



**2009 Report on Tax Amnesty Program**

**Commonwealth of Massachusetts  
Department of Revenue**

**Navjeet K. Bal**  
Commissioner of Revenue

**September 2009**

**Purpose:**

Pursuant to chapter 461 of the Acts of 2008, the Department of Revenue (DOR) is hereby submitting to the House and Senate Clerks, House and Senate Committees on Ways and Means, the Joint Committee on Revenue and the House and Senate Minority Leaders a report detailing the results of the tax amnesty program. This legislation directed the Commissioner of Revenue to maintain records of the amnesty provided, and file a report by September 1, 2009, on the “(i) the number of taxpayers provided with amnesty; (ii) the types of tax liability, for which amnesty was provided and, for each type of liability, the amount of tax liability collected; and the amount of penalties foregone by virtue of the amnesty program; and (iii) the total outstanding tax liability due to the commonwealth, for the period through December 31, 2006, after the collection of all funds under this section.”

**Background:**

Chapter 461 of the Acts of 2008 authorized the Commissioner of Revenue to conduct a two-month tax amnesty program by June 30, 2009, to encourage the payment of delinquent tax obligations to the Commonwealth. It also authorized the Commissioner to determine the tax types and tax periods eligible for the tax amnesty program. Pursuant to this grant of authority, DOR established a two-month amnesty period commencing on March 1, 2009 and ending on April 30, 2009. Given the need to implement the tax amnesty program quickly to meet the legislative deadline, DOR designed a targeted, focused tax amnesty program to benefit individual taxpayers who had previously received notice from DOR of an outstanding tax liability.

The scope of the tax amnesty program was limited to eligible individual taxpayers with outstanding personal income tax, personal use tax, or cigarette excise liabilities (pertaining to purchase for individual consumption), for taxable periods ending on or before December 31, 2007. Under the program, the Commissioner was authorized to waive unpaid penalties (and interest associated with unpaid penalties) if eligible taxpayers paid in full the underlying tax and interest owed by April 30, 2009.

To make eligible taxpayers aware of the tax amnesty program, DOR identified all taxpayers with existing accounts receivable and issued a “Tax Amnesty Notice” to delinquent taxpayers, which included total “Amnesty Balance Due” and the “Amnesty Savings” that would be waived for any fully paid period. DOR waived unpaid late filing and/or late payment penalties, penalties for failure to file a proper return, and penalties for underpayment of estimated tax for eligible taxpayers who paid the full amount by April 30, 2009.

The Commissioner did not grant amnesty to any taxpayer who was either 1) the subject of an ongoing tax-related criminal investigation or prosecution, 2) had a signed settlement agreement with the Commissioner, or 3) had paid all tax and interest due related to any outstanding assessment but, at the start of the amnesty period, still owed or

was properly disputing penalties from that assessment. The comprehensive program requirements and exceptions are listed in Technical Information Release 09-3 attached hereto.

**Overall results:**

The two-month tax amnesty program generated over \$32 million in tax collections for FY09, exceeding original projections of \$10 to \$20 million. Some 25,163 taxpayers made sufficient payments to result in the waiver of penalties associated with some or all amnesty eligible periods. At the conclusion of this program, the total outstanding tax liability/active receivables for amnesty eligible taxpayers (i.e., those who have been deemed able to pay and are not in current payment agreements or disputing their liability) is \$215 million for periods through December 31, 2006. The Department waived approximately \$8.5 million in penalties under the terms of the amnesty program.

