

Treasury Tax Amnesty Ends June 30th, 2013

As discussed in our previous month's Special Bulletin authored by Edgardo Sanabria, Act 12-2013 ("Tax Amnesty") was signed by the Governor on April 29, 2013. The Tax Amnesty provides the opportunity to pay with a total abatement of interest, surcharges and penalties, income, excise tax, sales and use, estate and gift tax debts as well as income tax withholding debts and the special real property tax debts imposed by Act 7-2009. On May 13, 2013, the Puerto Rico Treasury Department ("Treasury") issued Circular Letter 13-01 ("CL 13-01") in order to provide guidelines for the implementation of the Tax Amnesty.

Please note that the Tax Amnesty ends soon, on June 30, 2013, so act immediately.

Definitions

The CL 13-01 provides various definitions to clarify which taxes are covered by, and for which periods, or are excluded from the Tax Amnesty. The following is a listing of the taxes that are covered by the Tax Amnesty, be them imposed by the Puerto Rico Internal Revenue Code of 2011 (the "Code"), by the Puerto Rico Internal Revenue Code of 1994, by any tax law applicable to the Code or by any special law that imposes taxes over income items as described here in below:

1. Income Taxes under Subtitle A of the Code;
2. Estate and Gift Taxes under Subtitle B of the Code;
3. Excise Taxes under Subtitle C of the Code;
4. Sales and Use Taxes under Subtitle D of the Code;
5. Income Tax Withheld at Source under Subtitle A of the Code related to:
 - a. Salaries
 - b. Indemnity payments received in judicial or extrajudicial claims
 - c. Services rendered
 - d. Estimated tax for profits of a Special Partnership
 - e. Estimated tax for profits of a Corporation of Individuals

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- f. Estimated tax for profits of a Limited Liability Company
 - g. Estimated tax for profits of a Partnership
 - h. Payments to nonresident individuals
 - i. Interest paid or credited over certain deposit accounts with an election to withhold tax
 - j. Payment of profits from a Special Partnership or a Corporation of Individuals to a foreign nonresident individual
 - k. Payments to nonresident foreign corporations
 - l. Distribution of benefits from qualified retirement plans.
6. Any tax imposed by Act 7-2009, including the special tax on entities with adjusted gross income over \$100,000, the special tax on residential real property and the 5% tax imposed to certain insurance and international banking entities.
7. Any tax imposed by the following tax incentives laws, or by any other law of analogous nature or which imposes any special income tax rate:
- a. Act 73-2008 (Economic Incentives Act for the Development of Puerto Rico)
 - b. Act 83-2008 (Puerto Rico Green Energy Incentives Act)
 - c. Act 74-2010 (Puerto Rico Tourism Development Act)

- d. Act 27-2011 (Puerto Rico Film Industry Economic Incentives Act)
- e. Act 20-2012 (Service Export Development Act)

The debts for the taxes mentioned in points 1, 2, 3, 6 and 7 above are eligible for the Tax Amnesty only to the extent the debts pertain to tax periods ended on or before December 31, 2011 ("Eligible Period"). In the case of sales and use tax (point 4 above) and withholding tax (point 5 above), the debts that are eligible for the Tax Amnesty are those pertaining to tax periods, including months, ended before January 1, 2013 ("Eligible Period").

"Tax Debts" is another concept defined by CL 13-01. Tax Debts will be eligible for the Tax Amnesty to the extent the tax is included in the definition of taxes covered by the Tax Amnesty above (points 1 thru 7 above) and for the Eligible Periods described above. Tax Debts include the following:

- Taxes assessed pending payment.
- Taxes declared but not paid by the taxpayer, not yet assessed by Treasury.
- Deficiencies determined by Treasury under an intervention, investigation or an audit, or waiting for an administrative hearing or judicial review.
- Taxes withheld at source but not deposited
- Sales and use taxes collected but not deposited.
- Taxes owed which are part of a payment plan or salary discount plan with Treasury.
- Taxes owed due to checks returned.

- Taxes owed with an extended payment date.
- Taxes owed from any tax return or declaration not yet filed.

Procedures for Taxes Assessed by Treasury

In the case of taxpayers interested in obtaining the benefits of the Tax Amnesty for all the taxes assessed by Treasury the process is the following:

1. Obtain a certificate of debt from Treasury - be it with a notice sent by Treasury, obtained at a Treasury Collection Office ("Colecturía") or obtained from the Treasury website www.hacienda.pr.gov;
2. Pay the total principal amount owed of all the eligible tax debts at a Colecturía, a District Collection Office, one of the Amnesty Centers established by Treasury or by electronic transfer using the Treasury's website ("Colecturía Virtual"); and
3. To the extent there are debts related to sales and use tax or special real property taxes, visit a District Collection Office or an Amnesty Center in order to obtain a sales and use tax payment coupon and have the taxes properly credited under the Tax Amnesty.

In the case of taxpayers who decide to pay some, but not all, the eligible tax debts assessed by Treasury, they will need to visit a District Collection Office or an Amnesty Center in order to select the debts they want to pay under the Tax Amnesty.

Procedures for Taxes not yet Assessed by Treasury

Treasury has established

procedures to direct taxpayers to the offices where the documents can be completed in order to avail to the benefits of the Tax Amnesty for tax debts not yet assessed. The following are the procedures established by CL 13-01:

1. Tax returns or declarations filed, for which Treasury has not yet assessed the debt - A copy of the tax return or declaration filed must be presented with evidence of filing, together with evidence of partial payment, if any, to a District Collection Office or an Amnesty Center.
2. Taxpayers under the Voluntary Disclosure Program - Taxpayers who have commenced an application under the Voluntary Disclosure Program at Treasury must decide whether to continue the case under that program or avail to the Tax Amnesty. If the taxpayer decides to continue under the Voluntary Disclosure Program no action is necessary. However, if the taxpayer wishes to avail to the benefits of the Tax Amnesty there are two options:
 - a. Visit a District Collection Office or an Amnesty Center with copy of the tax return or declaration filed and evidence of filing, together with evidence of partial payment, if any, or
 - b. Visit the Voluntary Disclosure Unit located at 10 Paseo Covadonga, Intendente Ramírez Building, office 609, 6th floor in San Juan.

