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Los Angeles adopts VDA program

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The City of Los Angeles has adopted an ordinance that allows qualified taxpayers to enter into a Voluntary Disclosure Agreement ("VDA") with the City, under which payment of delinquent city business taxes can be made without incurring penalties. [Ordinance 181859, Los Angeles Municipal Code, Chapter II, Art. 1, Sec. 21.16.1, adopted 8/24/11; effective 10/4/11]

The lookback period under a VDA will be limited to five years after the date from which the tax was due, but only three years from the date the tax was due during the first 12 months the program is effective.

In order to qualify for a VDA, all of the following conditions must be met:

1. The taxpayer must have not previously filed an application for a business tax registration certificate or business tax renewal form with the City;
2. The taxpayer is engaged in business in the City (as defined in the Municipal Code);
3. The taxpayer voluntarily files an application for a business tax registration certificate and business tax renewal form(s) with the City for all years for which the taxpayer was engaged in business in the City;
4. The taxpayer has not been previously contacted by the City or by a City contractor regarding its City business tax liabilities and is not currently under audit for or otherwise contesting such liabilities;



5. The taxpayer fully and completely cooperates with an investigation of the taxes at issue in the VDA, including providing all books and records to the Office of Finance;
6. The taxpayer's failure to file a timely application for a business tax registration certificate or business tax renewal form or to pay the taxes owed was due to reasonable cause and not the result of an intentional disregard of the law or because of fraud or an intent to evade the provisions of this Code (as reasonably determined by the Director of Finance); and
7. The VDA contains such terms and conditions as are otherwise necessary to effectuate the VDA program.

Any taxpayer seeking penalty relief shall file a statement under penalty of perjury setting forth the facts upon which the taxpayer bases the claim for relief. Any VDA will be null and void if: the taxpayer misrepresents material facts provided to the Office of Finance with respect to the VDA; or a taxpayer defaults on an installment payment plan for the taxes at issue under the VDA.

PwC Observes

"Many companies may be subject to the Los Angeles City (the "City") Business Tax and not realize it," opines Samuel Lovitch, SALT Manager in Los Angeles. "The City's nexus standard is very broad and includes conducting, operating, managing or carrying on a business in the City limits. This includes businesses that do not have a physical location in the City but merely have employees or agents that enter the City limits for business purposes."

"It should also be noted that taxpayers include any type of legal entity, including pass-through and disregarded entities," adds Lovitch. "Finally, the City boundaries are more expansive than one might think. There are many neighborhoods in the County of Los Angeles that may not include "Los Angeles" in the address but are within the City limits (for example, portions of Century City, Sherman Oaks, Beverly Hills, and many others). If a company has any business activities in the County of Los Angeles, now would be a good time to think about whether or not they have a City of Los Angeles tax filing obligation and possibly take advantage of the initial year of the VDA program when the benefits are the greatest," suggests Lovitch.

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