

**COMPTROLLER, CEASE FIRE!**  
**Maryland Lawmakers Pass New Tax Amnesty Bill**

By: Giovanni V. Alberotanza

Starting on September 1, 2015, individual and corporate taxpayers may again have the opportunity to drastically reduce the penalties and interest they owe on unpaid tax liabilities and potentially avoid criminal prosecution.

The Maryland Senate recently approved a bill that would create a 2015 Maryland Tax Amnesty Program (“Amnesty Program”) for eligible individuals and corporations that owe delinquent taxes. The Maryland House of Delegates approved its cross-filed version of the bill this week and the final versions of the bills are poised to become law in the near future.

The Amnesty Program, which is the fourth of its kind in recent years, would require the Maryland Comptroller to declare an amnesty period for certain taxpayers from September 1, 2015, through October 30, 2015. As proposed, the Amnesty Program will require that the Comptroller waive most civil penalties and one-half of any interest due on most types of delinquent taxes including individual and corporate income taxes, withholding taxes, sales and use taxes, and admissions and amusement taxes. In addition to the waiver of civil penalties and one-half interest, taxpayers will not be prosecuted for criminal tax offenses in most circumstances.

The new legislation not only benefits taxpayers who wish to come into compliance with their Maryland tax obligations but is expected to benefit all Maryland taxpayers through significant increases in State revenue. The Fiscal and Policy Note for the Senate version of the bill indicates that the Program will increase net Maryland general fund revenue by \$11.4 million in fiscal year 2016 and \$3.6 million in fiscal year 2017 due to an increase in delinquent personal income and sales and use tax revenue payments. Additionally, net local government revenue is expected to increase by \$3.2 million in fiscal year 2016 and \$0.9 million in fiscal year 2017.

### **General Eligibility**

To qualify for the Amnesty Program, individuals and corporations would be required to file delinquent returns, pay their entire tax liability and pay one-half of any interest due on that tax liability during the amnesty period. If a taxpayer is unable to pay their tax liability and one-half interest in full during the amnesty period, the legislation would allow the Comptroller to enter into a payment agreement with the taxpayer so long as that agreement calls for the taxpayer to pay in full on or before December 31, 2016. It is important to note, however, that the Comptroller would have discretion over the terms of any payment agreement and if the taxpayer fails to meet the terms of that agreement, the waiver of civil penalties and one-half interest pursuant to the Amnesty Program would be void. Subject to certain exceptions, the Amnesty Program would apply to all tax liabilities associated with returns due on or before December 31, 2014.

## **Proposed Exceptions to Eligibility and Certain Program Terms**

Although general eligibility for the Amnesty Program is broad, potential participants should be aware of exceptions built into the legislation. For example, the Amnesty Program would not apply to any taxpayer who was granted amnesty under a prior Maryland tax amnesty program held between 1999 and 2014. In that regard, Maryland offered similar tax amnesty programs in 2001 and 2009. Furthermore, taxpayers who wish to enter into an extended payment agreement to fulfill the requirements of the Amnesty Program should be aware that the Comptroller is not required to waive one-half of any interest that accrues after October 30, 2015, which is the last day of the amnesty period. Moreover, the terms of the Amnesty Program would not authorize the Comptroller to waive any previously assessed civil fraud penalties.

Taxpayers with potential criminal exposure should ensure that they fully understand the numerous exceptions to the Amnesty Program's protection from criminal prosecution before calling the Comptroller. For example, the Amnesty Program provides no protection for any criminal charges already pending in a Maryland court. Moreover, a taxpayer participating in the Amnesty Program would not be exempted from any criminal prosecution if the matter was already under investigation by certain Maryland agencies including the Office of the Attorney General, the Office of the State Prosecutor, and the Office of the State's Attorney. Importantly, the Maryland Comptroller's Office is specifically excluded.

## **Taxpayers Will Need To Act Quickly**

At this stage, the Amnesty Program will likely become law. Therefore, Maryland taxpayers should consult an attorney in our Tax Controversy group as soon as possible to determine whether they can take advantage of this unique opportunity.

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