



Got a federal income tax debt you don't owe or can't pay?

What if I don't owe the tax?

You can file an appeal. The IRS letter will tell you when you have to file an appeal. If the appeal time has passed, then there are at least 2 things you may do - Audit Reconsideration or Offer in Compromise.

1. Audit Reconsideration - This can help if the IRS makes a wrong change to your tax record.

After you file a tax return, the IRS checks it. If the IRS thinks that you made a mistake on your tax return, they can change it. Usually the IRS has



3 years to change it. There are exceptions to the 3 year period. The 3 years start on the tax return's due date or the date you file, whichever is later. If you don't file a tax return, the IRS can change your tax at any time.

The IRS's change may be wrong. You can ask the IRS to fix it. This is called Audit Reconsideration. You can do it for **free**.

You can file Audit Reconsideration any time. To get a refund, generally you should file within 3 years from when your tax return was due. To file, send the IRS a letter explaining the problem. In the letter put:

- Your facts;
- The law;
- Any supporting information; and,
- Write **Audit Reconsideration** on the letter.
- You can also attach an Amended Tax Return/Form 1040X.

Send the letter to the office listed on your exam letter. If you do not have the letter, you can send it to:



IRS – Audit Reconsideration
Memphis Campus,
P.O. Box 30086
Memphis, TN 38130-0086

If the IRS fixes your return, you may not owe the tax. **You might also get a refund!** Want to know more? See IRS Publication 3598. When is it a good idea to file audit reconsideration? When you have not sent the IRS proof **OR** they lost your proof.

Example: Karen claimed the Earned Income Tax Credit (EITC) on her tax return. She got a refund check. The IRS changed Karen's tax return and took away the EITC. Karen did not send the IRS any papers. The IRS sent her a bill. Since Karen didn't owe the bill, she filed for Audit Reconsideration. She sent proof she should get the EITC. The IRS took away the tax debt. Karen got to keep her refund.

2. Offer in Compromise - Doubt as to Liability - Offer to settle the debt by paying part of the tax.

Think the IRS made a mistake and you don't owe what they say? You can file an Offer in Compromise based on doubt as to liability for free. But you have to pay an amount to settle the debt. You won't get a tax refund.



To file an Offer in Compromise:

- send in IRS Form 656;
- check "doubt as to liability" on Form 656;
- send proof you don't owe the tax; and
- write a letter explaining why you don't owe the tax (include your facts and the law).

Example: Jose claimed a \$2,000 business deduction on his tax return. Jose sent the IRS proof of his business deduction. The IRS disagreed with the proof and sent him a \$1,000 bill. Jose filed an Offer in Compromise based on doubt as to liability. The IRS accepted \$500 to settle the \$1,000 tax debt.

It is usually a good idea to file an Offer in Compromise based on doubt as to liability when the IRS has seen your proof but disagrees with you.

What if I owe the tax but I can't pay it?

You have at least 3 choices.

1. Monthly payments (Installment Agreement)

Can you make monthly payments to pay the tax debt? Agreeing to make monthly payments is called an Installment Agreement.

A monthly payment plan costs \$105. Will you let the IRS take the payments out of your bank account each month? Then you only have to pay \$52 for the monthly plan. You may only have to pay \$43 if you are low income.

Until you have paid all the tax debt, the IRS adds interest and penalties each month. Your interest and penalties will be less if you have a monthly payment plan.

There are 2 kinds of monthly payment plans.

- **Full Pay** lets you pay **all** the tax debt in 3 to 5 years.
- **Partial Pay** lets you make monthly payments, too. But it will **not** pay all you owe.

Fill out IRS Form 9465. You can decide what day you will make the payment each month. You can get this paper at www.irs.gov.



2. If you can't pay right now (placement in Currently Not Collectible status)

What if you don't earn enough to make monthly payments? You can ask the IRS to place your account in Currently Not Collectible Status (financial hardship).

You have to prove all your money goes for needed expenses. Does paying the tax just make it hard to pay your bills? Then the IRS **won't** OK this plan.

To ask for this plan, fill out IRS Form 433-F. You can get this paper at www.irs.gov. You must also call the IRS Collections Department at **1-800-829-7650**. It's a free call.



If the IRS agrees, **you don't have to make any payments! But you still owe the tax.** You get one letter each year telling you how much you owe. The IRS doesn't charge a fee. But the IRS will keep adding interest and penalties to your tax debt. The IRS might place a lien on your property. This means if you sell it, the IRS gets the money for the tax debt. The IRS will keep refunds.

The IRS usually has 10 years to collect tax debts. If you have a financial hardship and the 10 year period ends, the IRS should remove the tax.

3. If you can't pay the full debt but want to settle (Offer in Compromise Based on Doubt as to Collectibility)

Owe the tax debt but know you can't pay it? You may be able to get the IRS to agree to take less. You have to prove all your money goes for needed expenses. You must prove you don't have enough to sell to pay all the tax debt.

To ask to pay only part, send in IRS Forms 433-A and 656. You must also send 20% of the total you want to pay. If you are low income, you may not have to pay the 20%. Are you asking to make monthly payments? Start making the payments right away. Don't wait until the IRS decides if they will accept your offer.

It costs \$150 to file these papers. But if you have low income, you can file for free. To find out if you must pay the fees, read the instructions to IRS Form 656A at www.irs.gov.

Is your tax debt less than \$5,000? Then the IRS can never file a lien on your home.



What if you **owe more than \$5,000**? The IRS won't usually try to take your home. The IRS can file a lien if you owe more than \$5,000. A lien doesn't let the IRS sell your home. The lien only works if **you** sell your home. The IRS takes the taxes you owe from the money you get from the sale.

What if I owe the tax and can pay but paying would cause me problems? (Offer in Compromise based on Effective Tax Administration)

If you owe and can afford to pay, but paying would cause you problems, you can file an Offer in Compromise based on effective tax administration to settle the debt. This is for people who have hardships such as medical problems, disabilities or other situations that prevent you from paying the debt.

NOTE: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.
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Tennessee Taxpayer Project

A Low Income Taxpayer Clinic

1-866-481-3669

It's a free call.

The Tennessee Taxpayer Project (TTP) is a Low Income Taxpayer Clinic funded in part by a grant from the IRS. TTP is independent from the IRS and Tennessee Department of Revenue. Legal Aid Society's staff prepared this brochure.

L E G A L A I D S O C I E T Y
OF MIDDLE TENNESSEE AND THE CUMBERLANDS

Have low income and legal problems? Call
Legal Aid Society for free at **1-800-238-1443**.
Or visit us on the internet at **www.las.org**