

54:53-1 to 15

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:53-1 to 54:53-15

Laws of 1975 Chapter 387

Bill No. A3240

Sponsor(s) Perskie & Sweeney

Date Introduced April 10, 1975

Committee: Assembly Taxation

Senate Revenue, Finance & Appropriations

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly April 24, 1975

Senate December 1, 1975

Date of approval March 3, 1976

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate ~~Yes~~ No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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ASSEMBLY, No. 3240

STATE OF NEW JERSEY

INTRODUCED APRIL 10, 1975

By Assemblymen PERSKIE and SWEENEY

Referred to Committee on Taxation

AN ACT to establish the authority of the Director of the Division of Taxation to enter into closing agreements and compromises with taxpayers within certain limitations, supplementing Title 54 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

ARTICLE I

Closing agreements

1 1. The Director of the Division of Taxation is authorized to
2 enter into a written agreement with any person relating to the
3 liability of such person, or of the person or estate for whom he
4 acts, in respect of any State tax for any taxable period ending prior
5 or subsequent to the date of such agreement. A closing agreement
6 may be entered into in any case in which there appears to be an
7 advantage in having the case permanently and conclusively closed,
8 or if good and sufficient reasons are shown by the taxpayer for
9 desiring a closing agreement and its is determined by the director
10 that the State will sustain no disadvantage through consumation
11 of such an agreement.

1 2. A closing agreement may be executed even though under the
2 agreement the taxpayer is not liable for any tax for the period
3 to which the agreement relates. There may be a series of closing
4 agreements relating to the tax liability for a single period.

1 3. a. Closing agreements with respect to taxable periods ended
2 prior to the date of the agreement may relate to the total tax
3 liability of the taxpayer or to one or more separate items affecting
4 the tax liability of the taxpayer.

5 b. Closing agreements with respect to taxable periods ending
6 subsequent to the date of the agreement may relate to one or more
7 separate items affecting the tax liability of the taxpayer.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

1 4. A closing agreement which is approved within such time as
 2 may be stated in such agreement, or later agreed to, shall be final
 3 and conclusive, and, except upon a showing of fraud or malfeasance,
 4 or misrepresentation of fact:

5 a. The case shall not be reopened as to the matters agreed upon
 6 or the agreement modified by any officer, employee or agent of the
 7 State of New Jersey, and;

8 b. In any suit, action or proceeding, such agreement, abatement,
 9 refund or credit made in accordance therewith, shall not be
 10 annulled, modified, set aside or disregarded; provided, however,
 11 a closing agreement with respect to a taxable period ending subse-
 12 quent to the date of the agreement is subject to any change in, or
 13 modification of the law enacted subsequent to the date of such
 14 agreement and made applicable to such taxable period, and each
 15 closing agreement shall so state.

1 5. A request for a closing agreement which relates to a prior
 2 taxable period may be submitted at any time before a case with
 3 respect to the tax liability involved is filed with the Division of
 4 Tax Appeals. All requests for closing agreements shall be sub-
 5 mitted on forms prescribed by the Director of the Division of
 6 Taxation. The procedure, with respect to applications, for entering
 7 into closing agreements shall be pursuant to such rules as may be
 8 promulgated from time to time by the Director of the Division of
 9 Taxation in accordance with the provisions of this act.

1 6. Any tax or deficiency in tax determined pursuant to a closing
 2 agreement shall be assessed and collected, and any overpayment
 3 determined pursuant thereto shall be credited or refunded, in
 4 accordance with the applicable provisions of law.

ARTICLE II

Compromises

1 7. The Director of the Division of Taxation may compromise
 2 criminal liabilities and any civil liability arising under the tax laws
 3 of the State prior to reference of a case involving such liability
 4 to the Attorney General for prosecution or defense. Any such
 5 liability may be compromised only upon one or both of the following
 6 grounds:

7 a. Doubt as to liability; or

8 b. Doubt as to collectability.

9 No such liability shall be compromised if the liability has been
 10 established by a ***[valid judgment]*** *court of competent jurisdic-*

11 *tion** or is certain, and there is no reasonable doubt as to the
12 ability of the State to collect the amounts owing with respect to
13 such liability.

1 8. A compromise agreement may relate to a civil or criminal
2 liability for taxes, interest, ad valorem penalties or specific pen-
3 alties. A criminal liability may be compromised only if it involves
4 a violation of a regulatory provision or a related statute **in Title*
5 *54 or Title 56 of the Revised Statutes**, and then only if such viola-
6 tion was not deliberately committed with intent to defraud.

1 9. A compromise agreement shall relate to the entire liability of
2 the taxpayer (including taxes, ad valorem penalties and interest)
3 with respect to which the offer in compromise is submitted and all
4 questions of such liability are conclusively settled thereby. Specific
5 penalties, however, shall be compromised separately and not in
6 connection with taxes, interest or ad valorem penalties. Neither
7 the taxpayer nor the State shall, upon the acceptance of an offer
8 in compromise, be permitted to reopen the case except by reason
9 of the following:

- 10 a. Falsification or concealment of assets by the taxpayer; or
11 b. Mutual mistake of a material fact sufficient to cause a contract
12 to be set aside.

13 However, acceptance of an offer in compromise of a civil liability
14 shall not operate to remit a criminal liability, nor shall acceptance
15 of a compromise of a criminal liability operate to remit a civil
16 liability.

