

ASSEMBLY, No. 1007

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

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SYNOPSIS

Provides New Jersey sales tax amnesty program for small business.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT providing for a tax amnesty period for certain collectors of
2 sales taxes, supplementing Title 54 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. In addition to the powers of the Director of the Division of
8 Taxation in the Department of the Treasury prescribed under the
9 State Tax Uniform Procedure Law, R.S.54:48-1 et seq., and
10 notwithstanding the provisions of section 4 of P.L.1996, c.2
11 (C.54:53-17) or any other law to the contrary, the director shall
12 establish a period of three calendar months in duration, which
13 period shall end no later than one year after the date of enactment of
14 this act, during which a "person required to collect tax," as defined
15 pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2), having 50
16 employees or fewer, or \$5 million or less in gross revenue, and that
17 has failed to pay to the director the taxes imposed by the "Sales and
18 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) may pay, or
19 enter into an agreement to pay pursuant to the requirements of
20 subsection b. of this section, to the director the amount of that tax,
21 without any interest that may otherwise be due, without any costs of
22 collection that may otherwise be due, and without the imposition of
23 any civil or criminal penalties arising out of an obligation imposed
24 under any State tax law. Provided, that this section shall apply only
25 to State tax liabilities for tax returns due on or after January 1, 1987
26 and before January 1, 2000 and that this section shall not extend to
27 any person required to collect tax that at the time of the payment is
28 under criminal investigation or charge for any State tax matter, as
29 certified by a county prosecutor or the Attorney General to the
30 director.

31 b. A person required to collect tax shall be allowed to enter into
32 a written agreement with the director to make installment payments
33 of the amount of that tax. An installment agreement shall be
34 entered into during the amnesty period and accompanied by the first
35 payment required under the agreement. Such an agreement shall
36 provide that payments shall be made monthly over a period not to
37 exceed five years, under a payment schedule of equal or decreasing
38 installments. Each installment payment shall comprise a payment
39 reducing the amount of that tax owed and a payment of the interest
40 on the balance of the amount of that tax owed. The interest on the
41 balance of the amount of that tax owed shall be calculated at a rate
42 equal to the interest rate on deficiencies determined pursuant to
43 R.S.54:49-6 for the calendar quarter in which the agreement was
44 made. A person shall be allowed to make payments in excess of a
45 scheduled installment at the time that the scheduled installment is
46 due; such an excess payment shall be first applied to reduce the
47 amount of that tax owed on the last remaining scheduled
48 installment. No installment agreement shall be entered by the

1 director unless the taxpayer waives the running of the statutory
2 period of limitations on both assessment or collection of the tax
3 liability involved for the period during which any installment
4 remains unpaid, and for one year thereafter.

5 c. There shall be imposed a 5% penalty, which shall not be
6 subject to waiver or abatement, in addition to all other penalties,
7 interest, or costs of collection otherwise authorized by law, upon
8 any State tax liabilities eligible to be satisfied during the period
9 established pursuant to subsection a. of this section that are not
10 otherwise subject to the 5% penalty imposed by section 4 of
11 P.L.1996, c.2 (C.54:53-17) and that are not satisfied during the
12 amnesty period.

13 d. Notwithstanding the provisions of any other law to the
14 contrary, if a taxpayer elects to participate in the program
15 established pursuant to this section, as that election shall be
16 evidenced by full payment pursuant to this section of a State tax
17 liability to which this section applies pursuant to subsection a. of
18 this section or as that election shall be evidenced by payment of a
19 deposit pursuant to subsection b. of this section, then that election
20 shall constitute an express and absolute relinquishment of all
21 administrative and judicial rights of appeal that have not run or
22 otherwise expired as of the date payment is made. The
23 relinquishment of rights of appeal pursuant to this subsection shall
24 apply with respect to all rights of appeal established pursuant to the
25 State Tax Uniform Procedure Law, R.S.54:48-1 et seq., and the
26 specific statutory provisions of the "Sales and Use Tax Act,"
27 P.L.1966, c.30 (C.54:32B-1 et seq.). No tax payment made
28 pursuant to this section shall be eligible for refund or credit,
29 whether claimed by administrative protest or judicial appeal, except
30 as may be permitted pursuant to R.S.54:49-16.

31 e. Notwithstanding the provisions of any other law to the
32 contrary, no amnesty payment shall be accepted without the express
33 approval of the director with respect to any State tax assessment
34 which is the subject of any administrative or judicial appeal as of
35 the effective date of this act.

36 f. Notwithstanding the provisions of any other law to the
37 contrary, no taxpayer shall be entitled to the waiver of penalty,
38 interest and cost of collection set forth in subsection a. of this
39 section unless full payment of the tax due is made in accordance
40 with the rules and procedures established by the director or unless
41 all payments required under an installment plan pursuant to
42 subsection b. are made.

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44 2. This act shall take effect immediately.

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STATEMENT

This bill requires the Director of the Division of Taxation to offer a sales tax amnesty program to small businesses, which would include installment plans for the payment of the sales tax liability.

This bill requires that there be a 90 day period within the 12 months after the enactment of the bill during which a "person required to collect the sales tax" can pay, or begin to pay, the tax without any interest that may otherwise be due, without any costs of collection that may otherwise be due, and without the imposition of any civil or criminal penalties arising out of an obligation imposed under the New Jersey sales and use tax.

Unlike previous amnesty programs, the bill is directed at small businesses and its program allows taxpayers to pay their liabilities over time. The bill applies to all businesses that have 50 or fewer employees, or \$5 million or less in gross revenue, and that are required to collect sales taxes. A taxpayer can receive amnesty by paying past due liabilities in full during the amnesty period or by beginning payments under an installment agreement. The installment payments must be completed within five years and must be made monthly. During the term of the payment plan, the unpaid balance of the liability will be charged interest at the deficiency interest rate of the prime rate plus 3%, which also must be paid as part of the installments.

If a taxpayer eligible to pay taxes as part of the amnesty program fails to pay taxes due during the period, fails to enter into an installment agreement or fails to make payments under an agreement, a 5% penalty will be imposed in addition to all other penalties, interest, or costs of collection otherwise authorized by law, on the unpaid liability. The amnesty provisions do not extend to any taxpayer under criminal investigation or charge for any State tax matter.

The amnesty program provided by this bill applies to New Jersey sales tax liabilities for tax returns due on and after January 1, 1987 and before January 1, 2000. The State offered a tax amnesty program in 1996 that applied to some of the same return periods and taxpayers, but that amnesty program required the payment of the full amount of taxes within its 90-day period. Small businesses that were unable to make full payment within that period were not able to take advantage of that program. The program provided by this bill addresses the cash-flow and credit problems faced by small retail businesses.