

Enrolled
Senate Bill 880

Sponsored by COMMITTEE ON FINANCE AND REVENUE

CHAPTER

AN ACT

Relating to tax compliance; appropriating money; limiting expenditures; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Department of Revenue shall develop and administer a tax amnesty program for taxpayers.

(2) The tax amnesty program shall be conducted during the period beginning on the effective date of this 2009 Act or October 1, 2009, whichever is later, and ending November 19, 2009.

(3) The tax amnesty program applies to tax years, reporting periods and estates for which the department could issue a notice of deficiency under ORS 305.265 or 314.410, as amended and in effect on the day before the effective date of this 2009 Act.

(4) The department shall publicize the tax amnesty program through appropriate outreach and media activities in order to maximize public awareness of and participation in the program.

(5) The department may prescribe forms, issue instructions, conduct public meetings and undertake any other action necessary to maximize public participation in and compliance with the tax amnesty program and the collection of tax liabilities to which the program applies.

SECTION 2. (1) A taxpayer who meets all of the following requirements during the period described in section 1 (2) of this 2009 Act may participate in the tax amnesty program:

(a) The taxpayer was required to:

(A) File a tax return under ORS chapter 314, 316, 317 or 318 for a tax year that begins before January 1, 2008;

(B) Pay personal income tax imposed under ORS chapter 316 for a tax year or reporting period that begins before January 1, 2008;

(C) Pay tax imposed under ORS chapter 317 or 318 for a tax year or reporting period that begins before January 1, 2008;

(D) File a return under ORS chapter 118 and pay any required tax, if the return was due prior to January 1, 2008; or

(E) Pay any tax imposed on net earnings from self-employment pursuant to ORS 267.385, if required to do so prior to January 1, 2008;

(b) The taxpayer files a completed amnesty application with the department, signed under penalty of perjury, to participate in the tax amnesty program; and

(c) Within 60 days after the conclusion of the tax amnesty program, the taxpayer does all of the following:

(A) Files a completed tax return or report for all tax years or reporting periods described in paragraph (a) of this subsection for which the taxpayer had not previously done so;

(B) Files a completed amended tax return or report for all tax years or reporting periods described in paragraph (a) of this subsection for which the taxpayer underreported or underpaid the tax liability of the taxpayer; and

(C) Pays in full the taxes due, and 50 percent of the interest due, for all tax years or reporting periods described in paragraph (a) of this subsection or applies for an installment payment agreement under subsection (5) of this section that applies to the taxes and interest due for all tax years or reporting periods described in paragraph (a) of this subsection for which taxes remain unpaid.

(2) Notwithstanding subsection (1) of this section, a taxpayer may not participate in the tax amnesty program if, prior to the starting date of the period described in section 1 (2) of this 2009 Act, the department has issued a notice of deficiency to the taxpayer or has assessed a tax for a tax year for which the taxpayer could otherwise apply for amnesty under this section.

(3) In addition to the other requirements in subsection (1) of this section, a taxpayer who has filed a petition for bankruptcy protection under Title 11 of the United States Code may participate in the tax amnesty program if the taxpayer submits an order from a United States Bankruptcy Court allowing the taxpayer to participate in the tax amnesty program.

(4) A taxpayer who participates in the tax amnesty program described in this section may not request a refund with respect to any tax paid under the tax amnesty program and waives any right to appeal any tax reported on a tax return or report filed or paid under subsection (1) of this section or pursuant to an installment payment agreement entered into under subsection (5) of this section.

(5)(a) A taxpayer may apply for an installment payment agreement for the payment of taxes reported and due under subsection (1) of this section. The application shall be made on a form prescribed by the department and shall be due at the time the taxpayer applies for amnesty under subsection (1) of this section.

(b) The department shall enter into an installment payment agreement with a taxpayer who has applied under paragraph (a) of this subsection and shall establish a payment schedule if the department concludes that the agreement will facilitate the efficient collection of the outstanding tax liability.

(c) Any interest that remains unpaid upon a taxpayer's entering an installment payment agreement shall be reduced by 50 percent.

(d) Under any installment payment agreement entered into under this subsection, all outstanding taxes and interest must be paid on or before May 31, 2011.

