

Tax payback

How tax amnesty programs allow you the opportunity to pay forgotten taxes **Interviewed by Meredith McKenzie**

Many states are looking for ways to obtain additional revenue during the recession without having to raise taxes. Tax amnesty programs offer a way for states to collect a large amount of past-due tax liabilities from companies in a short period of time. Participating companies owe back taxes, haven't filed in that state, or know they owe some kind of money but have just been waiting for whatever reason.

While Ohio is not currently undergoing a program, you may be subject to these payments if you owe back taxes for business locations in states currently undergoing amnesty programs (Pennsylvania, New York and possibly Illinois).

"This offers taxpayers a limited opportunity to pay back taxes," says Matthew Stamp, the director of state and local tax services with GBQ Partners LLC. "The state usually offers some break on interests or penalties or on the period of time you have to file. So you can alleviate that tax liability without any further issues from the state."

Smart Business spoke with Stamp about the benefits and risks of state tax amnesty programs and how these differ from other tax payback programs.

What are the benefits and risks of state tax amnesty programs?

Penalties and interest charges can be significant and carry heavy burdens. These programs allow taxpayers to reduce the actual money paid, as if they've been filing all along. You're allowed to close certain periods and move forward and file in the state without any further repercussions after you've paid under the amnesty program.

You need to be careful though, because you're putting yourself out there to the state with this program. The state could impose taxes, interests and penalties if you don't comply with all program requirements, have missed some bit of information or fall out of the program for prior periods. This could end up costing you a significant amount of money.

What key things do companies and taxpayers need to understand about state tax amnesty programs?

You need to weigh your options and analyze the dollar amounts at stake. You also need to understand if the state already has a voluntary disclosure program running, because there are differences between these and am-



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nesty programs. You need to be able to weigh the risks and benefits of these programs, and if the voluntary disclosure program will be suspended while the amnesty program is taking place. You also need to understand what will happen if you don't come forward under the program, how aggressive any audits will be, and if there will be harsher penalty and interest charges.

How do you qualify to participate, and what should be done before applying?

Most programs apply to taxpayers who have both failed to file a return or underreported taxes, so you have to first make sure you qualify and you understand all program requirements. You should calculate your liability and look at the different positions you've taken, including what type of taxes you've filed for in the past and if you're filing for all of the right taxes.

A taxpayer must pay the entire amount of taxes, plus some or all of the interest due by the program's expiration date in order to qualify. Taxpayers may also be required to sign a settlement agreement and agree to file all future tax returns and pay future tax liabilities in a timely fashion. Any audit notice received prior to entering an amnesty program may or may not eliminate a taxpayer's eligibility, because each program is different.

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Failure to comply with all program requirements could lead to the rescinding of all program benefits and protections. Some states impose harsher penalties if a taxpayer is subsequently identified and did not take advantage of the amnesty program.

What is a voluntary disclosure program?

Voluntary disclosure programs will typically have varying look-back periods or the amount of years of past-due tax liability that must be paid once in the program. Any tax liability outside of the look-back period is forgiven.

Typical requirements under a state's voluntary disclosure program can include any of the following:

- No previous contact with the Department of Taxation or any of its agents
- Willingness to pay all outstanding tax liabilities
- Cannot have previously registered with the state for taxes you wish to pay under the program
- Cannot be under criminal investigation or under audit
- Must not have already received a bill for outstanding tax liabilities

What are some of the differences between voluntary disclosure programs and state tax amnesty programs?

The main differences include a shorter window of opportunity and waiver of penalties and interest for amnesty programs. Amnesty programs also usually require the waiver of any tax appeal rights and have significant look-back periods. The look-back periods in voluntary disclosure programs are usually limited.

Sometimes the voluntary disclosure program is suspended while an amnesty program is taking place. The voluntary disclosure program may give you fewer benefits related to interest and penalty abatements than you would have with a state amnesty program. Every state is different, but a lot of times you'll get different rate benefits, and an amnesty may provide better abatements than a voluntary disclosure program. You need to understand the benefits and differences between these two programs and determine which one is right for you. <<

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