

Tax Practitioner Liaison Meeting

Oregon Department of Revenue - Fishbowl Meeting Room

Friday, August 28, 2009

9 a.m. – 11 a.m.

Welcome and Introductions

All

Dee welcomed everyone and asked them to introduce themselves.

Withholding Program Update:

Cathy Tavares

Cathy brought brochures for the Oregon Small Business Fair on Saturday September 19th from 8:30am to 4:30pm at the Oregon Convention Center in Portland. This is a free event. Revenue will be part of a class presentation on "Taxes Made Easy". Cathy also passed out information on outreach topics and contact information for anyone wishing to have a presentation for their group or organization on payroll tax issues. For information, contact Carol Williams at 503 945-8443 or Cathy Tavares at 503 945-8762

"i-Wire" is going live today (electronic filing of W2s). Information and links will be available in "Revenews" and "PayrollTax News" listservs. Questions on "iWire" can be e-mailed to:

iWire@dor.state.or.us

The annual review of the Withholding Tax Tables is taking place, but the tables are also being reviewed to determine what effect the new tax increase will have, and whether the tables need to be revised. If the tax increase goes before the voters, this decision could be delayed until after the special election in January.

As soon as there is a decision on whether to revise the tables, it will be put in both LISTSERVS, "Revenews" and "PayrollTax News" and on our website. For now, continue to use the current tables located on our website.

Tax Amnesty Program Discussion

PIT

Steve Purkeypile

The goal for the Amnesty program is to get revenue into the state as quickly as possible.

Current states offering Amnesty are Virginia, Massachusetts, Connecticut, Louisiana, New Jersey, Maryland, Delaware, and now Oregon.

The Tax Amnesty program will run from October 1st – November 19, 2009.

There will be television ads running in the Portland, Eugene, Medford and Bend markets.

In addition, there will be ads in several newspapers throughout the state.

We will also be sending out letters to about 30,000 taxpayers and non-filers.

www.oregontaxamnesty.com is the website for any questions and an application.

Amnesty continued:

Inheritance/Estate

Joanna Mitchell

All Amnesty returns must be filed no later than January 19, 2010. The taxpayer will not qualify for Amnesty if they have received a notice of deficiency from the department or a notice of assessment for the amnesty application tax year.

Eligible Tax Programs are: PIT, Corporation income & excise tax, Inheritance tax, Fiduciary (Trust and Estate taxes) and Transit tax.

If the taxpayer is approved for Amnesty, we will waive 100% of the penalty and 50% of the

interest, once the tax and 1/2 of the interest is paid in full. If the taxpayer cannot pay in full at the time the application is filed, there is a box on the application to request a payment plan. A

department representative will contact the taxpayer to make payment arrangements. All tax and 1/2 of the interest must be paid no later than May 31, 2011. You cannot amend an Amnesty return

once filed.

Amnesty continued:

Corporation

Katie Lolley

If you do not honor the payment plan scheduled for you, all the Amnesty benefits will be revoked; the penalty and interest will be added back, unless there is reasonable cause.

Q: Is bankruptcy considered reasonable cause?

A: We will have to look into that.

There is an additional 25% penalty if a taxpayer is eligible for Amnesty and failed to participate, or if the taxpayer underreports tax under Amnesty and then later we find they should have reported more.

Q: If someone has issues with the Amnesty program, can those issue be taken to the tax court?

A: The Amnesty bill does say that when you apply for Amnesty, part of the condition is that you are waiving your right to an appeal anything that you report on the return. However; if we deny the application for amnesty based on the reasons articulated in legislation, we are not sure if there is an appeal option for that. We are researching the issue and will put more on the website when we have an answer.

What are some reasons someone might be denied Amnesty?

