



Report on Fall 2014 Tax Amnesty Program ^(*)

**Commonwealth of Massachusetts
Department of Revenue**

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Commissioner of Revenue

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^(*) A two-month amnesty period that commenced on September 1, 2014 and ended on October 31, 2014

Purpose:

Pursuant to section 264 of chapter 165 of the Acts of 2014 (the “Act”), 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. The Act directed the Commissioner of Revenue to maintain records of the amnesty provided, and file a report by September 1, 2015, on (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 forgone by virtue of the amnesty program; and (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax amnesty program after the collection of all funds under this section.

Background:

The Act authorized the Commissioner of Revenue to conduct a two-month tax amnesty program during the fiscal year ending June 30, 2015, to encourage the payment of delinquent tax obligations to the Commonwealth. It also generally authorized the Commissioner to determine the scope of the program, including the particular tax types and periods covered, and any limited look-back period for unfiled returns, provided that the program include certain tax types specified in the Act as well as any additional tax types that might be included by the Commissioner. Pursuant to this grant of authority, DOR established a two-month amnesty period commencing on September 1, 2014 and ending on October 31, 2014. 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 certain taxpayers who had previously received notice from DOR of an outstanding tax liability.

The scope of the tax amnesty program was limited to 1) individuals with existing personal income tax liabilities, existing personal use tax liabilities, existing personal boat/recreational vehicles sales tax liabilities, and existing cigarette excise liabilities (pertaining to purchases for individual consumption) and 2) taxpayers with the following existing business tax liabilities: sales/use tax, sales tax on telecommunications services, meals tax, meals tax local option, materialman sales tax, withholding income, performer withholding, pass-through entity withholding, lottery annuity withholding, room occupancy excise, room occupancy excise local option, convention center financing fees on room occupancy in Boston, Cambridge, Chicopee, Springfield, West Springfield and Worcester, convention center financing surcharge for sightseeing tours, convention center financing surcharge on vehicle rentals in Boston, convention center financing surcharge on parking in Boston, Springfield and Worcester, deeds excise, cigarette excise, cigar and smoking tobacco excise, club alcohol beverage excise, gasoline excise, special fuels excise, special fuels excise local option, and boat/recreational vehicles sales tax for taxable periods ending on or before July 1, 2014. Under the Act, 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 October 31, 2014.

To make eligible taxpayers aware of the tax amnesty program, DOR identified all eligible 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 all unpaid penalties including those imposed for failure to timely file a return; failure to file a proper return; underpayment of tax attributable to negligence or disregard of the tax laws or to a substantial understatement of tax; failure to timely pay a tax liability; failure to file, report or pay electronically; and failure to pay the proper amount of any estimated tax payment for such period.

The Commissioner did not grant amnesty to any taxpayer who either 1) was the subject of a tax-related criminal investigation or prosecution, 2) delivered or disclosed or had delivered or disclosed any false or fraudulent application, document, return, or other statement in connection with the Amnesty Program before or during the period of the Amnesty Program, 3) had a signed settlement agreement with the Commissioner, or 4) 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 14-8 attached hereto.

Overall Results:

The Department mailed 279,144 amnesty notices to eligible taxpayers in advance of the amnesty period. The two-month tax amnesty program generated over \$69.1 million in full and partial payments made by 53,739 amnesty eligible taxpayers, which exceeded the Department’s projections of \$35 million in amnesty collections for FY15. A subset of these taxpayers (42,535) made sufficient payments to result in the waiver of \$28.1 million in penalties associated with their amnesty approved periods. The total outstanding tax liability for amnesty eligible taxpayers not in current payment agreements or disputing their liability (i.e., active receivables) is \$1,317.3 million.

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

Tax Type	Amnesty Collections	Penalties Foregone
Income	\$42,272,005.74	\$17,172,419.58
Sales/Use	\$10,528,172.35	\$4,381,348.62
Meals	\$9,923,784.70	\$4,380,540.01
Withholding	\$4,491,375.32	\$1,850,229.15
Meals Local Option	\$732,223.67	\$6,360.74
Rooms	\$485,234.03	\$123,458.72
Cigarette/Cigar/Tobacco	\$316,430.83	\$6,394.60
Rooms Local Option	\$181,566.33	\$94,201.71
Club Alcohol	\$69,544.42	\$24,554.01
Boat/RV	\$40,511.58	16,516.63
Pass-Through Entity Withholding	\$30,497.25	\$0.00
Personal Use	\$23,031.74	\$16,234.65
Sales Service	\$18,184.20	\$38,027.93
Convention Center	\$18,048.35	\$0.00
Special Fuels	\$11,874.10	\$4,920.09
Material Man Sales	\$5,376.68	\$0.00
Total Collections	\$69,147,861.29	\$28,115,206.44

TIR 14-8: Limited Amnesty Program for Taxpayers with Certain Existing Personal and/or Business Tax Liabilities¹***I. Introduction***

Section 264 of Chapter 165 of the Acts of 2014 provides that the Commissioner of Revenue shall establish a two-month amnesty program during the fiscal year ending June 30, 2015 (the “Amnesty Program”) and determine the scope thereof. Pursuant to the grant of authority in Chapter 165, the Commissioner has established a two-month amnesty period commencing on September 1, 2014 and ending on October 31, 2014 (the “Amnesty Period”), to encourage the payment of delinquent tax obligations to the Commonwealth. The Amnesty Program will apply to tax years or periods that were stated on a Notice of Assessment issued by the Commissioner on or before July 1, 2014 and is limited to 1) individuals with existing personal income tax liabilities, existing personal use tax liabilities, existing personal boat/ recreational vehicles sales tax liabilities, and existing cigarette excise liabilities (pertaining to purchases for individual

