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Business License Tax Amnesty

Revised April 2012

City of Portland Revenue Bureau
Office of Management and Finance

Background and Summary

The Revenue Bureau has researched tax amnesty programs administered by other tax collection agencies and has concluded that an amnesty program can be successful in Portland. A local Business License Tax amnesty program should result in increased revenue for the City of Portland and Multnomah County. Estimated revenue is \$607,500 for the City and \$441,000 for the County.

Tax Amnesty Programs

In any income tax program there is a significant element of non-compliance resulting in a "tax gap" of unremitted taxes.¹ The tax gap is simply the difference between taxes owed and taxes paid and is always a positive number; no tax collection agency ever achieves 100% voluntary compliance. A large percentage of non-compliant taxpayers consciously evade tax collection agencies and remain non-compliant because the perceived costs of coming into compliance outweigh the perceived risks and costs of being discovered and pursued by the tax collection entity.²

Tax amnesty programs create a narrow window of time that non-compliant taxpayers can voluntarily bring themselves into compliance at significantly reduced costs. These reduced costs incent the otherwise non-compliant taxpayer to come into compliance and generally take the form of structured reductions in penalties and interest. They also sometimes take the form of a limitation of the number of tax returns/years the taxpayer needs to file retroactively to be considered compliant. Typical tax amnesty programs make it clear that a rare or perhaps even a "once in a lifetime" opportunity is being offered and couple the offer with a credible threat of stepped-up future enforcement for taxpayers who fail to avail themselves of the amnesty opportunity.

One recent and typical tax amnesty program was offered by the State of Washington Department of Revenue.³ More than 9,000 taxpayers applied, with 5,095 granted amnesties. The program generated an estimated \$345.8 million in revenue for the State of Washington.⁴ The Washington legislature unanimously enacted this "first-ever" amnesty program in December, 2010 at the request of the governor. It allowed the Department to waive penalties and interest for qualifying businesses that paid the agreed upon back taxes between February 1 and April 30, 2011.

The State of Oregon Department of Revenue also conducted an amnesty program from November 19, 2009 to January 19, 2010. Taxpayers who came into compliance under the terms of the amnesty program benefitted from a waiver of all penalties and a waiver of one half of the interest. Generous payment plan terms were also made available to them. A statistical and qualitative analysis of this amnesty program is not available at this time.

These are two examples of recent West Coast programs. In the past three years, 20 other state and local jurisdictions have conducted tax amnesty programs.⁵

¹ A 2005 IRS estimate placed the U.S. national tax gap at \$345 billion and the estimated voluntary compliance rate at 84%. See "Update on Reducing the Federal Tax Gap and Improving Voluntary Compliance," U.S. Department of the Treasury, Washington (2009): 1; http://www.irs.gov/pub/newsroom/tax_gap_report_final_version.pdf.

² For a detailed discussion of this topic, see James Alm, Michael McKee and William Beck, "Amazing Grace: Tax Amnesties and Compliance," *National Tax Journal*, Vol. 43, no. 1, (March 1990): 23-37.

³ This program related mainly to sales tax as there is no business or personal income tax administered in the State of Washington.

⁴ See, "Amnesty Report 2011," Washington Department of Revenue, Olympia (2011): 1; <http://dor.wa.gov/Docs/Reports/AmnestyReport.pdf>.

⁵ For a complete listing, see the Multistate Tax Commission website: www.mtc.gov/Nexus.aspx?id=4004.

Positive Aspects of Tax Amnesty Programs

The chief benefits of a tax amnesty program are immediate revenue and compliance increases and potentially long term, ongoing revenue and compliance increases. Generally, the positive aspects of an amnesty program are readily quantifiable; applications received, applications accepted and amnesty dollars are all easy to track. Program costs are also discrete and easy to articulate.

Tax amnesty programs also allow tax collection agencies the opportunity to better benchmark estimated rates of voluntary compliance with real world data. Finally, the media coverage surrounding most amnesty programs elevates the issue of paying taxes in the public consciousness.

Negative Aspects of Tax Amnesty Programs

Taxpayers may expect another amnesty program to be available in the future so they may make a conscious decision to remain out of compliance for a few more years. Some theories hold that post amnesty compliance may decline slightly because honest taxpayers may view the amnesty as an unfair tax break for tax cheats.⁶ There are also administrative costs to set up and maintain an amnesty program. Generally, the negative aspects of an amnesty program are difficult to quantify with the exception of costs. On balance and after due consideration of these issues, most tax collection agencies have undertaken some form of amnesty program.

