



Offer in Compromise

For Liabilities Not Fixed and Final
and Subject to Administrative Review

Name of taxpayer(s) and/or trade or business names		Social security number(s)
Home address		Employer identification number (EIN)
Business address	Type of tax and entity:	
Employer	<input type="checkbox"/> income <input type="checkbox"/> individual <input type="checkbox"/> sales <input type="checkbox"/> partnership <input type="checkbox"/> withholding <input type="checkbox"/> corporation <input type="checkbox"/> other _____	
Address		
Taxpayer's representative	Telephone number ()	Date
Address	Amount offered \$	

(attach Form POA-1, Power of Attorney)

Mark an **X** in the applicable box(es): (see instructions on page 3)

- Offer based on doubt as to liability Offer based on doubt as to collectibility

1. Record of liabilities asserted and payments (to be filled in by taxpayer) (Attach additional pages if needed.)				For office use only	
Notice or assessment number (assessment I.D.)	Tax period	Amount of tax	Total payments to date	Penalty and interest	Amount due
Note: Submit a copy of all notices that are the subject of this offer.				Total	\$

2a. The total sum of \$ _____ is offered in compromise. _____

No payment is required with the submission of an offer.

2b. If this offer in compromise is rejected:

- Retain any amount submitted with this offer and credit it to liabilities.
- Return any amount submitted with this offer.

3. Except for any amount referred to in paragraph 2(b) above, in making this offer, and as part of consideration, it is agreed (a) that the commissioner of Taxation and Finance shall keep all payments, sums collected and other credits made to the liabilities asserted for the periods covered by this offer, and (b) that the commissioner shall keep any and all amounts to which the taxpayer(s) may be entitled under the Tax Law, due through overpayments of any tax or other liability including interest and penalties, for periods ending before or within or as of the end of the calendar year in which this offer is accepted (and which are not in excess of the difference between the liability sought to be compromised and the amount offered). Any such refund received by the taxpayer(s) after this offer is filed will be returned.

/Attach check here/

4. Any payments made under the terms of this offer shall be applied, unless otherwise agreed in writing, to the liabilities of the taxpayer(s) in the order determined upon by the commissioner of Taxation and Finance.
5. It is further agreed and consented to by the taxpayer(s) that upon notice to the taxpayer(s) of the acceptance of this offer, the taxpayer(s) shall have no right to contest in the Bureau of Conciliation and Mediation Services, the Division of Tax Appeals, any court, or otherwise, at any time, the amount of the liability sought to be compromised; and that if this is a deferred payment offer and there is a default in payment of any installment of principal or interest due under its terms, or a default on any other term that the taxpayer(s) may have agreed upon with the commissioner of Taxation and Finance for acceptance of the deferred payments, New York State, at the option of the commissioner or an official designated by him or her, may a) proceed immediately by suit to collect the entire unpaid balance of the offer; or b) proceed immediately by suit to collect as liquidated damages an amount equal to the liability sought to be compromised, minus any deposits already received under the terms of the offer, with interest on the unpaid balance at the annual rate(s) as established under the Tax Law and compounded from the date of default; or c) disregard the amount of the offer and apply all amounts deposited under the offer against the amount of the liability sought to be compromised, and without further notice of any kind, assess (if an assessment or assessments for the original liability have not already been issued) and immediately file a warrant thereon and proceed to collect the balance of the original liability. The taxpayer(s) agrees that any pending conciliation conference or proceedings before the Division of Tax Appeals, or any right thereto, pursuant to Tax Law sections 170, 171 and Article 40 thereof, and the regulations adopted pursuant thereto, on the liability compromised, are finally and irrevocably concluded or waived, as the case may be.
6. The following facts and reasons are submitted as grounds for acceptance of this offer (*see instructions on page 3*):

7. It is understood that this offer will be considered and acted upon in due course and does not relieve the taxpayer(s) from the liability sought to be compromised (unless and until the offer is accepted in writing by the commissioner, and there has been full compliance with the terms of the offer and any collateral agreements).
8. The taxpayer(s) waives the benefit of any statute of limitations applicable to the assessment and collection of the liability sought to be compromised, and agrees to the suspension of the running of the statutory period of limitations on assessment and collection for the period during which this offer is pending, and for one year thereafter. (For these purposes, the offer shall be deemed pending from the date of acceptance of the waiver of the statutory period of limitations by an authorized Tax Department official, until the date on which the offer is formally accepted, rejected, or withdrawn in writing).
9. The taxpayer(s) waive(s) any statute of limitations defenses to the assessment and collection of the liability sought to be compromised and further waive(s) any statute of limitations defenses against the issuance of new assessment(s) for the compromised liability in the event the taxpayer(s) fail(s) to comply with the terms of the Offer in Compromise.
10. The taxpayer also agrees to forfeit any current capital loss or net operating loss credits taken on any future NYS return.

Statement

I declare that I have examined the information given in this statement and all other documents listed above and, to the best of my knowledge and belief, it is (or they are) true, correct, and complete. This statement is made with the knowledge that a willfully false representation is a misdemeanor punishable under section 210.45 of the Penal Law of New York State.