- Applying for tax year 2008 or later or an Inheritance tax return that is due on or after January 1st 2008
- Applying for a tax year which a notice of deficiency was previously received
- Applying for a year in which the department has assessed tax for failure to file
- Not filing for all the years, where there was a requirement to do so

A few frequently asked questions:

- Do you need to do anything special to the return?
Yes, you must write “Amnesty” across the top of the tax return.
- Do you have a special phone number we can call?
We will be setting up an Amnesty e-mail inbox for questions or you can call Tax Services. There will be a special Amnesty phone line set up where you can leave a message and someone will call you back.
- Can Amnesty returns be e-filed?
No.
- Will there be any extensions to file granted?
No.
- Will we be notified if we qualify?
Yes, you will be sent a letter if you qualify. If you need to set up a payment plan, someone from the department will call you to make arrangements.

Dee asked everyone to go around the room and discuss if they have any clients that might benefit from this program and about how many. The majority of preparers said they had 1 or 2. A few of them said they had clients that might benefit, but that they will not apply out of fear of denial.

Board of Tax Practitioners

Ron Wagner

Just a reminder, we are in the middle of the renewal season right now for licensed tax preparers. The current licenses expire the end of September. There is a 15-day grace period, however, the license does expire the end of September and you cannot prepare or assist in any tax returns until your renewal is accepted (after September 30th). The commissioner of the IRS has scheduled some public forums. The first one was July 30th. Jane Williams from Oregon went to the forum, she did not testify but she did provide information through the newsletter. The next one is scheduled for September 2nd. Ron will be attending and will give a presentation. He will also be meeting with staff from Senator Wyden and Senator Murkley's and 4 of the states representative's offices to discuss with them what is going on with Oregon's successful program and ask them to support national licensing.

What is a preparer's responsibility in Amnesty? – Basically, it is the preparer's responsibility to do the best job he/she can for the client. You can only be responsible for the information that you have. You cannot be held responsible for information the client did not choose to share with you.

OATC/OSTC Update

Ave Giddings

OATC has the "Basics and Beyond" training starting in September all around the state, you can go to the OATC website to find a spot near you. It is a 6-hour seminar being taught by Debbie McKinney. In addition, the Superstar Seminar, which is a 12 hour, 2-day class, will be held in October. Top speakers will be discussing partnerships and taxpayers in distress.

OSTC will host the annual convention Sept 17-19 for members it will cost \$210 if received by September 5th. For non-members, \$240. After September 5th, it will be \$235 & \$265. This seminar is worth 19 hours of education.

A big thank you to OATC for providing today's coffee.

Next Meeting: October 23, 2009, 9-11 am in the fishbowl conference room, located at the Oregon Department of Revenue.

(The September meeting was cancelled due to speaker unavailability)

1 Oregon Tax Amnesty Program

October 1 – November 19, 2009

2 Tax Amnesty

Alexander Pope said, "To err is human; to forgive divine."

→Over the past 25 years, tax authorities have implemented state tax amnesty programs that forgive...monetary tax penalties of noncompliant taxpayers.

→State tax amnesty programs began in 1982 when Arizona offered penalty and interest relief to any taxpayer that voluntarily filed one or more overdue tax returns during the two-month amnesty period. That effort enjoyed only modest success (\$6 million raised), but it set the stage for 83 general amnesty programs through July 2006 as well as other amnesties directed at targeted sets of taxpayers.

From *State Tax Amnesties: Forgiveness Is Divine – and Possibly Profitable* by LeAnn Luna, Michael Brown, Katrina Mantzke, Ralph B. Tower, and Lorraine Wright

3 Tax Amnesties in 2009

- Virginia
- Massachusetts
- Connecticut
- Louisiana
- New Jersey
- Maryland
- Delaware and
- OREGON!

4 Amnesty Theme:

"Save yourself with Oregon Tax Amnesty" – www.oregontaxamnesty.com

5 Amnesty Theme:

Save yourself with Oregon Tax Amnesty – www.oregontaxamnesty.com

6 Amnesty Basics: When?

Amnesty period (applications must be filed during this time):

October 1 through November 19

Amnesty returns must be filed no later than:

January 19, 2010

They may be filed with the application!

