

STEPPING OUT OF THE SHADOWS: AMNESTY PROGRAM FOR STATE TAX LIABILITIES (AN OFFER YOU CAN'T REFUSE)

By: Caroline D. Ciruolo, Esquire

Taxpayers who have been hiding in the shadows or playing defense with respect to state tax liabilities have a reason to come in from the cold. On April 10, 2009, the General Assembly passed Senate Bill 552 – Tax Amnesty Program by an overwhelming majority. The Amnesty Program, the first since 2001 and only the third in Maryland's history, offers taxpayers a rare opportunity to avoid penalties and half of the interest accrued on a variety of tax liabilities. Governor O'Malley signed the legislation on May 7, 2009, with an effective date of June 1, 2009.

Under the Program, the Comptroller is required to declare an amnesty period for taxpayers who have not filed state tax returns or have not paid individual and corporate state income tax, withholding tax, sales & use tax and/or admissions and amusement tax accrued on or before December 31, 2008. The amnesty period will be from September 1 through October 30, 2009. For eligible taxpayers, the Comptroller will waive all civil penalties and half of the interest accrued if the taxpayer files all missing returns and either pays the tax and one half the interest between September 1 through October 30, or enters into an agreement with the Comptroller to pay the tax and the interest due prior to December 31, 2010. To the extent a taxpayer enters into a payment agreement beyond October 30, interest will resume on October 31, 2009 at the statutory rate.

The General Assembly has granted the Comptroller discretion with respect to the acceptance of payment agreements, but the Comptroller must waive penalties and one half of the interest accrued if the taxpayer otherwise satisfies the conditions of the Amnesty Program.

In addition to the foregoing, eligible taxpayers that take advantage of the Amnesty Program will receive immunity from criminal prosecution for any charges that might arise from participation in the program. Immunity will not extend to pending investigations or charges.

So who is an "eligible taxpayer"? Most taxpayers will be able to take advantage of the Amnesty Program. The Amnesty Program will not apply to: (a) previously assessed fraud penalties; (b) any company with more than 500 employees in the United States as of September 1, 2009, either independently or part of a corporate group; (c) taxes for which a taxpayer received amnesty under the 2001 Maryland amnesty program; and (d) any taxpayer that was eligible for the Delaware Holding Company settlement period established by Chapter 557 of 2004,

for corporate income tax settlements under *Comptroller v. SYL, Inc. and Comptroller v. Crown Cork & Seal Co., Inc.*

If you are facing a state or federal tax audit or investigation, or have unresolved tax liabilities, and need assistance, please contact Caroline D. Ciruolo (410-547-7852, or cciraolo@rosenbergmartin.com) or any attorney in our tax group:

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