

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**ASSEMBLY, No. 3438**

## **STATE OF NEW JERSEY 218th LEGISLATURE**

DATED: JUNE 28, 2018

### **SUMMARY**

**Synopsis:** Requires Director of the Division of Taxation to establish six-month State tax amnesty period that ends no later than December 31, 2018.

**Type of Impact:** Net increase in State revenues to General Fund and Property Tax Relief Fund.

**Agencies Affected:** Department of the Treasury

#### **Office of Legislative Services Estimate**

| <b>Fiscal Impact</b>              | <b><u>FY 2019</u></b> |
|-----------------------------------|-----------------------|
| <b>Net State Revenue Increase</b> | Indeterminate         |

- The Office of Legislative Services (OLS) is unable to estimate a precise amount of revenue that a new tax amnesty program may collect. The OLS does not have independent data on how much outstanding individual or corporate taxpayer liabilities remain delinquent, or how much taxpayers would pay to the State during an amnesty period.
- As with any tax amnesty program, the net revenue impact will be determined by the balance between new tax revenues that are attracted through the amnesty offer and the revenue losses resulting from the forgiveness of interest and penalties owed by taxpayers who would otherwise have made full payment through the State's current tax compliance efforts, either during the amnesty payment period or at a later date. In addition, an amnesty may generate new recurring revenues to the extent that the State adds certain taxpayers to the taxpayer rolls.

### **BILL DESCRIPTION**

This bill requires the Director of the Division of Taxation to establish a six-month State tax amnesty period, to end no later than December 31, 2018. The amnesty shall apply only to State tax liabilities for tax returns due on and after January 1, 2012 (the day following termination of the most recent amnesty period) and before January 1, 2018. During the amnesty period, a taxpayer who has failed to pay a State tax can pay the tax and one-half of the balance of interest

that is due as of May 1, 2018, without the imposition of the remaining one-half of the balance of interest that is due as of May 1, 2018, recovery fees, civil penalties, and criminal penalties arising out of the late payment. The amnesty is not available to a taxpayer who, at the time of payment, is under criminal investigation or charge for any State tax matter.

If a taxpayer eligible for the amnesty fails during the amnesty period to pay taxes owed, the bill subjects that taxpayer to a five percent penalty, which the director may not waive or abate. The five percent penalty is in addition to all other penalties, interest, or collection costs otherwise authorized by law.

The bill also appropriates a sum not to exceed \$10 million of the proceeds collected through the amnesty period for the costs incurred to carry out and administer the program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

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The State Auditor published a report in February 2018 covering the Division of Taxation in the Department of the Treasury and its tax debt collection activities associated with the State's General Fund and Property Tax Relief Fund. According to the State Auditor's report, the collection agency utilized by the Division of Taxation in the Department of the Treasury was assigned 452,000 total cases as of June 22, 2017. Of these, 214,942 cases were considered to be "uncollectible" where the division "has made all reasonable efforts to collect money owed to it and generally if the debt is older than 10 years." This is the most recent data available publicly accessible by the OLS.

During the 1996 tax amnesty program the State mailed notices to approximately 659,000 delinquent or deficient taxpayers who had an outstanding balance of \$817.9 million. Of that amount, roughly \$415.5 million was the balance of taxes owed and \$402.4 million was penalties and interest. The Division of Taxation processed over 150,000 pieces of mail under the program netting \$244.0 million (\$359.0 million in gross revenue) after adjusting downward for \$115.0 million in compliance enforcement collections which would have otherwise been collected had the amnesty program not been offered. In 2002, the State mailed approximately 545,000 notices, and in 2009 the State mailed approximately 600,000 notices.

Past amnesty programs generated the following net amounts of revenue (based on availability): \$68.0 million in 1987; \$244.0 million in 1996; and \$647.1 million in 2009. The

OLS is unable to determine if the amounts collected in 2002 (\$276.9 million in collections) and 2014 (approximately \$75.0 million in collections) are net or gross collections.

In 2009, the significantly higher amnesty collections and the higher percentage of that amount attributable to the corporation business tax resulted from two primary factors: 1) the Director of the Division of Taxation implemented a policy to allow audited taxpayers, and those candidates in the appeal process to participate and resolve assessments in total or by issue; and 2) substantial numbers of amended returns and new taxpayers came forward related to court decisions (at the time) in New Jersey's favor related to financial institutions and economic nexus issues. These collections were a recovery of contested assessments, known deficiencies and an acceleration of revenues that would have been collected in an orderly manner absent attrition problems. Due to relevant factors at the time, which are not present during the current tax amnesty period under consideration, the OLS cautions that a repeat of 2009 is highly unlikely.

The OLS notes that the most recent tax amnesty program was administered at the end of calendar year 2014. Thus, given the short time span between the most recent tax amnesty program and now, the amount of revenue that will be generated from a new tax amnesty program could be noticeably lower than past programs. The OLS further notes that the Executive has implemented certain tax enforcement initiatives and efficiencies throughout the current fiscal year, which have netted additional revenues in excess of \$200 million across the State's major revenues thereby possibly further reducing the outstanding tax liability which might otherwise be captured by a new tax amnesty program.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Associate Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).