



- Board Members
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other [Insert Name]

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## **Topic:**

PROGRAM REVIEW: CENTRALIZED OFFERS IN COMPROMISE SECTION

### **I. Background**

The Offers in Compromise (OIC) Section was fully staffed by April 2000. The OIC Section includes one Business Taxes Compliance Supervisor II, four Business Taxes Compliance Specialists, one Business Taxes Specialist I, and one Office Technician. This section administers both the Offers in Compromise program and the Innocent Spouse (IS) Relief program.

Management responsibility for this function transferred from the Special Procedures Section under the Sales and Use Tax Department (SUTD) to the Taxpayers' Rights and Equal Employment Opportunity Division. The Board's goal was to provide an independent review, to streamline procedures, and to publicize the Offers in Compromise program. Centralization of the program provides many benefits, including greater consistency in the administration of the program, enhanced communication and responsiveness, improved program accountability and evaluation, and a reasonable approach to tax liability resolution.

### **II. Current Status**

#### **A. Current Improvements in Place**

Several of the OIC criteria were changed to provide more flexibility in the decision process. Under the prior criteria, it was suggested that to be acceptable the offers should cover at a minimum the tax portion of the liability. Under the current criteria, there are no restrictions on the percentage of tax that must be included in the offer. Under the old criteria, the amount offered was compared to the amount that could be collected over the life of the taxpayer. Under the new criteria, an acceptable offer should represent what the Board can expect to collect within a reasonable period of time, usually five to seven years.

The OIC Section has adopted the use of a present value analysis, which is a comparison of the offer amount to the current value of the future payments the taxpayer can make within a reasonable period of time. In addition, the OIC Section takes into consideration each taxpayer's special circumstances, including equity in assets and disposable income. In the past, if a taxpayer had any real property, the offer was generally rejected. Now, the OIC Section determines the taxpayer's ability to borrow from the equity in the property, and the amount of equity is compared to the offered amount.

Now, only non-disputed final tax liabilities qualify for an Offer in Compromise. A taxpayer can no

longer have a controlling interest or association with the business that incurred the liability to which the offer applies. The Board wants to discourage a taxpayer from generating a liability, closing the business with the liability, submitting an offer, and then re-opening the business under another permit just to avoid paying the full liability.

OIC staff identified, recommended, and participated in issue development for the Initial Discussion Paper for Spousal Equitable Relief (Regulation 1705.1 changes to reflect AB 2898 amendment to Section 6456). The Board authorized publication of Regulation 1705.1 on March 29, 2001. Staff prepared the rough draft of the Spousal Equitable Relief guidelines.

During the first few months of operation, the OIC Section concentrated on streamlining the OIC and IS processes and developing a tracking system. Thirty-seven (37) templates were developed to streamline both processes and promote better communication with the district and the taxpayer. All cases are acknowledged, and each taxpayer receives a written decision from the OIC Section. Specific reasons for denial or rejection are included in this correspondence. A tracking system was implemented to allow better inventory control and to provide statistical information for reports to management. In addition, timesheets were designed to capture weighted average processing hours per case and to provide an accurate method of estimating and actually tracking human resource requirements for projected and actual caseloads.

An external marketing plan was implemented to increase public awareness of the OIC program. Based on the external marketing plan:

- The OIC Corporate Application (BOE-490-C) and tri-fold (Publication 56) highlighting OIC program guidelines and process were completed and made available on the Internet.
- Power Point presentations for OIC were developed for use during workshops and tax seminars.
- OIC presentations were and are given at Taxpayer Service Days.
- The OIC Supervisor attended the Joint Federal/State OIC conference in Austin, Texas.
- Additional opportunities for presentations are being identified.

An internal marketing plan was implemented to educate Board staff on how to appropriately respond to taxpayers' and representatives' questions. Based on the internal marketing plan:

- OIC presentations were scheduled and given in Negotiation Skills (CT-7) and Advanced and Legal Collections (CT-8) classes.
- An OIC presentation was given at the Administrators' and Principals' Conference.
- A revision to Compliance Policy and Procedure Manual (CPPM) Chapter 7 to incorporate changes made to the OIC process due to creation of the OIC Section was drafted.
- Operations Memo 1093 (which addresses the need to educate the Board's district office personnel on the current OIC process) was drafted and distributed.

