

>> STATE AND LOCAL TAX UPDATES

OHIO COMMERCIAL ACTIVITY TAX (CAT) - VOLUNTARY DISCLOSURE AGREEMENTS

Kansas Offers 2010 Tax Amnesty Program

Under Senate Bill 572, the Kansas Legislature has authorized a tax amnesty program for the period of September 1 through October 15, 2010 that will waive all penalty and interest on qualifying taxes paid through the amnesty program. Only outstanding tax liabilities for tax periods ending on or before December 31, 2008 will qualify for amnesty.

Tax payments made through the amnesty program will not be eligible for a refund or credit. Unlike recent amnesty programs in other states including Pennsylvania, the Kansas Department of Revenue will not penalize taxpayers for nonparticipation.

Amnesty is not available to taxpayers who, effective September 1, 2010, have an audit in progress, received notice of a commencement of an audit, or received notice of an assessment due to an audit. Also not eligible for amnesty are taxpayers subject to administrative or judicial appeal; criminal investigation; and/or pending criminal or civil litigation. ■

Pennsylvania Voluntary Disclosure

On August 1, 2010, Pennsylvania reinstated the voluntary disclosure program that was suspended during the state's tax amnesty program. The voluntary disclosure program provides taxpayers an opportunity to disclose outstanding Pennsylvania tax obligations. Taxpayers entering into a voluntary disclosure agreement are generally only required to pay tax and interest. However, if the disclosed tax liability was eligible for tax amnesty in 2010, taxpayers will be subject to a 5% nonparticipation penalty on tax liabilities incurred through June 30, 2009. ■

The Ohio Department of Taxation (ODT) has revised Information Release CAT 2008-01 on September 1, 2010 to reflect the addition of a look-back period for CAT voluntary disclosure agreements (VDA). The VDA program allows taxpayers to come forward anonymously to comply with a taxpayer's CAT liabilities. A taxpayer is eligible for the VDA program if they enter into an agreement with the ODT prior to any contact from ODT through any audit, compliance, or criminal investigation programs. The look-back period under the VDA program requires taxpayers to file for the current period (quarter for quarterly taxpayers and annual for annual taxpayers) and the prior three years.

If a taxpayer desires to establish an agreement, the taxpayer must take the following steps:

First, the taxpayer or its representative shall send in writing the following information:

1. The taxpayer's activities in Ohio;
2. How long such activities have been performed by the taxpayer in Ohio;
3. A brief description of the source of the taxable gross receipts (i.e., services, tangible personal property, etc.) and whether such amounts will be greater than one million dollars;
4. The taxpayer's type of organization (LLC, C corporation, sole-proprietor, etc.);

5. The taxpayer's organizational structure including ownership percentages; and
6. Any additional pertinent information.

Such information should be sent to: Ohio Department of Taxation, Commercial Activity Tax Division, Voluntary Disclosure Program, 30 E. Broad Street, 19th Floor, Columbus, Ohio 43215.

Upon receipt of that letter, ODT will prepare a VDA in duplicate and will send the VDA to the taxpayer's representative. Generally, each VDA will contain the following terms:

- The taxpayer must register for the tax and file all applicable returns and pay the corresponding liabilities and interest for the periods covered by the VDA.
- The taxpayer waives its right to claim a refund for the three "back" years (not the current calendar year and/or calendar quarter).
- The Tax Commissioner shall waive penalties that may be associated with the failure to register on time and failure to file and pay on time.
- The Tax Commissioner may audit the CAT returns filed by the taxpayer for the years covered by the VDA.

The taxpayer must register and file all applicable returns and pay all corresponding liabilities and interest. ■

For more information about any of these tax issues, contact:

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