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VOLUNTARY DISCLOSURE PROGRAMS

District of Columbia will implement a voluntary disclosure program which encourages individuals and businesses that are not current in filing their District tax returns to come forward voluntarily and bring their accounts into compliance. According to Stephen M. Cordi, the District's Deputy Chief Financial Officer, "Any taxpayer can apply to remedy any tax obligation under the voluntary disclosure program, except for tax liabilities under the authority of the Real Property Tax Administration." There may be some time limitations associated with the voluntary disclosure program. Please note that any taxpayer that has already been contacted by the District or its representatives, such as the Multistate Commission or MBIA MuniServices, is not eligible to participate in the program.

Connecticut: The State of Connecticut is to offer a tax amnesty program beginning May 1, 2009, and ending June 25, 2009. The benefits of the program, which is being administered by the Connecticut Department of Revenue Services (DRS), include: (a) waiver of penalties; and (b) reduction of interest. Some taxpayers may also be able to avoid criminal prosecution.

The amnesty will be offered to any taxpayer owing Connecticut tax for any tax period ending before Dec. 1, 2008 either because the taxpayer: (a) failed to file a return for the tax period; or, (b) previously filed a return for the tax period, but underreported the amount of Connecticut tax.

Taxpayers that are not eligible to participate in the amnesty if they are: (a) currently under audit by DRS; (b) a party to any criminal investigation; or, (c) party to any civil or criminal litigation involving DRS. Taxpayers that are in a payment plan with DRS or who have received a tax bill from DRS are also ineligible to participate in amnesty for those periods. However, a taxpayer that is not eligible for tax amnesty for a particular Connecticut tax or for a particular tax period may still be eligible to apply for tax amnesty for another Connecticut tax or for another tax period.

South Carolina: The South Carolina Department of Revenue (DOR) is to implement voluntary compliance procedure (VDP) for taxpayers who may have nexus with South Carolina but are not registered with the Department to collect or remit South Carolina taxes. To be considered for the voluntary disclosure program, the taxpayer (or representative) must initiate contact with the Department and meet all required conditions. Benefits of the program for taxpayers include (a) an agreed to reduced look back period and waiver of penalties.

The South Carolina VDP does not apply to individual income taxes. The program also is not available to a business taxpayer that: (1) has been contacted to schedule an audit or notified that one is pending; (2) is involved in an audit or litigation with the Department; (3) requests an advisory opinion regarding the existence of nexus; (4) has not respond timely and completely to a nexus questionnaire; (5) has not provide adequate facts to determine the existence of nexus; (6) failed to file a return as the result of fraud or gross negligence.

A taxpayer who has nexus with South Carolina must agree to: (1) register to collect or remit taxes within the time period agreed on; (2) file all returns and pay all taxes and interest for the look back period within the time period agreed on; (3) continue to file and pay for periods that ended after the look back period, unless the activity by the taxpayer has changed substantially and nexus no longer exists with South Carolina, or there has been a change in South Carolina law which dictates a different result; (4) waive all rights to file a claim for refund or returns for the tax periods before the look back period; (5) waive all rights to request a refund based on lack of nexus for the returns filed for the look back period and waive all rights to request a refund based on lack of nexus for returns filed after the look back period unless the activity by the taxpayer has changed substantially and nexus no longer exists with South Carolina, or there has been a change in South Carolina law which dictates a lack of nexus; and (6) make books and records available.

Massachusetts: The Massachusetts Department of Revenue has a Voluntary Disclosure Program under which taxpayers may come forward and voluntarily report and pay previously unpaid tax liabilities. Eligibility to participate in requires that the taxpayer:

- (a) has not been contacted by the Department of Revenue relating to the issues of the voluntary disclosure;
- (b) is not registered for the tax type involved in the disclosure;

Taxpayers who participate in the program are assured of (a) anonymity; (b) waiver of penalties; (c) spreadsheets filing for transaction taxes (Sales/Use, Withholding, Meals, etc.); and, (d) limited "look back" period of 3 years for qualified taxpayers.

Those seeking to participate in the Voluntary Disclosure Program should send a letter to the Department giving a brief general description of the company's activities and what the company is seeking by coming forward. The letter should include the following:

- (a) The principal location (state) of the business and the state of incorporation;
- (b) A general description of the business activities and the activities in Massachusetts;
- (c) The tax type(s) at issue; and,
- (d) The terms the taxpayer is seeking in coming forward.

The Department will respond with a letter outlining the Department's position. At that time the company can decide whether or not to disclose.

New Jersey: Recently enacted New Jersey law requires the New Jersey Division of Taxation to offer a tax amnesty program that will run for 45 days; ending no later than June 15, 2009. The program is to apply to tax liabilities with respect to all taxes administered by the New Jersey Division of Taxation -- including corporation business tax, sales and use tax, and gross income tax -- due after December 31, 2001 and before February 1, 2009.

The program is not available to those who are the subject of a criminal investigation for any State tax matter. Further, the program requires participants to relinquish their appeal rights and rights to claim refunds of any amounts paid during the program.

Benefits of the program include waiver of: (a) all penalties; (b) one-half of the interest due as of May 1, 2009; and, the costs of tax collection but only upon full payment of the tax and one-half of the interest. Taxpayers that have liabilities that are eligible for amnesty but are not paid during the amnesty period are subject to a 5% amnesty penalty.

The legislation requires the express approval of the Director before accepting amnesty payments for taxpayers that have received assessments that are the subject of administrative review (*e.g.*, before the Conference and Appeals Division) or judicial appeal as of March 17, 2009.

Aronson & Company's tax accountants are available to assist you or your clients to clarify the complex issues surrounding this program. At Aronson & Company, we view this complexity as an opportunity, and we are able help you support your clients' efforts to minimize tax liability. Our experts provide a wide range of state and local tax services, including: state income and franchise taxes; sales tax planning; credits and incentives; audit defense and voluntary disclosure; and unclaimed property (escheat).

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