

CHAPTER 6. TAX AMNESTY PROGRAM

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A.	NINETY-DAY TAX AMNESTY	6.1
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Authority

The provisions of this Chapter 6 issued under section 2910-A of the act of June 30, 1995 (P. L. 139, No. 21), unless otherwise noted.

Source

The provisions of this Chapter 6 adopted September 22, 1995, effective September 23, 1995, 25 Pa.B. 3985, unless otherwise noted.

Subchapter A. NINETY-DAY TAX AMNESTY

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§ 6.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Amnesty period—The time period of 90 consecutive days beginning on Friday, October 13, 1995, and ending on Wednesday, January 10, 1996.

Delinquent eligible tax—An eligible tax which was unpaid, underreported or not reported as of June 1, 1995, and which has not been appealed or which has been appealed and the appeal has been withdrawn, dismissed or denied. The term does not include an eligible tax which was unpaid, underreported or not reported as of June 1, 1995, and which is currently on appeal.

Eligible interest liability—A liability for interest imposed on an eligible tax liability. This term includes estimated underpayment charges for Personal Income Tax.

Eligible liability—An eligible tax liability, eligible interest liability and an eligible penalty liability.

Eligible penalty liability—A liability for a penalty imposed on an eligible tax liability. The term includes an addition to tax and a charge or a fee levied in conjunction with the collection or enforcement of an eligible tax liability.

Eligible tax—A tax that is imposed by the Commonwealth for which a tax return or tax report was required to be filed and payment of the tax was required to be made on or before December 31, 1993, for deposit into the General Fund, the Motor License Fund or the Liquid Fuels Tax Fund, including a tax a portion of which is dedicated by law for a specific purpose. The term includes, but is not limited to: Agriculture Cooperative Tax; Bank and Trust Company Shares Tax; Capital Stock or Foreign Franchise Tax; Cigarette Tax; Corporate Net Income Tax; Electric Cooperative Tax; Employer Withholding Tax; Fuel Use Tax; Gross Premiums Tax; Hotel Occupancy Tax; Inheritance and Estate Tax; Interstate Bus Compact Tax; Liquid Fuels Tax; Liquor Tax; Loans Tax; Marine Underwriting Profits Tax; Malt Beverage Tax; Motor Carriers Road Tax; Motor Vehicle Carriers Gross Receipts Tax; Mutual Thrift Institutions Tax; Oil Company Franchise Tax; Parimutuel Wagering and Admissions Taxes; Personal Income Tax; Public Utility Realty Tax; Realty Transfer Tax; Sales and Use Tax; Spirituous and Vinous Liquor Tax; Surplus Lines Tax; Unauthorized Insurance Tax and Utilities Gross Receipts Tax. The term does not include a tax imposed by a political subdivision of the Commonwealth or a tax administered by the Internal Revenue Service.

Eligible tax liability—A liability for a delinquent eligible tax.

Program—The Pennsylvania Tax Amnesty Program as established under section 22 of the act of June 30, 1995 (P. L. 139, No. 21). The term includes the amnesty period participation provisions as provided in this subchapter, and the post-amnesty enforcement provisions as provided in Subchapter B (relating to post-amnesty period enforcement).

Tax amnesty return—The return to be filed by a taxpayer participating in the Program designated by the Department as Form AM-01 (7-95) (See § 6.5(g) (relating to tax amnesty return)). The term includes tax returns, tax reports, accompanying schedules and other documentation required to be attached to Form AM-01 (7-95).

Cross References

This section cited in 61 Pa. Code § 9.15 (relating to tax amnesty administration and implementation issues).

§ 6.2. Notice of Program.

The Department will mail notice of the existence of the Program to all known taxpayers that, according to the Department's records, have eligible liabilities or

that have not filed tax returns or tax reports. The notification will be mailed to each taxpayer using its last known address.

§ 6.3. Eligible taxpayers.

(a) A taxpayer is eligible to participate in the Program if the taxpayer meets one of the following criteria:

(1) The taxpayer has an eligible liability.

(2) The taxpayer has paid an eligible tax liability, an eligible interest liability, or both, prior to the amnesty period, but has not paid an eligible penalty liability.

