

Your Guide to Settling New York State Tax Debt: The Offer in Compromise Program

Law Offices of Stephen B. Kass, P.C.

Helping New Yorkers Find Tax Relief for Over 25 Years

If you're facing overwhelming New York State tax debt, you're not alone. Tax problems can feel isolating and stressful, but there are legitimate solutions available. This guide will help you understand the New York State Offer in Compromise program—a path that may allow you to settle your tax debt for less than you owe. While every situation is unique, knowledge is the first step toward finding relief and moving forward with confidence.

New York Taxpayers: Guide to Offer in Compromise with NYS Tax Department

Step 1: Eligibility Check

- Tax liability > \$10,000
- No recent tax compliance issues
- Financial hardship documentation required

Step 2: Application Preparation



- Form DTF-4 or DTF-4.1
- Supporting documents: pay stubs, bank statements, asset lists

Step 3: Submission & Review

Mail to: NYS Tax Department, Offer in Compromise Unit, Albany, NY 12227

Processing time: 6-8 weeks

Step 4: Agreement Finalization

- If accepted: pay reduced amount in full
- If denied: appeal within 30 days
- Contact: 518-457-5434 (OIC Hotline)

What Is an Offer in Compromise and How Can It Help You?

An Offer in Compromise (OIC) is a formal agreement between you and the New York State Department of Taxation and Finance that allows you to settle your tax debt for less than the full amount you owe. Think of it as a negotiated settlement that gives you a fresh start while providing the state with a reasonable resolution.

This program is specifically designed for people experiencing genuine financial hardship. It recognizes that sometimes collecting a smaller amount now makes more sense than pursuing the full debt indefinitely when collection would be unlikely or would cause severe hardship.

While not everyone qualifies for an OIC, proper preparation and professional guidance significantly improve your chances of approval. This is a legitimate New York State program with established procedures and criteria. You're not alone in this process, and there is a clear path forward.

How NYS Determines What You Can Afford to Pay

New York State doesn't arbitrarily accept or reject offers. They use a systematic approach to determine what they could reasonably expect to collect from you, called your "Reasonable Collection Potential" (RCP). Understanding this calculation helps you make a realistic offer.

NYS evaluates four key areas of your financial life:

- **What you own (Assets):** Property, vehicles, investments, bank accounts, and other valuable items
- **What you earn (Monthly Income):** Wages, business income, Social Security, pensions, and other income sources
- **What you need to live (Allowable Expenses):** Reasonable and necessary living expenses
- **Your future earning ability:** Your capacity to pay over time based on your circumstances

Simple Example:

If you owe \$50,000 but your assets total \$5,000, your monthly income after allowed expenses is \$200, and you can realistically pay for 24 months, NYS might accept: \$5,000 (assets) + \$4,800 (24 × \$200) = \$9,800 offer

What Expenses Are Allowed?

Generally ALLOWED Expenses:

- Housing (mortgage/rent, utilities)
- Food and groceries
- Transportation to work
- Basic clothing
- Necessary medical expenses
- Court-ordered payments
- Basic insurance (health, auto)

Generally NOT Allowed:

- Private school tuition
- College expenses
- Charitable contributions
- Voluntary retirement contributions
- Credit card payments
- Luxury expenses
- Entertainment and dining out

What Types of Tax Debt Can Be Settled?

The New York State OIC program can address most types of tax debt:

- Personal income taxes ✓
- Business income taxes ✓
- Sales and use taxes ✓
- Employment/payroll taxes ✓
- Penalties and interest ✓

Important Note About "Trust Fund" Taxes:

Trust fund taxes are amounts you collected from others, such as sales tax from customers or withholding tax from employees. These funds were held "in trust" for the state. NYS may require these to be paid in full or close to full, though penalties and interest can often be reduced. We'll analyze your specific situation to determine the best approach and whether alternatives might be more appropriate.

Do You Qualify?

You may qualify for an Offer in Compromise if:

- Paying your full tax debt would prevent you from covering basic living expenses
- You're insolvent or in bankruptcy
- You have extraordinary circumstances affecting your ability to pay

What Does "Undue Economic Hardship" Mean?

In plain terms, undue economic hardship means you genuinely cannot pay your basic living expenses if you're required to pay the full tax debt. This isn't about maintaining a comfortable lifestyle—it's about covering necessities for health, welfare, and the ability to earn income.

New York State considers several factors when evaluating hardship:

- Your age and health condition
- Employment status and employment history
- Long-term illness, medical condition, or disability
- Number of dependents you support
- Extraordinary circumstances (major medical expenses, natural disasters, etc.)
- Whether you can reasonably borrow against or sell assets

Documents You'll Need to Apply

Completeness and accuracy are critical. Missing or incorrect documentation is the most common reason for rejection. Here's your comprehensive checklist:

Tax Documents

- ☐ Federal tax returns for the last 3 years (with all schedules)—Required!!
- ☐ New York State tax returns for the last 3 years
- ☐ Written explanation if you weren't required to file any year

Financial Account Statements (Last 12 Months)

- ☐ All bank account statements (checking and savings)—required!!
- ☐ Credit union accounts
- ☐ Investment/brokerage accounts
- ☐ Retirement account statements (401k, IRA, etc.)

Credit & Debt Information

- ☐ Current credit report (must be less than 30 days old)
- ☐ List of all debts and monthly payments

Income Documentation

- ☐ Recent pay stubs (last 3 months)
- ☐ Proof of Social Security, disability, or pension income
- ☐ Business profit & loss statements (if self-employed)
- ☐ Documentation of any other income sources

Expense Documentation

- ☐ Mortgage statement or lease agreement
- ☐ Recent utility bills
- ☐ Insurance payments (health, auto, home)
- ☐ Medical expenses and prescription costs

- ☐ Transportation costs
- ☐ Childcare or dependent care costs

Asset Documentation

- ☐ Property deeds and current valuations
- ☐ Vehicle titles and values (KBB or similar)
- ☐ Documentation of other valuable assets

Special Circumstances

- ☐ Medical records (if claiming hardship due to health)
- ☐ Disability documentation
- ☐ Letters explaining extraordinary circumstances
- ☐ Recent Credit Report—Required.

