# LEGISLATIVE FISCAL OFFICE
## Fiscal Note

Fiscal Note On: **HB** **456** HLS 13RS 1012
Bill Text Version: **ENROLLED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

**Date:** June 7, 2013 3:18 PM
**Author:** ROBIDEAUX
**Dept./Agy.:** Revenue
**Subject:** Comprehensive Tax Amnesty
**Analyst:** Deborah Vivien

REVENUE DEPARTMENT EN INCREASE SD RV See Note 
Establishes the Louisiana Tax Delinquency Amnesty Act of 2013

Proposed law provides a tax amnesty for taxes administered and collected by the Department of Revenue (LDR), including sales use tax on remote purchases, but excepting the motor fuel tax, that became due at any time in the past (the FY 10 amnesty went back to July 1, 2001). There are to be three amnesty periods: the 2013 period is for at least 2 months prior to 12/31/2013, the 2014 period is for at least 1 month prior to 12/31/14, and the 2015 period is for at least 1 month prior to 12/13/15. In the 2013 period 100% of penalties and 50% of interest are waived; in the 2014 period 15% of penalties and no interest is waived; in the 2015 period 10% of penalties and no interest is waived. Participants must abide by LDR interpretation of the issues for which amnesty was taken for three tax years following amnesty participation. LDR retains amounts equivalent to the penalties waived under the program (a major self-generated funding source for departmental operations) plus amounts for the costs of contractual information technology and program administration costs, and up to $250,000 for advertising expenses. LDR may contract with an outside vendor for up to 10% of collections. After the LDR retention, receipts are to be credited to the 2013 Amnesty Collections Fund (created by this bill), and are available for appropriation for any public purpose. Effective upon governor's signature

| **EXPENDITURES** | **2013-14** | **2014-15** | **2015-16** | **2016-17** | **2017-18** | **5 -YEAR TOTAL** |
|---|---|---|---|---|---|---|
| State Gen. Fd. | $0 | $0 | $0 | $0 | $0 | **$0** |
| Agy. Self-Gen. | INCREASE | $0 | $0 | $0 | $0 | **$0** |
| Ded./Other | $0 | $0 | $0 | $0 | $0 | **$0** |
| Federal Funds | $0 | $0 | $0 | $0 | $0 | **$0** |
| Local Funds | $0 | $0 | $0 | $0 | $0 | **$0** |
| **Annual Total** | | **$0** | **$0** | **$0** | **$0** | **$0** |

| **REVENUES** | **2013-14** | **2014-15** | **2015-16** | **2016-17** | **2017-18** | **5 -YEAR TOTAL** |
|---|---|---|---|---|---|---|
| State Gen. Fd. | $0 | DECREASE | $0 | $0 | $0 | **$0** |
| Agy. Self-Gen. | INCREASE | DECREASE | $0 | $0 | $0 | **$0** |
| Ded./Other | INCREASE | $0 | $0 | $0 | $0 | **$0** |
| Federal Funds | $0 | $0 | $0 | $0 | $0 | **$0** |
| Local Funds | $0 | $0 | $0 | $0 | $0 | **$0** |
| **Annual Total** | | | **$0** | **$0** | **$0** | **$0** |

**EXPENDITURE EXPLANATION**

If the program is handled largely in-house, the Department estimates costs of up to $2 million, including additional temporary hires, overtime for current personnel, information processing costs, and advertising. If large portions of the program are out-sourced and/or carried out in an expanded and/or expedited fashion, such as direct mail-outs to taxpayers, contracted return and payment processing, call center operations for taxpayer inquiries, and additional information technology services specifically for this program, costs could be as high as $5.4 million, or possibly more.

The FY 10 amnesty program cost $48.7 M due to the contract to administer the amnesty program for 10% of collections. It appears that a contract of 10% of collections is significantly overpriced. A fee closer to 1% may have been more appropriate under the 2010 amnesty program. However, the speed with which the program is required to be implemented may make it difficult for the department to negotiate a lower, more reasonable price.

