer.
 6. If your basis for compromise is reasonable doubt as to the amount of liability, please include a computation of the claimed corrected tax due, an explanation of how you arrived at the amount and any verifying documentation.

Step 2

Keep Copies!

You should make copies of all documents submitted to the Department for your records. Do not send original copies with your offer in compromise to the Department since they will not be returned.

Step 3

The collection potential equals your net equity in assets held plus estimated collection potential from future income

Evaluation of an Offer in Compromise

For any basis for compromise other than reasonable doubt as to the amount of liability, complete financial information **must** be provided. You must send information that reflects your financial situation for the three months immediately preceding the date you submitted your offer in compromise. Your offer amount must equal or exceed the amount the Department can collect over the statutory period of collections.

Individual taxpayers must submit form OIC-1062 Collection Information Statement for Individuals, with sections 1 through 8 completed. Proprietorships and self employed individuals should complete sections 1

through 10 on the OIC-1062. Business entities (Corporations, partnerships, LLCs, etc.) should submit OIC-1063 Collection Information Statement for Businesses. Required documentation is listed under the signature line of the collection information statements.

The information provided on the collection information statements (*Form OIC-1062 and OIC-1063*) assists us in determining the collection potential. This collection potential will be comprised of the net equity of your assets plus the amount we project we could collect from your future income.

If the Department's financial analysis indicates that you have

the ability to fully pay the tax liability, either immediately or through an installment agreement, or you can pay a greater amount than that offered in compromise, your offer will be denied. **All offer amounts must exceed zero, and your offer cannot include monies already paid to the Department.**

Net Equity in Held Assets

The Department will begin with an analysis of your liquid assets. These assets include, but are not limited to, cash on hand, an average of all bank account balances, investment and retirement account balances and cash value of all insurance policies. You must include your last 3 months statements for all accounts (checking, savings, and investments), retirement account statements and insurance policy statements with your offer.

Real Property Valuation – The Department will conduct an

analysis of any real property owned by researching the county tax value and subtracting any outstanding mortgages on the property. The most current mortgage statements must be submitted with the offer for the loan to be allowed.

Personal Property Valuation – Purchased vehicle and other licensed asset value is calculated using the [NADA value](#) minus any outstanding loan balance. The most current loan statements for each vehicle/ licensed asset owned must be submitted with the offer for the

loan to be allowed.

Other property – Other properties owned such as inventory or non-licensed assets will be valued based on the amounts claimed on federal income tax returns as well as other research conducted on those assets.

Asset values minus any liens superior to the Department's, such as those arising from IRS or county tax debts, will equal your total equity in assets held.

Monthly Disposable Income

Monthly disposable income is evaluated by subtracting the lesser of monthly allowable or actual expense from total income. Total monthly income is evaluated by examining a total of 2 months paystubs, monthly pensions, social security, dividends, profit from business, alimony, child support, commissions or any other income sources. If your income varies from month to month, the Department may require a longer period of documentation of earned income in order to assess your disposable income.

Total allowable monthly expenses are calculated using [Collection Financial Standards](#) provided by the IRS for housing and utilities, food, clothing & other items, vehicle operating costs, public transportation costs, vehicle loans, and medical costs as well as actual alimony, child support, day care expense, health and life Insurance expense, IRS and estimated tax payments, and any court-ordered payments. If actual monthly expenses are less than Collection Financial Standards, the actual expenses will be evaluated.

The Department will not only consider current disposable income, but also future disposable income by determining what could be collected over the statutory period of collection through an installment agreement or attachment. If more can be collected over the statutory period of collection that the amount you have offered in compromise, your offer will be denied.

20% Down-Payment Requirement

The Department requires a 20% down payment of the offer amount. This will be applied towards your tax liability and will not be refunded if the offer is later denied. Payment must be submitted in certified funds or by credit card. Offers received without the down payment will not be processed.

If your gross income falls below the [Federal Poverty Guidelines](#) or you attach a Third Party Affirmation form ([OIC-102](#)) with your offer, you may be exempted from this requirement.

2015 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household	Poverty guideline
1	\$11,770
2	15,930
3	20,090
4	24,250
5	28,410
6	32,570
7	36,730
8	40,890
For families/households with more than 8 persons, add \$4,160 for each additional person.	

