

Legal Updates & News

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New Jersey Amnesty Program Enacted; Division to Issue Rules

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by [Paul H. Frankel](#), [Hollis L. Hyans](#), [Amy F. Nogid](#), [Mitchell A. Newmark](#)

On Tuesday, March 17th, Governor Corzine signed into law [Assembly Bill 3819 \(First Reprint\)](#), which requires that the Division of Taxation offer an amnesty program. The program will run for 45 days and will end no later than June 15, 2009, and is applicable to State tax liabilities for State tax returns that were due on or after January 1, 2002, and before February 1, 2009. All penalties, one-half of the interest due as of May 1, 2009, and the costs of collection would be waived upon full payment of the tax and one-half of the interest. All taxes administered by the Division of Taxation -- including corporation business, sales and use, and gross income -- should be included in the program. The program is not available to those who are the subject to criminal investigation for any State tax matter. It requires participants to relinquish their appeal rights and rights to claim refunds of any amounts paid.

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Taxpayers that have liabilities that are eligible for amnesty but are not satisfied during the amnesty period are subject to a 5% amnesty penalty. We are challenging the legality of an identical amnesty penalty imposed after the last amnesty program.

The legislation requires the express approval of the Director before accepting amnesty payments for taxpayers that have received assessments that are the subject of administrative review (e.g., before the Conference and Appeals Division) or judicial appeal as of March 17, 2009. Identical provisions existed in the enabling legislation for the two prior amnesty periods and taxpayers that had appeals pending in court or before the Division participated in those programs. We expect that the Director will issue guidance through emergency regulations.

Although this amnesty program is not as generous as the prior two amnesties, which abated all interest in addition to penalties and collection costs, it provides an opportunity for taxpayers to resolve their outstanding liabilities, without the penalties the Division routinely asserts and is generally reluctant to abate.

The last amnesty program offered by New Jersey in 2002 raised \$277 million in revenue and its 1996 program brought in \$359 million in revenue. The Governor hopes that the 2009 amnesty program will bring in \$100 million in revenue.