

IN THE SENATE

SENATE BILL NO. 1128

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE STATE TAX COMMISSION; AMENDING SECTION 63-103,
 2 IDAHO CODE, TO PROVIDE PROVISIONS FOR SETTLEMENT AGREEMENTS;
 3 AMENDING SECTION 63-3047, IDAHO CODE, TO PROVIDE PROCEDURES
 4 WHEN A COMPROMISE OR SETTLEMENT AGREEMENT OCCURS AND TO
 5 MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3048,
 6 IDAHO CODE, TO PROVIDE PROCEDURES WHEN THE TAX LIABILITY OF A
 7 TAXPAYER IS EQUAL TO OR EXCEEDS FIFTY THOUSAND DOLLARS AND
 8 A SETTLEMENT AGREEMENT OR CLOSING AGREEMENT OCCURS AND TO
 9 MAKE A TECHNICAL CORRECTION.
 10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 63-103, Idaho Code, be, and the same is hereby amended to
 13 read as follows:

14 63-103. EMPLOYEES – COMPENSATION – EXPENSES. (1) The state tax
 15 commission may employ an officer who shall serve as secretary of the commission and shall
 16 also employ such other persons as may be necessary for the performance of its duties. Certain
 17 of its employees may be designated as deputies who shall perform such duties as prescribed by
 18 the state tax commission. The state tax commission may delegate to any of its employees the
 19 duty of assisting in the collection, audit, inspection and enforcement of any tax or license and
 20 may authorize any of its employees to act in its place and stead. The state tax commission
 21 may delegate any other function, responsibility or duty imposed upon the commission to one
 22 (1) or more commissioners or deputy commissioners; provided however, where the amount in
 23 issue relating to the tax liability of any taxpayer is equal to or exceeds fifty thousand dollars
 24 (\$50,000), and the commission has delegated the authority to compromise such liability to an
 25 individual commissioner, the ~~compromise settlement or closing agreement procedure~~ shall be
 26 ~~executed by at least one (1) commissioner in addition to the delegated commissioner. The~~
 27 ~~commission shall adopt guidelines to govern review of compromise agreements. The state tax~~
 28 ~~commission may employ counsel, or may retain counsel~~ governed by the provisions of section
 29 63-3048, Idaho Code.

30 (2) The compensation of all state tax commission employees shall be paid upon the same
 31 basis and in the same manner as the compensation of other state employees is paid.

32 (3) The traveling expenses of the members of the state tax commission and its employees
 33 when traveling in performance of official duty, and other necessary expenses incurred in
 34 performance of its duties, shall be paid upon the same basis and in the same manner as the
 35 expenses of other state employees are paid.

36 SECTION 2. That Section 63-3047, Idaho Code, be, and the same is hereby amended to
 37 read as follows:

1 63-3047. COMPROMISED CASES. The state tax commission or its delegate may
 2 compromise any ~~penalty taxes, penalties or interest~~ arising under the provisions of this ~~act~~
 3 chapter instead of commencing suit thereon and may ~~compromise~~ settle any such case with the
 4 consent of the attorney general after suit thereon has been commenced. ~~Where any penalty~~
 5 ~~case is compromised the state tax commission shall keep on file in its office reasons for the~~
 6 ~~settlement of any case by compromise.~~

7 SECTION 3. That Section 63-3048, Idaho Code, be, and the same is hereby amended to
 8 read as follows:

9 63-3048. ADJUSTED OR COMPROMISED CASES – SETTLEMENT AND
 10 CLOSING AGREEMENTS. (a) The state tax commission or its delegate is authorized to enter
 11 into an agreement in writing with any person relating to the liability of such person, or of the
 12 person for whom he is acting, in respect of any tax under this ~~act~~ chapter for any taxable period
 13 ending prior to the date of the agreement.

14 (b) Where the amount in issue relating to the tax liability of any taxpayer is equal to
 15 or exceeds fifty thousand dollars (\$50,000) and the commission has delegated the authority to
 16 enter into a settlement or closing agreement for such liability to an individual commissioner, the
 17 following minimum standards of procedure shall apply:

18 (1) In addition to the individual commissioner delegated the principal responsibility to
 19 negotiate on behalf of the commission, a second commissioner shall be present for a final
 20 review of the negotiated settlement or closing agreement. Both commissioners shall be
 21 required to sign the settlement or closing agreement to make it binding and complete.

22 (2) In addition to the two (2) commissioners present at the final review, a representative
 23 of the office of the attorney general shall be present as well as tax commission staff,
 24 which shall include a tax policy specialist and either a representative from the audit
 25 division or other division where the case originated.

26 (3) The tax policy specialist or deputy attorney general assigned to a settlement or closing
 27 agreement shall prepare and submit to the commission a written summary for the final
 28 review explaining the terms of the settlement or closing agreement. The summary shall
 29 include any recommendations of agency staff including audit staff.

30 (4) The tax commission shall retain a copy of all settlement and closing agreements and,
 31 in addition, all summaries prepared pursuant to subsection (b)(3) of this section.

32 (c) The tax commission shall submit an annual report to the governor and the legislature
 33 by March 1 of each year summarizing all settlement and closing agreements entered into during
 34 the previous calendar year as defined by subsection (b) of this section.

35 (d) The tax commission shall promulgate administrative rules in compliance with chapter
 36 52, title 67, Idaho Code, to implement the provisions of this section.

37 (e) Such agreement shall be final and conclusive and, except upon a showing of fraud or
 38 malfeasance, or misrepresentation of a material fact:

39 (1) The case shall not be reopened as to matters agreed upon or the agreement modified
 40 by any officer, employee, or agent of the state.

41 (2) In any suit, action, or proceeding, such agreement, or any determination, assessment,
 42 collection, payment abatement, refund, or credit made in accordance therewith, shall not
 43 be annulled, modified, set aside, or disregarded.