

A bill for an act

relating to taxation; providing a tax amnesty period; appropriating money.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **TAX AMNESTY.**

Subdivision 1. **Amnesty program established.** The commissioner of revenue must establish a period of two months in duration, ending no later than October 31, 2011, to administer the tax amnesty program established in this section. The program applies to taxes payable to the commissioner, including sales taxes that the commissioner collects on behalf of local units of government.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Commissioner" means the commissioner of revenue.

(c) "Department" means the Department of Revenue.

(d) "Tax liability" means all taxes and related penalties, interest, and other charges payable to the commissioner for tax returns due on or after January 1, 2005, and before March 1, 2011.

(e) "Taxpayer" means an individual, estate, trust, or corporation, as defined in the relevant provision of Minnesota tax law, who is subject to at least one tax payable to the commissioner.

Subd. 3. **Qualifying taxpayers.** (a) A taxpayer qualifies for the amnesty program if:

(1) the taxpayer has failed to file a return that, if filed on March 1, 2011, would be considered to be a delinquent return subject to a penalty and has not received a written notice of nonfiling from the commissioner prior to the request for amnesty;

(2) the taxpayer has under-reported tax liability on a return filed and due before March 1, 2011, unless, prior to the filing of request for amnesty, a notice of assessment or audit or a bill has been issued, or an audit is currently being or has been conducted on the return; or

(3) the taxpayer has an unpaid liability on the department's accounts receivable system as of March 1, 2011.

(b) A taxpayer is prohibited from participating in the amnesty program if:

(1) the taxpayer has a liability on the department's accounts receivable records that includes a civil fraud penalty imposed by the commissioner;

(2) the taxpayer has been convicted of a federal or state tax crime;

(3) the taxpayer is party to any criminal investigation or to any civil or criminal litigation that is pending in any Minnesota court or any court of the United States for nonpayment, delinquency, or fraud in relation to any Minnesota tax;

(4) the taxpayer is currently subject to a voluntary disclosure agreement with the department; or

(5) the taxpayer has received written notice of the commencement of an audit or is currently being audited by the department.

(c) For purposes of this section, "written notice of nonfiling from the commissioner" includes any written communication from the commissioner to the taxpayer concerning any period for which the taxpayer has not filed a tax return. Written notice of nonfiling includes any written communication, including any subpoena, served upon a third-party record keeper requesting records regarding any period for which the taxpayer has not filed a tax return, if notice of that third-party communication has been provided to the taxpayer. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner.

(d) To be eligible for amnesty of tax liability, a taxpayer must file all tax returns required to be filed with the commissioner and must pay all unpaid tax and interest that is payable under the amnesty program to the commissioner based on all tax returns filed during the amnesty period.

Subd. 4. **Amount of reduction.** (a) For a taxpayer who files an amended return reporting an increase in liability for a return filed and due before March 1, 2011, the commissioner must accept as full payment the additional tax and a percent of interest and penalties to be determined by the commissioner that is at least 50 percent, but not to exceed 70 percent, of the interest and penalties due on the amended return through the date of payment.

(b) For a taxpayer who has failed to file a return that, if filed on March 1, 2011, would be considered a delinquent return, the commissioner must accept as full payment the delinquent return along with full payment of tax and 50 percent of the interest and penalties due to the date of payment.

(c) For a taxpayer with existing liability on the department's accounts receivable system, the commissioner must accept as full payment of the liability the full payment of tax and 70 percent of the interest and penalties due to the date of payment.

Subd. 5. **Waiver of appeal.** If a taxpayer elects to participate in the amnesty program under this section, that election constitutes an express and absolute relinquishment of all administrative and judicial rights of appeal with respect to the tax liability for which amnesty is sought.

Subd. 6. **Form and time of payment.** (a) During the amnesty period prescribed by the commissioner under subdivision 1, the taxpayer must:

(1) apply for amnesty in the form and manner prescribed by the commissioner;

(2) file all delinquent tax returns or the amended tax returns that make the taxpayer eligible for amnesty; and

(3) make full payment by electronic means, certified check, cashier's check, or money order.

(b) Payment qualifies only if it is actually received in full by the commissioner at the department's St. Paul office or a field office or is electronically deposited in the designated account of the state before the last day of the amnesty period.

Subd. 7. **Investigations.** (a) Nothing in this section limits the ability of the commissioner to assess additional tax, penalty, and interest on any return for which the taxpayer has applied for and received the benefits of this section. For taxpayers who qualify for the amnesty program under subdivision 4, paragraph (b), as a result of failing to file returns, the commissioner is prohibited from initiating an audit based on information received as a result of the taxpayer's participation in the amnesty program for a period earlier than three years prior to the oldest period for which amnesty is sought.

(b) Nothing in this section limits the application of any criminal penalties.

Subd. 8. **Additional penalty.** For any taxpayer who was eligible for the amnesty program under this section and failed to file the owed returns, tax, interest, and penalties, that taxpayer is subject to a five percent penalty on the amount that would have been due on the last day of the amnesty period, which must not be waived or abated. The five percent penalty must be in addition to all other penalties, interest, or collection costs otherwise authorized by law.

EFFECTIVE DATE. This section is effective the day following final enactment.

4.1 Sec. 2. APPROPRIATION.

4.2 \$..... is appropriated from the general fund to the commissioner of revenue to

4.3 administer the tax amnesty program in section 1.

4.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.