

## TAX COMPROMISES POSSIBLE AT BOARD OF APPEALS

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The Department of Revenue's Miscellaneous Tax Bulletin 2011-02 (Nov. 16, 2011) announces a new compromise procedure at the Board of Appeals (BOA). The stated intent is to further the goal of providing impartial, timely, and inexpensive resolution of tax disputes in Pennsylvania.

A taxpayer may propose a compromise of a pending appeal prior to a final decision by the BOA. There are two bases for such a compromise: (1) doubt as to liability; and (2) effective promotion of tax administration. A request for compromise should be submitted on Form DBA-10-11-11 and should be provided to the BOA as early as possible in the process to allow the Department of Revenue (the department) to evaluate the compromise proposal. A specific dollar compromise must be proposed and the reasons for it. The BOA should be provided with any documentation supporting the offer. The form requires an acknowledgment by the taxpayer that if the appeal is compromised by the parties, a compromise order will be issued by the BOA and the taxpayer will waive any right to appeal said order, claim any refund of money pursuant to the order, or file an appeal that raises the same issues for tax periods and liabilities addressed in the compromise order.

An informal conference, either by phone or person, will be conducted by a BOA hearing officer, which may include representatives of the Department and the Auditor General.

If a compromise is agreed upon, the BOA will issue an order reflecting the compromise.

Any compromise granting relief of less than \$10,000 will require approval of one BOA member, a compromise from \$10,000 to \$99,999 will require the approval of two BOA members, and any compromise of \$100,000 or more will require the approval of three BOA members. The Department's Office of Chief Counsel must review and approve all compromises. A compromise of an amount less than \$50,000 must be approved by a deputy chief counsel. Compromises that reduce the taxpayer's liability by \$50,000 or more must be approved by the Chief Counsel of the Department and a designee for the Secretary of Revenue, currently the Deputy Secretary of Tax Policy. The Auditor General's Office will continue to play an independent role approving proposed decisions and orders of the BOA on corporate tax matters, including any proposed compromise orders.

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

Since the procedure is entirely new, it may be appropriate for the Department to seek codification by regulation or statute.