

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-M-02(11)I
TSB-M-02(10)S
TSB-M-02(8)C
TSB-M-02(8)M
TSB-M-02(4)R
All Taxes
November 18, 2002

Tax Amnesty for Certain Taxes
(Articles 9, 9-A, 12-A, 13, 13-A, 16, 16-A, 18-A, 21, 22, 23, 24, 26, 26-A, 26-B, 28, 28-A, 29, 30, 30-A, 30-B, 31-B, and 33-A)

On May 29, 2002, Governor George E. Pataki signed Chapter 85 of the Laws of 2002 into law. Among other provisions, Chapter 85 includes a Tax Amnesty program. The Tax Amnesty program will be available during the period from **November 18, 2002, to January 31, 2003**. Additional information (including Publication AM-101, *New York State 2002 - 2003 Tax Amnesty Questions & Answers*, and relevant forms and instructions) is available on the Tax Amnesty Web site at www.nystaxamnesty.com or by calling toll-free 1 888 552-FILE (1 888 552-3453).

The Tax Amnesty program applies to the following taxes:

- Corporate franchise and excise (see exceptions below)
- Motor fuel and diesel motor fuel
- Unrelated business income
- Petroleum business
- Beverage container (repealed October 1, 1998)
- Highway use
- Personal income
- Unincorporated business (repealed December 31, 1982)
- Lubricating oil (repealed September 1, 1994)
- Estate
- Gift
- Generation-skipping transfer
- Sales and use
- Passenger car rentals
- New York City personal income
- Yonkers income
- New York City nonresident earnings
- Gains derived from certain real property transfers (repealed June 15, 1996)
- Independently procured insurance

Eligible taxpayers with outstanding tax liabilities for the above taxes will be given a limited opportunity to settle their liabilities without penalties and with a reduction in the applicable rate of interest.

Tax Amnesty will **not** apply to the franchise taxes imposed on banking corporations under Article 32 and insurance corporations under Article 33 of the Tax Law. In addition, Tax Amnesty will **not** apply to the following taxes imposed under Article 9 of the Tax Law:

Section 180, *Organization tax; taxes imposed on changes of capital*
Section 181, *License and maintenance fee on foreign corporations*
Section 185, *Franchise tax on agricultural co-ops*
Section 186-a, *Tax on the furnishing of utility services*
Section 186-c, *MTA surcharge on section 186-a*
Section 188, *Tax Surcharge*

In the case of the sales and use taxes, the petroleum business tax, and the tax on the importation of gas services under section 189 of the Tax Law, the Tax Amnesty program will apply to tax liabilities for the tax periods ending, or transactions or uses occurring, on or before February 28, 2001. Tax Amnesty applies to estate tax liabilities of decedents with a date of death on or before February 1, 2000. For all other eligible taxes, Tax Amnesty applies to tax liabilities for all tax periods ending, or uses or transactions occurring, prior to January 1, 2001.

Amnesty participants can receive a waiver of certain penalties and a two percent per annum interest rate reduction relating to tax liabilities that are eligible for Tax Amnesty. However, penalties imposed on responsible persons, officers, etc., under sections 289-b(2), 315(a) and 685(g) of the Tax Law may not be waived under the Tax Amnesty program. Additionally, no refund or credit will be granted for any penalty or interest paid prior to the time the taxpayer applies for Tax Amnesty. Finally, an additional 2% rate of interest per year will be imposed on all taxpayers on and after April 1, 2003, on any existing assessment and on any future liabilities.

While many taxpayers will qualify for Tax Amnesty, the following restrictions apply:

- A taxpayer who was granted Tax Amnesty under either the 1994 or 1996/97 New York State Tax Amnesty programs is **not** eligible for Tax Amnesty for the same tax type for which Tax Amnesty was previously granted. For example, a taxpayer who received Amnesty under the 1996/97 program relating to a tax liability under Article 9-A will not be eligible under the new program for Amnesty relating to another Article 9-A tax liability, but would be eligible for Amnesty relating to a sales tax liability.
- Business taxpayers, if they have more than 500 employees, or their combined filing group has more than 500 employees, in the United States on the date of application for Tax Amnesty, are not eligible for Tax Amnesty for corporate franchise and excise, petroleum business, unincorporated business, beverage container, personal income, sales and use, New York City personal income, Yonkers personal income, and New York City nonresident earnings tax liabilities.
- A taxpayer who has been convicted of a crime related to a tax for which Tax Amnesty is sought is **not** eligible for any period or assessment for that tax.

- A taxpayer is not eligible for Tax Amnesty with respect to a tax for any period in which the taxpayer is a party to a criminal investigation, a pending administrative proceeding or pending criminal or civil litigation related to such tax and period. The taxpayer may apply for Amnesty for eligible taxes and associated periods which are **not** subject to an ongoing criminal investigation, pending administrative proceeding or pending criminal or civil litigation. In addition, the taxpayer must withdraw from any administrative proceedings or civil litigation to obtain Tax Amnesty for the disputed assessment. Administrative proceedings and civil litigation include proceedings before the Bureau of Conciliation and Mediation Services, the Division of Tax Appeals or any court in this State or the United States, relating to any action or failure to act which is the basis for the penalty or interest with respect to which Amnesty is sought.

For information about an assessment or existing collection action, call toll-free 1 888 2PAYNYS (1 888 272-9697). The hours of operation for telephone assistance during the Tax Amnesty period are Monday through Friday, 8:00 a.m. to 7:30 p.m.