

TaxAlert

May 2009

Subject: Tax Amnesty Update

Details:

May is a busy month for states offering amnesty programs. Several currently active amnesty programs either begin or end in May 2009. This Tax Alert serves as a summary of the amnesty programs currently being offered by Alabama, Arizona, Connecticut, and New Jersey. These programs offer taxpayers the opportunity to come forward and pay past-due tax obligations free of penalties and criminal prosecution. In some instances, the programs also allow for reduced interest rates.

Alabama

The Alabama Department of Revenue established the **Operation Clean Slate** tax amnesty program which began on February 1, 2009, and ends on May 15, 2009. This is a limited-time opportunity for individual and business taxpayers to pay past-due Alabama tax obligations free of penalties and criminal prosecution.

Eligible Periods for Tax Amnesty

The Department, in most cases, will grant a limited three-year look-back period. The Department will not seek to collect tax, penalties, or interest for tax periods before the look-back period.

Who is Eligible

Eligibility is available to individuals and businesses based on the following criteria:

- f* Taxpayer did not file a required return or report;
- f* Taxpayer understated or omitted any tax liability on a filed return; or
- f* Taxpayer erroneously claimed credits or deductions.

Who is Not Eligible

Participation in the tax amnesty program is not available if:

- f* Taxpayer has outstanding debt in the form of a bill, assessment, or civil collection action;
- f* Taxpayer is scheduled for an audit or are currently under investigation;
- f* Taxpayer has entered into a Voluntary Disclosure Agreement ("VDA") with the Department before February 1, 2009; or
- f* Taxpayer has existing sales, withholding or motor fuel tax accounts.

For more information about the Tax Amnesty Update, please contact the following at MillerMusmar CPAs:

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STATE AND LOCAL TAX ALERT

Tax Types

- f* Corporate Income, Franchise, and Business Privilege Tax
- f* Personal Income Tax
- f* Excise Tax
- f* Severance, Tobacco, Gasoline and Motor Fuels Taxes
- f* Withholding Tax, if unregistered with the Department
- f* Sales and Use Tax, if unregistered with the Department
- f* Consumer Use Tax

Returns and Payments

All taxpayers interested in participating in the tax amnesty are required to do the following:

- f* Clearly label the front page of every form submitted: **Operation Clean Slate**
- f* Prepare tax returns and remit accompanying payments (made payable to the Alabama Department of Revenue).
- f* Mail tax returns and payments to:
 - Alabama Department of Revenue
 - Operation Clean Slate**
 - P.O. Box 327010
 - Montgomery, AL 36132-07010

Arizona

The Arizona Department of Revenue established a state tax amnesty program which began on May 1, 2009, and ends on June 1, 2009. This is a limited-time opportunity for individual and business taxpayers to remit past-due Arizona tax obligations free of penalties and criminal prosecution, at a reduced interest rate, if tax is paid in full during the amnesty period.

Eligible Periods for Tax Amnesty

Eligible periods are based on the following criteria:

- f* For taxpayers filing annually, any taxable period beginning on or after December 31, 2001, and ending before January 1, 2008;
- f* For taxpayers having a 52-53 week tax year, any taxable period beginning on or after January 14, 2002, and ending before January 1, 2008; and
- f* For all other taxpayers, any taxable period beginning from on or December 31, 2002, and ending before January 1, 2008.

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To ensure compliance with Treasury Department regulations, we wish to inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

Material discussed in this tax alert is meant to provide general information and should not be acted on without professional advice tailored to your firm's individual needs.

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Who is Eligible

Business and individual taxpayers not otherwise precluded as noted below.

Who is Not Eligible

Participation in the tax amnesty program is not available under any one of the following circumstances:

- f* An audit determination has become final with respect to the taxable period for which amnesty is sought.
- f* The taxpayer is a party to any criminal investigation or to any criminal administrative proceeding or criminal litigation that is pending on January 1, 2009, in any court of the United States or any Arizona court for failure to file or failure to pay, or for fraud with respect to, any Arizona tax imposed by and required to be collected by the department.
- f* The taxpayer has been the subject of a past tax-related criminal investigation, indictment or prosecution if the investigation, indictment, or prosecution resulted in a conviction, guilty plea, or plea of no contest.
- f* The taxpayer has been convicted of a crime relating to any period or assessment of a tax that is the basis of the penalty or interest with respect to which amnesty is sought.
- f* The taxpayer is a party to a closing agreement with the department for the tax periods included in the amnesty application.

