

UNEMPLOYMENT COMPENSATION COMMISSION OF NORTH CAROLINA

INTERPRETATION NO. 55

Opinion of Attorney General

October 31, 1941

SUBJECT: Unemployment Compensation Tax; Compromise of Tax Involving Claims in Litigation

In your letter of October 31, you inquire if the Commission, through its Chief Counsel, has authority to compromise a claim for taxes when a suit for the collection of the same has been instituted in the courts of the State.

It is my understanding of the law that in a real contest or litigation where a tax claim is involved in which the issues drawn are close and uncertain, the tax collecting authorities, in order to avoid extended litigation and settle disputed claims, would have the right to settle such claims by compromise. Such a course; that is to say, compromise judgment in a lawsuit by consent of all parties, would be independent of any statute which expressly authorizes a settlement. I do not think that the law would compel litigation to the bitter end of bona fide controversies as to a tax liability when a reasonable adjustment of the same could be obtained.

I wish to call your attention to a note in 61 C. J., under Section 1253, page 973, where you will find the following:

“In Virginia (1) Code (1904) Sections 702, 702a, relating to the authority of the auditor to make adjustment of old and disputed claims, has no application to a compromise and settlement of a suit for taxes in a court of competent jurisdiction. COMMONWEALTH v. SCHMELZ, 81 S. E. 45, 116 Va. 62. (2). Where an auditor acting for the commonwealth agrees, with the consent of the Attorney General, to accept the sum awarded by the circuit court, in settlement and discharge of all claims for taxes, the agreement is binding on the commonwealth.”