

Regular Session, 2014

HOUSE BILL NO. 663

BY REPRESENTATIVE ROBIDEAUX

REVENUE DEPARTMENT: Provides relative to the Louisiana Tax Delinquency Amnesty Act of 2013

1 AN ACT

2 To amend and reenact Section (3)(C), (G), and (I) and to enact Section 3(M) of Act No. 421
3 of the 2013 Regular Session of the Legislature, relative to the Louisiana Tax
4 Delinquency Amnesty Act of 2013; to provide relative to the amount of penalties and
5 interest waived during certain amnesty periods; to prohibit certain forms of payment
6 of delinquent tax, interest, penalty, or fees pursuant to the Amnesty Program; to
7 authorize installment agreements for certain taxes; to provide for certain
8 requirements and limitations for installment agreements; to authorize the
9 procurement of collection services under certain circumstances; to authorize the
10 promulgation of rules; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1: Section 3 (C), (G), and (I) of Act No. 421 of the 2013 Regular Session
13 of the Legislature are hereby amended and reenacted and Section 3(M) of the 2013 Regular
14 Session of the Legislature is hereby enacted to read as follows:

15 * * *

16 Section 3.

17 * * *

18 (C) Notwithstanding the terms or provisions of any other Act or other
19 provisions of law to the contrary, and except as provided in Subsection (B), the
20 following taxes are eligible for amnesty:

1 (1) ~~Taxes due prior to January 1, 2013, for which the department has issued~~
2 ~~an individual or a business proposed assessment, notice of assessment, bill, notice,~~
3 ~~or demand for payment not later than May 31, 2013; or~~ For the 2013 amnesty
4 program: taxes due prior to January 1, 2013, for which the department has issued an
5 individual or a business proposed assessment, notice of assessment, bill, notice, or
6 demand for payment not later than May 31, 2013;

7 (2) Taxes for taxable periods that began before January 1, 2013; or

8 (3) Taxes for which the taxpayer and the department have entered into an
9 agreement to interrupt the running of prescription pursuant to R.S. 47:1580 and said
10 agreement suspends the running of prescription until December 31, 2013.

11 (4) For the 2014 amnesty program: taxes due prior to January 1, 2014, for
12 which the department has issued an individual or a business proposed assessment,
13 notice of assessment, bill, notice, or demand for payment not later than May 31,
14 2014;

15 (5) For the 2015 amnesty program: taxes due prior to January 1, 2015 for
16 which the department has issued an individual or a business proposed assessment,
17 notice of assessment, bill, notice, or demand for payment not later than May 31,
18 2015.

19 * * *

20 (G)(1) Amnesty will be granted only for eligible taxes to eligible taxpayers
21 who apply for amnesty during an amnesty period on forms prescribed by the
22 secretary and who pay all of the tax, all fees and costs, if applicable, and any interest
23 due upon filing the amnesty application. Pursuant to the provisions of Subsection
24 M of this Section, taxpayers who apply for amnesty by opting to pay the tax and any
25 applicable fees, costs, and interest in installments shall only remain eligible to
26 participate in the amnesty program by making complete and timely payment of the
27 entire amount due under the taxpayer's installment agreement. Taxpayers involved
28 in field audits or litigation shall not be eligible for installment agreements under the
29 amnesty program. The amnesty application for taxpayers involved in field audits or

1 litigation shall include all issues and all eligible periods involved in the audit or
2 litigation. The secretary shall reserve the right to require taxpayers to file tax returns
3 with the amnesty application. Notwithstanding the terms or provisions of any other
4 Act or other provisions of law to the contrary, if the amnesty application is approved
5 during the 2013 amnesty period the secretary shall waive one-half of the interest and
6 all of the penalties associated with the tax periods for which amnesty is applied. If
7 the amnesty application is approved during the 2014 amnesty period, the secretary
8 shall waive ~~fifteen~~ sixty-seven percent of all of the penalties associated with the tax
9 periods for which amnesty is applied, ~~but no~~ and thirty-three percent of the interest
10 shall be waived. If the amnesty application is approved during the 2015 amnesty
11 period, the secretary shall waive ~~ten~~ thirty-three percent of all of the penalties
12 associated with the tax periods for which amnesty is applied, ~~but no~~ and seventeen
13 percent of the interest shall be waived. An amnesty payment or application
14 submitted in a properly addressed envelope with sufficient postage delivered by the
15 United States Postal Service is deemed paid or received on the date it is postmarked.
16 An amnesty payment or application delivered by courier or taxpayer is deemed paid
17 or received on the date it is delivered to the department's headquarters or a regional
18 office. ~~No installment agreements will be entered into for tax periods that are~~
19 ~~approved for amnesty.~~ The department shall not accept tax credits as payment of any
20 tax, interest, penalty, or fee paid as a result of participation in the amnesty program.

