



AMERICAN TAX RESCUE

IRS OFFER IN COMPROMISE

IRS OFFER IN COMPROMISE (OIC)

The following is a breakdown of how the IRS responds to an Offer In Compromise. UPC Business wants the American Taxpayer to know everything that is required for this process. It is something that can be done by the taxpayer. **DO NOT LET A TAX PROFESSIONAL OVER-CHARGE YOU FOR THE PROCESS.** If you have questions or would like help determining if you **QUALIFY** for an OIC, please contact us.

Preparing accurate and thorough IRS Form 433-A is an essential and crucial step in submitting a successful Offer in Compromise application.

Form 433-A, "Collection Information Statement for Wage Earners and Self-Employed Individuals," is the form used to document your unique financial situation. The IRS uses this form to determine your Reasonable Collection Potential on your tax debts. Form 433-A is six-page form. Here's a breakdown of the information reported in each section of Form 433-A.

Form 433-A Section 1: Personal Information

Report your full name, address, telephone number, best time to call, marital status, and Social Security number. You also report all your dependents, their relationship to you, their age, and whether they live with you. You also let the IRS know whether you rent or own your house, or have some other sort of housing arrangement.

Form 433-A Section 2: Business Information

Report the name, address, employer identification number and other information for any businesses that you own. This may be a sole proprietorship, S-Corporation, LLC, or other type of business entity. If you own a business, you will also need to prepare IRS Form 433-B to report financial information about your business.

Attachments required: proof of self-employment income for the prior three months.

Form 433-A Section 3: Employment Information

Report the name of your employer, your work address, work telephone number, how long you have been employed with this company, and your occupation.

Attachments required: proof of wages and deductions for the prior three months. You should keep pay stubs, earnings statements, or other payroll information to document your wages, income tax withholding, and other payroll deductions.



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Form 433-A Section 4: Other Income Information

Report other income you receive each month. This may include pensions, annuities, Social Security, child support, alimony, or rental income.

Attachments required: proof of income for the prior three months. You should keep Social Security stubs, pension or annuity statements, copies of child support or alimony checks, or a statement of rental income and expenses.

Form 433-A Section 5: Bank, Investment, Credit, and Insurance Assets

Report all your liquid assets, such as bank accounts, investment accounts, credit card accounts, and insurance policies.

Bank accounts: provide the name and address of your bank branch, along with your bank account number and current balance. Include information on all checking, savings, and money market accounts you own. Include accounts held at banks, credit unions, and savings & loan institutions. Attachments required: bank statements for the previous three months.

Investment accounts: provide information about stocks, bonds, mutual funds, and other investment assets you own. Include any time deposits, certificates of deposit, IRAs, Keogh, 401k, and annuities. Money market funds should be reported in the bank account section. Attachments required: brokerage statement showing your holdings, annuity statement showing surrender value, bank statement showing current value and early withdrawal penalty for certificates of deposit, 401k plan statement showing account value and value of outstanding loans.

Cash on hand: provide information about cash you have that is not in a bank account. This includes cash you have in your possession or stored in a safe deposit box.

Credit Card Accounts: provide information about available credit. Report the name, address, credit limit, and current balance on all your credit cards, department store charge cards, and unsecured lines-of-credit. Do not report car loans and mortgages, those will be reported in Section 7. Attachments required: credit card statements for the prior three months.

Insurance Policies: provide information about the cash value of your whole life or universal life insurance policies. Term life insurance policies do not accumulate cash value, and so they should not be reported here. Attachments required: statement from your insurance company showing the cash value, loan value, and/or surrender value of your life insurance policy.



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Form 433-A Section 6: Other Legal Information

Check the appropriate Yes and No boxes, and provide additional information concerning any pending legal actions to which you are a party. You will need to let the IRS know if there are any garnishments against your wages, any judgments against you, and whether you have ever filed for bankruptcy. The IRS also asks about money or assets you have transferred to other people for less than their actual value, and whether you expect your income situation to change in the next few years.

