



Offer-in-Compromise

For Liabilities Not Fixed and Final, and Subject to Administrative Review

Form
DOF OIC-4

Use Form DOF OIC-4.1 instead if you have fixed and final liabilities (see instructions).
You must also submit Form DOF OIC-5 with Form DOF OIC-4 if the offer is based on doubt as to collectibility.

1. Taxpayer Information

Form with fields for Name of taxpayer(s)/trade or business name(s), Telephone number, Social Security Number, Home address, City, St., ZIP, Employer ID Number (EIN), Mailing address, Business address, Name of taxpayer's representative, Telephone number, Address of taxpayer's representative, City, St., ZIP.

Entity Type and Tax Type selection section with checkboxes for Individual, Partnership, Corporation, Other, Business Corporation Tax, Commercial Rent Tax, General Corporation Tax, Real Property Transfer Tax, Unincorporated Business Tax, Utility Tax, Other.

2. What is the offer based on? Mark an X in one or both boxes (see instructions)

Checkboxes for Doubt as to collectibility and Doubt as to liability.

3. Total amount offered (must be more than \$0)

Input field for total amount offered with a dollar sign prefix.

Note: Offers shall in no event be less than the amount, if any, recoverable through legal proceedings. Hardship or any other issues that do not have a direct bearing on the Department of Finance's legal ability to collect from the taxpayer cannot be considered in assessing doubt as to collectibility.

a. Is the sum offered in compromise borrowed money? Yes No
If Yes, enter name and address of lender and list of collateral, if any, pledged to secure the loan.

b. Are you making an advance payment? Yes No
If yes, indicate the amount of the advance payment: \$

(You are not required to include payment with this application. However, if you do, we will use the money toward the amount you owe.)

4. List the NYC Department of Finance tax liabilities sought to be compromised. Please include payments made and attach additional pages if needed.

Letter ID*	Tax Type	Tax Period	Principal Amount of Tax	Penalty	Interest	Total Payments to Date	Amount Due as of _____
Note: Submit a copy of all NYC Department of Finance notices which are the subject of this offer.						Total \$	

5. Please check the applicable boxes and provide a brief statement in the space below.

- Taxpayer is insolvent.
- Taxpayer has been discharged in bankruptcy. Please list name as it appears on bankruptcy petition(s), case number(s), dispositions and district court(s).
- Amount of offer is more than what the Department of Finance could collect through legal proceedings.
- Doubt as to liability.

* You will find a Letter ID on every piece of correspondence that you have received from the New York City Department of Finance.

6. Conditions for Acceptance. I acknowledge that I have read and I agree to the following conditions.**No offer-in-compromise will be accepted unless the taxpayer:**

- (1) agrees to pay an amount in addition to all amounts previously paid or collected against the tax liability, including all amounts to which the taxpayer may be entitled through overpayments of tax, interest or penalties, for periods ending before or as of the end of the calendar year in which the offer is accepted;
- (2) agrees to immediately return to DOF any refunds of overpayments received by the taxpayer after the taxpayer's offer was filed;
- (3) agrees to waive the right to seek a refund of any payment of the compromise amount or any other amounts paid or collected against the liability that is the subject of the offer-in-compromise;
- (4) agrees not to contest in court or otherwise, the amount of the liability to be compromised, and, in non-final matters, withdraws from any proceeding with respect to the liability pending in the Conciliation Bureau, the Tax Appeals Tribunal, or any other court;
- (5) waives the running of the statutory period of limitations on collection of the liability to be compromised for the period beginning on the day the offer-in-compromise is filed and ending one year following the date on which the compromise amount has been paid in full (including any interest due on any installment thereof);
- (6) agrees to comply with all provisions of the Administrative Code relating to filing of returns and paying required taxes in the five-year period beginning with the first day of the year in which the offer-in-compromise is accepted;
- (7) agrees that DOF will not compromise any liability, nor satisfy any warrant, until all obligations of each taxpayer under the compromise agreement, or any collateral agreement, are completely performed and satisfied. In the event of a default by the taxpayer on the compromise agreement, or collateral agreement, or 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 may have agreed upon with DOF for acceptance of the deferred payments, the default will automatically result in the original amount of the liability including interest and penalties becoming due and outstanding. DOF will disregard the amount of the offer and apply all amounts previously deposited under the offer against the amount of the original liability sought to be compromised. DOF will proceed to collect the balance of the original liability.
- (8) agrees that this offer will be considered and acted upon in due course and does not relieve the taxpayer from the tax liability sought to be compromised, unless and until the offer is accepted in writing by the Commissioner (if the principal amount being compromised is more than \$100,000.00) approved by a justice of the New York State Supreme Court and there has been full compliance with the terms of the offer and any collateral agreements;
- (9) is in compliance with all tax filing and payment requirements for periods not covered in the offer-in-compromise up to and including the year in which the offer-in-compromise is filed;
- (10) agrees, in non-final matters, that DOF may proceed with any appropriate collection procedure for the compromise as if the matter were a fixed and final matter;
- (11) meets any and all other conditions that DOF may also require as a condition of acceptance of an offer.