21 (2) A taxpayer who disputes a portion of the amount of a delinquent tax
22 assessed by the department may be eligible to apply for amnesty if the taxpayer
23 remits the complete one-time payment of that portion of the tax that is not in dispute,
24 plus applicable interest and penalties, hereinafter referred to as the "compromise
25 amount", to the department prior to the end of the amnesty period for which the
26 taxpayer applies. The secretary shall have thirty days beginning on the first business
27 day after the last day of the amnesty period to determine if the taxpayer shall be
28 granted amnesty based on the compromise amount paid. If the secretary approves
29 the compromise amount paid by the taxpayer, the taxpayer shall be granted amnesty.

1 If the secretary rejects the compromise amount paid by the taxpayer, amnesty shall
 2 not be granted and the taxpayer shall be responsible for the full amount of the
 3 delinquent tax, penalties, interest, and fees prior to his application for amnesty. Any
 4 monies paid to the department as compromised amounts during the amnesty period
 5 shall be allocated toward payment of the taxpayer's delinquent tax debt in
 6 accordance with rules and regulations which govern such payments in the absence
 7 of an amnesty program.

8 * * *

9 (I) Amnesty applications shall include a written waiver of all rights,
 10 restrictions, and delays for assessing, collecting, or protesting taxes and interest due
 11 as set forth in R.S. 47:1562 through 1565 and 1576. The filing of such applications
 12 shall make the tax, interest, and penalty immediately due and payable; except when
 13 the taxpayer has been authorized by the secretary of the department, after making
 14 application on the supplemental form provided by the secretary, to make installment
 15 payments of such tax, interest, penalty, and fees. Pursuant to the provisions of
 16 Subsection M of this Section, a taxpayer's supplemental application seeking authority
 17 to make installment payments of a delinquent tax, interest, penalties, and fees shall,
 18 upon approval of the secretary, be deemed to enter the taxpayer into an installment
 19 agreement with the department. Payments of tax, interest, penalties, and fees shall
 20 be subject to the distraint procedure provided for in Title 47 of the Louisiana Revised
 21 Statutes of 1950; ineligible for refund, credit, or claim against the state; and
 22 ineligible for redetermination under the provisions of R.S. 47:1565(C); however, a
 23 taxpayer shall be eligible for a refund or credit if the overpayment arises after the
 24 amnesty application is submitted and is attributable to a properly claimed Louisiana
 25 net operating loss or attributable to an adjustment made by the Internal Revenue
 26 Service to the taxpayer's federal income tax, and the taxpayer provides notice of the
 27 adjustment to the secretary within sixty days of receipt of the adjustment from the
 28 Internal Revenue Service. A taxpayer who files an application for amnesty retains

1 all administrative and judicial rights of appeal with respect to any additional tax
2 assessed by the department.

3 * * *

4 M.(1) Installment agreements. A taxpayer's application to make installment
5 payments of a delinquent tax and its interest, penalties, and fees shall, upon approval
6 by the secretary, enter the taxpayer into an installment agreement with the secretary
7 of the department, whereby continuation in the amnesty program is dependent upon
8 complete and timely payments of all installment payments. All installment
9 agreements approved by the secretary shall require the taxpayer to provide a down
10 payment of no less than twenty percent of the total amount of delinquent tax, penalty,
11 interest, and fees owed to the department at the time the installment agreement is
12 approved by the secretary. Additionally, every installment agreement shall include
13 fixed, equal, monthly payments that shall not extend for more than six months.

14 (a) For the 2014 amnesty program, "timely payment" shall mean all
15 installment payments shall be received no later than May 1, 2015.

16 (b) For the 2015 amnesty program, "timely payment" shall mean all
17 installment payments shall be received no later than May 1, 2016.

18 (2) Automated electronic drafts. Applicants seeking to enter into an
19 installment agreement with the department shall provide necessary information for
20 installment payments to be drafted from an account from which the taxpayer is
21 authorized to remit payment. All payments shall be drafted through electronic
22 automated transactions initiated by the department. Taxpayers who cannot enter into
23 an agreement to make payment by way of automated electronic transactions shall not
24 be eligible for an installment agreement with the department.

