

# Important Notice

## Limited Tax Amnesty Program

New York State is conducting a limited tax amnesty program. The three-month amnesty period begins on September 1, 1994, and ends on November 30, 1994. Tax amnesty is an opportunity for previous nonfilers to file and pay certain back taxes without penalty or criminal prosecution.

Only individuals and businesses meeting limited criteria and owing particular taxes incurred during specific time periods are eligible for amnesty.

To be granted amnesty, those who meet the requirements must file the required returns and pay any taxes owed, plus interest. Unpaid penalties will be waived, and those granted amnesty will be protected from criminal prosecution and any administrative penalty.

The following taxes are included in the limited tax amnesty program.

### Compensating Use Tax

The compensating use tax is the companion to the state and local sales tax. Generally, it applies to taxable goods or services brought into or shipped into New York and used in New York by resident individuals or businesses operating in the state. For example, a computer that a business purchases and has shipped into the state without the sales tax being charged is subject to a use tax equal to the sales tax.

Only resident individuals or small businesses (businesses having an annual New York State payroll, if any, of less than \$1 million in the taxable year during which the taxable use occurred) may apply for amnesty for compensating use tax.

To be eligible, use tax must be owed on property or services used in New York State between June 1, 1986, and May 31, 1993. Applicants will not be eligible if they:

- filed a sales or use tax return for the period in which the taxable use occurred, or
- were a registered sales tax vendor at or before the time of the taxable use.

### Personal Income Tax

Only individuals, trusts, or estates that were nonresidents during the period for which amnesty is sought may apply for amnesty for New York State personal income tax or New York City or Yonkers nonresident earnings taxes. Residents of New York State are not eligible for amnesty for New York State personal income tax or either of the cities' nonresident earnings taxes.

To be eligible, taxes owed must be for taxable years beginning on or after January 1, 1986, and ending before December 31, 1993. The last calendar year taxpayers are eligible for amnesty is 1992.

Applicants will not be eligible if they filed a New York state personal income tax return and, if applicable, a city nonresident earnings tax return for the period for which New York State tax amnesty is sought.

### Corporation Franchise and Other Business Taxes

Only businesses incorporated or organized outside New York State, or individuals domiciled outside New York for more than one-half of the applicable year or other taxable period for which amnesty is sought, are eligible to apply for amnesty for business taxes.

The taxes covered are the taxes (including surcharges and fees) imposed under the following Articles of the Tax Law:

- 9 (transportation companies, utilities, etc.)
- 9-A (general business corporations)
- 13-A (petroleum businesses)
- 32 (banks)
- 33 (insurance companies)

To be eligible, taxes owed must be for taxable years or taxable months beginning on or after January 1, 1986, and ending before December 31, 1993.

Applicants will not be eligible if they:

- filed a tax return or report or paid tax for the period and tax type for which amnesty is sought, or
- with regard to the petroleum business tax, were registered as a petroleum business under Article 13-A before or during a taxable month for which amnesty is sought.

### General Qualifying Requirements

The following general requirements must be met in order to qualify for amnesty:

- The application for amnesty must be in writing (Form AM-1).
- Appropriate tax returns must be completed and submitted.
- Taxes and related interest must be paid for the period for which amnesty is sought. Failure to pay the taxes plus interest invalidates any amnesty granted under this program.
- Outstanding assessments (for tax periods other than those for which amnesty is sought) of any tax administered by the New York State Tax Department which are final must be paid or a deferred payment agreement must be entered into. Failure to comply with all the terms of a payment agreement will result in revocation of amnesty.

## Additional Disqualifying Factors

Applicants will not be eligible for amnesty if they:

- received any benefit under the New York State amnesty program Conducted in 1985,
- received any notice of tax due (including a notice of determination or notice of deficiency) from the Tax Department for a tax and specific tax period for which amnesty is sought, or
- received any notice from the Tax Department that indicates the Department's knowledge that the applicant may be subject to the tax and tax period for which amnesty is sought.

Amnesty will not be granted to any applicant who:

- is a party to any criminal investigation being conducted by an agency of New York State or any of its political subdivisions, or
- is a party to any civil or criminal litigation which is pending, on the date of the amnesty application, in any court for nonpayment, delinquency or fraud related to any of the taxes designated under the amnesty program.

Civil litigation is not considered *pending* if the taxpayer withdraws from the litigation before the granting of amnesty.

## Amnesty Benefits

When amnesty is granted, penalties will be waived. These include penalties for failure to pay tax, failure to file a return or failure to pay estimated personal income taxes covered by the waiver.

Waivers will apply separately to each tax and tax period for which amnesty applies. Those granted amnesty will be protected from civil, administrative or criminal action or proceedings related to the tax and the period covered by the waiver.

Once amnesty has been granted for a particular tax, and all of that tax has been paid, the state may not assess the taxpayer for any amounts of that type of tax later found to be due for periods prior to the first period for which amnesty is available. In this instance the tax for that prior period is forgiven.

No refund or credit will be made or allowed of any penalty paid prior to the time the taxpayer makes a request for amnesty. Further, unless the Commissioner of Taxation and Finance redetermines the amount of the taxes and interest, no refund or credit will be allowed with respect to taxes paid under the amnesty program.

## Forms and Instructions

For additional information on the amnesty program, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829).

From areas outside New York State, call (518) 438-8581.

To order forms, call toll free (from New York State only) 1 800 462-8100.

From areas outside New York State, call (518) 438-1073.

You may also write to the following address for forms and instructions:

AMNESTY  
NYS TAX DEPARTMENT  
BUILDING 8  
W A HARRIMAN CAMPUS  
ALBANY NY 12227

## NOTE

**New York City** is also conducting a tax amnesty from September 1, 1994, to November 30, 1994, for certain taxes imposed and administered by the city. The New York City taxes covered under its amnesty are the:

- the *commercial rent* tax (for periods ending on or before May 31, 1993);
- the *utility* tax (for periods ending on or before March 31, 1994);
- the *real property transfer* tax (for taxable events occurring before April 1, 1994); and
- the *hotel room occupancy* tax (for periods ending on or before February 28, 1994).

More information is available from the New York City Department of Finance. Call: (718) 935-6000 or (718) 935-6675. Write: NYC Department of Finance, Outreach Tax Form Department, 25 Elm Place, 4th Floor, Brooklyn, NY 11201.