What Factors are Considered When Evaluating My Offer for Acceptance or Denial?

The Department performs an analysis of your financial condition as a part of the review process. Failure to provide documentation to support income, expenses, and loan balances can impact the Department's evaluation of your financial profile and result in denial of your offer.

Omitted Items – If you omit income, assets, or other items of significance from your financial statement, your offer may be denied.

History of Non-Compliance– A history of regular or willful non-compliance with revenue statutes may constitute grounds for rejection of your offer.

Insufficient Documentation -If documentation for outstanding mortgage and loan balances for real and personal property is not provided, the loan balances will not be considered. In addition, claimed expenses for alimony, child support, day care, health and life insurance, IRS

and estimated tax payments, and any court-ordered payments should be provided or the claimed expenses will not be considered.

Property Valuation – The Department will assess the value of all property that you own. If the Department determines value of the property is greater than shown on your financial statement, your offer may be denied.

Collected Taxes – If your debt is based on taxes collected from others, but not remitted (such as sales or employee withholding taxes) the offer may not be accepted.

Earned Income– If an attachment of earned income will collect more over the statutory period of collection than the amount offered, your offer may be denied.

Installment Agreement– If the current installment agreement will pay more over the statutory period of collection than the amount offered in compromise, your offer may be denied.

Other – The law gives the Secretary the option to accept an offer but in no way requires it. In any instance where the Secretary determines that acceptance is not in the best interest of the State, the offer will be denied.

Will offers for my interest only in a joint income tax liability be considered?

In order to settle one person's interest in a joint income tax liability, you must qualify for Innocent Spouse Relief. You cannot be relieved of the liability through an offer in compromise.

No. If you have filed a joint income tax return for the year(s) in which you are requesting relief, you must submit an offer in compromise from both parties that includes financial information from and has been signed by both parties.

Pursuant to G.S. § 105-153.8(e), a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife.

In order to receive relief for your interest in a jointly filed income tax liability, you must qualify for Innocent Spouse Relief under N.C.G.S. § 105-153.8(e). If you request and qualify for Innocent Spouse Relief, you will be notified by the Department of your percentage of relief once your request has been processed. If you do not qualify for Innocent Spouse Relief, you will remain jointly and severally liable for the balance of tax, penalty and interest due. You cannot request an offer in compromise to settle your interest in the outstanding liability.

What Do I Send With My Offer?

1. [OIC-100](#) Form completed and signed (Pages 8 & 9)
 - 1a. If source of funds is “third party”, please attach completed Third Party Affirmation form (Page 10) ([OIC-102](#)) to [OIC-100](#)
2. OIC-1062 (Collection Information Statement for Individuals) or OIC-1063 (Collection Information Statement for Businesses) completed and signed
3. Supporting Documentation
 - If wage earner, last 2 months paystubs
 - Complete copies of last 3 bank statements for all accounts
 - Complete copies of last 2 federal income tax returns (if required to file)
 - If you claim to also owe the IRS, you must include a current federal account transcript for each outstanding period and tax schedule.
 - Substantiation for any claims of special circumstances made in section 8 of [OIC-100](#) Explanation of Circumstances (copies of actual monthly expenses, court ordered payments, out-of-pocket medical expenses, physician’s statements detailing illness, etc.)
 - Substantiation of claimed mortgages, vehicle liens and any other claimed judgments or liens
 - Additional information must be provided within the requested time frame.
4. Liabilities must be final assessed by the Department in order to be considered for settlement. We cannot process an offer if any liability has not been final assessed.
5. The Department requires a 20% down payment in certified funds of the offer amount unless your gross income is below [Federal Poverty Guidelines](#) or you attach a [Third Party Affirmation form](#). This is non-refundable and will be applied against the outstanding liability.
6. If your basis for compromise is reasonable doubt as to the amount of liability, please include a computation of the claimed corrected tax due, an explanation of how you arrived at the amount, and any verifying documentation.
7. Information should be submitted to the [service center](#) serving your county of residence, or in the case of a business, where the business is located. The last page of this booklet provides contact information.

Step

4

Keep Copies!

You should make copies of all documents submitted to the Department for your records. Do not send original copies with your offer in compromise to the Department since they will not be returned.

