

Alabama DOR Amnesty Program Deadline Is Fast Approaching

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The Alabama Department of Revenue's limited amnesty program, dubbed Operation Clean Slate, which allows taxpayers to avoid penalties and criminal prosecution if they voluntarily pay some delinquent taxes due in the previous three years, with accrued interest, is ending May 15.

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News Analysis

The Alabama Department of Revenue's limited amnesty program, dubbed Operation Clean Slate, which allows taxpayers to avoid penalties and criminal prosecution if they voluntarily pay some delinquent taxes due in the previous three years, with accrued interest, is ending May 15.

The DOR issued a press release in late April with a reminder of that deadline. Also, the authors sought comments on the progress of the program from Revenue Commissioner Tim Russell and recently appointed Tax Policy Director Curtis Stewart.

The DOR says that when the program ends, it plans to activate the Discovery Module of its new integrated tax system. The module will assist the DOR in identifying unfiled returns and unpaid taxes as well as underreported taxes. Reportedly, it is also designed to pick up Alabama filers who were audited by the Internal Revenue Service and paid additional federal income tax, but who failed to notify the DOR of the audit changes.

Russell said:

I am very pleased for the State to have given our citizens this opportunity to "clean the slate" of any old tax liabilities before the Department uncovers those liabilities through other means. Although all taxpayers are responsible for paying their fair share of taxes at all times, it is unfortunate that there are many who choose not to report income and other taxable amounts. The Department is committed to using every resource at our disposal to identify, determine the proper amount of, and to collect every dollar that is owed to the State. It is only fair to the citizens of our great state who properly report and pay their taxes, that the non-compliant ones be found and the taxes due the State be collected. Both Governor Riley and I are committed to making this happen.

In addition to the initial press release announcing Operation Clean Slate, the DOR has also posted a Q&A document on its Web site (<http://www.ador.state.al.us/cleanslate.html>) outlining the general parameters of the program.

Also, members of the authors' firm have conferred with DOR officials on several occasions to answer

some additional questions. Stewart added:

With one month to go, the Department of Revenue has received 695 tax returns under Operation Clean Slate, along with hundreds of inquiries about the program (including written questions and phone calls). We expect a flurry of additional activity, now that we are past the April 15th annual income tax filing deadline, and nearing the May 15th closing date for the Clean Slate program.

The program has been very successful, particularly for those people who have taken advantage of the opportunity to pay their past-due taxes without penalties, and without fear of attempted prosecution by the Department. Since they were only required to pay the taxes owed for three delinquent tax years, these newly-compliant taxpayers can now "rest easy" about any older unpaid amounts. The Department has decided not to look further than three delinquent tax years for all taxpayers who are taking advantage of the program.

Once the program period has run out, taxpayers will be subject to all applicable penalties for any delinquent liabilities identified by the Department. This includes the newly-revised penalty for failure to timely pay tax that was expanded by Act 2009-144.

Operation Clean Slate will apply to "virtually all" taxes administered by the DOR. The DOR has said that individual and corporate income, financial institution excise, business privilege, excise, severance, tobacco, and consumer use taxes are covered. The program will also apply to withholding, sales, seller's use, and motor fuels taxes, but only for taxpayers who aren't currently registered for those taxes. DOR officials say that the program "is not limited to" those taxes; for example, rental taxes reportedly are also eligible.

If you have questions about other Alabama taxes, you or your tax adviser should contact the Taxpayer Advocate Office at (334) 242-1055 or e-mail cleanslate@revenue.alabama.gov.

Pointers for Participants

Unlike the DOR's ongoing Voluntary Disclosure Program, Operation Clean Slate is available to taxpayers who have previously filed returns -- with the exceptions mentioned above. Taxpayers who have previously filed withholding, sales, seller's use, or motor fuel tax returns are not eligible for the program for that specific tax; however, they would be eligible for other taxes. Amended returns for other taxes are encouraged under Operation Clean Slate.

The program does not apply to taxpayers who are "already under investigation" or "have been contacted by ADOR as to their proper liability." The DOR has not further defined those terms, although DOR officials have indicated to the authors that the mere receipt of a nexus questionnaire will not disqualify a taxpayer. Taxpayers with outstanding debts on the DOR's records (for example, a bill, an assessment, or collection action) are not eligible.

The DOR has offered to waive all applicable civil and criminal penalties, including penalties for fraud and negligence. It has said that it will not seek criminal prosecution for matters disclosed. Also, as Stewart pointed out, the lookback period will be limited to three years in most cases. However, interest cannot be waived. But it is not necessary to calculate and pay interest when filing returns under Operation Clean Slate.

The DOR said it will send the participant a bill for interest, and interest must be paid to the DOR within 90 days of this bill, or penalties and taxes for prior years may be imposed.

According to the DOR's recent press release reminder, taxpayers must file delinquent and amended returns, with payment of the tax, by May 15. The returns and payment can be mailed to Alabama Department of Revenue, Operation Clean Slate, P.O. Box 327010, Montgomery, Alabama 36132-7010.

However, in the authors' opinion, an informal contact with DOR personnel, to confirm the applicability of this amnesty program to the particular taxpayer or tax, may be advisable. Also, Operation Clean Slate must be clearly labeled on the front page of every form. Taxpayers are instructed not to send the forms to the address listed on the forms; instead, they must be sent to the Operation Clean Slate P.O. box.


For most taxes, the DOR will only require disclosure of past-due liabilities for the most recent three years (or 36 months) that are past due as of February 1, 2009. For example, a taxpayer would need to file income tax returns for 2005, 2006, and 2007 (the 2008 return is not yet past due). For monthly returns (commonly due on the 20th of the following month), taxpayers would need to disclose for the period beginning January 2006 and forward.

Financial institution excise tax returns should include 2007, 2008, and 2009 since those returns and the related tax are due, in advance for the year, on March 15. According to the DOR guidelines (and as Stewart mentions above), it will not seek to collect tax, penalties, or interest for prior tax periods.

However, for all so-called trust fund taxes (for example, sales, seller's use, some motor fuels, and withholding taxes), any tax that has been withheld from employees' wages or collected from the customer must be disclosed and remitted, regardless of when collected or withheld.

The DOR has for several years offered a Voluntary Disclosure Program, and it assures the authors that it remains active. There are important differences in the two programs. For example, some taxpayers may receive more comfort in relying on a signed voluntary disclosure agreement instead of simply submitting tax returns and payment in reliance on two press releases and a list of Q&A's on the DOR's Web site.

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