



— DEPARTMENT OF —
REVENUE
— STATE OF MISSISSIPPI —

Offer in Compromise Agreement

For use by Entities

An Offer in Compromise is an agreement to settle a tax debt for less than the full amount owed. The goal of the Offer in Compromise program is to achieve a compromise that is in the best interest of both the taxpayer and the State of Mississippi. To be considered, you must make an appropriate offer based on what the Department of Revenue considers your ability to pay.

Submitting an application does not ensure that the offer will be accepted. If your offer is not accepted, the initial payment sent with the application will be applied to your tax debt. **You cannot appeal this decision.**

Eligibility

- Before your offer may be considered, you must file all tax returns that you are legally required to file. After you file your offer, you must continue to timely file and pay all required tax returns.
- You are not eligible to apply if the entity is in an open bankruptcy proceeding.
- An offer will not be accepted if you can pay your tax debt in full or through a payment plan or equity in assets.
- An offer will not be accepted for any tax debt less than 4-years old or for debt that is less than \$3,000.
- You are not eligible for consideration if the business collected, but did not pay, Trust Fund taxes.
- An offer will not be accepted if the debt is the result of criminal activity.
- A history of regular or willful noncompliance with Mississippi's state tax laws may constitute grounds for rejection of the offer.
- Your offer will be declined if you do not provide sufficient documentation to support income, expenses, and other items claimed.
- Your offer will be rejected if you omit income, assets or other items of significance.
- An entity with a previous offer in compromise for another tax liability with the State is not eligible for a second compromise.
- The offer will be declined in any instance where the Commissioner or the Governor determines that acceptance is not in the best interest of the State.

The Department will notify you in writing if your offer is accepted or denied. Payment of the accepted offer must be made by the payment due date indicated on the acceptance letter. Tax liens will be released only after an offer is accepted and the amount offered is paid in full.

Incomplete applications will not be accepted. If the form is not complete, the Commissioner may disregard your application.

General Information

Legal Authority for Offer in Compromise.

The Governor, on the advice of the Commissioner of Revenue, may settle any doubtful claim of the State of Mississippi for taxes collected by the Department of Revenue after application by the debtor proposing a compromise of the debt. *See Miss. Code Ann. Section 31-19-29.* A doubtful claim includes finally determined tax liabilities enrolled as a lien on the Mississippi Uniform State Tax Lien Registry and the collection of which has not occurred through the ordinary collection process. *See Miss. Code Ann. Section 31-19-27.*

Commissioner's Responsibility.

The Commissioner of Revenue is charged with determining and collecting the actual amount of tax due from Mississippi taxpayers and accepting an amount less than the liability will only occur in extraordinary circumstances. An offer must be based on the taxpayer's true ability to pay. Any offer below what the taxpayer can actually pay will be rejected. To keep this process as open and transparent as possible, a waiver will be required eliminating the protection of the confidentiality provisions of the Mississippi Code for all documents reviewed in determining whether or not to recommend compromise to the Governor.

Down Payment with Application.

Payment of twenty percent (20%) of the offer or one hundred dollars (\$100.00), whichever is greater, is required to accompany any application for an Offer in Compromise. This payment will be applied toward the taxpayer's liability regardless of whether the Offer in Compromise is accepted.

Confidentiality.

An approved Offer in Compromise is not protected by the confidentiality provisions of Mississippi Tax Law. In order for the Governor to settle a doubtful claim, the Department must provide the Governor and/or Governor's Staff with sufficient information to demonstrate that the Offer is in the best interest of the State. The Department will redact any social security or employer identification numbers before providing such information; however, this documentation will include your financial information and other personally identifying information. For this reason, a signed "Waiver and Authorization to Release Confidential Taxpayer Information" must be included with the completed Offer in Compromise application form.

Trust Fund Taxes.

Your offer may be rejected if your debt is based on taxes collected from others, but not remitted to the Department as required by law. Trust Fund taxes include sales tax charged and collected from your customers and income taxes withheld from your employee's wages.

Criminal Violations.

An offer cannot be accepted for liabilities that resulted from criminal activity including, but not limited to, tax evasion and tax fraud. The State cannot compromise any restitution amount ordered by a court.