¹ <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2014-releases/tir-14-8-limited-amnesty-program-for-taxpayers-with-ce.html>

consumption) and 2) taxpayers with the following existing business tax liabilities: sales/use tax, sales tax on telecommunications services, meals tax, meals tax local option, materialman sales tax, withholding income, performer withholding, pass-through entity withholding, lottery annuity withholding, room occupancy excise, room occupancy excise local option, convention center financing fees on room occupancy in Boston, Cambridge, Chicopee, Springfield, West Springfield, and Worcester, convention center financing surcharge for sightseeing tours, convention center financing surcharge on vehicle rentals in Boston, convention center financing surcharge on parking in Boston, Springfield, and Worcester, deeds excise, cigarette excise, cigars and smoking tobacco excise, club alcohol beverage excise, gasoline excise, special fuels excise, special fuels excise local option, and boat/recreational vehicles sales tax (collectively, the taxes referred to in 1) and 2) of this sentence as referred to in the TIR as the “Eligible Tax Types”). 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 the taxpayer 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;^[1] failure to file a proper return;^[2] underpayment of tax attributable to negligence or disregard of the tax laws or to a substantial understatement of tax;^[3] failure to timely pay a tax liability;^[4] failure to file, report or pay electronically;^[5] and failure to pay the proper amount of any estimated tax payment^[6] 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 the portion of interest charges directly attributable to those penalties) as to that taxpayer for those tax periods.
St. 2014, c. 165, § 264.

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.

An eligible taxpayer who participates in the Amnesty Program will not be eligible to participate in future Amnesty Programs for a period of ten years. St. 2014, c. 165, § 264.

II. Amnesty Period

The Commissioner established the Amnesty Period to begin on September 1, 2014 and end on October 31, 2014.

III. Participation in Amnesty Program

The Commissioner will grant amnesty to 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 taxpayers who have been issued a “Tax Amnesty Notice;” and have an unpaid and self-assessed tax liability stated on a bill issued by the Commissioner on or before July 1, 2014 for an Eligible Tax Type, or have been previously assessed a tax liability for an Eligible Tax Type by the Commissioner on or before July 1, 2014 that remains unpaid.

2. Who is not Eligible

If the Commissioner determines that any taxpayer before or during the period of the Amnesty Program, was or is the subject of a tax-related criminal investigation or prosecution, such taxpayer will not be eligible for amnesty.

If the Commissioner determines that any taxpayer before or during the period of the Amnesty Program, delivers or discloses or has delivered or disclosed any false or fraudulent application, document, return, or other statement in connection with the Amnesty Program, such taxpayer will not be eligible for amnesty and shall be subject to the greater of: (i) applicable penalties under G.L. c. 62C; or (ii) a penalty not to exceed \$10,000. This penalty shall be subject to the provisions of G.L. c. 62C and shall be added to and become part of the tax due.

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 Eligible Tax Types for taxable periods that were stated on a Notice of Assessment issued by the Commissioner on or before July 1, 2014.

4. Taxpayers under Current Payment Agreements

Taxpayers who have entered into a Payment Agreement with the Department prior to the start of the Amnesty Period with respect to Eligible 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” for which tax and interest is paid in full by the October 31, 2014 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 tax type and period.

Payments made by taxpayers under the Amnesty Program will be accepted online through the Department’s Web Services for Income application, Web File for Business application, or in the form of a check or money order made payable to the Commonwealth of Massachusetts. If the taxpayer chooses to make a payment through the Department’s website using a credit card, a convenience fee will be charged by the selected credit card vendor.

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 payments are received by the appropriate office of the Department of Revenue by 5:00 p.m. Eastern Daylight Time, October 31, 2014. In addition, if a payment is delivered by U.S. mail (or a recognized commercial delivery service) to the appropriate office after October 31, 2014, the

payment will be considered timely if the date of the U.S. postmark (or other substantiating date mark) is on or before October 31, 2014.

IV. Scope of Amnesty

If a taxpayer qualifies for amnesty, the Commissioner will waive all unpaid penalties that could be assessed (for the applicable tax types and periods) for the taxpayer's: failure to timely file a return for any Eligible Tax Types for any eligible tax periods, under G.L. c. 62C, § 30, 30A; 33; 34; failure to file a proper return for any Eligible Tax Types for any eligible tax periods, under G.L. c. 62C, § 28; underpayment of tax attributable to negligence or disregard of the tax laws or to a substantial understatement of tax, under G.L. c. 62C, § 35A; failure to timely pay any tax liability, under G.L. c. 62C, §§ 33, 35, and/or G.L. c. 62B, § 7; failure to file, report or pay electronically, under G.L. c. 62C, § 33(g); or failure to pay the proper amount of any estimated tax payment, under G.L. c. 62B, § 14 and/or G.L. c. 62C, § 45A.

For eligible taxpayers, the above-described unpaid penalties will be waived only for taxable periods that were stated on a Notice of Assessment issued by the Commissioner on or before July 1, 2014. Interest (other than interest directly attributable to those penalties) cannot be waived.

An eligible taxpayer who participates in the Amnesty Program will not be eligible to participate in future Amnesty Programs for a period of ten consecutive years, beginning with calendar year 2015.

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 or by calling (617) 887-6367 or toll free within Massachusetts at 1-800-392-6089.

/s/Amy Pitter
Amy Pitter

Commissioner of Revenue

AP:MTF:rmh

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TIR 14-8

[1] See G.L. c. 62C, § 30, 30A, 33, 34.

[2] See G.L. c. 62C, § 28.

[3] See G.L. c. 62C, § 35A.

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

[5] See G.L. c. 62C, § 33(g).

[6] See G.L. c. 62B, § 14; G.L. c. 62C, § 45A.