Tax Types

All state and county taxes, *except estate and ad valorem property taxes*, collected and administered by the Arizona Department of Revenue.

Returns and Payments

Taxpayers wishing to take advantage of Arizona's amnesty program must complete an application for amnesty and file returns for the amnesty period sought.

Connecticut

The Connecticut Department of Revenue established a state tax amnesty program which began on May 1, 2009, and ends on June 25, 2009. This is a limited-time opportunity for individual and business taxpayers to remit past due Connecticut tax obligations free of penalties and criminal prosecution, at a reduced interest rate, if tax is paid in full during the amnesty period. Interest will be computed at a special .75% rate per month or fraction of a month instead of the standard 1.0% rate.

Eligible Periods for Tax Amnesty

Any tax period ending on or before November 30, 2008, is eligible for tax amnesty. There is no limit on how far back an applicant may go in reporting back taxes. Amnesty does not provide for a limited look-back period.

Who is Eligible

Eligibility is available to individuals and businesses based on the following criteria:

- f* Non-filer — Taxpayer was required by law to file a tax return but did not file.
- f* Under reporter — Taxpayer previously filed a tax return but did not report all the tax that was due.

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Who is Not Eligible

Participation in the tax amnesty program is not available if:

- f* Taxpayer is currently under audit or criminal investigation by the Department, or
- f* Taxpayer is a party to any civil or criminal litigation that is pending with the Department on November 25, 2008.

Tax Types

- f* Corporate Business Tax
- f* Individual, Estate, and Trust Income Tax
- f* Gift Tax
- f* Sales Tax and Business or Individual Use Tax
- f* Withholding Tax
- f* Motor Vehicle Fuels Tax
- f* Cigarette Tax

Returns and Payments

All taxpayers interested in participating in the tax amnesty are required to do the following:

- f* Businesses and individuals must file an electronic application for tax amnesty with the Department using the Amnesty Taxpayer Service Center (TSC).
- f* Business amnesty applicants must make full payment at the time of the application through the TSC by credit card.
- f* Individual amnesty applicants may either make full payment at the time of the application through the TSC by credit card, or they may mail a timely payment via check with a payment voucher.

Tax returns should not be filed. The amnesty application is required in lieu of a tax return. Failure to complete an amnesty application and pay in full on or before June 25, 2009, will preclude participation in the program.

New Jersey

The New Jersey Division of Taxation established a state tax amnesty program which began on May 1, 2009, and ends on June 15, 2009. This is a limited-time opportunity for individual and business taxpayers to pay past-due New Jersey tax obligations free of penalties and recovery fees, at a 50% reduced interest rate, if tax is paid in full during the amnesty period.

Eligible Periods for Tax Amnesty

The amnesty program applies to tax liabilities for tax returns due on and after January 1, 2002, and before February 1, 2009. Amnesty does not provide for a limited look-back period.

Who is Eligible

Eligibility is available to individuals and businesses that have failed to pay a State tax otherwise due.

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Who is Not Eligible

Participation in the tax amnesty program is not available if the taxpayer is under criminal investigation or charge for any State tax matter.

Tax Types

Any State Tax

Returns and Payments

All taxpayers interested in participating in the tax amnesty are required to make a timely full payment of tax plus 50% of the statutory interest to the Department no later than June 15, 2009.

Procedures for payment have not been established at the time of this Tax Alert.

Any taxpayer eligible for amnesty who fails, during the amnesty period, to pay taxes owed could be subject to a 5% penalty, which is not subject to waiver or abatement, in addition to all penalties, interest, and costs of collection otherwise imposed by the State.

Other States - Voluntary Disclosure Agreements

A taxpayer who has an outstanding tax liability in a jurisdiction which is not currently offering a tax amnesty program, as discussed for the four states above, generally has the opportunity to file a VDA with that jurisdiction. A VDA will generally allow a taxpayer to come forward on an anonymous basis to remit unpaid tax liability for prior periods with the potential for reduced interest, a limited look-back period, and abatement of penalties.