

PUBLICATION

Spotlight on Louisiana Tax Amnesty: Better to Ask for Forgiveness?

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For a two-month period beginning on September 23, 2013 and ending on November 22, 2013, eligible Louisiana taxpayers may apply to wipe the slate clean with the Louisiana Department of Revenue (Department) by voluntarily paying all of their unpaid taxes, applicable fees and costs, only half of the outstanding interest accrued on their unpaid taxes and no penalties. This opportunity is authorized by the Louisiana Tax Delinquency Amnesty Act of 2013 (Act), which the Louisiana Legislature enacted during its most recent legislative session. Because taxpayers may be required to file returns with their amnesty applications, the Department is encouraging taxpayers to file their applications as early on in the amnesty period as possible or risk their returns not being processed before the November 22 deadline and amnesty not being granted.

The Act also authorizes the Department to administer an amnesty program for a month-long period in the second half of each of calendar years 2014 and 2015. In 2014 and 2015, the Act provides that the Department will waive only 15 percent and 10 percent of the penalties, respectively, and will not waive any interest.

Eligibility Requirements

Those eligible to participate in the amnesty program are businesses and individual taxpayers who owe:

- taxes that were due prior to January 1, 2013, for which the Department has issued a proposed assessment, bill, notice or demand for payment not later than May 31, 2013;
- taxes for taxable periods that began before January 1, 2013; or
- taxes for which the taxpayer and the Department have entered into an agreement to interrupt the running of prescription (essentially the statute of limitations) and the agreement suspends the running of prescription until December 31, 2013.

Even taxpayers involved in litigation or an audit with the Department, and those whose property is subject to liens or seizure proceedings, are eligible to participate.

A taxpayer is not eligible to participate in the amnesty program under the following circumstances:

- if the taxpayer is subject to a voluntary disclosure agreement for the same tax type and same tax period to which the amnesty would apply;
- to the extent the taxpayer's amnesty application is for a motor fuels tax;
- to the extent the taxpayer's amnesty application is for penalties for failure to submit information reports that are not based on an underpayment of tax;
- if the taxpayer is a party to a criminal investigation or criminal litigation in any federal or Louisiana court pending on August 1, 2013, for nonpayment, delinquency or fraud in relation to any Louisiana state tax administered by the Department; or
- the taxpayer has delivered or disclosed any false or fraudulent application, document, return or other statement to the Department in connection with an amnesty application.

Taxpayers must apply on forms prescribed by the Department by midnight on November 22, 2013 and, with their application, pay all of the tax, applicable fees and costs and half of the outstanding interest due for the tax

period indicated on their application. An amnesty application and payment will be deemed received on the date postmarked if delivered by U.S. Mail or on the date delivered to the Department's headquarters or regional office if hand-delivered.

To apply, taxpayers must be registered with the Department and receive a packet in the mail. Revenue Information Bulletin 13-017 (August 1, 2013) provides links to websites for taxpayers to verify their addresses and to register with the Department if they are not already registered.

Special Rules and Limitations to Consider

A taxpayer's participation in the amnesty program is subject to the following additional conditions and limitations:

- the taxpayer must agree not to initiate an administrative or judicial proceeding with respect to the tax and the tax period for which the amnesty is granted;
- for taxes under examination or in litigation, the taxpayer must agree
 - to abide by the Department's position with respect to all tax issues resolved through the amnesty for the tax periods beginning in each of the three calendar years immediately succeeding the year in which amnesty is granted,
 - to pay all applicable attorney fees and their own costs of litigation, and
 - that payments made under protest will be released and applied in accordance with the grant of amnesty;
- all businesses are required to file returns with their amnesty application, and the Department reserves the right to require individuals to do so;
- the Department will not enter into any installment agreements with respect to any tax period approved for amnesty;
- the taxpayer must include in the amnesty application a waiver of all rights, restrictions and delays for assessing, collecting or protesting taxes and interest due; and
- the taxpayer will be subject to a negligence penalty for failing to comply with any payment or filing provision administered by the Department in any taxable period beginning in any of the five calendar years immediately succeeding the year in which amnesty is granted.

Conclusion

If you would like to discuss the advantages and disadvantages of applying for this Louisiana amnesty in your particular case, or have questions regarding any other Louisiana tax issues, please contact any attorney in the Firm's Tax Department.