

# PUBLICATION

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## SALT Spotlight: Amnesty in Mid-Atlantic and Northeast States

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States are looking at multiple ways to increase revenues, including initiating or reinitiating amnesty programs. Mid-Atlantic and Northeast states are no exception. On September 1, 2009 Maine and Maryland will start tax amnesty programs for eligible taxpayers. Virginia is scheduled to commence amnesty programs during its 2010 fiscal year, and the District of Columbia is looking to enact an amnesty program for 2010 as well. Meanwhile, New York City announced that it will participate in a "unified" voluntary compliance program with New York State.

Taxpayers considering participating in a state's tax amnesty program should consider a number of issues and consult with their tax counsel prior to commencing participation. A brief review of some programs from Mid-Atlantic and Northeast States is as follows:

### Maine

Maine will offer a tax penalty amnesty program called the Tax Receivables Reduction Initiative (TRRI). This program applies only to taxpayers who have been assessed tax. To participate, a taxpayer must agree to forego or to withdraw a protest or an administrative or judicial proceeding with regard to the underlying tax assessment.

Maine Revenue Services will send TRRI applications to eligible taxpayers. To participate after receiving a TRRI application, a taxpayer must sign the TRRI application, pay the tax assessment and interest and 10% of the penalty. Participation may start on September 1, 2009, and must be completed by November 30, 2009.

### Maryland

Commencing September 1, 2009, Maryland will offer a tax amnesty program to individuals and eligible small business taxpayers for tax liabilities for returns due on or before December 31, 2008. The program waives most penalties and one-half of the interest that would otherwise have been due for a failure to pay tax or file returns for individual income tax, corporate income tax, withholding tax, sales and use tax, and admissions and amusement tax.

The following taxpayers are ineligible to participate:

- A taxpayer who, as of September 1, 2009, has more than 500 employees in the United States, or is a member of a corporate group that employs more than 500 U.S. personnel.
- A taxpayer who was granted amnesty during the 2001 Maryland Tax Amnesty Program.
- A taxpayer who was eligible to participate in Maryland's July 1, 2004 through November 1, 2004 Settlement Period.

To participate, an eligible taxpayer must file a separate amnesty application for each tax type and tax returns for each year and tax type, and pay the full amount of tax due and one-half of the interest (or pay at least 10% of the tax due and request a payment plan).

The amnesty program ends October 30, 2009.

### Virginia

The Virginia Tax Commissioner has been authorized to administer an amnesty program for eligible taxpayers over a period of 60 to 75 days during fiscal year 2010, or taxable years beginning on or after July 1, 2009. Based on discussions we have had with the Department of Taxation, we anticipate that the amnesty period will be set to run during Autumn 2009 in the same fashion as Virginia's 2003 Tax Amnesty Program.

All penalties and 50% of the interest will be waived upon payment of outstanding tax liabilities. However, any "amnesty-qualified liabilities" that are not paid during the amnesty will be assessed a 20% penalty. The amnesty penalty is in addition to any other penalties, including the Virginia 2003 Tax Amnesty Program's 20% amnesty penalty.

The Tax Commissioner is directed to establish the guidelines and rules for procedures regarding participation in the program. The guidelines and rules will be exempt from Virginia's Administrative Process Act. We anticipate that the Commissioner's rules and guidelines will also be modeled after the 2003 Amnesty Program guidelines.

### District of Columbia

In the FY 2010 Budget Support Emergency Act, D.C. Council passed a tax amnesty program for tax periods ending before December 31, 2009. The specific dates that the program will run and taxes to be included in amnesty will be determined by the D.C. Chief Financial Officer. Eligible taxpayers will receive a waiver of penalties otherwise due on unpaid tax liabilities.

### New York City

Most states also provide voluntary compliance programs (VCPs) that are ongoing and allow non-compliant taxpayers to come forward anonymously to file unfiled tax returns and pay taxes in exchange for a limited "look-back period" and often penalty waivers. (Non-compliant taxpayers are identified when they sign the VCP agreements.)

A New York City Department of Finance Statement of Audit Procedure PP-2009-1 (rev. Aug. 5, 2009), explains that New York City's VCP is "unified" with New York State's program. Thus, non-compliant taxpayers may voluntarily satisfy New York State and City tax liabilities through their "Unified Program." A request to participate in the VCP through the Unified Program must be made through New York State. Most taxpayers should qualify for New York City's three-year look-back period.