Attachments required: if you answered yes to any of these questions, provide a detailed explanation on a separate sheet of paper. For example, you might want to detail any lawsuit or bankruptcy proceedings.

Form 433-A Section 7: Vehicles, Real Estate, Personal & Business Assets

Provide detailed information about cars, trucks, and real estate that you own.

For vehicles, provide make, model, and model year information along with mileage, loan balance, lender, purchase date, and amount of your monthly payment. If you are leasing a car or truck, put that information on Line 19. Vehicles include all types of cars, trucks, vans, RVs, trailers, motorcycles, and boats.

Personal assets, such as furniture, artwork, and jewelry, are reported on Line 21.

Business assets, such as computers and tools, are listed on Line 22.

Provide information about your house and other real estate you own. Provide information about all mortgage and home equity lines of credit in the real estate section.

Attachments required: Current statements from lenders showing monthly payment and current loan balance.

For vehicles, it would be a very good idea to print out a report showing the fair market value of your car or truck. Make sure you explain what condition your car is in, and what the approximate market value of the car is. I use the Kelley Blue Book reports, and print out private-party values for the two closest vehicle conditions. For example, if I feel the car is in "good" condition, I will print out the good and excellent condition price reports. This will provide the IRS with an approximate range, as well as an explanation of why I think the car is in "good" condition.

For real estate, it would be a very good idea to provide either an appraisal of the actual property, or a report from a real estate agent showing sales of comparable homes. Usually the comparable sales report is sufficient for a rough draft of the Offer in Compromise, but the IRS sometimes requests a full appraisal. It is also a good idea to detail the condition of the house. If you recently tried to refinance your mortgage or obtain a home equity line of credit, having any rejection letters from lenders will be valuable to add to your Offer in Compromise documentation. This will show that lenders are unwilling to extend you additional credit at the present time.





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Both car loans and mortgages relate to your Offer in Compromise in several important ways. First of all, the IRS generally does not want you to sell your car or home in order to pay off your tax debt. Generally, the IRS prefers that you keep your home and car and find other ways to pay your taxes, such as taking out a home equity line of credit. The IRS will therefore look at the fair market value of your house, compare it to your outstanding mortgage balance, and determine if there's additional equity you can tap into. Also, the IRS will discount the value of your house, cars, and other vehicles to their quick sale value. The quick sale value is calculated on Form 433-A Worksheet, and is equal to 80% of the property's current fair market value. Some taxpayers will find that they are "upside down" on their loans, that the loan balance exceeds the quick sale value of their car, truck or real estate.

Despite these general rules, I have seen the IRS ask the taxpayer to sell a second or third car, or to sell a house with substantial equity, before an Offer could be approved. These are matters for negotiation between the IRS and the taxpayer. Just be aware that the IRS is looking to collect as much money as possible given the taxpayer's unique financial situation.

Form 433-A Section 8: Accounts Receivable and Notes Receivable

For self-employed individuals, provide information about all your outstanding accounts receivable.

Form 433-A Section 9: Monthly Income and Expenses

Provide detailed information about total monthly income and expenses in Section 9, lines 24 through 45. The monthly budget, along with the Form 433-A Worksheet and ample documentation, are the crucial elements in your Offer in Compromise application. In fact, your budget in Section 9 and the reasonable collection potential calculated on the Worksheet work hand-in-hand to provide the IRS with information to determine how much money they can collect for back taxes. I always prepare three budgets, each using different criteria. It is important to see what each budget represents, and how it fits in with your overall Offer in Compromise application. I prepare all Offer in Compromise budgets using a spreadsheet template that mirrors the categories of information requested in Section 9 of Form 433A.

Budget #1 – Actual Income and Expenses. This represents your total income and total expenses for a month. Here's where tracking your expenses using Quicken, Quickbooks, or a spreadsheet, will come in handy. I typically take the average of the past three months of income and expenses and report them in the appropriate categories in Section 9. This provides the taxpayer with a good overview of their actual financial situation. The crucial piece of information you are looking for is the difference between Total Income (Line 34) and Total Living Expenses (Line 45). If you have a positive number, then the taxpayer has disposable income for the month. I would use that disposable income figure to find out if the taxpayer could qualify for a monthly installment agreement.



