

HOUSE No. 5143

Section 9 contained in the engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5132), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see of House, No. 5142). November 10, 2008.

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT RELATIVE TO THE ESTABLISHMENT OF A TAX AMNESTY PROGRAM
BY THE COMMISSIONER OF REVENUE.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to authorize the commissioner of rev-
3 enue to establish a tax amnesty plan, therefore it is hereby
4 declared to be an emergency law, necessary for the immediate
5 preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 Notwithstanding any general or special law to the contrary, the
2 commissioner of revenue may establish a tax amnesty program
3 during which all penalties that could be assessed by the commis-
4 sioner for the failure of the taxpayer to:— (i) timely file any
5 proper return for any tax types and for any tax periods; (ii) file
6 proper returns which report the full amount of the taxpayer’s lia-
7 bility for any tax types and for any tax periods; (iii) timely pay
8 any tax liability; or (iv) pay the proper amount of any required
9 estimated payment toward a tax liability shall be waived without
10 the need for any showing by the taxpayer of reasonable cause or
11 the absence of willful neglect, if the taxpayer, prior to the expira-
12 tion of the amnesty period, voluntarily files proper returns for all
13 tax types for all periods for which the taxpayer has or had a filing
14 obligation and pays, or at the commissioner’s discretion provides
15 security for, the full amount of tax shown on the taxpayer’s

16 returns or upon the commissioner's assessments, together with all
17 interest due thereon. The amnesty program shall be established for
18 a period of 2 consecutive months within fiscal year 2009 to be
19 determined by the commissioner, such period to expire not later
20 than June 30, 2009.

21 The commissioner's authority to waive penalties during the
22 amnesty period shall not apply to any taxpayer who, before the
23 start date of the amnesty program selected by the commissioner, is
24 or has been the subject of a tax related criminal investigation or
25 prosecution. The amnesty program shall not apply to a tax liability
26 of any tax type for a period commencing on or after January 1,
27 2007 and shall not authorize the waiver of any interest or amount
28 treated as interest. The commissioner may offer amnesty to those
29 taxpayers who have either any unpaid self-assessed liability or
30 who have been assessed a tax liability, whether before or after
31 their filing of a return, which assessed liability remains unpaid.

32 To the extent that a taxpayer wishing to participate in the
33 amnesty program has postponed the payment of an assessment of
34 tax, interest and penalty under the authority of subsection (e) of
35 Section 32 of Chapter 62C of the General Laws, the taxpayer shall
36 waive in writing all rights under said subsection (e) to further
37 delay the payment of the tax and interest portions of the assess-
38 ment. The tax and interest portions of the assessment shall be
39 payable in full from the date of the commissioner's notice of
40 assessment. Upon payment by the taxpayer of the tax and interest
41 of the outstanding assessment, the commissioner shall waive all
42 penalties associated with that assessment. Thereafter, the taxpayer
43 and the commissioner shall proceed with all administrative appeal
44 rights that the taxpayer wishes to pursue with respect to the
45 assessment.

46 Amnesty shall not apply to those penalties which the commis-
47 sioner would not have the sole authority to waive including, but
48 not limited to, fuel taxes administered under the International Fuel
49 Tax Agreement or under the local option portions of taxes or
50 excises collected for the benefit of cities, towns or state govern-
51 mental authorities.

52 The commissioner shall maintain records of the amnesty pro-
53 vided under this section including, but not limited to:— (i) the
54 number of taxpayers provided with amnesty; (ii) the types of tax

55 liability for which such amnesty was provided and, for each such
56 type of liability:— (a) the amount of tax liability collected by the
57 commissioner; and (b) the amount of penalties foregone by virtue
58 of such amnesty; and (iii) the total outstanding tax liability due to
59 the commonwealth, for the period through December 31, 2006,
60 after the collection of all funds under this section. The commis-
61 sioner shall file a report detailing such information with the clerks
62 of the house of representatives and the senate, the joint committee
63 on revenue, the house and senate committees on ways and means,
64 the minority leader of the house and the minority leader of the
65 senate not later than September 1, 2009; provided, however, that
66 such report shall not contain information sufficient to identify an
67 individual taxpayer or the amnesty an individual taxpayer was
68 provided under this section.