

PA Launches Tax Amnesty

By Timothy J. Horstmann

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Pennsylvania is running a Tax Amnesty Program until June 18, 2010.

Amnesty is available to taxpayers owing state taxes and related interest and penalties that were delinquent as of June 30, 2009. Taxpayers that have enrolled in deferred payment plans are also eligible, but only with respect to the unpaid portion of the liability. The Department has also indicated that taxpayers owing only interest and penalties will be eligible.

Taxes covered include personal income taxes, corporation taxes, sales and use taxes, and inheritance taxes. Local taxes are not covered, with the exception of Philadelphia and Pittsburgh local sales, use and hotel occupancy taxes.

Taxpayers wishing to participate in the program must file amnesty returns covering all delinquent periods, unless the delinquent tax is unknown to the Department. In that event, the taxpayer is only required to disclose liabilities dating back to July 1, 2004. The amnesty return must include all information that would otherwise be required to be filed on a standard return. A taxpayer that files the return and pays the tax and half the applicable interest will be excused from paying otherwise applicable penalties and the other 50% of the interest.

Participants in the program who fail to maintain compliance with Pennsylvania tax reporting and payment obligations may lose the penalty and interest forgiveness provided under the amnesty program. The Department will re-impose the forgiven amounts if either of the following occurs within two years following the conclusion of the program: (1) the taxpayer becomes delinquent for three consecutive periods for semi-monthly, monthly or quarterly filing or payment; or (2) the taxpayer becomes delinquent for more than 8 months on any filing of reports and/or payments due on an annual basis. In both cases, the delinquency is excused if the taxpayer has filed a timely judicial or administrative appeal.

All participants in the amnesty program will waive all rights to file a petition for refund or otherwise contest the taxes reported and paid through the program. The Department retains the right to assess additional taxes upon review or audit of returns filed by program participants. In the event of such an assessment, the program participant would have all of the normal appeal rights afforded to taxpayers, but only with respect to the additional tax assessed.

The program also provides for the imposition of a special "amnesty penalty" on taxpayers failing to report and pay an eligible tax during the amnesty period. All such taxpayers will be subject to a special, additional 5% penalty, which is imposed upon the total amount of unpaid tax, interest and penalties that are otherwise outstanding. The 5% penalty will not apply where a taxpayer has entered into a deferred payment plan, has filed an administrative or judicial appeal during the amnesty period, or is under bankruptcy protection. For some taxpayers with potential tax liabilities from previous unfiled tax years, this penalty would be substantial.

Eligible taxpayers should consider taking part in the Amnesty Program, especially if they face large interest assessments on unpaid taxes. The program may not be suitable for all taxpayers, however, especially those with issues requiring appeal.

The attorneys of the State and Local Tax Group of McNees Wallace & Nurick LLC are available to answer any questions regarding the amnesty program.

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