

Instructions for Form 5181 Michigan Offer in Compromise

An Offer in Compromise

An offer in compromise (offer) is an agreement between you (the taxpayer) and the Michigan Department of Treasury (Treasury) that settles a tax debt for less than the full amount owed.

Eligibility

Before submitting an offer, you must:

- have filed all tax returns that it is legally required to file;
- have been assessed for the tax liabilities included in the submitted offer in compromise;
- no longer have the opportunity to contest the assessed tax liability in informal conference; and appeals of the assessed tax liability to the Michigan Tax Tribunal or a court must have expired; and
- not be in an open bankruptcy proceeding.

If any of these circumstances do not exist, you are ineligible for consideration of an offer in compromise.

How to submit an offer

You must complete and file **Form 5181 – Michigan Offer in Compromise** and the required Schedules applicable to the grounds for submitting your offer and submit all required documents and information supporting your offer.

All offers require payment of a non-refundable initial offer payment of \$100.00 or 20% of the offer amount, whichever is greater.

Grounds for submitting an offer

Offer based on doubt as to liability. If you have a legitimate doubt that you do not owe part or all of the tax liability, complete **Form 5181, Michigan Offer in Compromise**, and **Form 5185, Schedule 3 – Doubt as to Liability in an Offer in Compromise**.

Include an explanation of why you do not owe all or any part of the tax debt and provide any supporting documentation.

Offer based on receipt of a federal offer in compromise. If you have received a federal offer in compromise from the Internal Revenue Service (IRS), complete **Form 5181, Offer in Compromise**, and **Form 5182, OIC Schedule 1 - Information supporting a Michigan offer in compromise, based on an accepted federal offer in compromise**.

Proof of acceptance of a federal offer in compromise must be included with your submission.

NOTE: Only an assessed tax liability for individual income tax, under MCL 206.1 to 206.532, or for corporate income tax, under MCL 206.601 to 206.699, is eligible for compromise on this ground.

Offer based on doubt to collectability – individual or sole proprietor. If you are unable to pay the tax debt in full, complete **Form 5181, Offer in Compromise**, and **Form 5183, Schedule 2a (Individuals) – Collection Information Statement for an Offer in Compromise**, and provide all requested documents and information. This will be used to evaluate whether your offer is appropriate for compromise based on your assets, liabilities, income, expenses, and future earning potential.

Offer based on doubt to collectability – business. If your business is unable to pay the tax debt in full, complete **Form 5181, Offer in Compromise**, and **Form 5184, Schedule 2b (business) - Collection Information Statement for an Offer in Compromise**, and provided all requested documents and information. This will be used to evaluate whether your offer is appropriate for compromise based on your business assets, liabilities, income, expenses, and future earnings potential.

NOTE: A business is defined as a corporation, partnership, limited liability company, limited liability partnership or any business entity that is operated as other than a sole-proprietorship.

NOTE: If your offer is based on more than one ground (e.g., doubt as to liability and doubt as to collectability) the applicable Schedules and required documents for both forms must be submitted with the offer.

Joint and separate tax liability. If you have joint liability with your spouse and one of you also has separate liability, you and your spouse will need to send in one Form 5181 with the required Schedules for the joint liability, and a second Form 5181, with the required Schedules, for the separate liability.

Individual and business liability. If you have both individual and business liability that you wish to compromise, you will need to send in one Form 5181, with the required Schedules, for the individual liability, and a second Form 5181, with the required Schedules, for the business liability.

Offer Evaluation

Treasury may accept or reject your offer, or determine an amount that Treasury would consider an acceptable offer in compromise if submitted.

Submitting an offer does not ensure that the Treasury will accept it.

Accepting an offer. If your offer is accepted, Treasury will notify you and any designated representative you identify by mail.

Default on an accepted offer. If you default on the terms of an accepted offer, your compromise may be revoked and you will be responsible for payment of the full amount of your assessed tax debt, including any additional interest and penalty accruals from the date of the original assessment.

Rejecting an offer. If your offer is rejected, Treasury will notify you and any designated representative you identify by mail. You may request that a rejected offer be reviewed by an independent administrative reviewer within Treasury by submitting **Form 5186, Offer in Compromise Request for Independent Administrative Review of Rejection**, within 30 days after the rejection.

Mail your request for an independent administrative review to:

**Michigan Department of Treasury
Office of Legal Affairs
PO Box 30716
Lansing MI 48909**

Rejected offer may not be appealed. A rejected offer in compromise and any affirmance of a rejection as a result of an independent administrative review are final and not subject to further challenge or appeal to any tribunal or court.

NOTE: The initial offer payment paid with the submission of an offer is not refundable regardless of whether the offer is accepted or rejected, and will be applied towards the tax debt.

Paying For Your Offer

You must select a payment option and include the initial offer payment of \$100 or 20% of your offer, whichever is greater, with your offer. The amount of your offer Treasury may consider appropriate will depend on the total amount of the offer and which of the following payment options you choose:

Lump Sum Payment: This option requires that the remaining balance of the offer after applying the initial offer payment is paid in full within 30 days after an offer is accepted.

Periodic Payment: This option requires that the remaining balance of the offer after applying the initial offer payment is paid within five months of the date the offer is accepted, in accordance with the accepted offer terms.

Installment Plan: This option requires that the remaining balance of the offer after applying the initial offer payment is paid within six to 24 months of the date the offer is accepted, accordance with the accepted offer terms.

NOTE: If you are planning to use your retirement savings from an IRA or 401(k) plan, you may have future tax liabilities owed as a result.

NOTE: Lump sum payments and periodic payment plans of five months or less will not be subject to a recorded state tax lien, provided that a state lien was not already in place on the subject property.

Installment plans of six to 24 months, however, will be subject to a recorded state tax lien on any real and personal property.

NOTE: Any receipt of funds by Treasury, before your offer is submitted or any offset to which Treasury is entitled, cannot be considered as part of, or payment towards, any part of an offer, including the initial offer payment of \$100 or 20% of the offer, whichever is greater.

Other Important Facts

Penalties and interest on the tax debt will continue to accrue during the offer evaluation process.

The law requires Treasury to make certain information from accepted offers available for public inspection and review, including the following:

- the amount of tax assessed a taxpayer;
- the amount of interest or penalty imposed on the assessed taxpayer;
- the terms of the accepted compromise and the amount actually paid in accordance with the terms of the compromise;
- the grounds for the compromise; and
- any information regarding a taxpayer's return necessary to permit public inspection of the accepted compromise.

Where to Send Your Offer

Make your check payable to **"State of Michigan- Offer In Compromise"** and write your collections account number and assessment number(s) on the front of your check. Mail your payment, forms, initial offer payment and all applicable documents to:

**Michigan Department of Treasury
Offer in Compromise
PO Box 30190
Lansing MI 48909**