

## New law provides for Alabama tax amnesty program

### Overview

On September 14, 2015, Governor Robert Bentley signed into law the Alabama Tax Delinquency Amnesty Act of 2016 (the Act)<sup>1</sup>, which includes:

- Amnesty program terms and conditions for certain taxes due before, or for tax periods that began before, January 1, 2015
- An amnesty application process for eligible taxpayers
- A waiver of one-half of the interest and all of the penalties associated with the eligible taxes for approved tax amnesty program applicants
- A three-year “look-back period” for all taxes eligible under the amnesty program
- A requirement that the amnesty program run for at least two months during 2016

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

### Amnesty granted for eligible taxes

The Act provides that, for at least two months during 2016, the Alabama Department of Revenue (Department) must establish an amnesty program for certain taxes due before, or for tax periods that began before, January 1, 2015. The Act specifies that the amnesty must apply to all taxes administered by the Department except for motor fuel taxes, penalties imposed by Alabama Code Section 40-29-73, and penalties for failure to submit information reports that are not based on an underpayment of tax.<sup>2</sup> The amnesty program must also occur before August 31, 2016.

### Amnesty application

Amnesty will be granted only to eligible taxpayers who apply during the amnesty period on forms prescribed by the Department and who pay all of the associated tax, fees, costs, and interest, if applicable, due upon filing the amnesty application.<sup>3</sup> If the amnesty application is approved during the amnesty period, the Department will waive one-half of the interest and all of the penalties associated with the tax periods for which amnesty is applied.<sup>4</sup> A standard three-year look-back period will apply for all eligible tax types.<sup>5</sup>

### Ineligible taxpayers

Under the Act, amnesty will not be granted to taxpayers who have been contacted by the Department, or who are parties to any criminal investigation or criminal litigations in any court of the United States or Alabama pending as of September 14, 2015, for nonpayment, delinquency, or fraud in relation to any Alabama state taxes administered by the Department.<sup>6</sup>

### Other noteworthy provisions

Amnesty program participants must agree to waive the right to protest or initiate an administrative or judicial proceeding related to the specific tax and the tax period for which the amnesty is granted.<sup>7</sup> Further, the filing of the amnesty application will make the associated tax, interest, and penalty immediately due and payable, as well as ineligible for refund, credit, or claim against Alabama, and ineligible for redetermination.<sup>8</sup> However, an overpayment that arises after the filing of the amnesty application may make participants eligible for a refund or credit.<sup>9</sup> Lastly, a taxpayer who files an amnesty application retains all administrative and judicial rights of appeal with respect to any additional tax assessed by the Department.<sup>10</sup>

<sup>1</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015). A copy of the adopted law is accessible [here](#).

<sup>2</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(B), (C).

<sup>3</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(E).

<sup>4</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(E) & 2(5).

<sup>5</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(E).

<sup>6</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(F).

<sup>7</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(D).

<sup>8</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(F)(1).

<sup>9</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(F)(1).

<sup>10</sup> S.B. 20, 2015 Leg., 2nd Spec. Sess. (Ala., 2015), Sec. 3(F)(1).

## Considerations

Taxpayers who believe they may have delinquent tax liabilities in Alabama should consider participating in this amnesty program to potentially limit their Alabama liability. Such taxpayers should further consider consulting with their tax advisers regarding their eligibility, as this Tax Alert merely highlights aspects of the program and does not summarize the Act in its entirety.

## Contacts

If you have questions regarding this upcoming amnesty program or other Alabama tax matters, please contact any of the following Deloitte Tax professionals:

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