(3) The taxpayer has filed a timely, valid administrative or judicial appeal contesting what, but for the appeal, would be an eligible liability; provided any appeal involving that specific eligible liability is withdrawn by the taxpayer under §§ 6.4(6) and 6.8(b) (relating to participation requirements; and abatement of eligible penalty liability).

(b) A taxpayer is not eligible to participate in the Program if the taxpayer has received notice prior to the amnesty period that the taxpayer is the subject of an ongoing or continuing criminal investigation alleging a violation of a law imposing an eligible tax, or prior to the amnesty period has been named as a defendant in a criminal complaint for an alleged violation of a law imposing an eligible tax, or is a defendant in a pending criminal action for an alleged violation of a law imposing an eligible tax.

Cross References

This section cited in 61 Pa. Code § 9.15 (relating to tax amnesty administration and implementation issues).

§ 6.4. Participation requirements.

To participate in the Program, a taxpayer shall comply with the following requirements during the amnesty period:

(1) File a tax amnesty return as provided in § 6.5 (relating to tax amnesty return).

(2) Make payment of all eligible tax liabilities and eligible interest liabilities as provided in § 6.6 (relating to payment).

(3) File a complete tax return or tax report for every period for which the taxpayer was required to and has not filed a tax return or tax report.

(4) File a complete amended tax return or tax report for every period for which the taxpayer has underreported an eligible tax liability.

(5) Except as otherwise provided in §§ 6.11 and 6.12(b) (relating to appeals of denial and penalty reinstatement; and audits and examinations; appeal of increase in tax), agree that the taxpayer will not pursue an administrative or judicial proceeding with regard to any delinquent eligible tax for

which a tax amnesty return was filed or with regard to a claim of a refund of money paid during the amnesty period for an eligible tax liability or eligible interest liability.

(6) Agree to withdraw under § 6.8(b) (relating to abatement of eligible penalty liability), any administrative or judicial appeal with regard to eligible liability for which the taxpayer may be granted abatement of eligible penalty liability under the Program.

Cross References

This section cited in 61 Pa. Code § 6.3 (relating to eligible taxpayers); 61 Pa. Code § 6.5 (relating to tax amnesty return); 61 Pa. Code § 6.6 (relating to payment); 61 Pa. Code § 6.8 (relating to abatement of eligible penalty liability); and 61 Pa. Code § 9.15 (relating to tax amnesty administration and implementation issues).

§ 6.5. Tax amnesty return.

(a) A tax amnesty return shall be filed by taxpayers participating in the Program. If a taxpayer has more than one Commonwealth tax identification number for a single type of tax, the taxpayer shall file a separate tax amnesty return for each tax identification number of that tax type.

Example: Taxpayer has a different sales and use tax license number for each of the three businesses that the taxpayer owns. Taxpayer wishes to participate in the Program to pay eligible liabilities due under all three of the sales tax account numbers. The taxpayer must file three separate tax amnesty returns, one for each sales and use tax license number.

(b) Except as provided in subsection (d), a tax amnesty return filed without the required attachments is incomplete. (See §§ 6.4(3) and (4) and 6.6 (relating to participation requirements; and payment).) Taxpayers should refer to statutes, regulations and tax returns or tax reports and their instructions in preparing specific tax returns or tax reports.

(c) Except as provided in subsection (d), a tax amnesty return is timely filed if postmarked by the United States postal service or date stamped by the Department during the amnesty period.

(d) If, before the final day of the amnesty period, a taxpayer is unable to obtain a tax report or tax return required to be attached to the tax amnesty return, the taxpayer shall file during the amnesty period an incomplete tax amnesty return excluding the unavailable tax return or tax report and shall indicate on the incomplete tax amnesty return that the specific tax return or tax report was unavailable for timely filing. A tax amnesty return will not be considered to be complete unless the previously unavailable tax return or tax report is filed with the Department no later than 30 days after the mailing date of the previously unavailable tax return or tax report.

(e) The taxpayer may not file a tax amnesty return by electronic or telephonic means.

(f) Tax amnesty returns are confidential tax information under section 731 of the FC (72 P. S. § 731).

