



COMPROMISES

The Board of Finance and Revenue (BFR) encourages taxpayers to settle their appeal by negotiating a compromise with the Department of Revenue (the Department). There are many benefits to taxpayers and the Department from resolving appeals through a negotiated compromise rather than having BFR issue a decision on the merits:

Time – If a taxpayer or the Department disagrees with a BFR decision, an appeal must be filed with Commonwealth Court. It is rare for tax cases filed in Commonwealth Court to be settled within two years of filing (much longer if the parties are unable to settle the case). By compromising a petition while it is pending at BFR, the parties avoid protracted litigation.

Expense – In most cases, taxpayers must hire legal representation for Commonwealth Court tax appeals. In addition, there is a filing fee for tax appeals filed with Commonwealth Court. By compromising a petition while it is pending at BFR, the parties avoid such expenses, which often are substantial.

Finality – Taxation contains a fair amount of uncertainty. By compromising a petition through a negotiated compromise, each party can claim a partial victory on what may be a questionable issue, and avoid the inherent risks of an “all or nothing” decision.

COMPROMISE PROCEDURE

Pursuant to BFR regulations, taxpayers wishing to compromise their dispute should submit to BFR and to the Department a completed BFR Request for Compromise Form within 30 days from the petition filing date. Please note that the BFR petition form also provides, in section 5, a place for a taxpayer to indicate that it requests a compromise. BFR regulations also provide that if the parties fail to agree to a compromise within 90 days from the petition filing date, BFR will schedule the petition for a hearing, if requested, and for a decision on the merits.

In addition to initially notifying BFR and the Department that a compromise is requested, **the taxpayer must also directly contact the Department counsel** assigned to the matter to provide Department counsel with a detailed compromise request and any other requested information. (A taxpayer can contact BFR to learn who the assigned Department counsel is.) Failure to contact Department counsel will result in the Department not acting on the compromise request. All compromise negotiations take place directly between the taxpayer and Department counsel. BFR is not involved with those negotiations.

Even if a taxpayer does not request a compromise within the 30-day period or the parties did not reach a final compromise agreement within the 90-day period, BFR usually will permit the parties to continue compromise negotiations after the 90-day period. However, please note that if the parties are attempting to finalize a compromise beyond the 90-day period, the parties should notify BFR of that fact and keep BFR advised on the status of those negotiations (or the fact that the parties have been unable to agree to a compromise) at least every 30 days. Failure of the parties to keep BFR advised could result in the Board issuing a decision on the merits and therefore precluding a compromise resolution.

Once the parties arrive at a compromise agreement, both parties must inform BFR of the compromise terms, including the amount of tax, and whether interest and/or penalties apply. Absent extraordinary circumstances, BFR will then issue an order confirming the compromise terms.