

2017 -- H 5788

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO TAXATION -- OFFER IN COMPROMISE OF PERSONAL INCOME TAX
DEBT ACT

Introduced By: Representatives Lancia, Morgan, Hull, Solomon, and Vella-Wilkinson

Date Introduced: March 01, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 30.4

4 OFFER IN COMPROMISE OF PERSONAL INCOME TAX DEBT ACT

5 **44-30.4-1. Short title.**

6 This chapter may be designated as the "Offer in Compromise of Personal Income Tax
7 Debt Act."

8 **44-30.4-2. Purpose.**

9 The objectives of this chapter are to:

10 (1) Effect collection of that portion of a personal income tax debt which can be
11 reasonably collected at the earliest possible time and at the least cost to the state and the taxpayer;

12 (2) Achieve a resolution of the tax debt that is in the best interests of both the taxpayer
13 and the state;

14 (3) Provide the taxpayer a fresh start toward future voluntary compliance with all filing
15 and payment requirements;

16 (4) Secure collection of revenue that may not be collected through any other means; and

17 (5) Allow the taxpayer an option to settle the tax debt for less than the full amount owed
18 based on ability to pay, income, expenses, asset equity and other unique or special circumstances.

1 **44-30.4-3. Eligibility.**

2 (a) Before a taxpayer's offer can be considered the taxpayer must:

3 (1) File all tax returns the taxpayer is legally required to file;

4 (2) Receive a bill for at least one tax debt included on the offer;

5 (3) Make all required estimated tax payments for the current tax year; and

6 (4) Make all required state tax deposits for the current quarter if the taxpayer is a business
7 owner with employees.

8 (b) If the taxpayer or their business is currently in an open bankruptcy proceeding, the
9 taxpayer is not eligible to apply for an offer in compromise and the resolution of the tax debt;
10 resolution must take place within the context of the bankruptcy proceeding.

11 (c) The division of taxation will not accept an offer in compromise if the taxpayer can
12 pay the tax debt in full or through an installment agreement and/or equity in assets unless there
13 exists unique or special circumstances set forth as part of the offer.

14 **44-30.4-4. Offer in compromise.**

15 (a) The taxpayer must submit the offer in compromise upon a form designed for that
16 purpose by the division of taxation along with a nonrefundable fee of two hundred dollars (\$200).

17 (b) The offer in compromise must be based on the amount of the tax debt and the
18 taxpayer's actual ability to pay.

19 (c) The submission of an offer does not guarantee its acceptance; however, the offer shall
20 initiate the evaluation process and consideration of any unique or special circumstances by the
21 division.

22 (d) The evaluation process by the division of the offer shall result in a determination if
23 the offer is appropriate based on the taxpayer's assets, income, expenses, future earning potential
24 and any applicable unique or special circumstances. If the offer is deemed appropriate, it will be
25 accepted by the division. If the offer is deemed inadequate, it will result in a rejection.

26 (e) Penalties and interest shall continue to accrue on the tax debt during consideration of
27 the offer and the taxpayer must continue to timely file and pay all tax returns, estimated tax
28 payments and state tax deposits as they accrue.

29 (f) Any state tax refunds for tax periods extending through the calendar year for which
30 the division accepts the offer shall be held by the division and applied to the outstanding tax debt
31 and will not be considered as a payment pursuant to the accepted offer.

32 (g) The investigation process by the division shall proceed in a timely fashion. If no
33 determination of acceptance or rejection of the offer is made within twelve (12) months of the
34 date the application form is filed, the offer shall be deemed accepted. Upon the issuance of the

1 letter of determination, the twelve (12) month time frame becomes inapplicable.

2 **44-30.4-5. Payment of offer in compromise.**

3 (a) Upon acceptance of the offer by the division, the taxpayer must:

4 (1) Select a payment option; and

5 (2) Include the required initial payment in accordance with the offer.

6 (b) The amount of the initial payment, and subsequent payments will depend on the total
7 amount of the offer based on the following payment options:

8 (1) Lump sum cash option. This option requires twenty percent (20%) of the total offer
9 amount to be paid at the time of the offer and the remaining balance to be paid in five (5) or fewer
10 payments within five (5) or fewer months of the date the offer is accepted.

11 (2) Periodic payment option. This option requires the first payment to be paid at the time
12 of the offer and the remaining balance to be paid within six (6) to twenty-four (24) months, in
13 accordance with the proposed offer terms. Under this option, the taxpayer must continue to make
14 monthly payments while the division is evaluating the offer. Failure to make these payments will
15 cause the offer to be returned without the possibility of appeal. The sum of the periodic payments
16 must equal the total offer amount.

17 (c) All payments submitted with the offer and during consideration of the offer will be
18 applied to the tax debt. The payments cannot be returned to the taxpayer unless the taxpayer pays
19 more than the required payment and designates it as a deposit.

20 (d) The taxpayer may not apply an expected or current tax refund, money already paid,
21 funds attached by any collection action, or anticipated benefits from a capital or net operating loss
22 to satisfy obligations associated with any offer. If the taxpayer utilizes retirement savings from an
23 IRA or 401(k) plan, the taxpayer may be liable for future tax liabilities owed as a result.

24 **44-30.4-6. Administration of program.**

25 (a) The administrator of the division of taxation shall oversee the offer in compromise
26 personal income tax debt program, shall implement the program by promulgating any rules and
27 regulations to achieve the purposes of this chapter and shall develop any and all documents and
28 forms deemed necessary for the division to consider and implement the offer in compromise
29 program in accordance with this chapter.

30 SECTION 2. This act shall take effect upon passage with implementation on July 1,
31 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION -- OFFER IN COMPROMISE OF PERSONAL INCOME TAX
DEBT ACT

- 1 This act would establish a process for the resolution of personal income tax debts of
- 2 taxpayers within the division of taxation upon the submission of an offer in compromise.
- 3 This act would take effect upon passage with implementation on July 1, 2018.

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