7 Amnesty Basics: Who?

- Any individual, entity, or corporation that has not:
 - Received a notice of deficiency for the year in question (filers)
 - Been assessed tax for the year in question (nonfilers)
- The following tax programs are eligible for amnesty relief:
 - Personal Income Tax
 - Corporate Income & Excise Tax
 - Inheritance Tax
 - Fiduciary (trust/estate) Tax
 - Transit District (self employment) Tax

8 ■ **Amnesty Basics: What?**

Qualifying participants in amnesty will receive, upon payment of tax and ½ interest:

- 100% Waiver of all penalties (including criminal penalties under ORS 314.075); and
- Waiver of 1/2 interest

9 ■ **Amnesty Basics: How?**

1. Download an amnesty application from www.oregontaxamnesty.com or call the department (800-356-4222) to get a copy
2. File the application by November 19, 2009
3. If paying in full, calculate interest that is owed using the calculator which can be found at www.oregontaxamnesty.com
4. If paying using a payment (installment) plan, be sure to provide your phone number and check the "installment payment agreement" box on the application
5. File the original or amended return(s) no later than January 19, 2010 (you can file the returns with the application if you wish)

10 ■ **Amnesty: Payment Plans**

- If the participant cannot pay in full at the time of filing the return, a payment plan will need to be initiated
- Payment plans need to be paid as quickly as possible. A department representative will contact the participant to set up the plan.
- If a participant fails to fully comply with the payment plan, the amnesty application will be revoked and interest and penalties will be assessed unless "reasonable cause" exists.

11 ■ **Payment Plans & Reasonable Cause**

- When does "reasonable cause" exist?

The department will consider:

1. The participant's reasons (they must be significant)
2. The length of time between the event cited as a reason and the noncompliance
3. Whether the participant could have anticipated the event

12 ■ **Payment Plans & Reasonable Cause**

- Examples:

1. Death or serious illness (of immediate family member or participant)
2. Unavoidable and unforeseen absence of the participant from the state immediately prior to the due date of the payment
3. Erroneous written information from the department which caused the failure of the participant to timely file

- What will not qualify:

1. Reliance on an employee or professional to pay;
2. Inability of, or oversight by, the participant to pay without more reason

13 ■ **25% Post Amnesty Penalty**

- SB 880 provides that an additional 25% penalty (in addition to all other penalties) is imposed when:
 - The taxpayer was eligible for amnesty but failed to participate (either by not amending when required or by not filing when required)
 - The taxpayer participated in amnesty but still underreported the amount of tax owed
- The penalty will not be imposed when the adjustment to a return is due to an IRS audit (or RAR) unless the service also imposes a penalty under:
 - IRC 6662 (substantial underpayment)
 - IRC 6662A (reportable transaction penalty)
 - IRC 6663 (fraud penalty)
 - IRC 7201 (attempt to defeat the tax)

14 **Amnesty: FAQs**

- What are the reasons the department would deny an amnesty application?
 - Applying for tax year 2008 or later or Inheritance tax returns due on or after January 1, 2008
 - Applying for a tax year in which a notice of deficiency was received
 - Applying for a year for which the department has assessed a tax for failure to file
 - The participant did not file for all years in which they had a requirement to do so
- How far back should the participant file?
 - The participant must file for all years that they were originally required to file. If the participant needs to file amended returns, they must file all returns that have underreported tax and are still open for adjustments (generally three years)

15 **Amnesty: FAQs**

- Where can I get an application?
 - The department's amnesty webpage:
 - OregonTaxAmnesty.com
 - Call the department and we will send one to you
- Where can I get returns for the back years?
 - 2003 to current are available on our website
 - Any other year, call the department
- Can I file amnesty returns electronically?
 - No, electronic returns will not be accepted. However, 2D returns are accepted if your software supports the year(s) in question.
- Is there anything special I need to do with amnesty returns?
 - **YES! PLEASE WRITE "AMNESTY" AT THE TOP OF EACH RETURN – VERY IMPORTANT!**

16 **Amnesty: FAQs**

- Will I be notified that I qualified?
 - Yes. We'll send you a letter confirming you qualify within 30 days from receiving your application.
 - If you paid in full (tax plus 1/2 interest), you will receive a letter (within 30 days) confirming your participation
 - If you are using a payment plan, you will receive a call from a department representative to set up a payment plan
- Will there be any extensions of time to file?
 - No, the legislation specifically states that applications must be filed no later than November 19, 2009 and tax returns must be filed no later than January 19, 2010.