Form OIC 100
(04-15)

NORTH CAROLINA DEPARTMENT OF REVENUE

OFFER IN COMPROMISE

1) Name and Address of Taxpayer(s)

Name	<input type="text"/>	Date	<input type="text"/>
Trading As	<input type="text"/>	Account ID	<input type="text"/>
Address	<input type="text"/>	SSN/FEIN	<input type="text"/>
City	<input type="text"/> State <input type="text"/>	Zip Code	<input type="text"/>

2) Outstanding Liability

Mark an "X" in the box for the correct tax type. Fill in the corresponding tax period(s) and amount(s) due.

<input type="checkbox"/> Tax Type	<u>Period(s)</u>	<u>Amount of Liability*</u>
<input type="checkbox"/> Individual Income	<input type="text"/>	<input type="text"/>
<input type="checkbox"/> Sales & Use	<input type="text"/>	<input type="text"/>
<input type="checkbox"/> Withholding	<input type="text"/>	<input type="text"/>
<input type="checkbox"/> Other (specify) <input type="text"/>	<input type="text"/>	<input type="text"/>
TOTAL		<u>\$ -</u>

* Include tax, penalty, and interest.

3) Basis For Compromise: (G.S. 105-237.1 authorizes compromises in the following situations. Check the appropriate block (s).)

- There is reasonable doubt as to the amount of the liability of the taxpayer under the law and the facts.
- The taxpayer is insolvent and the Secretary probably could not otherwise collect an amount equal to or in excess of the amount offered in compromise. A taxpayer is considered insolvent only in one of the following circumstances (check one):
 - a. It is plain and indisputable that the taxpayer is clearly insolvent and will remain so in the reasonable future.
 - b. The taxpayer has been determined to be insolvent in a judicial proceeding.
- Collection of a greater amount than that offered in compromise is improbable, and the funds or a substantial portion of the funds offered in the settlement come from sources from which the Secretary could not otherwise collect.
- A federal tax assessment arising out of the same facts has been compromised with the federal government on the same or a similar basis as that proposed to the State and the Secretary probably could not collect an amount equal to or in excess of that offered in compromise.
- Collection of a greater amount than that offered in compromise would produce an unjust result under the circumstances.
- The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable under G.S. 105-164.4(s)(10) and (s)(11), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. The subdivision expires for assessments issued after July 1, 2020.

4) Has any period listed above been compromised with the Internal Revenue Service? _____ If yes, attach a copy of the submitted offer, federal acceptance letter, and total amount due.

5) Amount of Offer:

6) 20% Down Payment
in certified funds: 20% x Line 5

7) Sources of Funds:
* If source of funds is "third party", attach form OIC-102.

Form OIC 102
(06-12)

NORTH CAROLINA DEPARTMENT OF REVENUE
Third Party Affirmation of Offered Amount

Taxpayer Name: _____

Taxpayer SSN/FEIN: _____

Amount Offered: _____

I, _____ (third party name), will provide \$ _____ (amount of offer) in certified funds for _____ (taxpayer name) payable to the North Carolina Department of Revenue within 30 days after acceptance of the offer in compromise.

Printed Third Party Name: _____

Third Party Address: _____

Third Party Signature: _____

Date: _____

_____ State
_____ County

"I, _____, a Notary Public for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 20__.

Notary Public

My commission expires _____, 20__.

Step 5

A Certificate of Tax Liability may be filed at any time while your offer is being considered.

Offer amounts must be paid in full with certified funds or by credit card when an offer is accepted. Payment plans are not accepted for offer funds.

What Happens After My Offer is Submitted?

How we evaluate your offer in compromise: First, the assigned revenue officer makes an initial review of the file to determine whether the offer may be processed and may request additional documentation to verify the information you provide. The complete offer packet is forwarded to the Offer in Com-

promise (OIC) Unit for evaluation of the offer.

The OIC Unit performs an analysis of the information provided. You may be contacted if additional information or documentation is needed.

The OIC Unit makes a recommendation to the Secretary of

Revenue, who has the final approval for all offer in compromise decisions.

Will Collection Actions Stop?

Not necessarily.

There are certain circumstances when the Department will suspend collection activities while we consider your offer.

After an offer is determined to be complete and submitted for processing, we will not act to

collect the tax liability while we consider and evaluate your offer.

We will also allow 14 days for you to respond after we send a letter notifying you of the Department's decision to deny your offer.