The following table provides a breakdown of overall collections by tax type during the two-month amnesty period:

**Tax Type Breakdown of Amnesty Collections by Status**

<b>Tax Type</b>	<b>Amnesty Collections</b>	<b>Penalties Foregone</b>
Personal Use Tax	\$11,930.84	\$3,792.87
Cigarette Excise	\$143,161.03	\$61,122.45
Personal Income Tax	\$31,995,983.74	\$8,500,587.80
<i>Total Collections</i>	<i>\$32,151,075.61</i>	<i>\$8,565,503.12</i>

## TIR 09-3: Limited Amnesty Program For Individual Taxpayers With Existing Tax Liabilities

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### I. Introduction

Chapter 461 of the Acts of 2008 provides that the Commissioner of Revenue shall establish a two-month amnesty program during the fiscal year ending June 30, 2009 (the “Amnesty Program”) and determine the scope thereof. Pursuant to the grant of authority in Chapter 461, the Commissioner has established a two-month amnesty period commencing on March 1, 2009 and ending on April 30, 2009 (the “Amnesty Period”), to encourage the payment of delinquent tax obligations to the Commonwealth. The Amnesty Program will apply to tax years or periods ending on or before December 31, 2007 and is limited to: 1) individuals with existing personal income tax liabilities, 2) existing personal use tax liabilities, and 3) existing cigarette excise liabilities (pertaining to purchases for individual consumption). The Commissioner will notify taxpayers of their eligibility to participate in the Amnesty Program. Only those taxpayers to whom a “Tax Amnesty Notice” has been issued will be eligible.

Under the Amnesty Program, if a taxpayer is notified by the Commissioner that he or she is eligible and the taxpayer pays the full amount of tax and interest due for any period as shown on the “Tax Amnesty Notice,” the Commissioner is authorized to waive all unpaid penalties including those imposed for failure to timely file a return,<sup>[1]</sup> failure to file a proper return,<sup>[2]</sup> failure to timely pay a tax liability,<sup>[3]</sup> and failure to pay the proper amount of any required estimated tax payments<sup>[4]</sup> for such period.

When an eligible taxpayer pays the full outstanding balance of tax and interest with respect to previously filed returns or assessments, the Commissioner will waive the unpaid penalties (and that interest directly attributable to those penalties) as to that taxpayer for those tax periods. St. 2008, c. 461.

Penalties that have been assessed or that could be assessed by the Commissioner against a taxpayer for liabilities relating to any other tax types are not eligible for waiver under the Amnesty Program.

### II. Amnesty Period

The Commissioner has established the Amnesty Period to begin on March 1, 2009 and end on April 30, 2009.

### III. Participation in Amnesty Program

The Commissioner will grant amnesty to individual taxpayers who have been notified of eligibility and who submit all required payments of tax and interest in full for each tax period as shown on the “Tax Amnesty Notice.”

#### A. Eligibility Requirements

## **1. Eligible Taxpayers**

The Amnesty Program is open to individual taxpayers who:

- have been issued a “Tax Amnesty Notice;” and
- (a) have an unpaid and previously self-assessed tax liability for personal income tax, personal use tax and/or cigarette excise (pertaining to purchases for individual consumption); or
- (b) have been previously assessed a tax liability for personal income tax, personal use tax and/or cigarette excise (pertaining to purchases for individual consumption) by the Commissioner and are properly disputing the unpaid liability or are delinquent in paying the liability.

## **2. Who is Not Eligible**

The Commissioner will not grant amnesty to any taxpayer who, prior to March 1, 2009 was the subject of a tax-related criminal prosecution or investigation.

Taxpayers who have signed a settlement agreement with the Commissioner are not eligible for amnesty for the tax periods covered by the settlement agreement including, without limitation, any settlement reached through the Department’s Litigation Bureau, Office of Appeals or Offer-in-Settlement Unit.

Taxpayers who have paid all tax and interest due relating to any outstanding assessment but who, at the start of the Amnesty Period, still owe or are properly disputing penalties with regard to that assessment are not eligible for amnesty for the tax period(s) covered by the assessment.

## **3. Tax Periods**

The Amnesty Program applies to liabilities for the noted tax types for taxable years or periods ending on or before December 31, 2007.

