

Revenue Information Bulletin No. 14-017

August 21, 2014

Administrative

Act 822 Louisiana Tax Delinquency Amnesty Act of 2014

Act 822 of the 2014 Regular Session of the Louisiana Legislature authorizes the Louisiana Department of Revenue to institute an amnesty program to collect outstanding tax liabilities except for motor fuel taxes, Prepaid Cell Phone Sales Tax, Oil Field Restoration-Oil, Oil Field Restoration-Gas, Inspection and Supervision Fee and penalties for failure to submit information reports that are not based on an underpayment of tax. The Department has established a Tax Amnesty Program beginning October 15, 2014 and ending November 14, 2014. Amnesty will be granted only for eligible taxes to eligible taxpayers who apply during the amnesty period and who pay the entire amount of the eligible tax due in lump sum or enter into an installment agreement. The taxpayer shall pay all of the tax due, half of the interest due, all fees and costs, if applicable, for periods designated on the amnesty application. Taxpayers will not be allowed to use a refundable tax credit from an eligible return as an amnesty credit nor a Financial Management Service (FMS) offset to make the down payment or an installment payment. Taxpayers who choose an installment agreement instead of a lump sum payment must remit twenty percent of the total amount owed at the time the installment agreement is approved by the Secretary. Taxpayers who cannot enter into an agreement to make payment by way of automated electronic transactions shall not be eligible for an installment agreement with the Department. If the final installment payment is not submitted by May 1, 2015, amnesty will not be granted. Any payments made will be treated as if amnesty had not been applied for and the Taxpayer is obligated to pay the entirety of the delinquent tax, interest, penalties and fees. Any payments made will be applied to the oldest outstanding tax period as a regular payment. The payment will be applied in the following order: tax, penalty and interest. Field Audit and Litigation are not eligible to enter into an installment agreement. All business taxpayers are required to file returns with the application. The Secretary reserves the right to require individual taxpayers to file tax returns with the application. If the application is approved, the Secretary shall waive the remaining half of the interest and penalties associated with the tax periods for which amnesty is applied.

Businesses and individuals are encouraged to verify your address at www.ldrtaxamnesty.com. This step will ensure that your amnesty invitation is mailed to the correct address. If you are a business that may be eligible for amnesty but have not registered with the Department, please register your business at www.revenue.louisiana.gov or www.ldrtaxamnesty.com and file the outstanding tax returns with the Department. If you are an individual, who may be eligible for amnesty, but never filed a Louisiana tax return, please file the outstanding tax returns with the Department. This will ensure that you will receive an amnesty invitation if you are eligible. Taxpayers should file all outstanding returns as soon as possible in order to allow the returns to be processed. Tax returns filed during the last week of amnesty may not be processed before the November 15th deadline and amnesty may not be granted. Therefore, everyone is encouraged to file the outstanding returns as soon as possible. Businesses and individuals who have a

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final judgment in accordance with R.S. 47:1565 or 1568 rendered against them by a court or who have exhausted all their rights to protest taxes owed to the state pursuant to such statutes ninety days prior to the 2014 amnesty period and who then fail to submit an amnesty application before the end of the amnesty period ninety days prior to which the final judgment was rendered or ninety days prior to which their rights to protest taxes have been exhausted, shall be subject to double penalties.

The following taxes and tax periods are included in the amnesty program:

- Taxes due prior to January 1, 2014, for which the Department has issued an individual or a business proposed assessment, notice of assessment, bill, notice or demand for payment not later than May 31, 2014; or
- Taxes for taxable periods that began before January 1, 2014; or
- Taxes for which the taxpayer and the Department have entered into an agreement to interrupt the running of prescription pursuant to R.S. 47:1580 and said agreement suspends the running of prescription until December 31, 2014.