Documentation.

You are required to provide reasonable documentation of your 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 so it is incumbent that you include all supporting documentation with your application. A checklist is found on page 6 and notes are included with certain questions on the application form.. 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.

Offer Submission Does Not Delay Collection Activities.

Collection efforts are not suspended upon the making of an Offer in Compromise. State tax liens are not released until the Offer is accepted and the amount offered is paid in full. Interest and penalty continue to accrue on any unpaid tax debt while the offer is being considered. Any installment payment arrangement already in effect will be continued while the offer is considered. The Department will keep any refund, including interest, that might be due for tax periods extending through the calendar year of the offer. The refund may not be applied to estimated tax payments for the following year or the accepted offer amount.

Review.

In determining the amount acceptable to compromise your tax liability, the Commissioner will conduct a thorough examination to ensure that you accurately included all assets and income and that you claimed only the necessary expenses allowable for the health and welfare of you and your family, or to provide for production of income. It is important that you fully complete the application form accurately and honestly. Your request may be denied if the information is not complete or if you did not disclose all assets or income. To be sure that no allowable expenses are missed, taxpayers should include current information about all of their expenses in the application. The Department will review the information to verify that the taxpayer is being given credit for all allowable expenses

Amount of Offer.

The minimum offer amount should be your monthly disposable income multiplied by twelve (12), plus the market value of your assets. Monthly disposable income is calculated by subtracting monthly allowable expense from monthly total income. Total monthly income includes salaries, monthly pensions, social security, dividends, profit from business, alimony, child support, commissions and any other income sources. Your current market value of assets is the reasonable amount that you expect to be paid for the asset if you sold it, less the current balance due on loan(s) or mortgage(s).

Offer in Compromise Agreement: Instructions for Completing Application for Entities

Determine whether you are eligible for an Offer in Compromise before proceeding with the completion of the application. Review the listing on page 1 of this document.

Instructions for completing form:

- Clearly print or type your response for each item requested.
- Complete all lines. If a question does not apply, you may write “n/a” or zero on the line to indicate that the question is non-applicable. Attach additional sheets if more space is needed to fully answer any question.
- All applicants must complete the Confidentiality Waiver included in the application.
- 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.
- Include a non-refundable payment of \$100, or 20% of the offer, whichever is greater, which is required to accompany the application for an Offer in Compromise. This payment will be applied toward the your liability regardless of whether the Offer in Compromise is accepted. Other payments made prior to an acceptance of the Offer in Compromise will not be considered as payments made toward the compromised amount.
- Before mailing, review your application to make sure it’s complete and includes all supporting documentation and payment.
- Mail your completed application to the address below. In lieu of mailing, you may hand-deliver the completed application to the Department of Revenue District Office closest to you. Office addresses are found on the DOR website under the “contact” section. www.dor.ms.gov

Office of Tax Enforcement

P. O. Box 23338

Jackson, MS 39225-3338

Page 3: Mark the tax type and list the amount and tax period of the debt that you are requesting compromise. “Tax liability” means all of the tax, interest, and penalties owed by the taxpayer. In some cases, it may also include certain fees and costs. List all unpaid tax liabilities you wish to compromise. You may not submit an offer for a tax year or period less than 4 years old. Your total liabilities must be more than \$3,000. You may review your unpaid liabilities on your TAP (*Taxpayer Access Point*) online account or on a Statement of Accounts.

1. Mark “yes” if you are able to repay this debt through an extended installment plan. Along with your application, provide an outline of payments you are able to pay.
2. Mark “yes” if you can borrow the funds to pay this debt or any part of this debt. Provide the amount you are able to pay with this application. If you mark “no,” include at least two denials of loan applications from financial institutions. The loan applications must be for the purpose of paying this tax debt and not for another purpose (such as an auto loan.)
3. Mark “yes” if you can repay this debt by eliminating payments or expenses for non-essential items. Non-essential items include most things not necessary to meet needs or obligations.
4. Mark “yes” if you have assets that could be sold to repay the debt, or a portion of the debt.
5. Mark “yes” if you also owe the IRS back taxes. Attach details of the debt to this application.

