

MISCELLANEOUS TAX BULLETIN 2011-02

Issued: November 16, 2011

Compromises at the Board of Appeals

Effective immediately, the Department of Revenue's Board of Appeals will implement procedures to compromise certain appeals filed with the Board. The intent of allowing compromises is to further the goal of providing impartial, timely and inexpensive resolution of tax disputes.

This process will permit a petitioner of a timely-filed appeal to propose a compromise with the Department prior to a final decision by the Board of Appeals. Under this process, an informal conference (either by phone or in person) would be conducted by a Board of Appeals hearing officer and may include both representatives of the Department and the petitioner. The purpose of the conference is to determine if the appeal may be resolved in a mutually satisfactory manner. If so, an Order reflecting the compromise would be submitted to the Board for approval.

Any compromise granting relief of less than \$10,000 shall require approval of one Board member; any compromise granting relief of \$10,000-\$99,999 shall require approval of two Board members; and any compromise granting relief of \$100,000 or more shall require approval of three Board members. In addition, the Department's Office of Chief Counsel must review and approve all compromises. Compromises that grant relief of less than \$50,000 must be approved by a Deputy Chief Counsel. Compromises that grant relief of \$50,000 or more must be approved by the Chief Counsel and a designee for the Secretary of Revenue (currently the Deputy Secretary for Tax Policy). The Department of the Auditor General will continue to play an independent role in approving proposed decisions and orders of the Board of Appeals on corporate tax cases, including proposed compromise orders.

Article 27 of the Tax Reform Code requires the Board of Appeals to render a decision within six months of the petition's filing date. This may be extended for an additional six months if agreed to by both parties. This extension process will be used to ensure that there is adequate time for the parties to discuss a potential compromise and, if no compromise is reached, to issue a decision and order. If there is no agreeable compromise, the petitioner may proceed through the formal appeals process.

There shall be two bases for compromise: (1) doubt as to liability; and/or (2) the promotion of effective tax administration.

The following are not eligible for compromise: appeals of denial of property tax/rent rebate claims; appeals of denial of charitable tax exemptions; appeals of revocation of sales tax licenses; jeopardy assessment appeals; and Gaming Control Act appeals.