25 (3)(a) Forfeiture. If for any reason a taxpayer subject to an installment
26 agreement fails to fulfill his obligation under the agreement by remitting the last
27 installment by the first day of May of the amnesty program year to which the
28 agreement applies, no amnesty shall be granted and the installation agreement shall
29 be null and void. All payments remitted to the department during the duration of

1 such void installment agreement shall be allocated in accordance with department
2 rules and regulations as applied in the absence of an amnesty program. The taxpayer
3 shall be obligated to pay the entirety of the delinquent tax, along with all applicable
4 interest, penalties, and fees.

5 (b) A taxpayer who is approved to participate in the amnesty program who
6 is also a party to an existing installment agreement with the department may be
7 eligible to participate in an installment agreement under the amnesty program. Upon
8 approval by the secretary of an installment agreement under the amnesty program,
9 the original installment agreement with the department shall be cancelled in favor
10 of the installment agreement under amnesty which shall be subject to the provisions
11 of this Subsection.

12 (4) Collection of installment agreements. The secretary may procure
13 amnesty program collection services for the administration and collection of
14 installment agreements. The fee for such services shall be in accordance with the
15 fees authorized in R.S. 47:1516.1.

16 (5) Emergency Rules. The secretary of the department may promulgate rules
17 and regulations in accordance with the emergency rulemaking authority of the
18 Administrative Procedure Act as provided for in R.S. 49:953(B) as are necessary to
19 implement the provisions of this Act relative to installment agreements. For
20 purposes of qualifying as an emergency under the provisions of the Administrative
21 Procedure Act, necessity of promulgating these rules by emergency rulemaking shall
22 be deemed to meet the definition of imminent peril to the public health, safety, or
23 welfare of the citizens of the state.

24 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Robideaux

HB No. 663

Abstract: Authorizes installment agreements for the payment of delinquent taxes, interest, penalties, and fees for which a taxpayer applies for amnesty and increases the amount of penalties and interest waived for the 2014 and 2015 amnesty periods.

Present law authorizes the Dept. of Revenue (DOR) to develop and implement a tax amnesty program to be effective for the following periods of time, the specific dates of which shall be determined by the secretary of DOR (secretary):

- (1) A period of at least one month occurring between July 1, 2014 and Dec. 31, 2014.
- (2) A period of at least one month occurring between July 1, 2015 and Dec. 31, 2015.

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 all of the following:

- (1) For the 2014 amnesty program: taxes due prior to Jan. 1, 2014, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2014.
- (2) For the 2015 amnesty program: taxes due prior to Jan. 1, 2015 for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2015.

Present law authorizes the secretary to waive 15% of penalties owed if the amnesty application is approved during the 2014 amnesty period and 10% of penalties owed if the amnesty application is approved during the 2015 amnesty period. No interest is waived during these periods.

Proposed law changes the waiver of the penalties and interest for the 2014 and 2015 amnesty programs to the following:

- (1) Waiver of 67% of penalties and 33% of the interest owed if amnesty is approved during the 2014 amnesty period.
- (2) Waiver of 33% of penalties and 17% of interest owed if amnesty is approved during the 2015 amnesty period.

Proposed law prohibits the department from accepting tax credits as payment of any tax, interest, penalty, or fee as a result of participation in the amnesty program.

Proposed law authorizes taxpayers who dispute a portion of the amount of a delinquent tax assessed by the department to participate in amnesty if the taxpayer remits the payment of that portion of the tax that is not in dispute, plus applicable interest and penalties, and otherwise complies with the requirements of proposed law. Further provides for the requirements of the department with respect to these taxpayers.

Present law prohibits the secretary from allowing taxpayers to enter into installment agreements for amnesty periods.

Proposed law changes present law to authorize installment agreements for the payment of delinquent taxes, interest, penalties, and fees. Further requires the taxpayer to submit an application to make installment payments and once approved by the secretary, requires the taxpayer to provide a down payment of no less than 20% of the total amount of delinquent tax, penalty, interest, and fees owed by the taxpayer at the time that the installment agreement is approved.

Proposed law requires all installment payments to be made through automated electronic transactions and for all payments to be received by the department no later than May 1st of the program year for which the taxpayer applies for amnesty.

Proposed law provides requirements relative to the forfeiture of monies paid if the taxpayer who is a party to an installment agreement fails to fulfill his obligation under the agreement.

Proposed law authorizes the secretary to procure amnesty program collection services for the administration and collection of installment agreements. The fee for such services shall be in accordance with the fees provided for in present law.

Proposed law authorizes the department to promulgate rules and regulations in accordance with the emergency rulemaking authority of the Administrative Procedure Act as are necessary to implement the provisions of proposed law relative to installment agreements.

(Amends §3(C), (G), and (I) of Act No. 421 of the 2013 R.S.; Adds §3(M) to Act No. 421 of the 2013 R.S.)