WEST VIRGINIA CODE: §11-10-5Q

§11-10-5q. Settlement agreements and compromises.

(a) Closing agreements authorized. -- The Tax Commissioner is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any tax administered by the Tax Commissioner under this article, for any taxable period.

(b) Finality of closing agreement. -- If a closing agreement is entered into by the Tax Commissioner, (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(1) The matters so agreed upon shall not be reopened, or the agreement modified by any officer, employee or agent of this state; and

(2) In any civil action or administrative proceeding, the closing agreement or any determination, assessment, collection, payment, abatement, refund or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded.

(c) Compromises authorized. -- The Tax Commissioner may compromise all or part of any civil case arising under the provisions of this article. In all such matters involving issues in respect of tax liability in controversy of $15,000 or more for one or all of the years involved in such matter, claim or case, the Tax Commissioner shall seek the written recommendation of the Attorney General before entering into such compromise. Any liability for tax (including any interest, additions to tax and penalties) may be compromised upon one or more, or both, of the following grounds:

(1) Doubt as to liability; or

(2) Doubt as to collectibility.

(d) Record of compromise. -- Whenever a compromise is made by the Tax Commissioner under subsection (c), there shall be placed on file in the Tax Commissioner's office the opinion of the Tax Commissioner's legal counsel (with his reasons therefor) and any written recommendation of the Attorney General received pursuant to subsection (c) above together with a statement of:

(1) The amount of tax assessed,

(2) The amount of interest, additions to the tax, or assessable penalty imposed by law on the person against whom the tax is assessed, and

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

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Notwithstanding the foregoing provisions of this subsection (d), no such opinion shall be required with respect to the compromise of any civil case in which the amount of tax assessed (including any interest, additions to tax or assessable penalty) is less than $1,000.

(e) Report to Legislature. -- The Tax Commissioner shall submit to the Speaker of the House of Delegates, the President of the Senate and the Legislative Auditor a quarterly report summarizing the issues and amounts of liabilities contained in the agreements and compromises into which he has entered pursuant to this section. Such report shall be in a form which preserves the confidentiality of the identity of the taxpayers involved in such agreements and compromises. Notwithstanding any other provision of law to the contrary, the agreements and compromises entered into pursuant to this section shall be subject to audit, in their entirety, by the Legislative Auditor.

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