## **4. Taxpayers Under Current Payment Agreements**

Individuals who have entered into a Payment Agreement with the Department prior to the start of the Amnesty Period with respect to qualifying tax types and periods are eligible to participate in the Amnesty Program. The Commissioner will waive eligible penalties associated with any period on the “Tax Amnesty Notice” on which tax and interest is paid in full by the April 30, 2009 deadline. The Commissioner will not waive any penalties associated with the tax liability covered by the Payment Agreement that have already been paid with past installment payments made in accordance with the provisions of the Payment Agreement.

## **5. Appeals Pending**

Any taxpayer who has an appeal pending with respect to an assessment made by the Commissioner for an applicable tax type and period is eligible for participation in the Amnesty Program if the taxpayer has been issued a "Tax Amnesty Notice" and timely pays all taxes and interest owed in full. Payment of the outstanding liability does not constitute a forfeiture of statutory rights of appeal or an admission of liability for the disputed assessment.

## **B. Amnesty Program Payment Requirements**

### **1. Payment In Full For Each Tax Period**

Eligible taxpayers who make a full payment of all tax and interest due under the Amnesty Program for a particular tax type and tax period will be granted amnesty for unpaid penalties associated with such period.

Payments made by taxpayers under the Amnesty Program will be accepted online through the Department's Web Services for Income application or in the form of a check or money order made payable to the Commonwealth of Massachusetts. The taxpayer should include the Bill Number from the "Tax Amnesty Notice" when making payment online or by paper check. Such payment will be deemed to constitute a written waiver of rights under G.L. c. 62C, § 32(e) to the extent such payment relates to the tax and interest in dispute in a pending application for abatement or appeal.

### **2. Due Date**

Amnesty payments will be regarded as timely if the required payment(s), are received by the appropriate office of the Department of Revenue by 5:00 p.m. Eastern Standard Time, April 30, 2009. In addition, if a payment is delivered by U.S. mail (or a recognized commercial delivery service) to the appropriate office after April 30, 2009, the payment will be considered timely if the date of the U.S. postmark (or other substantiating date mark) is on or before April 30, 2009.

## **IV. Scope of Amnesty**

If a taxpayer qualifies for amnesty, the Commissioner will waive all unpaid penalties which could be assessed (for the applicable tax types and periods) for the failure of the taxpayer:

1. to timely file any proper return for any tax types and for any tax periods under G.L. c. 62C, §§ 30, 30A, 33, 34;
2. to file proper returns which report the full amount of the taxpayer's liability for any tax types and for any tax periods under G.L. c. 62C, § 28;
3. to timely pay any tax liability under G.L. c. 62C, §§ 33, 35, and/or G.L. c. 62B, § 7; or
4. to pay the proper amount of any required estimated payment toward a tax liability under G.L. c. 62B, § 14.

For eligible taxpayers, the above unpaid penalties will be waived for taxable periods ending on or before December 31, 2007. Interest (other than interest directly attributable to those penalties) cannot be waived.

#### **V. Administration**

All payments submitted to the Commissioner under the Amnesty Program relating to amnesty-eligible tax periods will be considered voluntary. Any overpayments will be applied to other periods with outstanding liabilities, if any, or refunded if no outstanding liabilities exist. Any such payments will be applied to the taxpayer's tax account(s) in accordance with the provisions of 830 CMR 62C.33.1.

Participation in the Amnesty Program and payment of the tax and interest does not constitute a forfeiture of statutory rights of appeal or an admission of liability for the assessment.

#### **VI. Information**

Additional information about this limited Amnesty Program is available on the Department's website at [www.mass.gov/dor](http://www.mass.gov/dor) or by calling (617) 887-6367 or toll free within Massachusetts at 1-800-392-6089.

/s/Navjeet K. Bal

Navjeet K. Bal

Commissioner of Revenue

NKB:MTF

February 19, 2009

TIR 09-3

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[1] See G.L. c. 62C, §§ 30, 33, 34.

[2] See G.L. c. 62C, § 28.

[3] See G.L. c. 62C, §§ 33, 35; G.L. c. 62B, § 7.

[4] See G.L. c. 62B, § 14.