Legislative Analysis

Mary Ann Cleary, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

OFFER-IN-COMPROMISE TAXPAYER AGREEMENTS

House Bill 4003
Sponsor: Rep. John Walsh
Committee: Tax Policy

Complete to 6-6-13

A SUMMARY OF HOUSE BILL 4003 AS INTRODUCED 1-9-13

The bill would amend the Revenue Act to create an "offer-in-compromise" program within the Department of Treasury.

(See Background Information, for a link to information about the existing federal program administered by the Internal Revenue Service.)

Under this program, the State Treasurer (or an authorized representative) could compromise all or any part of any payment of a tax, unpaid account, or amount due the state or any of its departments, institutions, or agencies that are subject to administration under the Revenue Act, including any related penalties and interest, if one or more of the following grounds exist:

(1) A doubt exists as to liability.
(2) A doubt exists as to collectibility.
(3) A substantial probability exists that a compromise would further the fair and efficient administration of the tax.

If the State Treasurer compromised all or part of any payment of a tax, unpaid account, or amount due the state, the treasurer would place on file a written report at department offices outlining the basis for the compromise and, at a minimum, a statement of each of the following:

(1) The amount of tax assessed or other amount due.
(2) The amount of interest, additional amount, addition to the tax, or assessable penalty imposed on the person against whom the tax is assessed.
(3) The amount actually paid in accordance with the terms of the compromise.

The State Treasurer would not be required to file a report if the compromise was related to a civil case involving amounts under $25,000.

A compromise would be subject to continuing quality review by the State Treasurer. The department could revoke any compromise if it was induced by fraud or perjury, or if the taxpayer failed to comply with any tax payment agreement within five years after the compromise was made.

The fact that a taxpayer received a federal compromise of tax in a tax year would be prima facie evidence that the same taxpayer was entitled to a compromise of any similar or comparable Michigan tax liability that existed, at least in a proportional amount, for the same tax year.

Within 90 days after the effective date of the bill, the State Treasurer would have to:

- Establish guidelines for the offer-in-compromise program. If appropriate the guidelines could be modeled on the guidelines of the federal Internal Revenue Service.

- Establish administrative guidelines for officers and employees with the department to use when making decisions on whether an offer-in-compromise is appropriate.

- Establish procedures for an independent administrative review of any rejection of a proposed offer-in-compromise made by a taxpayer before the rejection is communicated to the taxpayer.

- Establish procedures for taxpayer appeals of rejections.

- Establish appropriate application fees and procedures to allow for payment plans.

The department would disclose return information to the members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise relating the state tax liability.

MCL 205.23a

BACKGROUND INFORMATION:

For information on the federal "Offer-in-Compromise" Program, see the information from the Internal Revenue Service at the following link:
http://www.irs.gov/taxtopics/tc204.html

FISCAL IMPACT:

If the State of Michigan were to participate in an offer-in-compromise plan, as specified in the bill, it could increase revenue in the short-run, but lower revenue in the long term. This bill would have no direct impact on local units of government.

Legislative Analyst: Chris Couch
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.