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What Lawyers Need to Know About Pa. and Phila. Tax Amnesty Programs

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First and foremost, lawyers should let their clients know that they should not discard tax amnesty notices simply because they don't believe they owe anything. In an effort to close large budget deficits, many states are aggressively pursuing taxpayers who have historically not filed tax returns in their respective states or owe taxes. Throwing away those notices can result in major losses.

It is not uncommon for taxpayers to resist filing a tax return or an amended tax return when the interests, penalties and fees could be more than the taxes due. As a result, some states are extending an olive branch to taxpayers by offering them the opportunity to voluntarily come forward and pay back taxes. In return, the state or "City of the First Class," such as Philadelphia, will not seek criminal or civil action. The amnesty can potentially eliminate penalties and interest on outstanding balances, bringing the taxpayer current and compliant with tax laws. Pennsylvania and Philadelphia are two taxing jurisdictions that are currently offering amnesty to taxpayers.

The Pennsylvania Tax Amnesty Program

The 2010 Pennsylvania Tax Amnesty Program began on April 26 and will run through June 18. The guidelines are detailed in Title 61, 39 Pa.B. 6872 and can be found at www.pabulletin.com/secure/data/vol39/39-49/2237.html.

Under this program, 50 percent of interest and 100 percent of penalties on all eligible taxes that are delinquent as of June 30, 2009, will be waived for taxpayers, including individuals, businesses and other entities, who file returns and pay delinquencies including the 50 percent of interest due. Amnesty applies to tax liabilities for five years prior to June 30, 2009, for taxes where no return has been filed, no payment has been made, and the taxpayer has not been contacted by the Department of Revenue regarding unfiled returns or unpaid tax.

Amnesty also includes taxes where a return has been filed, the tax was underreported, and the department has not contacted the taxpayer regarding the underreported tax. However, if the Department of Revenue determines that a tax return has not been filed or the tax has not been paid, they are pursuing collection efforts without regard to a time period and the burden of proof rests with the taxpayer to prove filing and payment. Taxpayers participating in this amnesty program are barred from participating in any future tax amnesty programs. There are 29 types of taxes covered by the amnesty program from corporate net income and employer withholding tax to inheritance, estate and personal income tax.

When an attorney or accountant receives a call from a client stating that they have received a Notice of Pennsylvania Tax Amnesty program, the following steps should be taken to determine the validity or accuracy of the notice:

- Obtain a copy of the notice.
- Determine the Amnesty PIN and the taxpayer ID number.
- Go to www.pataxpayup.com to register the taxpayer, which allows the client to call up the taxpayer records.
- Call 1-877-347-2987.

Two options will appear: Option 1: State Tax Liabilities due per the PA Department of Revenue; or Option 2: Non-filed Returns. Although both options appear, if the taxpayer has anything in either category, it will be listed at this stage of the

process. It is at this stage that the necessary information is garnered and counsel should investigate the details of the purported delinquency further by contacting the tax preparer for the client. Otherwise, the next step is to either agree or disagree with the delinquency — neither of which can be done without more information.

The Philadelphia Tax Amnesty Program

Philadelphia Mayor Michael Nutter signed an ordinance that was passed by City Council in December 2009 providing tax amnesty that will occur during 45 days in May and June 2010 and overlap with the state amnesty program. The amnesty measure applies to 17 different taxes administered by the city of Philadelphia.

The 2010 Philadelphia Tax Amnesty Program began on May 3 and will run through June 25. The guidelines for the Philadelphia program can be found on the Internet at www.phillytaxamnesty.com.

The program applies to all delinquent Philadelphia taxes that were originally due or payable from Feb. 1, 1986, through June 30, 2009. Under the Philadelphia Amnesty Program, eligible taxpayers must pay 100 percent of the taxes due plus 50 percent of the interest due on the unpaid or underpaid taxes unless the taxpayer can demonstrate financial hardship. This only defers payment until the end of the amnesty period. Any payment not made by June 25 is no longer eligible for amnesty.

Under the Philadelphia program, 100 percent of penalties and 50 percent of interest will be abated. Taxpayers who have entered into a payment agreement may still participate in the program as long as all payments due under any agreement between July 1, 2009, and the start of the program are current. Taxpayers will be required to pay all past due tax delinquencies during this amnesty period in order to receive the 50 percent interest and 100 percent penalty waiver.

Both Pennsylvania and Philadelphia are sending out notices to taxpayers who may or may not be delinquent. For example, if a taxpayer has not filed a return for a particular year, even if the taxpayer was not required to file a return that year, many are receiving notices. This is another reason why these notices should not be discarded.

Accountants and consultants with our firm have received various calls about the programs. Some questions are basic and others go so far as to ask what they should do if they are already in some type of payment program for delinquent taxes and they want to participate in an amnesty program.

When we called the number on the Web site for the Philadelphia Tax Amnesty program, we learned that management of the program is being outsourced to General Revenue Corp. We were pleasantly surprised by the quality of the service and the knowledge of the representatives.

So, if a client comes to your law firm waving a Philadelphia notice or thinks that they may qualify for the program, here are the steps you need to take:

- Obtain a copy of the notice, verify its accuracy, and complete the application. If no notice is available, obtain the taxpayer's Social Security number, Philadelphia Business Account number or other appropriate account number
- Call the Philly Tax Amnesty program at 877-645-4101 to determine what taxes or tax returns are outstanding according to Philadelphia.
- The application can now be completed by phone with the representative and payment can be made via credit card, electronic funds transfer or by mailing a check.

Previous amnesty programs occurred in 1986 for Philadelphia and in 1995 for Pennsylvania. Just like their predecessors, these two programs provide a unique opportunity for taxpayers to catch up on almost any and all taxes owed to the city of Philadelphia or commonwealth of Pennsylvania. It is extremely important for attorneys and accountants to be aware that if their clients need to file amended tax returns covered by the amnesty, this is the ideal time. •

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