It is important to note that the Department will not suspend collection if we determine that you submitted your offer to delay collection or cause a delay which will jeopardize our ability to collect the tax.

If Your Offer is Accepted

The Department will notify you and your designated representative by mail if the offer is accepted. Payment of the accepted offer must be made in certified funds or by credit card by the payment due date as indicated on the acceptance letter (usually 30 days from date of the acceptance letter). The total amount due will be the accepted offer amount less

the 20% down payment. Installment payments made toward the account while the offer is being considered will not decrease the total amount due.

The Department cannot accept payment plans on an offer in compromise.

A recorded Certificate of Tax Liability will be released when

the Department receives payment of the accepted offer amount in certified funds or by credit card.

If an offer in compromise is accepted, the Department will not accept another offer in compromise for you for a period of 10 years after the acceptance date.

If Your Offer is Denied

Notification: You will be notified by mail if the offer is denied.

As part of the review process, the Department will determine the collection potential of your account over the statutory period of collection. If the amount offered is less than what the Department can expect to collect, the offer may be denied. If the amount offered is a small percentage compared to the total amount due, your offer

may be denied. **If you are unable to counter offer**, you should immediately contact the Department to arrange payment of the entire liability.

Installment Payments: If immediate payment of the entire liability is not possible, you may request payment through a Department-approved installment payment agreement.

Appealing the Decision: **North Carolina statutes make no pro-**

vision for appeal of a denied offer. The Department may reconsider a denied offer if there is a material change in the taxpayer's circumstances, or if the Department misinterpreted information contained in the original offer. The denial letter will contain contact information for the Revenue Officer assigned to your case for questions or clarifications.

Step

Where to Submit an Offer or for Assistance Completing an Offer

Call or visit the local Service Center Collection Office that serves your county of residence or location of your business.

6

Office	Counties	Office Location	Telephone
Asheville	Buncombe, Cherokee Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey	2800 Heart Drive Asheville, NC 28806	828-259-4080
Charlotte	Anson, Cabarrus, Gaston, Mecklenburg, Rowan, Stanley, Union	301 McCullough Drive, Suite 300 Charlotte, NC 28262	704-519-3380
Durham	Durham, Granville, Orange, Person, Vance	3518 Westgate Drive, Suite 101 Durham, NC 27707	919-627-6900
Elizabeth City	Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Pasquotank, Perquimans, Tyrell, Washington	401 S. Griffin Street, Suite 300 Elizabeth City, NC 27906	252-338-7480
Fayetteville	Bladen, Columbus, Cumberland, Duplin, Harnett, Hoke, Lee, Moore, Richmond, Robeson, Sampson, Scotland	225 Green Street, Suite 800 Fayetteville, NC 28301	910-486-3880
Greensboro	Alamance, Caswell, Chatham, Davidson, Guilford, Montgomery, Randolph, Rockingham	1500 Pincroft Rd. Asheville Building, Suite 300 Greensboro, NC 27407	336-487-0280
Greenville	Beaufort, Craven, Greene, Johnston, Lenoir, Martin, Pamlico, Pitt, Wayne	2995 Radio Station Road Greenville, NC 27834	252-830-2480
Hickory	Alexander, Avery, Burke, Caldwell, Catawba, Cleveland, Iredell, Lincoln, McDowell, Watauga	1985 Tate Blvd. Ste 362 Hickory, NC 28602	828-261-7580
Interstate	Outside of North Carolina	P.O. Box 27407 Raleigh, NC 27611-7047	919-754-2539
Raleigh	Franklin, Wake	4701 Atlantic Avenue, Suite 118 P.O. Box 58787 Raleigh, NC 27658-8787	919-707-0881
Rocky Mount	Edgecombe, Halifax, Nash, Northampton, Warren, Wilson	110 Fountain Park Drive Battleboro, NC 27809	252-467-9240
Wilmington	Brunswick, Carteret, Jones, New Hanover, Onslow, Pender	3340 Jaeckle Drive, Suite 202 Wilmington, NC 28403	910-254-5080
Winston-Salem	Alleghany, Ashe, Davie, Forsyth, Surry, Wilkes, Yadkin	450 West Hanes Mill Rd., Suite 202 Winston-Salem, NC 27105	336-661-6880