(g) A sample copy of Form AM-01 (7-95) is as follows:

AM-01 (7-95) COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF REVENUE OFFICE OF TAX AMNESTY DEPT. 280460 HARRISBURG, PA 17128-0460



PENNSYLVANIA AMNESTY RETURN

FOR OFFICIAL USE ONLY DLN

Form sections: PART I INDIVIDUALS, BUSINESSSES, Name, Spouse's Name, Your Social Security No., Street Address, City, State, Zip Code, Date you became subject to individual taxes in Pennsylvania, County of residence on Dec. 31, 1994, Date you began doing business in Pennsylvania, Standard Industrial Classification Code, Form of Organization.

Table with 8 columns: A. Tax Type Code, B. Returns Attached, C. Period, D. Identifying #, E. Amount of Tax Due, F. Interest Amount, G. Penalty, H. Totals. Includes 'PART II' instructions and summary rows 8-10.

Mail return, supporting documentation and payment with this Tax Amnesty Return to the address shown below no later than January 10, 1996. Commonwealth of Pennsylvania Department of Revenue Office of Tax Amnesty Dept. 280460 Harrisburg, PA 17128-0460

PART III I, the undersigned, as an individual, officer or owner, affirm that I am, or the business entity is, eligible for participation in the Tax Amnesty Program and certify, under penalties prescribed by law, that this return and the accompanying documents are true, correct and complete to the best of my knowledge. I further certify that all PA state tax reports and tax returns required to be filed as of June 1, 1995, have been filed. I further agree: * Not to protest or pursue an administrative or judicial proceeding with regard to this Tax Amnesty Return or any completed eligible tax returns filed herewith or with regard to a claim for refund of any money paid for an eligible tax and applicable interest. * Any administrative or judicial proceedings with respect to eligible taxes for which penalties may be abated under Tax Amnesty will be withdrawn within 30 days of a notice of conditional acceptance. (FOR OFFICIAL USE ONLY)

Attach Check or Money Order Here

INSTRUCTIONS FOR COMPLETING YOUR TAX AMNESTY RETURN

You will need to complete the appropriate tax return(s) before filling out the Tax Amnesty Return.

Part I If you are filing for Tax Amnesty for your personal taxes, complete the section marked "INDIVIDUALS." If you are filing for Tax Amnesty for your business accounts, complete the section marked "BUSINESSES." Report income from a sole proprietorship or partnership on the Personal Income Tax return and complete the "INDIVIDUAL" section. If you are filing for Tax Amnesty as a corporation and as an individual, please file separate Tax Amnesty Returns: one for business taxes and another for individual taxes. If you are filing for Tax Amnesty for a single tax type for which you have multiple accounts, file a separate Tax Amnesty Return for each account.

**** Other Account No. - Use this box to record an account number for a tax type which is not covered elsewhere in Part I. If you need additional space to record account numbers, use Column D in Part II.**


Form of Organization - Enter one of the following: Sole proprietorship; partnership (general, limited, limited liability, joint venture); corporation; business trust; limited liability company or association.


Part II Complete Columns A through H for each tax type and period you are reporting. Attach your completed tax returns, if applicable, for each period or year for which you are required to file.

In lieu of completing Part II, you may attach the Tax Amnesty Program Notice that contains the statement of your account. **You still must complete Parts I and III.**

- A. Enter in Column A the tax type, using the abbreviations found on page 1 under eligible taxes.
- B. Indicate in Column B whether the attached return is an **original** return, which has never been filed with the Department of Revenue, or an **amended** return. If no return is attached, please enter "NA."
- C. Enter in Column C the period for which you owe taxes. For those taxes requiring monthly or quarterly filing, list the last two digits of the year first. Then list the number of the month (01-12). Example: A 1990 income tax return covers the period of Jan. 1, 1990 to Dec. 31, 1990. Write this as 9001-9012. Similarly, a Sales Tax return for the month of June 1990 (which was due July 20, 1990) should be written as 9006-9006.
NOTE: Column C indicates the tax period and not the date the payment and return were due.
- D. Enter in Column D the identifying number associated with each tax period, such as an assessment number.
- E. Enter in Column E the total amount of tax due for each tax period in Column C. Please use whole dollar amounts by excluding the cents. (Round up for amounts over \$0.50 and down for \$0.49 or less.)
- F. Enter in Column F the total amount of interest due for each tax period in Column C. Use the Interest Table below to calculate your interest charge. (Please use whole dollar amounts by excluding the cents.)
- G. Enter "0" in Column G for taxes due and payable on or before Dec. 31, 1993. Penalties on tax liabilities due on or after Jan. 1, 1994 are **not** forgiven under Tax Amnesty and are applicable. Enter any penalty amount for which you have been billed related to tax due and payable on or after Jan. 1, 1994. (Please use whole dollar amounts by excluding the cents.) Otherwise, the Department will assess penalties for non-amnesty liabilities included on the Tax Amnesty Return.
- H. Add the amounts on each line of Columns E, F and G and enter the total in Column H.
Line 10. Add the amounts in Column H. This is the TOTAL AMOUNT DUE.

