

Louisiana Tax Alert EXTERNAL ALERT

Louisiana Tax Delinquency Amnesty Act of 2013

July 9, 2013

Overview

On June 21, 2013, Governor Jindal signed [House Bill No. 456](#) enacting the Louisiana Tax Delinquency Amnesty Act of 2013 (the "Act"). The Act provided that the amnesty program will run for any two consecutive calendar months between July 1, 2013 and June 30, 2014 at the discretion of the Louisiana Department of Revenue (LDR). We have been advised by representatives at LDR that the program will run from September 15, 2013 through November 15, 2013.

Applying for amnesty

A taxpayer must apply for amnesty on forms distributed by the LDR. To date, these forms have not been released by the LDR. With the filing of the amnesty application, the taxpayer must submit payment of the tax, all fees and cost, and one-half of the interest. The LDR will not enter into any installment agreements with taxpayers participating in the amnesty program. In addition, tax returns must be submitted with the amnesty application if they have not previously been filed. Upon approval of the amnesty application for 2013, the LDR will waive the remaining one-half of interest and all of the penalties for the periods amnesty is granted.

Applicable taxes and periods eligible for amnesty

The Act will apply to all taxes administered by the LDR **except** motor fuel taxes and penalties for failure to submit information reports not based on an underpayment of tax. Of the taxes that are eligible for amnesty, the taxes must have occurred within the following time periods to receive amnesty:

- Taxes due prior to January 1, 2014, for which the LDR has issued to an individual or a business a proposed assessment, notice of assessment, bill, notice or demand for payment on or after July 1, 2001 and before May 31, 2013
- Taxes that became due on or after July 1, 2001 and before January 1, 2013
- Taxes for which the taxpayer and the LDR have entered into an agreement to interrupt the running of prescription (otherwise known as statute of limitations outside of Louisiana) and the agreement suspends the running of prescription until December 31, 2014
- Taxes that became due on or before July 1, 2001, if the taxpayer was ineligible for an earlier amnesty program due to having a matter in civil litigation

Waiver of rights

A condition of participation in the amnesty program is that the taxpayer must agree to relinquish any right to protest or initiate an administrative or judicial proceeding to the specific tax and tax period for which amnesty is granted.

[Availability of amnesty for matters under examination and in litigation](#)

A taxpayer that is undergoing a field audit or examination or involved in litigation may participate in the amnesty program by agreeing to abide by the LDR's interpretation of the law for the issues in the audit or litigation and for all periods beginning in 2014, 2015, or 2016. If a taxpayer is involved in litigation and elects to participate in amnesty, the taxpayer must pay all applicable attorneys fees and its own costs of litigation. A taxpayer involved in field audits or litigation must include all issues and all eligible periods involved in the audit or litigation on the amnesty application.

Further, a taxpayer that has paid under protest must agree that upon approval of the amnesty application, the LDR will apply the payment in escrow in accordance with the grant of amnesty. To the extent a taxpayer paying under protest is due a refund, no interest will be paid by the LDR on refunds for periods for which amnesty is granted. Finally, taxpayers with liens on property or against whom the LDR has initiated levy proceedings are eligible for amnesty if they agree to pay any and all lien fees associated with the tax period for which amnesty is applied for.

[Penalties after the end of the tax amnesty period](#)

If the LDR issues a notice of assessment for a period for which penalties were taken after the tax amnesty period has ended, the LDR has the authority to impose penalties and initiate civil proceedings or criminal proceedings with respect to the difference between the amount shown on the amnesty application and the correct amount of tax due. By regulation, the LDR may impose a collection penalty of 20% or less if any additional deficiency is assessed for a taxable period for which amnesty is taken. This penalty is in addition to all other applicable penalties, fees or costs. The LDR may waive any or all of the collection penalty if the taxpayer establishes that the deficiency was not due to negligence, intentional disregard of administrative rules and regulations or fraud.

If the deficiency results from an adjustment made by the IRS to the taxpayer's federal income tax, no penalty will be imposed as long as the taxpayer notifies the LDR within 60 days of receiving the adjustment from the IRS. Further, no penalty will be imposed if the taxpayer's application for amnesty was based on a proposed assessment or notice of assessment.

[Learn more](#)

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