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3. Taxpayers who are in the middle of an investigation or audit from Treasury - Taxpayers who have tax returns or declarations for eligible periods under investigation, and wish to avail to the benefits of the Tax Amnesty, must meet with the officer in charge of the investigation at the District Office of the Bureau of Tax Audit to discuss the proposed adjustments and agree on the principal amount owed. Once the taxpayer agrees to pay the balance owed, the Treasury officer will complete the documents to pay under the Amnesty.
4. Taxpayers waiting for an administrative hearing or judicial review - In the case of taxpayers who have challenged a deficiency of an eligible tax assessed by Treasury and have requested an administrative hearing or have contested the decision in the courts, there are two options:
 - a. Visit a District Collection Office or an Amnesty Center to pay the principal amount due and drop the request for hearing or judicial review, or
 - b. Visit the office of the Treasury's Assistant Secretary for Administrative Appeals located at 10 Paseo Covadonga, Intendente Ramírez Building, office 611, 6th floor in San Juan to discuss the case and agree on the principal amount

owed. Once the taxpayer agrees to pay the balance owed, the Treasury officer will complete the documents to pay under the Tax Amnesty.

5. Taxpayers who are in the middle of an investigation from Treasury's Assistant Secretary for Tax Crimes - Taxpayers who have tax returns or declarations for eligible periods under investigation by this office, and wish to avail to the benefits of the Tax Amnesty, must meet with the officer in charge of the investigation to discuss the findings of the case and agree on the principal amount owed. Once the taxpayer agrees to pay the balance owed, the Treasury officer will complete the documents to pay under the Tax Amnesty.
6. Tax Returns or Declarations not filed - Taxpayers who, on May 13, 2013, have not filed the corresponding returns or declarations related to eligible taxes, must visit a District Collection Office or an Amnesty Center to file the missing returns or declarations and complete the documents to avail to the benefits of the Tax Amnesty. An exception to the above requirement applies to the quarterly returns for income tax withheld at source on salaries (Form 499 R-I B), which need to be filed electronically first and then bring a copy to the District Collection Office or an Amnesty Center. In the case of tax returns or declarations not filed

before May 13, 2013, the option to pay the tax debts under a payment plan (See Payment Plans and Methods below) is not available; the payment of such debts will be required in full in order to obtain the abatement of the interest, penalties and surcharges.

Other Conditions Included in CL 13-01

- In the case of taxpayers who have an existing payment plan for eligible tax debts, and would like to renegotiate the payment plan under the Tax Amnesty, a minimum initial payment will be required, as it is

Tax Amnesty Payment Plans

If the Balance Included in the Plan is:	Payment Plan Period	Minimum Initial Payment	Annual Interest
Up to \$5,000	12 months	10% of principal amount owed	0%
From \$5,001 to \$15,000	24 months		5%
From \$15,001 to \$30,000	36 months		7%
More than \$30,000	48 months		10%

Payment Plans and Methods

The following table summarizes the alternative payment plan options allowed under the Tax Amnesty. Please note that a minimum initial payment of 10% is required under all options. The following payment methods will be accepted by Treasury:

1. Treasury Collection Office ("Colecturía") - Cash, manager's check or money order to the name of the Secretary of the Treasury, debit card or credit card (VISA or Master Card).
2. Treasury's website ("Colecturía Virtual") - Debit card or credit card (VISA or Master Card).
3. Amnesty Centers - Manager's check or money order to the name of the Secretary of the Treasury, debit card or credit card (VISA or Master Card).

- required to any other taxpayer.
- Taxpayers who have an existing salary discount plan for eligible tax debts, and would like to avail to the benefits of the Tax Amnesty, will be required to present a certification from the employer showing the amounts discounted from their salary.
 - In the case of payment plans under the Tax Amnesty for a married couple filing jointly, both signatures (husband and wife) will be required.
 - The taxpayer must be in compliance with all tax filing and payment responsibilities, including those as withholding agents, corresponding to the periods commencing after December 31, 2012.
 - The taxpayer must select which tax debts will be covered by the Tax Amnesty. Upon

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receiving the benefits of the Tax Amnesty, the taxpayer waives any objection to the assessment or notice of the debts covered by the Tax Amnesty.

- Payments under the provisions of the Tax Amnesty will be voluntary and final for all purposes and will not be subject to subsequent claims of refund or credit.
- In the case of a taxpayer that avails to the benefit of the Tax Amnesty and Treasury determines

that the taxpayer was not eligible for it, or if a taxpayer avails to the benefit of the Tax Amnesty and then fails to comply with the payment commitment made, all the tax debts eliminated under the Tax Amnesty will be restituted, including the applicable interest, penalties and surcharges.

**Zaragoza & Alvarado
Comments on the Tax
Amnesty**

Time is running out! This Tax Amnesty provides a great opportunity to get rid of tax debts and clean up the

record with Treasury. The availability of payment plans of up to four years, as well as the opportunity for businesses with tax exemption decrees to apply for the benefits of this Tax Amnesty, makes it especially attractive. However, you need to act now, because this program ends on June 30, 2013, and the process of clarification of tax debts to be covered by the Tax Amnesty by Treasury may take some time. Please call us today to discuss how we can assist you in reducing or eliminating your tax debts without paying interest, penalties and surcharges.

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