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Budget #2 – Income and Expenses using *some* IRS limits. The IRS generally will disallow any expense that is not directly related to the health, welfare, and sustenance of an individual and his or her family. So, for example, expenses for cable television, private school, and credit card payments will not be considered in the taxpayer's allowable budget. The items actually included in the monthly budget are listed in the footnotes and instructions for Lines 35 through 44. This budget is the starting point for figuring out how much "extra expenses" in comparison to Budget #3 we need to negotiate for.

Allowable expenses include:

Food, clothing, housekeeping supplies, and personal care products (reported on Line 35),
Rent, mortgage payment, property taxes, renter's insurance, homeowner's insurance, HOA dues, electric and gas utilities, telephone utilities, water, fuel oil, and trash collection (reported on Line 36),

Car loan payments, lease payments, auto insurance, registration and license fees, maintenance, repair, gasoline, parking, tolls, or bus fare (reported on Line 37),

Health insurance premiums, co-payments for doctors and medicines, hospitalization, and other medical and health care expenses (reported on Line 38),

Taxes for federal income tax withholding, Social Security and Medicare payroll taxes, estimated tax payments, state income tax withholding, local income tax withholding (reported on Line 39),

Child support, alimony, and other court-ordered payments (reported on Line 40),

Life insurance premiums (reported on Line 42),

Other secured debt, such as loans secured by a 401k or certificate of deposit (reported on Line 43),
and

Other expenses necessary for the health, welfare, and sustenance of the taxpayer. Detail any unusual but necessary expenses. A good example would be annual fees paid to renew an occupational license. Unless an expense is directly related to a person's job, career, or sustenance, it is unlikely that the IRS will allow the expense. (Reported on Line 44.)

Budget #3 – Income and Expenses using IRS Collection Financial Standards

The IRS has developed a set of national and local expense standards for food and clothing (line 35), housing and utilities (line 36), and transportation (line 37). Collectively, these expense guidelines are called the Collection Financial Standards.

Allowable monthly expenses for food, housing, and transportation are limited to the lower of:

Your actual expense, *or*

the appropriate Collection Financial Standard

Accordingly, you need to know your actual expenses (collected in Budget #1).





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Food and Clothing Expenses are limited by national standards for allowable living expenses. (Residents of Alaska and Hawaii have higher allowable food and clothing expenses.) The national standard is broken down by the number of people in a family and monthly gross income.

Housing Expenses are limited by local standards for housing expenses. The standard is broken down by the number of people in a family and the county where the family resides.

Transportation Expenses are limited by regional standards for transportation expenses. The standard is broken down by the number of cars in a family, and the region where the family resides. In Budget #3, replace the figures on Lines 35, 36, and 37 with the lower of the appropriate Collection Financial Standard, or your actual expense from Budget #1. Also, in Budget #3, assume that the IRS will disallow any expense claimed on Line 44 for Other Expenses. Budget #3 provides a picture of your financial situation from the IRS perspective.

Very often it will look like you have extra money under the IRS budget than you do under your actual budget. Budget #3 is generally becomes the foundation for calculating your reasonable collection potential on the Worksheet to Form 433A.

Analyzing your expenses using collection financial standards will likely produce very strong emotional reactions.

Summary of Required Attachments to Form 433A

You must attach to Form 433A the following documentation:

Copy of your last tax return (Form 1040, 1040A, or 1040EZ with all schedules),

Proof of all current expenses for the last three months,

Proof of all transportation expenses for the last three months,

Proof of all health care expenses for the last three months, and

Proof of any court-ordered payments for the last three months.

IRS NATIONAL OIC AND CNC STANDARDS

For all of the IRS National OIC and CNC Standards, please go to the following IRS web page for the complete breakdown:

[Collection Financial Standards | Internal Revenue Service \(irs.gov\)](https://www.irs.gov/efile/collection-financial-standards)



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