

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 456 by Representative Robideaux

REVENUE DEPARTMENT: Establishes the Louisiana Tax Delinquency Amnesty Act of 2013

Synopsis of Senate Amendments

1. Changes the period of time for operation of the amnesty program from a 24 month period beginning July 1, 2013, and ending Dec. 31, 2015 to a two month period occurring prior to Dec. 31, 2013.
2. Changes authority for waiver of interest from all interest to one-half of interest owed on the tax liability.
3. Deletes limitation of amnesty to tax liabilities occurring after July 1, 2001.
4. Establishes a special treasury fund, the 2013 Amnesty Collections Fund, and provides for deposits of monies into the fund and dedications of monies deposited therein.
5. Deletes the requirement that an eligible taxpayer who fails to apply for amnesty during the amnesty period pay double the amount of penalties owed to the state for failing to pay taxes.
6. Adds requirement that any publications relative to advertisement of the amnesty program include notice that amnesty applies to use tax due on remote sales.
7. Deletes provision for effectiveness of proposed law being contingent upon concurrence or enactment of certain proposed constitutional amendments and other House Bills.

Digest of Bill as Finally Passed by Senate

Proposed law enacts the "Louisiana Tax Delinquency Amnesty Act of 2013" which requires the Dept. of Revenue (DOR) to develop and implement a tax amnesty program to be effective for a period of at least two months duration occurring prior to Dec. 31, 2013, at the discretion of the secretary. The amnesty program applies to all taxes administered by DOR except for motor fuel taxes and penalties for failure to submit information reports that are not based on an underpayment of tax.

Proposed law provides that the amnesty program shall apply to taxes for taxable periods that began before Jan. 1, 2013.

Proposed law provides that amnesty is only granted for taxpayers who apply for amnesty during the amnesty period who pay all of the tax, all fees and costs, if applicable, and half of the interest due upon filing the amnesty application. If the amnesty application is approved during the amnesty period, DOR shall waive one-half of the interest and all penalties associated with the tax periods for which amnesty is applied.

Proposed law authorizes DOR to retain from monies collected under the tax amnesty program an amount equal to all penalties waived, an amount equal to the costs for contractual information technology and amnesty program administration services, and an amount equal to any collection fees, legal fees, or any other fees the department incurs that are associated with granting amnesty.

Proposed law further authorizes the secretary to procure amnesty program administration services on a fee basis; however, prohibits the fee from exceeding 10% of the total dollars collected.

After compliance with requirements of the Bond Security and Redemption Fund, and after the allocation of collections to DOR as required by proposed law, an amount equal to all remaining collections shall be credited to the 2013 Amnesty Collections Fund, which fund is established as a special treasury fund in proposed law. The money in the fund shall be used exclusively as follows:

1. In FY2013-2014 the Treasurer shall first transfer from the fund \$10 million for deposit into the Rapid Response Fund, then \$75 million shall be transferred for deposit into the Louisiana Mega-Project Development Fund, and lastly \$113 million shall be transferred for deposit into the Coastal Protection and Restoration Fund.
2. In FY2014-2015, one-half of the fund balance as of July 1, 2014, may be appropriated for any purpose. The remaining monies shall be available for appropriation for Fiscal Year 2015-2016.

The money in the fund shall be invested by the treasurer in the same manner as money in the state general fund, interest earned thereon shall be credited to the fund, and all unexpended and unencumbered money in the fund at the end of the year shall remain in the fund.

Proposed law requires that DOR publicize the tax amnesty program in order to maximize the public awareness of and participation in the program. Included in any publication shall be notice that the tax amnesty program will include amnesty for sales and use taxes due on internet, mail order, or other purchases made from remote sellers.

Proposed law provides various requirements relative to amnesty for matters under examination or litigation including the requirement that taxpayers participating in amnesty abide by DOR's interpretation law. Further, taxpayers involved in litigation that elect to participate in amnesty shall agree to pay all applicable attorney fees pursuant to present law.

Proposed law provides that taxpayers electing to participate in amnesty who have paid under protest and filed suit shall agree that upon approval of their amnesty application, the department shall release their payment from escrow and apply it in accordance with the grant of amnesty.

Proposed law prohibits installment agreements from being entered into for tax periods approved for amnesty.

Proposed law prohibits amnesty from being granted to taxpayers who are parties to any criminal investigation or litigation in any court of the U.S. or La. for nonpayment, delinquency, or fraud in relation to any state tax administered by the department.

Proposed law provides with respect to DOR's authority to impose penalties and fines and to institute civil proceedings under certain circumstances.

Proposed law authorizes refunds and tax credits associated with an overpayment arising after an amnesty application is submitted under certain circumstances.

Proposed law prohibits the department from imposing a penalty if a deficiency results from an adjustment made by the I.R.S. to the taxpayer's federal income tax and the taxpayer provides written notice of the adjustment to the secretary within 60 days of receipt of the adjustment from the I.R.S.

Proposed law provides that for taxable periods beginning on or after Jan. 1, 2014, and before Dec. 31, 2019, taxpayers that participate in amnesty and later fail to comply with any

payment and filing provision shall be subject to the negligence penalty under present law or a penalty of \$100, whichever is greater.

Effective upon signature of governor or lapse of time for gubernatorial action.