SECTION 3. (1) For any taxpayer who fully complies with the tax amnesty program described in section 2 of this 2009 Act, the Department of Revenue shall waive all applicable penalties, including criminal penalties that would otherwise apply under ORS 314.075 and 314.991 (1), that would otherwise apply to the taxes being reported and paid under section 2 of this 2009 Act, and shall waive 50 percent of any interest otherwise due.

(2)(a) If the department has entered into an installment payment agreement with the taxpayer, the failure of the taxpayer to fully comply with the terms of the installment payment agreement renders the waiver of penalties under subsection (1) of this section and the installment payment agreement void. The total amount of tax, interest and all applicable penalties becomes immediately due and payable. The reduced interest rate applicable under section 2 (5)(c) of this 2009 Act is voided and replaced by the rate established under ORS 305.220, which is applicable to any amount that remains unpaid by the taxpayer.

(b) This subsection does not apply if the department determines that the failure to fully comply with the terms of the installment payment agreement is due to reasonable causes.

SECTION 4. (1) An amount equal to 25 percent of the total amount of unpaid tax that is otherwise due is added to the amount of outstanding tax liability for any tax year or reporting period for which amnesty could be sought under section 2 of this 2009 Act and for which the taxpayer failed to apply for amnesty and:

(a) Failed to file a return or report; or
(b) Filed an original or amended return that failed to report or underreported tax liability.

(2) If, following the closure of the amnesty period specified in section 1 (2) of this 2009 Act, the Department of Revenue issues a notice of deficiency with respect to an unreported or underreported tax liability for a tax year for which an amnesty application was filed under section 2 of this 2009 Act, an amount equal to 25 percent of the total amount of unpaid tax that is otherwise due is added to the amount of outstanding tax liability.

(3) The penalties imposed under subsections (1) and (2) of this section do not apply to any additional tax liability that results from an adjustment made to a return by the Internal Revenue Service, unless the service has finally imposed a penalty under sections 6662, 6662A, 6663 or 7201 of the Internal Revenue Code.

(4) The penalties imposed under this section are in addition to and not in lieu of any other penalty.

SECTION 5. (1) Sections 1 to 4 and 7 of this 2009 Act are repealed January 2, 2014.

(2) The Tax Amnesty Fund established under section 7 of this 2009 Act is abolished January 2, 2014.

(3) The unexpended moneys remaining in the Tax Amnesty Fund on January 2, 2014, shall be transferred to the General Fund.

SECTION 6. Sections 1 to 4 of this 2009 Act are added to and made a part of ORS chapter 314.

SECTION 7. (1) The Tax Amnesty Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Tax Amnesty Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Revenue.

(2)(a) Except as provided in paragraph (b) of this subsection, all moneys received by the Department of Revenue under sections 1 to 4 of this 2009 Act shall be deposited in the Tax Amnesty Fund. The department shall be reimbursed from the fund for costs incurred by the department to administer sections 1 to 4 of this 2009 Act. The total amount of costs paid under this subsection may not exceed \$1 million.

(b) Moneys received by the department under sections 1 to 4 of this 2009 Act with respect to taxes imposed under ORS 267.385 on net earnings from self-employment and any penalties imposed on those taxes shall be paid to the transit district that imposed the tax, as provided in ORS 305.620. Costs incurred by the department to administer sections 1 to 4 of this 2009 Act on behalf of transit districts may be recovered by the department as provided in ORS 305.620.

(3) The department shall certify to the Emergency Board, or to the Legislative Assembly if it is in session, the costs that are incurred by the department in carrying out the purposes of sections 1 to 4 of this 2009 Act.

(4) The unexpended moneys remaining in the Tax Amnesty Fund on June 30, 2011, shall be transferred to the General Fund.

SECTION 8. Notwithstanding any other law limiting expenditures, the amount of \$1 is established for the biennium beginning July 1, 2009, as the maximum limit for payment of expenses from the Tax Amnesty Fund.

SECTION 9. This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

Passed by Senate June 25, 2009

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Secretary of Senate

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President of Senate

Passed by House June 29, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State