The Revenue Bureau 12 Point Tax Amnesty Program

Since their inception in the mid-1970s, a comprehensive amnesty program has never been initiated for the City of Portland Business License Tax or the Multnomah County Business Income Tax.

The Revenue Bureau's tax amnesty program will include the following elements following best practices documented by other programs and academic literature:

1. The amnesty program will be announced on April 24, 2012.

Table 1: Selected Elements of Tax Amnesty Success and Portland's Proposed Program

Documented Elements of Success	Portland's Program
First time offering?	Yes
Significant incentives to taxpayer?	Yes
Narrowly defined time period and qualified taxpayer?	Yes
Post amnesty consequences for failure to act?	Yes
Outreach, marketing & dedicated hot line?	Yes
Significant population of eligible taxpayers?	Yes

2. The amnesty period will be from May 15, 2012 to July 16, 2012. There will be no extensions.
3. All late penalties will be waived and interest will be reduced by half (from 10% to 5% per annum) if all unfiled years are filed within the amnesty period patterned on the incentives offered by the Oregon Department of Revenue in 2009.
4. Rather than filing all unfiled years, the taxpayer may elect to file only the current year and the four prior year returns in order to be considered in compliance. In these cases, penalties would also be waived and interest would be reduced from 10% to 5%.

⁶ James Alm, Michael McKee and William Beck, "Amazing Grace: Tax Amnesties and Compliance," *National Tax Journal*, Vol. 43, no. 1, (March 1990): 23-37.

- 5. The amnesty program is limited to 1) taxpayers who do not have an existing Business License Tax account with the Revenue Bureau and 2) taxpayers that have an existing Business License Tax account, but who have not filed returns with the Bureau in each of the three most recently completed tax years. Taxpayers who have been previously contacted/pursued by the Bureau will still be eligible to participate in the program within the confines of the limitations above. See Table 2.

Table 2: Taxpayers Qualifying for Amnesty Relief

Description of Taxpayer	Qualifies for Amnesty?
Not currently registered with the Revenue Bureau	Yes
Currently registered with the Revenue Bureau but has not filed tax returns for three or more years	Yes

- 6. As an additional means to encourage compliance under the amnesty program and following best practices, there will be restrictions in penalty waivers for tax filers that are identified after the end date of the program; if the taxpayer could have taken advantage of the amnesty program and did not, they will not be allowed to take advantage of the existing "Voluntary Compliance Policy." As an effective deterrent to continued non-compliance, this aspect of the program would be made clear to the public at the onset the program.
- 7. The Bureau will announce the program through a press release. The announcement and related policy documents, FAQs, etc., will be posted prominently on the Revenue Bureau's website as well as the City's main website.
- 8. The Bureau will send letters and provide other targeted outreach to professional tax preparers.
- 9. The Bureau will create an "Amnesty Hot Line" to assist in providing timely, accurate and consistent information with a single point of contact.
- 10. An application form will be designed specifically for the program. This form would assist potential program participants as they attempt to come into compliance. It will also assist the Bureau in capturing data to help determine the success of the program.
- 11. The Business License Information System (BLIS) will be slightly re-programmed to capture relevant data and create taxpayer letters.
- 12. All program revenues and costs will be documented.

Projected Revenue

The Revenue Bureau estimates that a tax amnesty program will result in revenue of approximately \$1 million (combined City of Portland and Multnomah County) from qualifying taxpayers. See Table 3 on the following page for details.

Table 3: Estimated Tax Gap and Net Amnesty Revenue

Taxpayer status	Estimated Tax Gap		Estimated Net Amnesty Revenue				Totals
	City	County	City one-time	City ongoing	County one-time	County ongoing	
3+ year non-filer	\$1,469,000	\$1,064,000	\$213,000	\$115,500	\$155,350	\$83,650	\$567,500
"not on status"	\$1,549,000	\$1,122,000	\$181,350	\$97,650	\$131,300	\$70,700	\$481,000
Total	\$3,018,000	\$2,186,000	\$394,350	\$213,150	\$286,650	\$154,350	\$1,048,500

Note: An estimated 400 taxpayers (filing 1,000 returns) will take advantage of this program. An analysis of previously non-compliant accounts discovered by the Bureau illustrated that 50% of the accounts continued making payments three years after discovery.

Projected Cost

The Bureau estimates actual outlays will not exceed \$2,500. The bulk of these costs are related to printing and distribution to market the program.

Summary

An amnesty program is a simple and low-risk method to increase City of Portland general fund revenue in the near term. The Bureau will take steps to track the increase in revenue from both the filings made during the amnesty period and future filings made by taxpayers who took advantage of the amnesty opportunity.