**REVENUE EXPLANATION**

According to the Department of Revenue, the state has offered amnesty on five previous occasions, 1985, 1987, 1998, 2001, and 2009. The 1985 amnesty generated $1.2 million (382 taxpayers), 1987 $279,000 (77 taxpayers), 1998 $1.6 million (5,500 taxpayers), 2001 $193 million (30,166 taxpayers), and 2010 $482.7 million (40,000+ taxpayers). The earlier amnesty programs (1985, 1987, and 1998) were very restrictive as to eligible taxpayers, while the amnesties in 2001 and 2010 were much less restrictive, as is the amnesty proposed by this bill, by allowing all taxes collected by LDR to be eligible for amnesty, except the motor fuel tax. The department estimates that as many as 300,000+ taxpayers may be eligible to participate, with $700 million available for collection. From this pool of eligibles, possibly 30,000+ taxpayers may participate, generating $150 million - $175 million in collections, under infrequent amnesties. From whatever collections occur, the department will retain as self-generated revenue an amount equal to the penalties waived plus amounts necessary to administer the program.

The experience of states that have used outside private firms to assist with the program, including Louisiana, suggests that it is possible for more revenue than expected to be collected. However, amnesty programs are not typically offered in such short intervals (the last one was offered in 2009). In addition, the 2009 amnesty required participants to abide by the LDR interpretation of the law with respect to issues resolved through amnesty for the 3 tax periods following the amnesty (2010, 2011, 2012). This works to reduce the pool of potential amnesty collections, especially since those tax periods immediately precede this bill's amnesty. Thus, the impact of this bill is highly uncertain. Any specific amounts expected to be collected would be speculative and no specific amount is recommended for purposes of this fiscal note. It is likely though that collections in subsequent years will be lower due to 1) the acceleration of collections due to an amnesty opportunity and 2) the quick recurrence of the amnesty program provides an added incentive to avoid tax payment in anticipation of repeated amnesty opportunities.

| Senate | Dual Referral Rules | House |
|---|---|---|
| [x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H} | | [ ] 6.8(F) >= $500,000 Annual Fiscal Cost {S} |
| [ ] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H} | | [ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

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**CONTINUED EXPLANATION from page one:**



**Continued Revenue Explanation**

This bill directs all receipts, except those retained by the Revenue Department, to be deposited into the newly created 2013 Amnesty Collections Fund to be available for appropriation for any public purpose. From this Fund, $200,000,000 has been appropriated in the General Appropriations Bill for 2013-14 in Schedule 9, Department of Health and Hospitals, Medical Vendor Payments. Traditionally, upon conclusion of the program, the REC has designated amnesty collections as non-recurring revenue, which restricts their use to constitutionally enumerated capital outlay and debt repayment options. It is uncertain whether amnesty receipts will be available to support this appropriation.

However, the amnesty program provided by this bill is nontraditional, in that it establishes three distinct amnesty periods over three fiscal years (FY14, FY15, and FY16). Thus, it is possible that amnesty collections could occur for for three consecutive years. It is uncertain, though, whether the REC will consider amnesty collections as recurring revenue. The bill strongly encourages participation in the first amnesty period (2013, for the 2013-14 fiscal year) by making penalty and interest waivers in the second (2014) and third (2015) periods significantly less advantageous to the taxpayer, and by implying shorter periods for the 2014 and 2015 stages. Thus, whatever amnesty collections do occur are likely to be heavily weighted to the 2013 period (2013-14 fiscal year). Presumably, for the first period ending no later than 12/31/13, collections will be known no later than January 2014, for the 2013-14 fiscal year. At that point, based on past procedures, an REC adoption and designation will determine the availability of amnesty collections for the FY14 general operating budget.

Tax amnesty programs may generate some small amount of revenue from taxpayers whose liability is unknown to the department, but these programs largely result in revenue from taxpayers whose liability is actually known to the department. Their essential effect is to shift collections forward in time. Revenue collections are greater than otherwise in the year of the amnesty but then likely to be less than they would otherwise be in subsequent periods. In addition, amnesty programs permanently forego collections of penalties, interest, and fees that would otherwise be collected. Foregone interest is a loss to the state general fund, while foregone penalties and fees is a loss to self-generated revenue utilized by the department for its operations. To prevent this effect on the department’s resources, the bill requires the department to retain from whatever amnesty collections are received an amount equivalent to the penalties that are waived (treated as self-generated revenue). These shifts are depicted in the first two years of the table above (for both traditional and nontraditional amnesty structures), but these effects can potentially occur in diminishing amounts for a number of years. Finally, repeated amnesty programs, especially ones with short intervals of time between them, discourage voluntary compliance in years between amnesty programs as some taxpayers await the next program. To the extent this occurs it works to reduce annual collections below what would otherwise be received.

| Senate | Dual Referral Rules | House |
|---|---|---|
| [x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H} | | [ ] 6.8(F) >= $500,000 Annual Fiscal Cost {S} |
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