1 10. Offers in compromise shall be submitted on forms prescribed
2 by the Director of the Division of Taxation and shall be accom-
3 panied by a remittance representing the amount of the compromise
4 offer, or a deposit if the offer provides for future installment
5 payments. If the final payment on an accepted offer is contingent
6 upon the immediate or simultaneous release of a tax lien in whole
7 or in part, such payment must be in cash, or in the form of a
8 certified, cashier's or treasurer's check drawn on any bank or
9 trust company incorporated under the laws of the United States
10 or any State, Territory or possession of the United States, or by
11 a United States postal, bank, express or telegraph money order.

1 11. The submission of an offer in compromise shall not operate
2 automatically to stay the collection of any tax liability; however,
3 enforcement of collection may be deferred only if the interests of
4 the State shall not be jeopardized thereby.

1 12. An offer in compromise shall be considered accepted only
2 when the proponent thereof is so notified in writing. As a condition

3 to accepting an offer in compromise, the taxpayer may be required
4 to enter into any collateral agreement or to post any security
5 which is deemed necessary for the protection of the State.

1 13. An offer in compromise may be withdrawn by the proponent
2 at any time prior to its acceptance. In the event an offer is rejected,
3 the proponent shall be notified promptly in writing. Frivolous
4 offers or offers submitted for the purpose of delaying the collection
5 of tax liabilities shall be rejected immediately. If an offer is with-
6 drawn or rejected, the amount tendered with the offer, including
7 all installments paid, shall be refunded without interest, unless the
8 taxpayer has stated or agreed that the amount tendered may be
9 applied to the liability with respect to which the offer was
10 submitted.

1 14. Except as otherwise provided in this section, ***[if]*** **before**
2 an offer in compromise is accepted, there shall be placed on file
3 **in the office of the director** the opinion of the Attorney General
4 or his designee with respect to such compromise, with his reasons
4A therefor, and including a statement of:

- 5 a. The amount of tax assessed
 - 6 b. The amount of interest, additional amount, addition to the
7 tax, or assessable penalty, imposed by law on the person against
8 whom the tax is assessed, and
 - 9 c. The amount actually paid in accordance with the terms of the
10 compromise;
- 11 provided, however, no such opinion shall be required with respect
12 to the compromise of any civil case in which the unpaid amount of
13 tax assessed, including any interest, additional amount, addition
14 to the tax or assessable penalty, is less than ***[\$500.00]***
15 **\$5,000.00**.

1 15. No offer in compromise shall be accepted unless the taxpayer
2 waives the running of the statutory period of limitations on both
3 assessment or collection of the tax liability involved for the period
4 during which the offer is pending, or the period during which any
5 installment remains unpaid, and for one year thereafter.

Effective date

1 16. This act shall take effect immediately.

1 13. An offer in compromise may be withdrawn by the proponent
2 at any time prior to its acceptance. In the event an offer is rejected,
3 the proponent shall be notified promptly in writing. Frivolous
4 offers or offers submitted for the purpose of delaying the collection
5 of tax liabilities shall be rejected immediately. If an offer is with-
6 drawn or rejected, the amount tendered with the offer, including
7 all installments paid, shall be refunded without interest, unless the
8 taxpayer has stated or agreed that the amount tendered may be
9 applied to the liability with respect to which the offer was
10 submitted.

1 14. Except as otherwise provided in this section, if an offer in
2 compromise is accepted, there shall be placed on file the opinion
3 of the Attorney General or his designee with respect to such com-
4 promise, with his reasons therefor, and including a statement of:

- 5 a. The amount of tax assessed
- 6 b. The amount of interest, additional amount, addition to the
7 tax, or assessable penalty, imposed by law on the person against
8 whom the tax is assessed, and
- 9 c. The amount actually paid in accordance with the terms of the
10 compromise;

11 provided, however, no such opinion shall be required with respect
12 to the compromise of any civil case in which the unpaid amount of
13 tax assessed, including any interest, additional amount, addition
14 to the tax or assessable penalty, is less than \$500.00.

1 15. No offer in compromise shall be accepted unless the taxpayer
2 waives the running of the statutory period of limitations on both
3 assessment or collection of the tax liability involved for the period
4 during which the offer is pending, or the period during which any
5 installment remains unpaid, and for one year thereafter.

Effective date

1 16. This act shall take effect immediately.

STATEMENT

This bill proposes to give authority to the Director of the Division of Taxation to enter into closing agreements and compromises similar to the authority given the Commissioner of Internal Revenue at the Federal level. The purpose of such authority is to enable settlements to be made in the best interests of the State more quickly than is the case at present. The restrictions placed upon the Director's authority are such that the interests of the State are protected.

ASSEMBLY COMMITTEE ON TAXATION

COMMITTEE STATEMENT TO
ASSEMBLY, No. 3240

STATE OF NEW JERSEY

DATED: APRIL 14, 1975

As indicated in the statement on the bill, the purpose is to give the Director of Taxation authority similar to that enjoyed by the Commissioner of Internal Revenue at the Federal level.

It is the sense of the committee that this bill will improve the administration of our tax laws and restrict actions sufficiently to protect the State and, therefore, should be given favorable consideration in the General Assembly.