6. Mark “yes” if you have an offer in compromise pending with IRS for that debt.
7. Write an explanation as to why you need an offer in compromise. Explain what prevented you from paying the taxes when they were due and what is currently preventing you from entering into a payment plan agreement with the Department. Attach additional sheets if needed.
8. You may use the Offer Calculation Worksheet on pages 9 & 10 of the application form to assist you in determining the offer amount. The Department will use a worksheet similar to this when reviewing your offer amount. All offer amounts must exceed zero. The amount must not include any amount which has already been paid or collected on the liability. Disposable income is determined by subtracting expenses from total income. The current market value of assets is the reasonable amount that you expect to be paid for the asset if you sold it, less the current balance due on loan(s) or mortgage(s).
9. Check “yes” if you are borrowing money to pay the offered amount. Explain where you will obtain the money to pay your offer and explain how you determined the amount of the offer.
10. Explain how you determined the amount of your offer.

Page 4. Enter the total amount available for each type of account using the most current statement(s). For any bank accounts with negative balances, enter -0-. Attach copies of statements from all financial institutions for the last 12 months. If applicable, include a listing of all stocks, bonds, and/or securities owned, along with the current market value of each.

List all real estate owned in or outside the State of Mississippi. Include documentation of loans/mortgages that show the monthly payment amount and balance due. Provide a listing of all valuable items that you own. If you are making payment on any of the items, provide documentation that provides the monthly payment amount and balance due.

Page 5. Complete the “Vehicles” section by including any and all types of vehicles including, but not limited to, automobiles, boats, trucks, tractors, campers, motor homes, ATVs, jet skis, trailers and motorcycles. Vehicle value is calculated using the NADA value minus any outstanding loan balance. Include a copy of the recent statement for any loans on these vehicles. If the vehicle is paid for, enter “paid” on monthly payment line. Attach additional pages if needed.

Page 6. List all sources of income for the business, debts and monthly expenses. Provide the ending balance for inventory as of the close of the most recent financial reporting period.

Page 7. If you paid a preparer to complete the form on your behalf, the preparer should also sign and date the application. An authorized corporate signatory must sign the application. Print the signatory’s name and title immediately next to the signature. An additional signature is required of a secondary corporate officer to attest the submission.

Page 8. All applicants must sign this document in the presence of a notary. Applications lacking a signed Waiver will not be accepted.

Required Information and Documentation: Entities

Review this listing to ensure that you include all required documentation with your application. 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. Include the following with this application:

- A completed Offer in Compromise form.
- In lieu of completing this form, you may submit a completed IRS form 433A and/or 433B. Form 433A is completed for an individual and/or sole proprietor. Form 433B is completed for a business. Please complete both forms if the offer is for a partnership, single member LLC, or closely held corporation.
- Down-payment of \$100 or 20% of the offer, whichever is greater.
- A copy of IRS or another state's Offer in Compromise application including an acceptance or denial, if applicable.
- A copy of a credit report detailing credit history prepared by any consumer reporting agency within the last 30 days.
- A signed waiver eliminating the protection of the confidentiality provisions of the Mississippi Code for all documents reviewed in determining whether or not to recommend compromise to the Governor. The Waiver Form is included with the application form.
- Copies of bank statements (checking and savings) for the 12 most recent months.
- A recent statement from lenders that show monthly payments, loan payoffs, and balances.
- Copies of the most recent statement for each investment account. Include a listing of all stocks, bonds and securities owned.
- Copies of the most recent statement for any other source of income such as rental income, interest and dividends.
- A recent statement from lending institutions and other creditors that indicates current balances owed and payment schedule.
- A complete inventory of assets, including fair market values of each item.
- Copies of any judgements or legal decrees, excluding bankruptcy as covered below, for the past 6 years.
- A list of all accounts receivable (business), showing the payor, amount due, age, and status of each account.
- A list of all business equipment, office furniture, and other business assets, including the current fair market value of each.
- Affidavit concerning real and personal property transfers within last 3 years.
- Copy of most recent real property and personal property tax assessments.
- Denials of loan application, for tax debt amount or payoff amount, by 2 or more financial institutions.
- Petition, schedules, and Order of Discharge from Bankruptcy, if applicable.