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House Bill 4003 (as passed by the House)
Sponsor: Representative John Walsh
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 2-12-14

CONTENT

The bill would amend the revenue Act to establish an offer-in-compromise (OIC) program, which would authorize the State Treasurer to compromise the payment of a tax if doubt existed as to liability or collectability or if there were a substantial probability that a compromise would further the fair and efficient administration of the tax. The bill also would do the following:

- **Allow the Department of Treasury to revoke a compromise under certain circumstances.**
- **Provide that a taxpayer's Federal compromise of tax would be prima facie evidence that the taxpayer was entitled to a compromise of a comparable Michigan tax liability.**
- **Require the State Treasurer to file a written report if a tax liability were compromised, unless the compromise related to a civil case involving less than \$25,000.**
- **Require the State Treasurer to establish guidelines and procedures, including application fees and procedures to allow for payment plans.**
- **Require the Department to disclose return information to the public as necessary to permit inspection of any accepted offer-in-compromise.**

Exception to Current Prohibition

The Act prohibits the State Treasurer and Treasury Department employees from compromising or reducing the taxes due or claimed by the State or unpaid accounts or amounts due to any department, institution, or agency of State government, although the Treasurer or an employee may compromise interest or penalties, or both. This prohibition does not apply to a voluntary disclosure agreement between a person and the Department. The bill would make another exception for the proposed OIC program.

Authority to Compromise

The bill would authorize the State Treasurer, or an authorized representative of the Treasurer, to 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, subject to administration under the Act, including any related penalties and interest, if one or more of the following grounds existed:

- A doubt existed as to liability.
- A doubt existed as to collectability.

- A substantial probability existed that a compromise would further the fair and efficient administration of the tax.

The fact that a taxpayer received a Federal compromise of tax in a tax year would be prima facie evidence that the taxpayer was entitled to a compromise of any similar or comparable Michigan tax liability that existed, at least in a proportional amount, for the tax year in which the Federal compromise was granted. (Prima facie evidence is evidence sufficient to establish a given fact or raise a presumption unless disproved or rebutted.)

Review; Revocation

A compromise would be subject to continuing quality review by the State Treasurer. The Department could revoke any compromise if it were 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.

Report of Compromise

If the State Treasurer or an authorized representative compromised all or part of any payment of a tax, unpaid account, or amount due, he or she would have to file in the office of the State Treasurer a written report outlining the basis for the compromise. The Treasurer or representative also would have to file a statement of each of the following:

- The amount of tax assessed or other amount due to the State.
- The amount of interest, additional amount, addition to the tax, or assessable penalty imposed by law on the person against whom the tax was assessed.
- The amount actually paid in accordance with the compromise.

A report would not be required, however, if the compromise were related to a civil case that involved an unpaid amount of tax assessed, an unpaid account, or other amount due, including any interest, additional amount, addition to the tax, or other assessable penalty that was less than \$25,000.

Guidelines & Procedures

Within 90 days after the bill's effective date, the State Treasurer would have to establish all of the following:

- Offer-in-compromise program guidelines, which, if appropriate, would have to be modeled after those published by the Internal Revenue Service in regard to the Federal OIC program.
- Administrative guidelines for Department officers and employees to use when deciding whether an OIC was appropriate.
- Procedures for an independent administrative review of any rejection of a proposed OIC made by a taxpayer before the rejection was communicated to the taxpayer.
- Procedures for a taxpayer to appeal any rejection of an OIC.
- Appropriate application fees and procedures to allow for payment plans to satisfy a compromised liability.

Disclosure

The Department would be required to disclosure return information to members of the general public to the extent necessary to permit inspection of any accepted OIC relating to the liability for a tax imposed by the State.

FISCAL IMPACT

The bill would have an indeterminate impact on State revenue. The bill would increase State revenue to the extent that compromises on taxes due resulted in collection of revenue that otherwise would have been uncollectible. The possibility of an adjustment in taxes due, however, could change the behavior of some taxpayers, who might delay payment and seek a reduced tax bill, which if made available, would result in a decline in State revenue. Making tax compromises in Michigan dependent on Federal tax compromises would tend to reduce State revenue. The Department of Treasury would incur additional administrative costs to develop and implement program guidelines, establish an independent administrative review of some taxpayer offers and an appeals process, and meet reporting requirements. The bill would permit application fees, which would partially offset the administrative cost of the program; however, any fee revenue collected could be regarded as reducing the tax payments that otherwise would be collected.

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