This notice was revoked on September 7, 2004 by Revenue Notice # 04-08.

Minnesota revenue notice number 99-04

Collections - Compromise Agreements

A compromise is a written agreement between the Department of Revenue (“Department”), the Attorney General’s Office (“Attorney General”), and the taxpayer to settle a tax liability, including penalty and interest, that is due and owing. Compromises are reserved for extraordinary circumstances -- lack of funds alone is not enough to justify a compromise agreement. The Department usually requires that the compromised amount be paid in one payment. If a compromise proposal by a taxpayer is rejected by the Department or the Attorney General, there are no formal appeal rights regarding the decision.

Statutory Authority

The statutory authority for compromising a tax liability is found in Minnesota Statutes, § 8.30, which states: ". . . the attorney general shall have authority to compromise taxes, penalties, and interest in any case referred to the attorney general, . . . where, in the attorney general's opinion, it shall be in the best interests of the state to do so." Compromise proposals are referred to the Attorney General by the Department; in other words, the Attorney General does not consider any offer for compromise until it has first been approved by the Department.

Submitting an Offer in Compromise

A taxpayer who wishes to enter into a compromise agreement must submit a written proposal to the Department. The proposal must contain the following information:

- amount of the compromise offer and when it will be paid;
- the source of the funds the taxpayer is using to pay the compromise amount;
- current financial information regarding the taxpayer, including real and personal property owned by the taxpayer; and
- why the compromise offer should be accepted.

Factors Considered By The Department

When reviewing the above information, the Department considers the following factors:

- age of the liability and whether the statute of limitations on collection will soon expire;
- employment potential of the taxpayer;
- age and health of the taxpayer;
- realistic potential for collecting the liability in full;
- other liable parties (spouse, partner, corporate officers);
- credit bureau report;
- the make-up of the balance due (in other words, tax, penalty, and interest);
- whether or not the liability is comprised of "trust taxes" (such as Minnesota income tax withheld by an employer or sales tax collected by a retailer);
- whether or not the taxpayer is current with filing all tax returns;
- collection history -- previous collection action taken, past or current bankruptcy of the taxpayer, and the amount paid against the liability to date, including any refunds that may have been applied;
- whether any doubt exists as to the correctness of the liability;
- whether all or a portion of the liability would be discharged if the taxpayer declared bankruptcy;
- in the case of a business liability, whether or not the business is open or closed;
- whether the offer is the first offer of compromise or a reconsideration of a previous offer; and
- whether there are factors that would justify an abatement of penalty

Procedures Following The Department's Review

After reviewing the proposal, the Department will:

- recommend to the Attorney General that the compromise offer be accepted;
- request that the taxpayer provide further information to substantiate information contained in the proposal;
- make a counter-offer to the taxpayer; or
- deny the request for compromise.

If the Department accepts the proposal, subject to the Attorney General's approval, a written compromise agreement will be prepared for signature. The agreement does not take effect until it is signed by the taxpayer, a designee of the Commissioner of Revenue, and a designee of the Attorney General.

Dated: 1 March 1999

Terese Koenig, Director
Appeals, Legal Services and Criminal Investigation Division