Pursuant to Tax Law section 171, subdivision eighteenth (a), the undersigned submits this offer to the commissioner to compromise a liability for unpaid taxes.

Date of the statement

Signature of taxpayer(s)

Date of the statement

Signature of taxpayer(s)

Instructions

Basis for compromise

The compromise of a tax liability can rest only on one or both of two grounds: doubt as to liability for the amount owed and/or doubt as to collectibility of the full amount of tax, penalty, and interest owed. You may only make one offer in compromise regarding a particular tax liability for a particular period, whether or not such offer is accepted or rejected.

A liability will not be compromised if it has been established by a valid warrant.

Any assertion of doubt as to liability for the amount owed must be supported by submission of an affidavit or affidavits concerning material facts, certified copies of documents of record, if any; true copies of all other papers and documents referred to in any affidavit, and a full exposition of statutes, regulations and case law relied upon. You are responsible to completely present all facts and legal arguments upon which you rely. You may be required to provide additional documentation from third parties. We will not undertake an investigation on your behalf to resolve ambiguous facts.

If your offer is acceptable, we may also require a written collateral agreement to ensure collection of tax to the fullest extent possible, and compliance with an accepted offer.

Submission of an offer does not automatically suspend pending proceedings in the Bureau of Conciliation and Mediation Services or the Division of Tax Appeals, nor does it suspend the time for any taxpayer to take any action with regard to an assessment.

Interest and penalties will continue to accrue on the liability while your offer is under consideration. If your offer is accepted and all terms of the offer are satisfied (i.e. the offer and all collateral agreements are paid in full) we will abate the balance of the assessment.

Note: Interest will be due at the rate set pursuant to the Tax Law from the date of the notice of acceptance or agreement until full payment of any compromised liability is received.

Specific instructions

Use Form DTF-4, *Offer In Compromise*, if you wish to submit an offer in compromise. Send the form, along with one copy, by regular mail to:

**OFFER IN COMPROMISE PROGRAM
PO BOX 5100
ALBANY NY 12205-0100**

Form DTF-5, *Statement of Financial Condition and Other Information*, must accompany Form DTF-4 if the offer is based on doubt as to collectibility. Form DTF-5 can be obtained by visiting our Web site at www.nystax.gov. It is your responsibility to obtain Form DTF-5 and fill it out **completely** so that we may adequately consider your offer. Submit Form DTF-5 with copies of the last three years' federal income tax returns, a credit report less than 30 days old, and the last twelve months of bank statements.

Enter your full name (and/or business or trade name), address, social security number, and/or employer identification number at the top of Form DTF-4. If this is a joint (husband and wife) liability and both wish to make an offer, one offer containing both names may be submitted. **However, for any other joint liability, such as a partnership, you must submit separate offers.**

Date the offer on the top of Form DTF-4 in the space provided. This date is important for identification and reference purposes.

Item 1 — list all unpaid tax liabilities sought to be compromised, regardless of type of tax. If for a particular tax, you are both personally liable and jointly liable with another individual or separate entity such as a corporation, you must submit your own offer if you wish to compromise that tax. A compromise in favor of another who is jointly liable with you is not a compromise for your indebtedness on the full amount.

Item 2 — enter the total amount offered. Attach a written statement if you need more space to explain the terms of your offer. List any such statement in item 9. If this is a deferred payment offer (i.e. any part of the offer is paid either on notice of acceptance or at any later date) you should show:

- the amount deposited at the time of filing this offer,
- any amount deposited on prior offers which are applied on this offer, and
- the amount of each deferred payment and the date on which each payment is to be made.

Item 6 — indicate all the facts and reasons which are grounds for acceptance of the offer. Use a separate sheet or sheets of paper, if needed, to fully explain the details of your offer and list same in item 9. If your offer is based on doubt as to liability, these grounds must be fully and completely explained. If appropriate, your assertion must be substantiated by supporting statements and documents. If the basis of the offer is doubt as to collectibility, also submit Form DTF-5.

Sign the *Statement* on page 2. If you and your spouse seek to compromise a joint income tax liability, both must sign.

For a corporation, enter the corporate name, and beneath, an authorized corporate signatory should sign his or her name. Print the signatory's name and title immediately below the signature. The corporate seal should also be affixed.

On Form DTF-4, there are provisions for a waiver of refunds (item 3) and a waiver of the right to contest the liability after the offer is accepted (item 5).

When Form DTF-4 is submitted by an estate fiduciary (executor or administrator), the appropriate letters testamentary or letters of administration must be submitted. If the offer in compromise will be handled by the fiduciary's duly authorized representative, and the representative will sign on page 2 on behalf of the fiduciary, submit Form ET-14, *Estate Tax Power of Attorney*, rather than Form POA-1, along with the appropriate letters.

These instructions are intended only as an overview of the offer process and a guide in preparing Form DTF-4. For specific details of the process, you should consult 20 NYCRR Part 5000, *Compromise Regulations*, and/or Publication 220, *Offer in Compromise Program*. For additional information or questions concerning the Offer in Compromise Program, please call (518) 457-9086, from 8:00 A.M. to 4:25 P.M. (eastern time), Monday through Friday.