7. Signature

Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and to the best of my knowledge it is true, correct, and complete. I also affirm that I have read, understand, and agree to the terms and conditions above.

I authorize DOF to contact certain third parties, including but not limited to financial institutions and consumer credit reporting agencies, and to obtain my consumer credit report for the purpose of verifying the information I provided to DOF for determining my eligibility for the Offer-in-Compromise Program. I am providing my Social Security Number or Employer Identification Number pursuant to Section 11-102.1 of the NYC Administrative Code. In addition, I authorize DOF to use my Tax Identification Number including Social Security Number or Employer Identification Number when requesting my credit history from consumer reporting agencies or when verifying the information provided. I understand that DOF will not notify me about which third parties, if any, are contacted by DOF as part of this review process.

Pursuant to Section 1504(2)(d) of the Charter of the City of New York, the undersigned submits this offer to the Commissioner of DOF to compromise any liabilities.

 Date

 Signature of taxpayer

 Print name and title

Instructions

Use the correct form

- Use Form DOF OIC-4, Offer-in-Compromise: For Liabilities Not Fixed and Final, and Subject to Administrative Review, to submit your request to compromise liabilities. You may submit Form DOF OIC-4 if there is doubt as to liability and/or doubt as to collectibility of the full amount owed. Offers based in whole or in part on collectibility must also submit Form DOF OIC-5 and supporting documents.
- Use Form DOF OIC-4.1, Offer-in-Compromise: For Fixed and Final Liabilities. “Fixed and final matter” means a matter where the tax liability or administrative action taken by DOF has been finally fixed and the taxpayer no longer has any right to administrative or judicial review; there is a docketed tax warrant. Must also submit Form DOF OIC-5 and supporting documents.

Considerations for using Form DOF OIC-4

You must be in compliance with all paying and filing requirements for periods not included in your offer. This includes estimated payments, tax deposits, and similar requirements.

Generally, with respect to doubt as to collectibility, we may consider offers-in-compromise from the following taxpayers:

- individuals and businesses discharged from bankruptcy
- individuals and businesses that are insolvent (liabilities, including tax liabilities, exceed the fair market value of assets)

Submitting Form DOF OIC-4 does not suspend pending proceedings in the Conciliation Bureau or Tax Appeals Tribunal, nor does it suspend the time for you to take any action about an assessment.

Also, submitting Form DOF OIC-4 does not affect the interest and penalties that continue to accrue on your liabilities. Interest is due at the rate set by the Administrative Code.

We may require a written collateral agreement or other security, to protect DOF’s interest.

Generally, once an offer-in-compromise has been rejected, that offer-in-compromise may not be reconsidered, and another offer covering any of the same tax liabilities will not be considered. However, DOF may reconsider an offer that has been rejected, or consider another offer with respect to the same liabilities if the taxpayer can show a material change in circumstances.

