TRI Tax Resolution Institute

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Tips & Traps

Offers in Compromise

1. It can take up to two years for an Offer to be accepted or rejected. By IRS definition an Offer is deemed accepted if no answer is given within the 2-year period. The **Tax Resolution Institute** has yet to see an Offer be accepted based upon this rule.

2. A typical Offer takes 12-18 months to be accepted.

3. It can take up to 6 months for an Offer just to be deemed processable.

4. If an Offer is not processable, the taxpayer must correct the items that deem it non-processable and resubmit the Offer.

5. The chance of having an Offer accepted is much lower than the chance of entering into a manageable installment agreement.

6. There is a 10-year statute of limitation for the IRS to actively collect against a tax assessment. Submitting and Offer freezes the statute for the time the Offer is under consideration plus a time period following if the Offer is rejected or accepted and then the taxpayer defaults on the Offer.

7. If a taxpayer is near the end of their collection statute, it may make sense to forgo an Offer and request an installment agreement based upon hardship.

8. Acceptance of an Offer is based upon a taxpayer's ability to pay over the life of the statute of limitations on collection. Just because a taxpayer is unable to pay at the time an Offer is submitted, does not mean that their situation will not improve within the 10-year collection period. One example of this may be a realtor in a down market or a Lawyer that has been laid off by previously earned a significant salary.

9. A taxpayer must stay in compliance for 5 years after an Offer has been accepted. If they default on the Offer, the original liability, penalties and interest are placed back on the taxpayer's account and they will again be exposed to collection.

10. A taxpayer is often required to resubmit financial substantiation within the time period an Offer is being considered.

11. The IRS will often negotiate certain parts of an Offer in lieu of rejecting an Offer outright.

12. When an Offer is rejected, the IRS' reason is almost always that the taxpayer has the ability to full-pay their liability within the collection statute.

13. The amount to be paid for an Offer is formula based. That is 12 or 24 times one's monthly disposable income plus the quick-sale value of their assets. Some people, in planning for an Offer may try and sell, give away or transfer their assets in order to lower the Offer amount. If this is done solely with the intention of lowering one's Offer amount or done within a certain period of time prior to submission of the Offer, the asset in question may still be included in the Offer calculation by the IRS. For example, if a person refinances their home to pay off credit card debt, the IRS may include the cash taken out of the refinance as a dissipated asset for Offer purposes. Their contention is that Federal taxes should be paid prior to credit card companies.

14. When entering bank balances on Form 433-A (OIC) it is prudent to put the ending balance of the most current bank statement if the amount is relatively low. If not include the lowest average daily balance within the three-month period of the statements being submitted.