Part III Be sure to sign and date the Tax Amnesty Return and attach all completed, signed tax returns and supporting documents. Attach a certified or cashier's check or money order made payable to: **PA Department of Revenue.** Include a telephone number where you can be reached in case we have questions. Mail the Tax Amnesty Return with attachments to:

 PA Department of Revenue
Office of Tax Amnesty
Dept. 280460
Harrisburg, PA 17128-0460

 Your Tax Amnesty Return must be postmarked no later than Jan. 10, 1996.

How to Use the Monthly Interest Table

Find the interest rate corresponding to the month and year your return was due in the table to the right.

Multiply the rate times the amount you entered in Column E for each tax.

EXAMPLE: A 1989 PA Individual Income Tax return reporting \$100 in tax was due Apr. 15, 1990. From the Table, the interest rate corresponding to April 1990 is 0.51. Calculate \$100 X 0.51 = \$51. Enter this total in Column F.

For assistance in calculating interest on taxes due before Jan. 1, 1988, contact the Office of Tax Amnesty or the Revenue District Office nearest you.

Month Due	Monthly Interest Table							
	Year Your Return Was Due							
	1995	1994	1993	1992	1991	1990	1989	1988
JAN	0.09	0.16	0.23	0.32	0.43	0.54	0.65	0.76
FEB	0.08	0.15	0.22	0.31	0.42	0.53	0.64	0.75
MAR	0.08	0.15	0.22	0.30	0.41	0.52	0.63	0.74
APR	0.07	0.14	0.21	0.29	0.40	0.51	0.62	0.73
MAY	0.06	0.13	0.20	0.29	0.39	0.50	0.61	0.72
JUN	0.05	0.13	0.20	0.28	0.38	0.49	0.60	0.71
JUL	--	0.12	0.19	0.27	0.37	0.48	0.59	0.70
AUG	--	0.12	0.19	0.26	0.36	0.47	0.58	0.69
SEP	--	0.11	0.18	0.26	0.35	0.46	0.57	0.68
OCT	--	0.10	0.18	0.25	0.34	0.45	0.56	0.67
NOV	--	0.10	0.17	0.24	0.33	0.44	0.55	0.66
DEC	--	0.09	0.16	0.23	0.33	0.44	0.54	0.65

Cross References

This section cited in 61 Pa. Code § 6.1 (relating to definitions); 61 Pa. Code § 6.4 (relating to participation requirements); 61 Pa. Code § 6.7 (relating to extensions for filing or payment unavailable); 61 Pa. Code § 6.9 (relating to denial of penalty abatement); and 61 Pa. Code § 9.15 (relating to tax amnesty administration and implementation issues).

§ 6.6. Payment.

(a) Except as provided in subsections (e) and (f), full payment of an eligible tax liability and an eligible interest liability shall be made during the amnesty period only by cashier's check, certified check or money order made payable to "PA Dept. of Revenue" or by cash.

(b) A taxpayer may not pay an eligible tax liability or an eligible interest liability by electronic means.

(c) A taxpayer that is currently making payments to the Department pursuant to a deferred payment plan may participate in the Program if the taxpayer meets the requirements for participation as specified in § 6.4 (relating to participation requirements).

(d) Except as provided in subsections (e) and (f), if at the end of the amnesty period, a taxpayer has paid less than the full amount of its eligible tax liability and eligible interest liability, the Department will apply the total amount paid to the taxpayer's account but will not abate an eligible penalty liability.