The Application Process - What to Expect

Step-by-Step Timeline

Week 1-2: Preparation Phase

- Gather all required documents
- Complete comprehensive financial analysis
- Determine your realistic offer amount
- Prepare supporting hardship narrative

Week 3-4: Application Submission

- Complete Form DTF-5 (Statement of Financial Condition)
- Complete Form DTF-4.1 (most common) or DTF-4
- Organize and submit all supporting documentation
- Choose online application (if eligible) or mail submission

Months 2-6: Review Process

- Receive acknowledgment of receipt (2-4 weeks)
- Application assigned to reviewer
- Possible requests for additional documentation

Months 6-12: Decision Phase

- Offer accepted, rejected, or counter-offered
- If accepted, payment arrangements finalized
- Agreement terms documented and signed

Two Ways to Apply

Online Application (if you qualify):

- Individual taxpayers only
- Personal income tax debt only
- Total debt of \$15,000 or less
- No open bankruptcy or protests
- Generally faster processing

Mail Application (all situations):

- Any tax type or debt amount
- Business or individual taxpayers
- Complex cases or special circumstances

Mail to: NYS Tax Department, CED Offer in Compromise Unit, W A Harriman Campus, Albany NY 12227-5100

Important Terms You Should Know

If your offer is accepted, you must agree to specific terms and conditions. Understanding these upfront is crucial:

You Must:

- Remain compliant with all tax obligations for the next 5 years (file and pay on time)
- Allow NYS to apply future tax refunds, lottery winnings, or other credits toward your debt
- Allow NYS to apply your OIC payments to any tax liability in any order they choose
- Agree not to dispute the amount of the tax debt being compromised

Why Professional Representation Makes a Critical Difference

The Reality of OIC Applications

While the OIC program offers genuine hope, the statistics are sobering. Most applications submitted without professional guidance are rejected. Common reasons include:

- Incomplete or inadequate financial documentation
- Offering too little without proper justification
- Not addressing trust fund tax requirements
- Failing to demonstrate genuine hardship
- Mathematical errors in calculations
- Not understanding what expenses NYS will allow

How We Approach Your Case

1. Thorough Financial Analysis

We examine every aspect of your financial situation to determine whether an OIC is your best option, the right offer amount that NYS will seriously consider, and how to present your case for maximum impact.

2. Complete Documentation Strategy

We ensure every required document is included, properly formatted, and strategically presented to support your hardship claim. Our experience shows us what reviewers look for and how to address potential concerns proactively.

3. Strategic Negotiation

With over 25 years of experience working with the NYS Department of Taxation, we understand what reviewers prioritize, how to address concerns before they become problems, and when to negotiate versus when to stand firm.

4. Personal Attention from Start to Finish

Unlike larger firms that assign cases to junior staff, Stephen Kass personally handles your matter from initial consultation through final resolution.

About Stephen B. Kass, Esq., CPA, LLM

Triple-Qualified Tax Professional

- **Licensed Attorney:** New York, New Jersey, Federal Courts, Tax Court, U.S. Supreme Court
- **Certified Public Accountant (CPA):** Member of AICPA and Association of Attorney-CPAs
- **Master of Laws in Taxation (LLM):** New York University School of Law

25+ Years of Proven Success

Former experience with international consulting firms Deloitte & Touche, LLP and Marcum LLP. Extensive experience with tax controversy, bankruptcy, and complex corporate reorganizations. Successfully negotiated with IRS, NYS, U.S. Attorneys, and Attorney General's offices.

Our Track Record Includes

- **Department of Justice bankruptcy case:** \$2.5M in taxes settled for under \$200K
- **Complex personal tax case:** Over \$35M claimed, settled during trial with additional OIC discount
- **NYC Chapter 11 case:** Settled sales tax claim for over \$200K discount with 6-year payment plan
- **Numerous successful OIC applications:** State and federal, across all tax types and complexity levels

What Makes Us Different

- Direct access to Stephen Kass—not a paralegal or junior associate
 - Deep understanding of both tax law and financial restructuring
 - Strong working relationships with NYS Department of Taxation
 - Comprehensive approach combining legal, accounting, and tax expertise
- Experience with cases far more complex than typical OIC situations

Take the Next Step - Let's Talk About Your Situation

You Don't Have to Face This Alone

If you're struggling with New York State tax debt, remember that you're not alone, and you do have options. The Offer in Compromise program exists specifically to help people in genuine financial hardship get a fresh start and move forward with their lives.

Here's What Happens Next

1. Schedule Your Free Consultation

We'll discuss your specific situation in detail, review your tax debt, and determine if an OIC is the right solution for you. If not, we'll explore other options that might work better.

2. No Judgment - Just Solutions

You'll speak with someone who understands tax problems and has successfully helped hundreds of New Yorkers resolve them. Our focus is on finding the best path forward, not on how you got here.

3. Get a Clear Action Plan

You'll leave our conversation with concrete answers:

- Whether you qualify for an OIC
- What amount NYS might realistically accept
- What documents and information you'll need
- The expected timeline and process
- Our specific approach to your case
- Alternative options if an OIC isn't right for you

4. Move Forward with Confidence

Ready to Get Started?

Contact the Law Offices of Stephen B. Kass, P.C.

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