

States continue to offer amnesty programs, but do they work?



David M. Kall | Saturday, March 21, 2015

Arizona

Arizona's budget reconciliation bill for 2015-16 includes an amnesty provision whereby the Arizona Department of Revenue (ADOR) will accept applications from Sept. 1, 2015 through Oct. 31, 2015. If accepted, the ADOR "shall abate any unpaid tax liability as of Aug. 1, 2015 that has been established as of Aug. 1, 2015 and that is remaining unpaid as of the date of the amnesty application." Expected revenues resulting from the program are not yet available.

Massachusetts

In February, we [described](#) the details of Massachusetts' tax amnesty bill, [HB 52](#), an emergency law "which is immediately needed for important public purposes," including to address the fiscal year 2015 budget shortfall.

This week the governor signed the bill, and the Massachusetts Department of Revenue (MDOR) announced that the program, which applies to certain tax liabilities billed on, or before, Jan. 1, 2015, will run from March 16 through May 15. The MDOR will waive all assessed, unpaid penalties for taxpayers who respond by making a full payment on all outstanding taxes and interest for any period listed on the notice by the May 15 deadline. It estimates that 24,000 taxpayers would begin receiving tax amnesty notices this week alerting them that they qualify for the amnesty.

To assist taxpayers the MDOR provides a [Frequently-Asked-Questions](#) webpage, and a [technical information release](#), among other publications, on its website.

Missouri

States continue to offer amnesty programs, but do

Missouri announced its own amnesty program, set forth in [HB 384](#). It offers “amnesty from the assessment or payment of all penalties, additions to tax, and interest or delinquencies of unpaid tax...which occurred on or prior to Dec. 31, 2014.” According to *Belleville News-Democrat*, lawmakers anticipate that the effort will generate \$20 million in additional revenue for the state budget.

Likewise, Indiana, New Hampshire, and Louisiana are offering their own versions of amnesty plans, as recently reported by Bloomberg/BNA.

Indiana

In Indiana, [HB 1349](#) authorizes an amnesty program for taxes due and payable for a tax period ending before Jan. 1, 2013. It would last not more than eight weeks and end before Jan. 1, 2017. The plan would excuse applicable interest, penalties, collection fees, and costs on liabilities paid either voluntarily or under an Indiana Department of Revenue (INDOR) approved payment plan. In addition, the INDOR would refrain from seeking civil or criminal prosecution and from assessing the taxpayer.

On the other hand, a taxpayer who fails to pay the tax liability eligible for payment under the program would be subject to double the penalties, except for those who:

1. Timely file an original tax appeal in the tax court;
2. Have a legitimate hold on making the payment;
3. Prove to the Commissioner that notice of the outstanding tax liability was never received; or
4. Have established a payment plan with DOR.

Upon entering into an amnesty agreement, the taxpayer would then be ineligible for any additional amnesty related to the same tax liability.

The estimated impact of the program is between \$109 million and \$159 million in fiscal year 2017. A similar program in 2006 yielded \$244 million in revenue.

New Hampshire

In New Hampshire, [Senate Bill 220-FN-A](#) applies to penalties and interest “in excess of 50 percent of the applicable interest rate for the tax period with respect to unpaid taxes reported and paid in full from May 1, 2015 through July 15, 2015.” The bill appropriates \$50,000 for outreach and administrative expenses to implement the program. The two previous amnesty programs have brought in \$13.5 million and \$14.9 million.

Louisiana

Bloomberg reported that Louisiana’s Tax Delinquency Act of 2014 implements the third amnesty program in as many years, which will take place during a one-month period some time in 2015. Bloomberg cautions that “[t]axpayers waiting until 2015 to come forward, however, will not receive as generous a deal as taxpayers did in the prior years. Only 33 percent of penalties and 17 percent of interest will be waived, compared with 100 percent of penalties and 50 percent of interest in 2013 and 2014.”

The Louisiana Department of Revenue (LDOR) reported that the one-month amnesty program that ended on Nov. 14, 2014 generated more than 41,000 applications and delivered more than \$169 million. It gave eligible taxpayers the chance to bring their accounts up-to-date by paying all taxes due, with a waiver of all penalties and 50 percent of the interest.

Do amnesty programs work?

The Bloomberg article sought to answer the question, "do amnesty programs work?" noting that since

States continue to offer amnesty programs, but do

1982, 46 states, plus the District of Columbia and New York City, have offered 121 amnesty periods. One of the states was New Jersey, which collected about \$75 million in back taxes during the late November and December 2014 amnesty period.

Bloomberg compared the amnesty revenue of Massachusetts and New Jersey, highlighting the fact that Massachusetts only brought in \$57 million, compared to New Jersey's \$75 million.

Considering Louisiana's \$169 million, New Hampshire's \$13.5 million, Indiana's estimated \$109 million to \$159 million, and Missouri's estimated \$20 million, the data show that results can vary widely amongst the states.

Measuring these actual or estimated amnesty collections against these states' 2013 rankings in tax collections per capita and state debt per capita, as reported by the Tax Foundation, yields an interesting perspective:

State	Actual or estimated amnesty collections	2013 rank in tax collections per capita	2013 rank in state debt per capita
Indiana	\$109 to \$159 million	25	24
Louisiana	\$169 million	41	17
Massachusetts	\$57 million	10	1
Missouri	\$20 million	45	27
New Hampshire	\$13.5 million	50	7
New Jersey	\$75 million	12	5

These comparisons lead one to wonder whether amnesty programs are effective. Law360.com concluded that the "glitter is not always gold." Despite the fact that states need the revenue, "overuse of amnesty programs may create a psychological effect among taxpayers that ultimately drains state coffers." If they are offered in quick succession, they can contribute to tax delinquency. "There are behavioral and psychological effects of amnesty bills that many states don't take into account...taxpayers may think they'll get a free pass until the next program comes along."

States can take steps to mitigate tax delinquency, like having gaps between amnesty periods and robustly enforcing tax laws. But robust enforcement creates political problems for lawmakers; "no legislator is going to be thrilled with the Internal Revenue Service or Department of Revenue vigorously pursuing taxpayers."

Law360.com cites California's "carrot and stick" approach as a good one. There, taxpayers benefit from reduced interest and penalties, but if they do not come forward by the end of the amnesty period and California's Department of Revenue finds them later, they are subject to "sometimes crushing penalties." California ranks number 11 and 18 on the Tax Foundation's 2013 rankings in tax collections per capita and debt per capita, respectively.

In the end, a well-run tax amnesty program is usually a net benefit for states, even if some experts argue that the voluntary compliance programs already in place make amnesty programs unnecessary.



David M. Kall

[Team member bio](#)