

## ATTORNEYS

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## PRACTICES

Tax

## “Amnesty” for Massachusetts Taxpayers

By Gary Bubb on July 23, 2014



Massachusetts taxpayers will have the benefit of a two-month tax amnesty during September and October of 2014. The tax amnesty bill was signed into law by Governor Deval Patrick on July 11, 2014 as part of the state’s 2015 fiscal year budget. The bill directs the commissioner of revenue to work out the details, and the Department of Revenue (“DOR”) will shortly be publishing a Technical Information Release containing full information about the amnesty. An “FAQ” about the amnesty will also be added to the [DOR’s webpage](#).

As of July 22, the DOR’s webpage has preliminary information on how it will handle the amnesty program. The tax amnesty bill requires amnesty for business “trustee” taxes like income tax withholding, sales and use tax, meals tax, and pass-through entity withholding, and permits the DOR to add other types of taxes. The DOR has used its authority to expand the amnesty to include individual income taxes.

The DOR has decided that the two-month period will be September and October, 2014, and the amnesty will only apply to tax liabilities that are “on the books” as of July 1, 2014. As a result, taxpayers will not be permitted to “self assess” by filing returns after July 1 in the hopes of avoiding penalties by taking advantage of the amnesty when it is offered in September. In early September, the DOR will mail out “tax amnesty notices” to qualifying taxpayers. The notices will show the tax and interest due, and the amount of the penalties that will be waived. The DOR webpage says that taxpayers must pay the entire amount owed (taxes and interest) by October 31, 2014 in order for the DOR to waive all penalties.

The DOR’s requirement of payment by October 31, 2014 does not appear to reflect the tax amnesty statute, which says “. . . all required payments shall be made on or before June 30, 2015 in order for the amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2015, the commissioner shall retain any payments made and shall apply those payments against the outstanding liability and the tax amnesty program shall not apply.” Apparently, the DOR interprets this language to mean that payment must be made by the end of the two-month period, not June 30, 2015.

The amnesty will apply both to self-assessed liabilities and liabilities assessed by the DOR as of July 1, 2014, but it will not apply to any taxpayer who, before or during the period of the amnesty program, was or is the subject of a tax-related criminal investigation or prosecution.

According to the Massachusetts Budget and Policy Center, Massachusetts has offered tax amnesties on three previous occasions, in 2002, 2009 and 2010. The 2002 amnesty applied to all types of taxes and resulted in collections of about \$177 million in taxes and interest. The 2009 and 2010 amnesties were more limited in the types of taxes involved, and each resulted in collections of about \$32 million in taxes and interest. The Budget and Policy Center has estimated that collections from the current amnesty will total about \$35 million, but that number will probably go up now that the DOR has added individual income tax to the list of eligible taxes.

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