

REVENUE DIVISION OF DEPARTMENT OF TREASURY (EXCERPT)
Act 122 of 1941

205.23a Compromise; filing and publication of report; continuing review; revocation; duties of state treasurer; disclosure of return information; additional assessment; levy against property prohibited; remittance; rejection of offer to compromise as final.

Sec. 23a. (1) Beginning January 1, 2015, the state treasurer, or an authorized representative of the state treasurer, may compromise all or any part of any payment of a tax subject to administration under this act including any related penalties and interest if 1 or more of the following grounds exist:

(a) A doubt exists as to liability if the department concludes, based on evidence provided by the taxpayer, that the taxpayer would have prevailed in a contested case if the taxpayer's appeal rights had not expired.

(b) A doubt exists as to collectability if the taxpayer establishes both of the following:

(i) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(ii) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(c) A federal compromise of tax under section 7122 of the internal revenue code has been granted for the same tax years. If an offer to compromise a tax under part 1 or part 2 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.699, is accepted pursuant to this subdivision, the state treasurer, or an authorized representative of the state treasurer, may compromise the outstanding balance of the liability for each year by applying the same percentage as the federal liability compromised to the total liability.

(2) If the state treasurer, or an authorized representative of the state treasurer, compromises all or any part of any payment of a tax as authorized under this section, he or she shall place on file in the office of the state treasurer and publish on the department of treasury's website a written report outlining the basis for the compromise and, at a minimum, a statement of each of the following:

(a) The amount of tax assessed.

(b) The amount of interest or assessable penalty imposed by law on the person against whom the tax is assessed.

(c) The terms of the compromise and the amount actually paid in accordance with the terms of the compromise.

(d) The grounds for the compromise.

(3) A compromise under this section is subject to continuing review by the state treasurer. The department may revoke any compromise made under this section, may reestablish all compromised liabilities, without regard to any statute of limitations that otherwise may be applicable, and shall not refund any portion of the amount offered in compromise, if either of the following occurs:

(a) The state treasurer, or an authorized representative of the state treasurer, reasonably determines that the person receiving the compromise concealed from the department any property belonging to the taxpayer, the estate of a taxpayer, or any other person liable for the tax or, with the intent to mislead, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax to induce the compromise.

(b) The taxpayer fails to comply with any of the terms and conditions relative to the offer or to file subsequent required returns and pay subsequent final tax liabilities within 20 days after the department issues a notice and demand to the person stating that the continued failure to file or pay the tax may result in the revocation of the compromise made under this section.

(4) Within 180 days after the effective date of the amendatory act that added this section, the state treasurer shall do all of the following:

(a) Establish guidelines for the offer-in-compromise program authorized under this section. If appropriate, the guidelines shall be modeled after those guidelines published by the internal revenue service of the United States department of treasury in regards to the federal offer-in-compromise program established under section 7122 of the internal revenue code.

(b) Establish guidelines for officers and employees within the department to use when making decisions on whether an offer-in-compromise is appropriate.

(c) Establish procedures for an independent administrative review within the department of any rejection of a proposed offer-in-compromise made by the taxpayer. In order to initiate a review under this subdivision, the taxpayer shall make a written request on a form prescribed by the department within 30 days after the department issues the rejection. If appropriate, the independent administrative review procedures shall be modeled after the guidelines published by the internal revenue service for the federal offer-in-compromise

program established under section 7122 of the internal revenue code.

(5) The department shall disclose return information to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under this section relating to the liability for a tax imposed by this state.

(6) Except for a revocation as provided under subsection (3), a tax that was compromised is not subject to additional assessment or collection unless the compromised tax is modified or adjusted as a result of information received from the internal revenue service or as a result of an audit performed by this state or on behalf of this state. Except as to any additional assessment imposed as provided under this subsection, a taxpayer shall not request an informal conference or institute tribunal or judicial proceeding against the department regarding the taxpayer's tax liability or the compromise.

(7) The department shall not levy against property to collect a liability while an offer to compromise is pending unless the state treasurer, or an authorized representative of the state treasurer, has determined that the taxpayer's offer to compromise was intended to delay collection of the tax or the department has issued a jeopardy assessment under section 26.

(8) A taxpayer who submits an offer to compromise a tax, penalty, or interest shall remit with its offer \$100.00 or 20% of the offer, whichever is greater, to the department. The amount remitted with the offer shall be applied to the outstanding balance of that taxpayer's liability and shall not be refunded if the offer to compromise is rejected or reduced.

(9) Except for the independent administrative review available as provided under subsection (4)(c), a rejection of an offer to compromise, in whole or in part, is final and is not subject to further challenge or appeal under this act.

History: Add. 2014, Act 240, Imd. Eff. June 27, 2014.