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STATE TAX AMNESTY PROGRAM

The 1998 budget adjustment act (1997 Wisconsin Act 237), passed by the legislature and signed by Governor Tommy Thompson on June 2, 1998, includes a tax amnesty program to be conducted June 15 – August 14, 1998.

BACKGROUND

1997 Wisconsin Act 27 (the biennial budget), signed by the governor on October 11, 1997, required the Department of Revenue (DOR) to submit a tax amnesty proposal that would be similar to the program conducted September 15 – November 22, 1985, in which civil and criminal penalties and late filing fees were waived and DOR reduced tax liabilities and the interest on back taxes. (The 1985 amnesty had resulted in collection of \$26 million.) The DOR plan, presented to the Joint Committee on Finance, formed the basis for the 1998 amnesty, which is expected to produce about \$40 million.

ELIGIBILITY

The amnesty applies to a variety of state taxes administered by DOR, including individual and corporate income taxes; sales taxes; employer withholding taxes; and taxes on alcohol beverages, tobacco products and fuels. In all cases, the amount due must be paid in full within 45 days after notification from DOR that the application has been approved and the amount verified. Applications for the amnesty program must be accompanied by a nonrefundable fee of \$200 that can be credited against liabilities.

For a taxpayer who has an existing tax delinquency on the records at DOR as of October 1, 1997, the department can waive 20% of the balance due as of June 15, 1998, up to a maximum reduction of \$10,000. Payments are applied in descending order to delinquent tax collections fees, penalties, interest and tax due, but any delinquent tax collection fees must be paid in full.

In the case of tax liability that has not been reported or established, Act 237 requires DOR to waive civil penalties and late filing fees and not seek criminal prosecution. (These waivers do not apply to taxpayers with delinquencies on record.) The rate of interest due on delinquent taxes will be reduced to 1% per month from the standard 1.5% per month. However, if DOR determines that additional taxes are due above the amount claimed on an amnesty application, penalties and the standard interest rate may be applied on the additional liabilities.

For a tax liability that is not delinquent on the DOR records as of October 1, 1997, but that is based upon an assessment, determination, or notice of amount due issued by the department before or during the amnesty period, DOR must waive late filing fees and most civil penalties and reduce the rate of interest due on the delinquent amount from 1.5% to 1% per month. Amnesty does not apply to amounts that are assessed as the result of a field audit or for an assessment, determination, or notice of amount due under review by the DOR appellate bureau, the Wisconsin Tax Appeals Commission, or any court, unless that appeal is withdrawn by the taxpayer.

Amnesty is not available if any of the the following conditions apply:

- The applicant has been notified that he or she is a party to a tax-related criminal investigation or litigation.
- The amounts for which amnesty is requested have been collected or are, as of the date of application, subject to civil litigation as a result of civil collection action initiated by DOR.
- The amount for which amnesty is requested is a delinquent nonresident account assigned to a collection agency and is the subject of a civil collection proceeding in any court.
- The taxpayer is notified during the amnesty period of an adverse determination of his or her appeal of a tax liability by the Wisconsin Tax Appeals Commission or any court.
- The person has filed for relief under the U.S. Bankruptcy Code.

PENALTY FOR NONPARTICIPATION

Persons eligible for tax amnesty who fail to apply will be assessed an additional fee of 5% on the delinquent balance of taxes, penalties and interest, computed as of August 15, 1998. This is in addition to other enforcement provisions enacted in conjunction with the previous amnesty including direct seizure of assets of a delinquent taxpayer and an increase in the penalty for tax fraud. Act 237 also provides delinquents are subject to revocation of their occupational licenses and other credentials.

FOR MORE INFORMATION

For copies of the relevant sections of 1997 Wisconsin Act 237, contact the Legislative Reference Bureau at (608) 266-0342. For further information about the program, contact the DOR tax amnesty hotline at (888) 317-8808. To register or receive application forms, call (888) 701-8818; write to Tax Amnesty, P.O. Box 8927, Madison, WI 53708-8927; or access the Internet at www.taxamnesty.org.