

Louisiana enacts tax amnesty

June 26, 2013

In brief

UPDATE: The Louisiana Department of Revenue [announced](#) that its 2013 Tax Amnesty program will run from September 23, 2013, to November 22, 2013.

On June 21, 2013, Louisiana enacted legislation that creates a tax amnesty program to occur during three to-be-determined periods, one in 2013, one in 2014, and one in 2015. Taxpayers whose amnesty application is approved during the 2013 period are entitled to a waiver of all penalties and 50% of the interest otherwise due. The benefits of tax amnesty decrease if the application is approved during the later periods. Taxpayers should consider the benefits and consequences of the program before applying for amnesty. [\[H.B. 456, enacted, 6/21/13\]](#)

In detail

Eligibility

The amnesty applies to all taxes administered by the Department of Revenue, except motor fuel taxes. For 2013, the amnesty program will be for a period of least two months occurring by the end of the year. The 2014 and 2015 amnesty periods must each be for a period of at least one month and will occur during the second half of each year. All the periods will be determined by the Secretary of Revenue. Amnesty applies to taxes:

- due prior to January 1, 2013, for which the Department has issued a proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2013

- for taxable periods that began before January 1, 2013
- for which the taxpayer and the Department have entered into an agreement to interrupt prescription until December 31, 2013.

Taxpayers under audit and in litigation are also eligible for participation in an amnesty programs. In either instance, the taxpayer must agree to abide by the Department's interpretation of the law for a three-year period commencing the year of the amnesty period as it relates to issues involved in the audit or litigation resolved through amnesty. For example, if the amnesty period is 2014, the taxpayer must abide by the Department's interpretation of the law for 2015, 2016, and 2017 with respect to all issues

resolved under the 2014 amnesty period. For matters in litigation, a condition of the amnesty program is that the taxpayer is required to pay all applicable attorney fees and their own costs of litigation.

Relief

If an application for amnesty is approved during the 2013 amnesty period, the secretary must waive 50% of the interest and all of the penalties associated with the tax period for which amnesty applied. If approved for the 2014 amnesty period, the secretary must waive 15% of all penalties associated with the tax period for which amnesty applied and if approved for the 2015 amnesty period, the secretary must waive 10% of all penalties associated with the tax period for which amnesty applied. During the

2014 and 2015 amnesty periods, interest will not be waived.

Post amnesty penalty

The amnesty does not appear to impose a penalty on taxpayers that fail to participate in the amnesty, but are later assessed tax for an amnesty period. However, the Secretary may, by regulation, impose a penalty up to 20% of any additional deficiency assessed for any taxable period *for which amnesty was taken*. An exception generally applies to deficiencies resulting from an IRS adjustment to federal taxable income.

Other considerations

In addition:

- Participation in the amnesty program is conditioned upon the agreement of the taxpayer that the right to protest or initiate an administrative or judicial proceeding is barred.
- No installment agreements will be entered into for tax periods that are approved for amnesty.
- No interest will be paid on refunds for those amounts previously collected by the Department from

the taxpayer for a tax period for which amnesty is granted.

The takeaway

Louisiana has enacted a most unusual amnesty program, with three separate periods, all of which have to be determined by the Secretary, and each with different levels of benefit.

Taxpayers with outstanding Louisiana liabilities need to consider the benefits, especially those offered during the 2013 period, as well as some other provisions of the legislation, such as being bound by Department interpretations, before applying for tax amnesty.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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