

OFFER IN COMPROMISE

Article 8, sections 1870-1875 of the California Unemployment Insurance Code (CUIC) governs the Employment Development Department's (EDD) Offer in Compromise program. This law permits the EDD to receive applications for Offers in Compromise that may enable a qualified tax debtor to eliminate an employment tax liability at less than full value.

Eligibility Requirements

- The applicant's business must be inactive and no longer operating. Under these circumstances, you may apply for an Offer in Compromise, whether you were an individual owner, partner, or an individual assessed under section 1735 of the CUIC.

If the business is still operating and active, you may apply for an Offer in Compromise only if you no longer have a controlling interest or any association with the business that incurred the liability.

- Only undisputed, final tax liabilities will be considered for compromise. Liabilities under petition or bankruptcy will not be considered.
- Must not have access to income sufficient to pay more than the accumulating interest and 6.7% of the outstanding liability annually.

The following example, based on a liability of \$5,000, is provided as a guideline only:

Liability of	\$5,000	
Annual Interest*	x <u>7%</u>	\$350
Liability of	\$5,000	
	x <u>6.7%</u>	\$335
Total		\$685

*Interest rate may change with prime rate and is compounded daily.

Based on this example, the applicant must **NOT** have access to annual income sufficient to pay more than \$685 annually or \$57 per month.

- Must not have prospects of increased income or assets which allow payment within a reasonable period.
- Must not have assets which, if sold, would satisfy the liability.
- The amount offered must be more than the EDD could expect to collect through involuntary means within four years of the time the offer is made.
- Compromises are prohibited for liabilities assessed for fraud (section 1128) or where the employer has been convicted of a violation of the CUIC.

How to Apply

The *Offer in Compromise Application* (DE 999A) and the *Offer in Compromise Financial Statement* (DE 999B) can be obtained by visiting your local Employment Tax Office listed in the *California Employer's Guide* (DE 44) and on the EDD website at edd.ca.gov/Office_Locator/. You can also download the forms on the EDD website at edd.ca.gov/Payroll_Taxes/Forms_and_Publications.htm. For specific questions or additional information, contact the Offer in Compromise Unit at 1-916-464-2739.

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 1-888-745-3886 (voice) or TTY 1-800-547-9565.

This information sheet is provided as a public service, and is intended to provide nontechnical assistance. Every attempt has been made to provide information that is consistent with the appropriate statutes, rules, and administrative and court decisions. Any information that is inconsistent with the law, regulations, and administrative and court decisions is not binding on either the Employment Development Department or the taxpayer. Any information provided is not intended to be legal, accounting, tax, investment or other professional advice.