

AN ALERT FROM THE BDO STATE AND LOCAL TAX PRACTICE

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► SUBJECT

THE MASSACHUSETTS DEPARTMENT OF REVENUE ISSUED GUIDELINES FOR ITS TWO-MONTH TAX AMNESTY PROGRAM

► SUMMARY

The Massachusetts Department of Revenue recently issued guidelines for the two-month tax amnesty program established under the fiscal year 2015 budget signed by Governor Deval Patrick on July 11, 2014.¹ The Department intends to issue a Technical Information Release and post frequently asked questions on its Web site with further details.

► DETAILS

According to the issued guidelines,² the two-month tax amnesty program will run during the months of September and October, 2014. The program only applies to assessments of certain taxes on the Department's books prior to July 1, 2014. Sales and use tax, individual income tax, and withholding tax (including income and pass-through entity withholding tax), among several other taxes, are eligible for amnesty. Consistent with the 2015 budget legislation, the Corporate Excise Tax is not eligible for tax amnesty.

The Department intends to mail tax amnesty notices that reflect assessed tax and interest due, along with the penalties subject to waiver, to eligible

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¹ See H. 4001, 188th Gen. Court (Mass. 2014).

² See Massachusetts Department of Revenue, *What You Need to Know About the Tax Amnesty Program*, at www.mass.gov/dor/breaking-news/what-you-need-to-know-about-the-tax-amnesty-program.html (accessed July 25, 2014).

taxpayers on September 2, 2014. According to the guidelines, the Department will waive penalties for a taxpayer that pays the billed tax and interest on or before October 31, 2014.

A taxpayer's utilization of the amnesty program should not result in waiver of any appeal rights with respect to the underlying assessment. However, a participating taxpayer will be excluded from utilizing another tax amnesty program for a ten-year period beginning with calendar year 2015.

► BDO INSIGHTS

- Unlike most other amnesty programs, this amnesty program is available to taxpayers by invitation. Thus, a taxpayer should not be required to take any steps to initiate participation in the program.
- The guidelines do not discuss a look-back period (even though the budget legislation authorized the Department to establish one) and so apparently the benefit of tax amnesty under this program is limited to penalty waiver.
- A taxpayer that disagrees with an assessment, but that participates in the amnesty program to take advantage of penalty waiver, should be mindful of the statute of limitations that applies to refund claims for the type of tax at issue.

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