A taxpayer is eligible for amnesty under any of the following circumstances:

- Received a notice for the failure to timely file a return or for the failure to remit the amount owed
- Has an outstanding tax liability, but has never filed a Louisiana return
- Has an outstanding tax liability, but has not been billed by the Department
- A lien has been issued against the taxpayer's property pursuant to R.S. 47:1577
- The Department has initiated proceedings under the assessment and distraint procedures pursuant to R.S. 47:1569 through 1573
- The Department has entered into an installment agreement with the taxpayer
- The taxpayer has filed for bankruptcy protection
- The taxpayer is involved in a Field Audit
- The taxpayer is involved in Litigation
- The liability consists of interest and penalty
- The liability consists of interest only
- The liability consists of penalty only

A taxpayer is ineligible for amnesty under any of the following circumstances:

- Taxpayers are not eligible for both Amnesty and a Voluntary Disclosure Agreement for the same tax type and same tax period
- Motor fuel taxes are not eligible for amnesty
- Penalties for failure to submit information reports that are not based on an underpayment of tax are not eligible for amnesty
- Taxpayers who are a party to any criminal investigation or criminal litigation, in any court of the United States or the State of Louisiana for nonpayment, delinquency, or fraud in relation to any state tax imposed by a law of the State of Louisiana and administered by the Department, are not eligible for amnesty.
- Taxpayers who deliver or disclose any false or fraudulent application, document, return, or other statement to the Department in connection with an amnesty application shall be ineligible for amnesty and shall be subject to the fraud penalty under R.S. 47:1604, which provides a penalty of

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50 percent of the additional tax due, or a penalty of \$10,000, as provided by Subsection 3(H) of the Louisiana Tax Delinquency Amnesty Act of 2013, whichever is greater.

Payment Options and Related Matters

Lump Sum Payment Options

The taxpayer may use the following payment options to satisfy the amnesty requirement of paying all of the tax, all fees and costs, if applicable and half of the outstanding interest balance to be submitted with the amnesty application:

- cash
- personal check
- business check
- bank wire
- auto-debit
- credit card
- electronic payments via www.ldrtaxamnesty.com.

Installment Agreement Payment Options

Taxpayers who apply for amnesty by opting to pay the tax and any applicable fees, costs and interest in installment must do so by electronic payment.

If a check submitted in conjunction with an application is returned by the bank on which it is drawn for any reason related to the account on which the check is written, the returned check shall constitute failure to pay the entire amount due and unless payment is otherwise made before midnight November 14, 2014, the amnesty deadline, amnesty will be denied. If a debit card or credit card payment is dishonored, the dishonored payment shall constitute a failure to pay the entire amount due and unless payment is otherwise made before midnight on November 14, 2014, amnesty will be denied. Funds submitted without an application will not be considered as an amnesty payment and the monies shall be applied towards the taxpayers' account as a regular tax payment. Payments submitted to the Department before the amnesty period begins or payments submitted during the amnesty period without an application shall be applied to the oldest outstanding tax period in the following order:

- tax,
- penalty and
- interest

Refunds and Overpayments

- No refunds shall be given for amounts paid by the taxpayer to the Department before October 14, 2014, for taxable periods that are eligible for amnesty.
- No interest will be paid on refunds issued for payments made under protest that are used as an amnesty payment.
- Monies paid for tax periods for which amnesty was granted are ineligible for refund, credit or claim against the state.
- Monies paid for tax periods for which amnesty was granted are ineligible for redetermination under the provisions of R.S. 47:1565(C).

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- A taxpayer shall be eligible for a refund or credit under the following circumstances:
 1. the overpayment arises after the amnesty application is submitted and is attributable to a properly claimed Louisiana net operating loss, or
 2. the overpayment is attributable to an adjustment made by the Internal Revenue Service to the taxpayer's federal income tax, and the taxpayer provides written notice of the adjustment to the secretary within 60 days of receipt of the adjustment from the Internal Revenue Service.

If you need additional information, please contact the following:

Tax Amnesty Hotline, 1-866-782-9241

Field Audit Services Division, 225-219-2720

Litigation Division, 225-219-2080

Office Audit Division, 225-219-2270.

Tim Barfield
Secretary