Basis for compromise

- Doubt as to liability (you don’t agree with the amount DOF claims you owe).

To support your claim, you must submit affidavits showing the material facts of the case. You must also include certified copies of the documents of record, if any; true copies of all other papers and documents

referred to in any affidavit; and a full list of the statutes, regulations, and case law you are relying on. You are responsible for completely presenting all your facts and legal arguments. We may require you to provide additional documentation from third parties.

- Doubt as to collectibility (you have insufficient assets and income to pay the full amount).

For there to be doubt as to collectibility, you must show that (1) you have been discharged in bankruptcy or you are insolvent and (2) the amount you request to compromise is not less than the amount DOF could collect through legal proceedings.

You are considered insolvent if all your liabilities (including your tax debt) exceed the fair market value of your assets.

DOF cannot consider hardship in reviewing your offer-in-compromise application. Hardship or any other issues that do not have a direct bearing on DOF’s legal ability to collect from the taxpayer cannot be considered in assessing doubt as to collectibility.

All offers based on doubt as to collectibility **must include this application and the following:**

- A completed Form DOF OIC-5 Statement of Financial Condition and Other Information (available at www.nyc.gov/finance),
- Your last three federal and state income tax returns,
- Your last 24 months of statements from your bank account(s), brokerage account(s), and retirement account(s), current appraisal of all real property you have an ownership interest in, and any offer-in-compromise submitted to the IRS, New York State or any other state.
- DOF may require the submission of additional financial information or documents that it deems necessary, including current financial statements that have been audited by an independent licensed public accountant or an independent certified public accountant.

If you fail to submit requested documentation, DOF may deem your application withdrawn. Incomplete applications will be held in abeyance for 30 days until the application is completed. If the information is not provided, the application will be deemed withdrawn.

If we accept your offer

If DOF accepts your offer, and you satisfy all the terms of the offer, we will compromise the remaining balance of your liabilities included in this offer.

Taxpayer's representative

If you have a representative, you must include a completed power of attorney. We recommend POA-1, Power of Attorney, available at <https://www1.nyc.gov/assets/finance/downloads/pdf/poa/poa1.pdf>. If you use another power of attorney, it must include the same information as the POA-1.

Estates

When Form DOF OIC-4 is submitted by an estate fiduciary (executor or administrator), the fiduciary must submit a copy of the appropriate court appointment (for example, letters testamentary or letters of administration) or, if there is no court appointment, appropriate documents as requested by DOF. If the offer-in-compromise will be handled by the fiduciary's duly authorized representative, and the representative will sign on page 3 on behalf of the fiduciary, the fiduciary must also submit a completed power of attorney along with the appropriate documents. We recommend New York State Form ET-14, Estate Tax Power of Attorney. If you use another power of attorney form, it must include the same information as the ET-14.

Specific instructions**Section 1. Taxpayer information**

Enter the full name and phone number of the taxpayer(s). If the taxpayer is a business, enter the name of the business and trade name. **For every type of joint liability, including spouses or otherwise, partnerships, each individual assessed as a responsible party must submit a separate Form DOF OIC-4.**

Enter the taxpayer's Social Security Number, or for a business, the Employer Identification Number.

Enter the taxpayer's home address, mailing address if different, and business address (if applicable).

- Mark an **X** in a box to indicate entity type(s) and tax type(s). If Other, fill in the blank.

If the taxpayer has a representative, enter the name, phone number, and address of the representative, and attach a completed power of attorney. (See Taxpayer's representative instructions).

Section 2. Basis for compromise

Mark an **X** to indicate what the offer is based on. (See page 4).

- **Doubt as to liability** (you don't agree with the amount DOF claims you owe).
- **Doubt as to collectibility** (you have insufficient assets and income to pay the full amount).

