December 11, 2017

Connecticut "Fresh Start" Voluntary Tax Compliance Program

Connecticut Governor Dannel Malloy held a press conference on December 7 announcing the Fresh Start program for taxpayers that have either failed to file a return or failed to report the full amount of tax on a previously filed return. Under the program, eligible taxpayers that come forward voluntarily will have the following incentives to settle their liabilities with the state:

- All penalties will be waived.
- Fifty percent of the interest on the tax paid will be waived.
- The Connecticut Department of Revenue Services (DRS) may agree to limit the "lookback" period and not pursue older, unfiled returns.
- No criminal investigation or prosecution will be initiated.

Taxpayers who want to take advantage of the limited lookback period must call DRS (877?729?6891) prior to filing an application under the Fresh Start program. The limited lookback period will cover three years of unfiled returns regardless of whether the returns were due annually, quarterly or monthly. If the taxpayer complies with all the terms of the Fresh Start agreement, any liabilities prior to the three-year lookback period will be cancelled. However, a taxpayer will qualify for a limited lookback for a particular type of tax only if he or she has not registered for and has never filed a tax return for that type of tax. In addition, the limited lookback does not apply to trust fund taxes, such as sales tax or withholding tax, the taxpayer collected but did not remit to DRS.

Although the program runs through November 30, 2018, it still is worth considering applying for relief under the program before December 31, 2017. Legislation currently before Congress provides for the repeal of most of the deduction for state income taxes paid for taxable years after 2017. By applying for the Fresh Start program by year-end, a taxpayer may qualify for the incentives offered by the state as well as possibly get a federal deduction for the tax paid. (It is not known at this time whether this repeal will pass.)

Only taxpayers that either failed to file a return or failed to report the full amount of tax on a previously filed return due on or before December 31, 2016, will be eligible. Taxpayers will not be eligible if they

(i) have received a bill from DRS;
(ii) are under audit;
(iii) are parties to a closing agreement with DRS;
(iv) have made an offer of compromise that has been accepted by DRS;
(v) have protested a determination of an audit; or
(vi) are party to litigation against DRS.

The Fresh Start program applies to all taxes administered by DRS except for the motor carrier road tax. Qualified taxes include income tax, business entity tax, sales and use tax, withholding tax, corporation business tax, and gift tax. The program does not apply to taxes administered by agencies other than DRS, such as local property taxes or taxes owed to the Connecticut Department of Labor, nor does it apply to fees imposed by the secretary of the state.

To participate in the Fresh Start program, a taxpayer must complete an online application. Unless directed by DRS, the taxpayer will not be required to submit the actual tax returns covered by the application. On the online application, the taxpayer must enter the amount of tax owed, and then DRS will calculate the reduced interest and the total balance due. That

balance must be paid online at the same time the taxpayer files to enter the program. DRS has indicated that it will notify a taxpayer only if the application has been denied. There will be no notification if the application has been approved.

In order to participate in the program, the taxpayer also must agree to timely file all required tax returns and pay any associated tax to DRS for the three-year period following the date of the Fresh Start application. If the taxpayer does not timely file those returns and pay the corresponding tax, the taxpayer will be in violation of the Fresh Start agreement, and DRS may reinstate all applicable penalties and interest for the taxable periods covered by the application. Additionally, the taxpayer will lose any limited lookback period agreed to with DRS and may be subject to criminal prosecution. Failure to file returns or pay tax after the three?year period may result in penalties, interest and other sanctions, but the Fresh Start agreement will not be revoked.

There will be no refund or credit for any taxes overpaid under the Fresh Start program. The filing of a Fresh Start application does not preclude a subsequent audit by DRS, which retains the right to make any additional assessments for the type of tax and tax period covered by a Fresh Start agreement. If the audit results in an assessment, DRS may impose penalties and the full amount of interest on any additional tax owed.

The state expects the Fresh Start program to raise $85 million of revenue. Additional information concerning the Fresh Start program may be found on the DRS website at www.ct.gov/drs.

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