

Maryland Tax Amnesty Program

May 5, 2015

Overview

Maryland Governor Larry Hogan recently signed Senate Bill 763 (Chapter 50, Acts of 2015), requiring that the Comptroller create a Tax Amnesty Program ("Program").¹ The Program:

- Runs from September 1, 2015, through October 30, 2015;
- Applies to the failure, on or before December 31, 2014, to file a required return or pay the tax imposed under the Maryland state and local corporate and personal income tax, withholding tax, sales and use tax, or admissions and amusements tax;
- Waives all civil penalties (except previously assessed fraud penalties) and one-half of the interest imposed as a result of the nonreporting, underreporting or nonpayment of eligible taxes; and
- Is not available to taxpayers who were eligible for or participated in certain prior Maryland amnesty programs.

In this Tax Alert we summarize the benefits provided under the Program, the limitations to participation and the process by which taxpayers may avail themselves of the Program.

Eligibility

The amnesty period runs from September 1, 2015, through October 30, 2015.² The Program covers taxpayers who on or before December 31, 2014, failed to file a return or pay the applicable tax amount under the Maryland individual income tax, corporate income tax, withholding tax, sales and use tax, or admissions and amusements tax.³ To participate in the Program, during the amnesty period a delinquent taxpayer must, as applicable:

1. File a previously-unfiled return and pay the tax due under the return, as well as one-half of any interest due;
2. Pay the tax plus one-half of any interest due on a previously-filed return; or
3. With respect to a previously-unfiled return or a previously-filed return, enter into a qualifying, deferred-payment agreement with the Comptroller for payment of the tax and one-half of applicable interest due in accordance with the terms of that agreement.⁴

The deferred-payment agreement contemplated under item 3 above permits the payment of delinquent taxes and interest over a scheduled period.⁵ The Comptroller has discretion as to the terms of the agreement, including the payment period, provided that all amounts must be paid in full on or before December 31, 2016.⁶ The waiver of civil penalties and interest under the agreement does not apply to interest accrued for periods after October 30, 2015,⁷ and the waiver is void if the taxpayer fails to comply with the terms and payment schedule under the agreement.⁸

Limitations to Eligibility

The Program is not available to any taxpayer that was granted amnesty under a Maryland Tax Amnesty Program held between calendar years 1999 and 2014.⁹ In addition, the Program is not available to any taxpayer eligible for the July 1, 2004, through November 1, 2004, Settlement Period, as provided in Chapter 557 of the Acts of 2004, for

¹ Senate Bill 763, Chapter 50, Acts of 2015 (S.B. 763; Apr. 14, 2015), § 1.

² S.B. 763, § 1(a).

³ S.B. 763, § 1(b)-(c); § 2(a)(1)(i).

⁴ S.B. 763, § 2(a)(1)(ii).

⁵ S.B. 763, § 2(a)(2)(i).

⁶ S.B. 763, § 2(a)(2)(ii)(iii).

⁷ S.B. 763, § 2(a)(2)(iv)(2).

⁸ S.B. 763, § 2(a)(2)(iv)(1).

⁹ S.B. 763, § 2(a)(3)(i).

tax periods prior to tax year 2003, during which back taxes assessed for certain intangible holding company transactions were forgiven.¹⁰

Benefits under the Program

For qualified taxpayers that participate in the Program, the Comptroller shall waive all civil penalties (except previously assessed fraud penalties) and one-half of the interest due.¹¹ Also, qualified participating taxpayers will not be charged with a criminal tax offense arising out of any return filed and taxes paid in accordance with the Program.¹² This amnesty does not apply to “any criminal charges pending in the courts of the State; or . . . any criminal charges under investigation by an office with the constitutional authority to prosecute a person for violation of criminal laws.”¹³

Considerations

Taxpayers who believe they may have delinquent tax liabilities in Maryland should consider participating in the Program. Taxpayers with larger liabilities may wish to consider entering into a deferred-payment agreement with the Comptroller, since this allows for payments to be made through December 31, 2016, which is more than a year after the Program end date.

It is our understanding that the Comptroller is expected to release specific amnesty guidelines to assist taxpayers seeking to participate in the Program.

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¹⁰ S.B. 763, § 2(a)(3)(ii).

¹¹ S.B. 763, § 2(a)(1).

¹² S.B. 763, § 2(b)(1).

¹³ S.B. 763, § 2(b)(2).