



Procedures for Making Offers of Compromise

Purpose: This Informational Publication explains the procedures for making an offer of compromise to the Department of Revenue Services (DRS) to resolve disputes from the application or enforcement of Connecticut tax laws.

Effective Date: Upon issuance

Statutory Authority: Conn. Gen. Stat. §12-2d.

Offers of Compromise: The Commissioner of Revenue Services (Commissioner) or a designated agent of the Commissioner is authorized to compromise any controversy arising from the application or enforcement of any Connecticut General Statute over which the Commissioner has authority.

Grounds for Compromise: The Commissioner or his designated agent may compromise a liability for any of the following reasons:

- Doubt as to liability;
 - Doubt as to collectibility; **or**
 - Doubt both as to liability and as to collectibility.
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Doubt as to Liability: *Doubt as to liability* exists where there is a genuine dispute as to the existence or amount of the correct tax liability under the law. Doubt as to liability does not exist with respect to an audit assessment:

- Where a notice of assessment has been issued, but no timely protest of the assessment has been filed; **or**
- Where a timely protest of the assessment has been filed and a final determination letter has been issued upholding the assessment, but no timely appeal to the Superior Court has been taken; **or**

- Where a timely appeal to the Superior Court has been taken, but the court of last resort upholds the final determination letter.

Every offer of compromise based on doubt as to liability must involve a tax assessed by an audit assessment (and not a self-assessed tax) and may only be made after the notice of assessment has been issued.

The person to whom an offer based on doubt as to liability should be submitted: If an offer of compromise is initially made before a final determination letter is issued by the Appellate Division, the offer should be submitted to the Director of the Appellate Division. If an offer of compromise is initially made after a final determination letter is issued by the Appellate Division, but before the final determination is appealed to the Superior Court, the offer should be submitted to the Director of the Legal Division. If an offer of compromise is initially made after a final determination has been appealed to the Superior Court, the offer should be submitted to the General Counsel.

Not a protest or an appeal: Making an offer of compromise does not in and of itself:

- Constitute the filing of a protest of an audit assessment, or extend the time to protest an audit assessment; **or**
- Constitute the taking of an appeal to the Superior Court, or extend the time to take an appeal to the Superior Court.

Delegation order: The authority granted to the Commissioner under Conn. Gen. Stat. §12-2d to compromise any controversy between a taxpayer and DRS (excluding any controversy arising from the application or enforcement of the provisions of Chapter 216 of the Connecticut General Statutes) based on doubt as to liability is delegated under **Delegation Order No. 5 (Rev. 1)** to the following officials:

- The Director of the Appellate Division, if the difference between the dollar amount (including interest, penalty, and addition to tax) of the offer of compromise accepted by DRS and the dollar amount (including interest, penalty, and addition to tax) for which the taxpayer was assessed or for which the taxpayer claimed a refund is less than \$25,000.
- The Director of the Legal Division or the General Counsel, regardless of the dollar amount.

Doubt as to Collectibility: *Doubt as to collectibility* exists in any case where the taxpayer's assets and income are less than the full amount of the correct tax liability. An offer of compromise based on doubt as to collectibility may involve a tax assessed by an audit assessment, in which event, the offer may only be made after the notice of assessment has been issued, or a self-assessed tax.

The person to whom an offer based on doubt as to collectibility should be submitted: If an offer of compromise is based solely on doubt as to collectibility (and is not based both on doubt as to liability and as to collectibility), the offer should be submitted to the Bureau Chief of the Compliance Process Group. The taxpayer will be required to make a full financial disclosure. An offer of compromise will generally be accepted when it is unlikely that DRS would be able to collect the full amount owed, and the amount offered reasonably reflects collection potential.

Delegation order: The authority granted to the Commissioner under Conn. Gen. Stat. §12-2d to compromise any controversy between a taxpayer and DRS based on doubt as to collectibility is delegated under **Delegation Order No. 2 (Rev. 2)** to the Director of the C&E Division, the Bureau Chief of the Compliance Process Group, and the General Counsel.

Doubt Both as to Liability and as to Collectibility: *Doubt both as to liability and as to collectibility* exists where there is a genuine dispute as to the existence or amount of the correct tax liability under the law, and where the taxpayer's assets and income are less than the full amount of the correct tax liability. Every offer of compromise based on doubt both as to liability and as to collectibility must involve a tax assessed by an audit assessment (and not a self-assessed tax) and may only be made after the notice of assessment has been issued.

The person to whom an offer based on doubt both as to liability and as to collectibility should be submitted: If an offer of compromise is initially made before a final determination letter is issued by the Appellate Division, the offer should be submitted to the Director of the Appellate Division. If an offer of compromise is initially made after a final determination letter is issued by the Appellate Division, but before the final determination is appealed to the Superior Court, the offer should be submitted to the Director of the Legal Division. If an offer of compromise is initially made after a final determination has been appealed to the Superior Court, the offer should be submitted to the General Counsel.

Circumstances Under Which DRS Will Generally Not Accept an Offer of Compromise: DRS will generally not accept an offer of compromise based on doubt as to liability for:

- An audit assessment that has become final; **or**
- Amounts not yet formally assessed (through the issuance of a notice of assessment).

DRS will generally not accept an offer of compromise based on doubt as to collectibility if:

- You have not filed all required Connecticut tax returns;
- You are being criminally prosecuted for a Connecticut tax liability;
- You have begun a voluntary bankruptcy case by filing a petition with the U.S. Bankruptcy Court under Title 11 of the United States Code, and another person has filed an involuntary bankruptcy case against you;
- You have other assets, income, or outstanding liabilities that are not disclosed in the offer;
- The offer relates to taxes that, in DRS' judgment, reasonably may be expected to be payable, in installments, from future income or future-acquired assets; **or**
- The offer appears to have been made as a delaying strategy, and collection of the tax is in jeopardy.

Decision Not to Accept an Offer of Compromise Is Not Subject to Review: A decision by the Commissioner or his designated agent not to accept an offer of compromise is final and is not subject to review by the Superior Court.

Effect on Other Documents: This Informational Publication modifies and supersedes **Informational Publication 2001(10)**, *Procedures for Making Offers of Compromise*.

Effect of This Document: An Informational Publication addresses frequently asked questions about a current position, policy, or practice, usually in a less technical question and answer format.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit anytime by calling 860-297-4911.

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at **www.ct.gov/DRS**
 - **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu. Only forms (not publications) are available through TAX-FAX.
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- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.
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Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to file sales and use taxes, business use tax, room occupancy tax, estimated corporation business tax, business entity tax, or withholding tax returns over the Internet. Visit the DRS Web site at **www.ct.gov/DRS** and click on *File/Register OnLine*.
 - **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at **www.ct.gov/DRS** and click on *File/Register OnLine*.
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