DOF cannot consider hardship in reviewing your offer-in-compromise application. Hardship or any other issues that do not have a direct bearing on DOF's legal ability to collect from the taxpayer cannot be considered in assessing doubt as to collectibility.

Section 3. Amount offered

Enter the total amount you intend to offer. You must offer more than \$0, and you cannot include any amounts previously paid or collected against the liabilities.

For an offer based on doubt as to liability, the acceptable amount depends upon the degree of doubt found in the particular case.

For an offer based on doubt as to collectibility, the compromise of a tax liability can rest only on either or both grounds of insolvency and/or recent discharge from bankruptcy. The amount offered cannot be less than the amount DOF could collect through legal proceedings.

- Mark an **X** in the Yes box if all or part of the money you are offering for the compromise is borrowed. If Yes, enter the name and address of the source of the borrowed money, and include a list of any collateral you have pledged to secure the loan.
- Mark an **X** in the Yes box if you are making an advance payment along with your application. You are not required to include payment with this application. However, if you do, we will use the money toward the amount you owe.

Section 4. Liabilities and payments

List all unpaid tax liabilities administered by DOF you wish to compromise. You may not submit an offer for a tax year or period that has not been assessed. Include copies of all notices that you list. You can view all your unpaid liabilities on your DOF E-Services account. If you do not have a DOF E-Services account, you can visit our website at www.nyc.gov/eservices, and create one.

In the Letter ID column, indicate the Letter ID number you are referencing when listing the tax liability. The Letter ID can be found on every piece of correspondence that you have received from DOF regarding the tax liabilities.

In the Tax Type column, indicate whether the notice is for Business Corporation Tax, Commercial Rent Tax, General Corporation Tax, Real Property Transfer Tax, Unincorporated Business Tax, Utility Tax or some other tax or liability.

If, for a particular liability, you are both personally liable and jointly liable with another individual or separate entity such as a corporation, you must submit your own Form DOF OIC-4. Spouses or partners that are jointly liable must submit separate forms.

Section 5. Requested information

Provide all the facts and reasons supporting the grounds for acceptance of your offer. If needed, attach additional pages, and copies of appropriate documents, to fully and completely explain the details of your offer.

Section 6. Conditions

By submitting this application, you have read, understand, and agree to the terms and conditions in this section.

Section 7. Signature

Sign and date.

Businesses: Enter the business name and the signature of an authorized corporate signatory. Print the signatory's name and title immediately below the signature. For a corporation, the corporate resolution authorizing this offer-in-compromise application must be submitted; the corporate seal should also be affixed.

Submitting your Form DOF OIC-4

Mail your forms and documents to:

Tammy Lu
New York City Department of Finance
Collections Division
59 Maiden Lane
28th Floor
New York, NY 10038

More information

These instructions are intended only as a guide for preparing Form DOF OIC-4. For specific details, see Section 1504(2)(d) of the Charter of the City of New York and Title 19, Rules of the City of New York, sections 34-01 through 34-07.

For questions, call (212) 440-5300, option #3. For forms and more information, visit www.nyc.gov/finance.

Checklist

- Is DOF OIC-4 the correct form for you?
- If you have a representative, did you enter their name, address, and phone number? Did you include a completed power of attorney?
- Did you enter an offer of more than \$0?
- If your application is based on doubt as to collectibility, is your offer more than what DOF could collect through legal proceedings?
- If your offer includes borrowed money, did you enter the lender's name and address, and collateral, if any?
- Did you include copies of all appropriate documents to support your offer? If you fail to submit all required statements and documents, we will not process your application.
- Did you sign and date the bottom of page 3?
- If your offer is based on doubt as to collectibility, did you include a completed Form DOF OIC-5, including copies of:
 - your last three federal and state income tax returns (if you are not required to file, include an explanation),
 - your last 24 months of statements from your bank(s) or financial institution(s)?
- Are you compliant with all of your New York City tax filing requirements?