Furthermore, OIC staff revised and forwarded the lesson plan for documenting Offers in Compromise (used in CT-8 Class Manual) to the Training Section, provided OIC presentations to some local district offices, increased communication between OIC staff and district office staff, and made BOE-490-C available to staff on the Intranet.

### **C. Future Proposed Improvements**

A web page on OIC and an OIC frequently asked questions (FAQ) page were designed, approved, and

forwarded to TEALE for insertion on the BOE Internet site in March 2001. They should be available soon. Intranet links to Operations Memo 1093 and the OIC web page are being put in place. Information on the Board's OIC program will also be submitted for the *California Tax Information Center* website, [www.taxes.ca.gov](http://www.taxes.ca.gov). Staff will be developing Innocent Spouse external and internal marketing plans. After these two plans have been approved, staff plans to develop and implement an IS tri-fold, IS web page, and IS FAQs page on the BOE Internet site. To provide for more consistency with the FTB Innocent Spouse program, OIC staff plan to develop and implement a combination Spousal Notification/Innocent Spouse Application. FTB's form will be used as a model for the Board's form.

#### D. First Year Statistical Information

##### OIC Statistical Information as of April 10, 2001

- Offers submitted include:
 

Rejections	70
Withdrawals	45
Denials	55
Acceptances Completed	20
Acceptances in Final Process (AG/Legal taking through court system)	22
In Process Offers	<u>157</u>
<b>Total</b>	<b>369</b>
  
- Acceptance Percentage 27%

This is calculated using the same method the IRS and FTB use to calculate acceptance rate (using denials and acceptances in the population and excluding withdrawals and rejections). Rejections are excluded because the taxpayer did not provide enough information to make a decision or failed to meet the initial criteria of the program.

- Comparable Acceptance Percentage 43%

This includes acceptances in final process in the population. Neither the IRS nor the FTB is required to go through the courts. The court process takes from two to six months. Court processing time has significant impact on first year statistics.

- Percentage of Tax Portion of Liability Covered by Offer Amount:

<u>ACCEPTANCES</u>	<u>COMPLETED</u>	<u>IN FINAL PROCESS</u>
100% or More	9	9
76% to 99%	1	1
51% to 75%	3	1
26% to 50%	1	6
Less than 26%	<u>4</u>	<u>3</u>
<b>Total</b>	<b>18</b>	<b>20</b>

This chart does not include two accepted and two in-final-process offers already in process prior to centralization.

- One hundred percent (100%) of accepted offers were from funds not accessible to the Board under normal collection avenues.
- Sixty-seven percent (67%) of accepted offers were written-off or are likely to be written-off.
- Seventeen (17%) of accepted offers were dischargeable in bankruptcy.
- Fifty-six percent (56%) of withdrawn offers were resolved by either payment in full or through an installment agreement.
- Rejection reasons included:
 

Incomplete Supporting Documents	17
Substantially Incomplete OIC Package	13
Active Account	12
Related Active Accounts	11
All Collection Methods Not Exhausted	8
Bankruptcy	3
Discharge of Liability	3
Taxpayer Disputing Tax	1
Probate	1
Offer Not Made by Taxpayer	<u>1</u>
<b>Total</b>	<b>70</b>

IS Relief Statistical Information as of April 10, 2001

- Innocent Spouse Relief requests submitted include:

Acceptances	9
Denials	9
In Process Innocent Spouse Requests	9
Rejections	6
Withdrawals	<u>1</u>
<b>Total</b>	<b>34</b>

- Acceptance Percentage 50%

Includes denials and acceptances in the population, excluding withdrawals and rejections. This is the same method as used by the IRS and the FTB.

- Rejection reasons included:
 

Community Property Issue	3
Incomplete Supporting Documents	2
Not a Valid Billing	<u>1</u>
<b>Total</b>	<b>6</b>

### **III. Conclusion**

Staff will:

- Proceed with the planned improvements to the Offers in Compromise and Innocent Spouse Relief programs.
- Provide a second annual status report at the May 2002 CS&AE Committee meeting.

Prepared by: Taxpayers' Rights and Equal Employment Opportunity Division - OIC Office

Current as of: May 14, 2001