

August 2, 2010

DC Launches Tax Amnesty Program Today

The DC Tax Amnesty Program's slogan, "Free Yourself of Tax Penalties," sums up the Program's main and perhaps only taxpayer benefit - the waiver of penalties (both civil and criminal). The District of Columbia Office of Tax and Revenue (OTR) recently announced that the Program will run from August 2, 2010, through September 30, 2010. During this relatively short time period, individuals, businesses, and other entities can pay DC tax liabilities without incurring civil or criminal penalties or fees, but any interest on the liability must be paid. The amnesty program applies to nearly every DC-imposed tax (except real property tax and the ballpark fee) to the extent they were delinquent prior to December 31, 2009.

The OTR plans to mail amnesty eligibility notices to the approximately 42,000 taxpayers shown in its records as having liabilities eligible for amnesty. Taxpayers who do not receive an amnesty bill can complete an amnesty application (available at www.dctaxamnesty.com) and any applicable return in order to participate.

Potential Program participants have a number of considerations to take into account. In addition to the waiver of civil and criminal penalties and collection fees, the Program allows taxpayers to seek refunds of amounts paid under the amnesty program. The Program appears to apply to all outstanding taxes, even those liabilities that are currently under audit. In addition, the amnesty program appears to be preferable to some other options offered by the District to taxpayers who wish to voluntarily disclose tax liabilities, such as the limited offer in the compromise program where it will settle unpaid taxes for less than the full amount due when the facts raise doubts about the liability or its collectability. On the other hand, taxpayers should consider that in addition to requiring full interest to be paid on the liability, there is no limited look-back period for non-filers. A potential taxpayer who has not previously filed a District tax will have to file *all* back tax returns for all years in which tax should have been reported, and pay all back taxes and interest.

Potential participants should be cognizant of two new OTR initiatives that will begin following the conclusion of the Program. First, the OTR will begin to instruct employers to increase withholding tax collections from individuals who do not pay their taxes. The OTR has also announced that it will begin to receive reports of credit card receipts from the IRS beginning in 2011. Based upon these credit card reports, the OTR will identify and select for audit business taxpayers that underreport their sales. Second, the OTR has reminded potential participants that it will share any tax return information with the IRS under the terms of its existing exchange of information agreements.

For those taxpayers that want to come forward and clean the slate, tax and interest must be remitted along with an application and the returns at issue (or along with the amnesty bill if received) by September 30, 2010.

Sutherland Observation: The District has historically offered a voluntary disclosure program with a limited look-back period (typically three years). Taxpayers that are interested in resolving liabilities where no returns have been filed should consider approaching the District to obtain the benefits of the amnesty program coupled with a voluntary disclosure.

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