

Louisiana Amends Amnesty Program, Includes Nonparticipation Penalties

July 8, 2014

Overview

Louisiana Governor Bobby Jindal recently signed into law House Bill 663¹ (“H.B. 663” or “the new law,” effective August 1, 2014), amending certain provisions of the Louisiana Tax Delinquency Amnesty Act of 2013 (“H.B. 456” or the “2013 Amnesty Act”).² Among various other changes, H.B. 663:

- Establishes covered tax periods for 2014 and 2015
- Amends the penalty and interest waiver provisions
- Adds a double penalty provision applicable to certain nonparticipating taxpayers
- Creates an installment payment program

H.B. 663 does not, however, change the tax types covered under the amnesty program (as specified under the 2013 Amnesty Act), which continues to apply to all taxes administered by the Louisiana Department of Revenue (“LADOR”), except motor fuel taxes. Also, the commencement date for the 2014 amnesty period, which under the 2013 Amnesty Act is to run for a one-month period between July 1, 2014, and December 31, 2014, has not yet been announced by the LADOR as of July 8, 2014.

In this Tax Alert we summarize the amnesty law changes contained in H.B. 663.

The 2013 Amnesty Act / Program Periods

Under the 2013 Amnesty Act, the LADOR was required to establish a tax amnesty program for at least a two month period, occurring prior to December 31, 2013; for a one month period to occur between July 1, 2014, and December 31, 2014; and for a period of at least one month to occur between July 1, 2015, and December 31, 2015.³ The LADOR established the first phase of the amnesty program, which began September 23, 2013, and ended November 22, 2013.⁴ As of July 8, 2014, the LADOR has not announced specific program time periods and related details for the 2014 and 2015 amnesty programs.

Covered Tax Periods Established for the 2014 and 2015 Programs

H.B. 663 establishes covered tax periods for 2014 and 2015 as follows:

- The 2014 amnesty program will apply to taxes due prior to January 1, 2014, for which the LADOR has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2014.
- The 2015 amnesty program will apply to taxes due prior to January 1, 2015, for which the LADOR has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2015.⁵

Penalty and Interest Provision Amended / Potential Double Penalties

Under H.B. 663, taxpayers that are approved for amnesty during the 2014 amnesty period will receive a full penalty waiver and reduced interest (i.e., one-half of the interest associated with the tax will be waived). Under the prior law, taxpayers approved for amnesty during the 2014 amnesty period were to receive only a 15% penalty waiver and no interest abatement. The new law provides further that taxpayers approved for amnesty during the 2015 amnesty period will receive a 33% penalty waiver and reduced interest (i.e., 17% of the interest associated with the tax will be waived). Under prior law, taxpayers approved for amnesty during the 2015 amnesty period were to receive a 10% penalty waiver and no interest abatement.⁶

¹ Act No. 822, 2014 Regular Session (1st Reg. Sess.) H.B. 663 (Jun. 23, 2014). A copy of H.B. 663 is available at: <http://www.legis.la.gov/legis/ViewDocument.aspx?d=916087&n=HB663%20Act%20822>.

² Act No. 421, 2013 Regular Session (1st Reg. Sess.) H.B. 456. Our alert summarizing the 2013 Amnesty Act is accessible through the following link: [Multistate Tax Alert: Louisiana Enacts Amnesty Program, Amends NOL Provision](#).

³ Act No. 421, H.B. 456, §3(B).

⁴ Louisiana Revenue Information Bulletin No. 13-017 (Aug. 1, 2013).

⁵ H.B. 663, §1, amending §3(C) of Act No. 421, H.B. 456.

⁶ H.B. 663, §1, amending §3(G)(1) of Act No. 421, H.B. 456.

The new law imposes double penalties on any taxpayer:

who has a final judgment . . . rendered against him by a court or who has exhausted all rights to protest taxes owed to the state . . . ninety days prior to either the 2014 or 2015 amnesty period, **and** who then fails to submit an amnesty application before the end of the applicable amnesty period ninety days prior to which the final judgment was rendered or ninety days prior to which his rights to protest taxes have been exhausted⁷

Other Amnesty Program Amendments

H.B. 663 authorizes the LADOR to enter into installment payment agreements with taxpayers, thus allowing tax, interest, penalties, and other fees to be paid in installments over a six-month period. Certain requirements must be met, and installment payment agreements must be approved by the Secretary of Revenue (the “Secretary”).⁸

The new law also allows a taxpayer to apply for amnesty even when the taxpayer disputes a portion of a delinquent tax assessment, provided that the taxpayer remits payment for the portion of the tax that is not in dispute. The new law refers to this payment as a “compromise amount.” In such instances, the Secretary will have 30 days to determine if the taxpayer shall be granted amnesty.⁹

Finally, the new law prohibits the LADOR from establishing any new amnesty program before January 1, 2025.¹⁰

Considerations

Eligible taxpayers with outstanding unpaid tax liabilities covered by the amnesty program should keep in mind that the LADOR is expected to announce the commencement date of the one-month period applicable to 2014 program. Taxpayers may wish to begin organizing the information necessary to participate in the program.

Contacts

If you have questions regarding this amnesty program or other Louisiana tax matters, please contact any of the following Deloitte Tax LLP professionals.

David Elledge
Senior Manager
Deloitte Tax LLP, Houston
daelledge@deloitte.com
(713) 982-4256

Michael Matthys
Tax Manager
Deloitte Tax LLP, Houston
mmatthys@deloitte.com
(713) 982-3128

Robert Topp
Director
Deloitte Tax LLP, Houston
rtopp@deloitte.com
(713) 982-3185

Andrew Robinson
Partner
Deloitte Tax LLP, Houston
arobinson@deloitte.com
(713) 982-2960

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⁷ H.B. 663, §1, amending §3(G)(1) of Act No. 421, H.B. 456 (emphasis added).

⁸ H.B. 663, §1, adding §3(M) to Act No. 421, H.B. 456.

⁹ H.B. 663, §1, adding §3(G)(2) to Act No. 421, H.B. 456.

¹⁰ H.B. 663, §1, adding §3(N) to Act No. 421, H.B. 456.