(e) If a taxpayer has not correctly calculated the amount of eligible interest liability that must be paid, the Department will recalculate the amount due and will send the taxpayer a billing notice stating the correct eligible interest liability. If the taxpayer does not pay the amount shown as due on the billing notice no later than 30 days after the mailing date of the billing notice or by the end of the amnesty period, whichever is later, the taxpayer will no longer be eligible to participate in the Program.

(f) A taxpayer that can substantiate a severe financial hardship will be permitted to enter into a deferred payment plan for the payment of eligible liabilities. Eligible penalty liabilities will not be abated.

Cross References

This section cited in 61 Pa. Code § 6.4 (relating to participation requirements); 61 Pa. Code § 6.5 (relating to tax amnesty return); 61 Pa. Code § 6.7 (relating to extensions for filing or payment unavailable); and 61 Pa. Code § 9.15 (relating to tax amnesty administration and implementation issues).

§ 6.7. Extensions for filing or payment unavailable.

Except as provided in §§ 6.5(d) and 6.6(e) (relating to tax amnesty return; and payment), the Department will not grant an extension of time for filing a tax amnesty return or for the payment of any eligible tax liability and eligible interest liability.

§ 6.8. Abatement of eligible penalty liability.

(a) The Department will abate all eligible penalty liability of a taxpayer that meets the requirements for participation in the Program as specified in § 6.4 (relating to participation requirements). Notice of the abatement will be in the form of a Notice of Penalty Abatement and will be mailed by the Department to the taxpayer.

(b) A taxpayer that meets the requirements for participation in the Program as specified in § 6.4, but has an administrative or judicial appeal involving a specific eligible liability for which abatement of eligible penalty liability is sought under the Program, will be accepted conditionally into the Program pending withdrawal of the appeal. Notice of this conditional acceptance will be in the form of a Notice of Conditional Acceptance and will be mailed by the Department to the taxpayer. If the appeal is withdrawn no later than 30 days after the mailing date of the Notice of Conditional Acceptance, the Department will abate the eligible penalty liability and will mail a Notice of Penalty Abatement to the taxpayer as provided in subsection (a). If the appeal is not withdrawn, the Department will not abate the eligible penalty liability and will mail a Notice of Denial to the taxpayer as provided in § 6.9 (relating to denial of penalty abatement).

(c) The Department, at its expense, will satisfy all liens for eligible liabilities filed against real and personal property owned by an eligible taxpayer that meets the requirements for participation in the Program as specified in § 6.4.

Cross References

This section cited in 61 Pa. Code § 6.3 (relating to eligible taxpayers); 61 Pa. Code § 6.4 (relating to participation requirements); 61 Pa. Code § 6.10 (relating to continued compliance requirement).

§ 6.9. Denial of penalty abatement.

(a) The Department will deny abatement of an eligible penalty liability of a taxpayer who fails to meet the requirements of the Program as specified in § 6.4 (relating to participation requirements).

(b) Notice of the denial will be in the form of a Notice of Denial of Penalty Abatement and will be mailed by the Department to the taxpayer.

Cross References

This section cited in 61 Pa. Code § 6.8 (relating to abatement of eligible penalty liability); and 61 Pa. Code § 6.11 (relating to appeals of denial and penalty reinstatement).

§ 6.10. Continued compliance requirement.

(a) A taxpayer that has been granted penalty abatement as described in § 6.8 (relating to abatement of eligible penalty liability) shall remain in compliance with all Commonwealth tax reporting, filing and payment requirements for 2 years after the last day of the amnesty period.

(b) The Department may assess and collect eligible penalty liabilities that were initially abated through the Program under § 6.8 if, within 2 years after the last day of the amnesty period, one or more of the following occur:

(1) For three consecutive tax reporting periods, the taxpayer does not pay taxes due or does not file tax reports or tax returns as required on a semi-monthly, monthly, quarterly basis or other basis, and the taxpayer does not contest the liability through a timely, valid administrative or judicial appeal.

(2) The taxpayer is 8 or more months late in paying taxes due or filing tax reports or tax returns as required on an annual basis, and the taxpayer does not contest the liability through a timely, valid administrative or judicial appeal.