Payroll Tax Outreach:

Oregon Department of Revenue conducts seminars and training designed to provide the latest information on Payroll Tax Topics. Some of the topics are listed below; however, we can speak on any Payroll withholding tax issue. If you are interested in having us present to your group or organization, please contact either Carol Williams at 503 945-8443 or Cathy Tavares at 503 945-8762

Payroll Tax Topics:

I. PowerPoint Presentations:

1. **“Business Entities and Tax Ramifications”**
This presentation goes into detail on each type of business structure, and how it affects how employers must file and pay taxes (personal and business) (1.5 hours)
2. **“Worker Classification”**
Independent Contractor: federal versus state definitions and why it is so important to understand the differences. (1.5 -2 hours)
3. **“Subjectivity and Transit Taxes for Non Resident Employers”**
What are the reporting requirements for non resident employers and employees (1.5 hours)
4. **“Transit Taxes”**
covers both payroll and self employment taxes (1 hour)
5. **“W-4 Information/Employer Requirements”**
What are the employer responsibilities? How is the form completed? How it relates to the personal tax return. Also covers what the employer’s responsibilities are to ensure they are completed correctly and what to do when employees claim “exempt” huge allowances, or when the W4 looks “suspicious” (1 hour)
6. **“Combined Payroll Reporting”**
This is a presentation that covers what the Combined Payroll Tax program is, who are the agencies involved, what are these taxes for, how to register, reporting and paying requirements. (1.5 hours)
7. **“Sub Chapter S and C Corps: Withholding versus Estimated taxes”.**
This covers such things as the differences between the two, when withholding is required, “reasonable compensation”, how the LLC status comes into play. (1.5 hours)
8. **“Common Errors”** Common mistakes made by both businesses and payroll services when submitting information. Covers completing forms, registration process and common misconceptions (1.5 hours)

9. "Settlement Offers" What are they? What is required? (1 hour)

Additional Topics:

These do not have PowerPoint's, but can be combined with other presentations
(These vary in length, but average about ½ hour)

1. S-Corp's & Withholding on Corp officers
2. Subjectivity (who is required to withhold)
3. Non-Resident/Resident Employer withholding
4. Amending reports
5. Reporting methods
 - OTTER
 - SETRON
 - Paper reports
 - IVR
 - Annual vs. Quarterly
10. Registration process – when a new registration is required vs change in status
11. Payments: paper vs. EFT, common mistakes
12. Resources available – website, employers guide etc. (this topic can take up to 2 hours when on the Internet)
13. Waivers (what is required)
14. W4 information/responsibilities
15. Liable entity (very high level-what we look at when we make a determination).
16. Estimated taxes vs. withholding
17. Deferred compensation payments (IRA, 401K, Cafeteria Plans, etc). How are these handled? When do they need to obtain a separate BIN?
18. Withholding Tax Tables: How to calculate computer formula. (Breakdown and explanation of formula)
19. Employer Leasing Versus Temporary Services: What is the difference? Who are the employers? What to look for? (PowerPoint Presentation soon)



We now have several ways to obtain updated information and ask questions!!!

PayrollTax News LISTSERV: A bi-monthly e-mail newsletter providing that latest information and updates. To self-subscribe, simply go to our website @ <http://www.oregon.gov/DOR/BUS/payrolltaxnews.shtml>

NEW!! Oregon Employer Blog: Read information and be able to provide feedback on the latest tax issues. Simply go to <http://oregonemployerinfo.blogspot.com>

PayrollHelp DOR: Get your payroll tax questions answered within 24 to 36 hours!!! Simply submit these by e-mail to payroll.help.dor@state.or.us
