

Connecticut Tax Amnesty: An Opportunity for Everyone



**Alan Lieberman &
Ryan Leichsenring**

Shipman &
Goodwin LLP

From May 1, 2009 through June 25, 2009, individuals and businesses with Connecticut tax exposure will have an opportunity to apply under the Connecticut tax amnesty program to pay their back taxes at a reduced interest rate, without the imposition of penalties or the threat of criminal prosecution.

The bill providing for the tax amnesty program was enacted by the Connecticut General Assembly during a special November legislative session as part of a package to address the projected state budget deficit for the current fiscal year and is expected to raise \$40 million. Prior Connecticut tax amnesty programs generated approximately \$90 million in 1990, \$46.1 million in 1995, and \$22 million in 2002.

Eligibility

Any person or entity who either failed to file a return or underreported virtually any Connecticut state tax (other than the motor carrier road tax) for any period ending on or before November 30, 2008, is generally eligible to apply to participate in the amnesty program. The program covers such taxes as the Connecticut personal income tax, the Connecticut sales and use tax (including the individual use tax on out-of-state purchases made



SHIPMAN & GOODWIN LLP

by a Connecticut resident who did not pay sales tax) and the Connecticut corporation business tax. Amnesty is not available to a taxpayer who is

1. Currently under audit by the Connecticut Department of Revenue Services (DRS) (although the taxpayer can seek amnesty for tax periods and tax types not under audit)
2. Currently under criminal investigation by the DRS
3. A party to any civil or criminal litigation pending on November 25, 2008, in any United States or Connecticut court for failure to file, failure to pay, or for fraud

Relief Provisions

The DRS will not seek criminal prosecution of taxpayers accepted into the tax amnesty program, and all civil penalties (currently ranging from 10 to 25 percent) will be waived, provided the taxpayer pays all taxes and interest by June 25, 2009. In addition, the interest rate on back taxes will be reduced from 1 percent to 0.75 percent per month. The grant of amnesty will not, however, entitle a party to a refund or to a credit of an amount previously paid.

Application Procedure

An amnesty application must be filed electronically using the Amnesty Taxpayer Service Center (Amnesty TSC). A business applicant must pay in full its liability using Amnesty TSC or a credit card at the time the application is filed. An individual applicant may request a payment voucher and is permitted to mail in the payment with the voucher. Installment payment plans are not available under the program. Failure by an applicant to file an application and to pay the amount due by June 25, 2009, will preclude participation in

the program. Any person who willfully delivers or discloses fraudulent or false information also will be ineligible to participate in the program and may be subject to penalties, a fine up to \$5,000, and criminal prosecution.

Cautionary Notes

We recommend that persons who are considering filing an amnesty application first consult with a tax advisor. First, it will be important to determine exactly what is owed to the state, because (1) an amnesty applicant will waive all administrative and judicial rights of appeal that apply to the taxes covered by the application, and (2) no payments made through the amnesty application will be refunded, even if the application is denied. Second, in the case of a nonfiler (an applicant who failed to file returns), the Connecticut statute of limitations generally does not run, and the applicant may have exposure for all open tax periods. Depending upon the circumstances, it may be more advantageous for a nonfiler to seek relief under the DRS Voluntary Disclosure Program, because of the potential opportunity to negotiate a shorter look-back period.

Conclusion

The Connecticut tax amnesty program provides an attractive incentive for individuals and businesses to review their Connecticut tax responsibilities. If that review reveals potential exposure for back taxes, interest, and penalties, an amnesty application may afford an opportunity to address that exposure at a reduced cost, without the fear of criminal prosecution or audit defense fees and expense.

Alan Lieberman and Ryan Leichsenring are members of the State and Local Tax Practice Group at Shipman & Goodwin LLP, with offices in Stamford, Greenwich, Hartford and Lakeville, Connecticut.