(c) A Notice of Penalty Reinstatement will be mailed by the Department to a taxpayer that fails to remain in compliance as provided in subsection (a).

Cross References

This section cited in 61 Pa. Code § 6.11 (relating to appeals of denial and penalty reinstatement).

§ 6.11. Appeals of denial and penalty reinstatement.

A taxpayer that has been denied penalty abatement under the Program as provided in § 6.9 (relating to denial of penalty abatement) or that has had penalties reinstated as provided in § 6.10 (relating to continued compliance requirement) may appeal the decision to the Board of Appeals under Chapter 7 (relating to Board of Appeals) no later than 30 days after the mailing date of the Notice of Denial of Penalty Abatement or Notice of Penalty Reinstatement.

Cross References

This section cited in 61 Pa. Code § 6.4 (relating to participation requirements).

§ 6.12. Audits and examinations; appeal of increase in tax.

(a) A tax amnesty return filed during the amnesty period is subject to the same verification, assessment and audit as provided with respect to other tax returns or tax reports. If the examination or audit of a taxpayer results in an increase in tax due on a tax amnesty return, the tax increase will be subject to interest, penalty, or both, as would any tax return or tax report.

(b) A taxpayer may appeal, in the same manner and within the same time as provided by law for the appeal of that specific tax, the difference between the amount of the tax indicated on the tax amnesty return and the amount subsequently determined by the Department to be due as a result of examination or audit.

Cross References

This section cited in 61 Pa. Code § 6.4 (relating to participation requirements).

§ 6.13. Overpayment, refund and interest.

(a) Interest will not be allowed on an overpayment of an eligible tax liability or an eligible interest liability if the overpayment is refunded or credited to a taxpayer's account within 180 days after the tax amnesty return is filed.

(b) A refund of an overpayment of an eligible tax liability or an eligible interest liability will not be granted unless the overpayment is the result of a mathematical or clerical error.

(c) A refund or credit will not be allowed for eligible penalty liability paid to the Department prior to the amnesty period.

§ 6.14. Enforcement concerning nondisclosed eligible tax liabilities.

(a) The Department will not institute an administrative or judicial proceeding against a taxpayer with respect to an eligible tax liability that is disclosed on the tax amnesty return and paid during the amnesty period.

(b) The Department may impose penalties and pursue criminal action with respect to the difference between the amount disclosed on a tax amnesty return and the amount determined to be due by the Department subsequent to the amnesty period.

(c) The Department may institute civil or criminal proceedings against a taxpayer with respect to an amount of tax that is not disclosed on the tax amnesty return.

Subchapter B. POST-AMNESTY PERIOD ENFORCEMENT

- Sec.
6.21. Nonparticipation penalty.
6.22. [Reserved].

Cross References

This subchapter cited in 61 Pa. Code § 6.1 (relating to definitions).

§ 6.21. Nonparticipation penalty.

(a) A nonparticipation penalty of 15% of unpaid eligible liabilities will be imposed upon a taxpayer that has failed to remit eligible tax liability and eligible interest liability or has not reported or has underreported eligible tax liability before the end of the amnesty period. The penalty will be imposed regardless of the time at which or, of the manner in which, the unpaid, underreported or not reported eligible tax liability or eligible interest liability is discovered.

(b) A nonparticipation penalty will not be imposed against a taxpayer that has not participated in the Program if one of the following applies:

(1) The taxpayer has paid the eligible tax liability and eligible interest liability in full or has entered into an approved and executed deferred payment plan for the payment of eligible liabilities before the end of the amnesty period.

(2) The taxpayer has filed a timely and valid administrative or judicial appeal contesting the eligible liabilities before the end of the amnesty period.

(3) The taxpayer is a debtor as defined in section 101 of the Federal Bankruptcy Act (11 U.S.C.A. § 101).

(c) The nonparticipation penalty is in addition to any other penalty provided by law.

Cross References

This section cited in 61 Pa. Code § 9.15 (relating to tax amnesty administration and implementation issues).

§ 6.22. [Reserved].

Source

The provisions of this § 6.22 reserved March 27, 1998, effective March 28, 1998, 28 Pa.B. 1522. Immediately preceding text appears at serial pages (205316) to (205317).

[Next page is 7-1.]