

Alabama enacts tax amnesty program commencing on July 1

Overview

On March 6, 2018, Governor Kay Ivey signed the Alabama Tax Delinquency Amnesty Act of 2018 (the Act),¹ providing for a tax amnesty program to begin on July 1, 2018 and to end on September 31, 2018. Notable elements of the tax amnesty program including the following:

- Eligibility for certain taxes due before, or for taxable periods that began before, January 1, 2017.
- A three year or 36 month "look-back" period for eligible taxes.
- A full waiver of interest and penalties for taxes paid with qualifying amnesty applications.

This tax alert summarizes the tax amnesty provisions included in this recently enacted legislation.

Alabama amnesty program provisions

The Alabama tax amnesty program applies to all taxes administered by the Alabama Department of Revenue (the Department) with the exception of motor fuel, motor vehicle, and property taxes. Taxes eligible for amnesty are those which were either due prior to January 1, 2017 or were reportable for taxable periods that began before January 1, 2017.² The amnesty program application period begins on July 1, 2018 and ends on September 30, 2018.³

The look-back period for the amnesty program will be limited to the preceding three full tax years, or 36 months of eligible tax returns that are delinquent.⁴ However, if a taxpayer has collected any tax without remitting the tax to the Department, the look-back period will be adjusted to include all periods for which tax was collected.⁵

Eligible taxpayers

Amnesty may not be granted to taxpayers that have been previously contacted by the Department in the past two years or that have been previously granted amnesty for the tax type under a previous Alabama amnesty program.⁶ In addition, amnesty will not be granted to taxpayers that are party to a criminal investigation or criminal litigation in a court of the United States or Alabama for nonpayment, delinquency, or fraud in relation to any Alabama taxes.⁷

Waiver of interest and penalties

The Department shall waive all related interest and penalties associated with the taxable periods for which amnesty is granted.⁸ However, no interest will be paid to the taxpayer in the event that a refund is due.⁹

If, following the termination of the tax amnesty period, the Department issues a deficiency assessment for a period for which amnesty was taken, the Department has the authority to impose penalties and institute civil or criminal proceedings as authorized by state law, only with respect to the difference between the amount shown on the amnesty application and the correct amount of tax due.¹⁰

¹ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). A copy of the adopted law is accessible [here](#).

² H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 3(b).

³ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 4(a).

⁴ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 2(5), 5.

⁵ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 5.

⁶ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 6.

⁷ Id.

⁸ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 5.

⁹ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 7(b).

¹⁰ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 8(b).

Application requirements

Eligible taxpayers must submit amnesty applications to the Department in an electronic manner, which the Department is to prescribe.¹¹ Taxpayers that are granted amnesty are required to submit all applicable tax returns, along with any required supporting documentation and full payment of tax by November 15, 2018.¹² Taxpayers participating in the amnesty program are also required to submit current year tax returns with the amnesty period tax returns. Penalties for failure to timely file and failure to timely pay shall be waived for current year returns, however interest will not be waived.¹³

Considerations

Taxpayers who believe they may have delinquent tax liabilities in Alabama should consult with their tax advisers regarding their eligibility for the tax amnesty program, commencing on July 1, 2018.

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¹¹ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 2(c).

¹² H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 7(a)(1).

¹³ H.B. 137, 2018 Leg., Reg. Sess. (Ala., 2018). Sec. 7(a)(2).