The Bureau currently maintains data regarding historical non-filer compliance rates so there will be a benchmark to analyze post-amnesty compliance rates and patterns. This will allow the Bureau to accurately determine the long-term effectiveness of the program.

Appendix A - Timeline and Implementation Plan

4/12/12	Policy drafted
	Press release drafted
4/16/12	Business Systems Analyst (BSA), Sr. BSA, Revenue & Taxation Specialist (RTS) IV, Administrative Assistant and Training & Development Analyst will be notified of the project
	RTS IV will begin to formulate process to handle workload and provide customer service
	Training & Development Analyst will work with RTS IV to develop process and procedures
	Administrative Assistant will begin work on website development
	Administrative Assistant will begin setting up "hotline" phone (allowing anonymous contacts)
	Application creation will start (BSA)
	FAQ creation will start (RTS IV)
	Letter to tax preparers will be started
4/18/12	Bureau Director and CAO begin briefing other City Council offices about amnesty program; Mayor's office contacts County Chair's office
4/23/12	Press release will be finalized (and forwarded to OMF "public info officer" for 4/24 release)
4/24/12	Confidentiality ordinance filed with OMF
	Application will be finalized
	FAQs will be ready to be posted on website
	Hotline will be finalized
	Letter to tax preparers will be finalized
	BLIS tracking method will be started (Sr. BSA)
	Twitter "tweets" will be created and scheduled
	All BL/MCIBIT staff notified at Tax Supervisor's staff meeting
	Press conference, 2:30 PM, City Hall, Rose Room
	Website will go live (press release, FAQs, policy, application, etc.)
5/3/12	Letter to tax preparers will be mailed
5/4/12	Portland City Council agenda (with confidentiality ordinance) is released to the public
5/7/12	BLIS tracking method will be completed
5/9/12	Confidentiality ordinance goes before Portland City Council
5/10/12	Confidentiality ordinance goes before Multnomah County Board of Commissioners
5/15/12	First day of amnesty program
7/16/12	Last day of amnesty program
7/31/12	Begin preparing preliminary report to provide statistics, etc. related to the program
8/31/12	Finalize and issue preliminary report
8/31/13	Update amnesty statistics (and consider preparing final report)
8/31/14	Update amnesty statistics (and consider preparing final report)

Appendix B – Draft Contents of Application Form

- Taxpayer name
- Federal tax identification number
- Address (mailing and physical)
- Phone/contact info (name, title, date, signature)
- City/County account number, if applicable (if not applicable, request City/County registration form)
- Years filed
- First year of business in City/County
- Penalty and interest calculation assistance
- Information regarding policy, procedures, etc.

Appendix C – Draft Press Release

*PRESS RELEASE – FOR IMMEDIATE RELEASE
April 24, 2012*

Business Tax Amnesty Program to Go Before Portland City Council

On May 9, 2012, the Portland City Council will consider an ordinance to ensure that businesses who apply under a new business tax amnesty program will remain confidential. The amnesty program was designed by the City of Portland Revenue Bureau to encourage businesses that owe back taxes to the City of Portland and Multnomah County to pay what they owe and come into compliance with the law.

Under Portland and Multnomah County codes, businesses are subject to 2.2% and 1.45% taxes on net profit, respectively. Businesses operating in both jurisdictions pay a combined rate of 3.65%. The taxes help pay for police and fire protection, parks and health and human services. Combined, the taxes are expected to total over \$116 million for the year ending June 30, 2012.

The amnesty period will be from May 15, 2012 to July 16, 2012, and includes a full waiver of penalties and a fifty percent reduction in interest for qualifying businesses. This is one-time opportunity for delinquent businesses.

"We strongly encourage qualifying businesses to step forward and take us up on this one-time offer," said Revenue Bureau Director Thomas Lannom. "Struggling businesses will have a chance to bring their accounts up-to-date without penalty and with greatly reduced interest. The City and County will also collect much-needed revenue. Everybody wins."

"We also want to thank the tens of thousands of Portland businesses already in compliance with our tax code. These businesses deliver steady funding to pay for critical services to Portlanders," Lannom added.

Under the proposed program, taxpayers who are not registered with the Revenue Bureau and taxpayers who have not filed required returns for the three most recent tax years will be entitled to a full waiver of penalties and a 50% reduction of interest if returns are filed for all years of unreported business activity. In cases where taxpayers have been out of compliance for more than five years, they could come into compliance by filing the returns for the five most recent tax years and paying the tax and the reduced interest.

Businesses that fail to avail themselves of this opportunity and are later discovered by the Revenue Bureau will not be eligible for waiver of penalties or interest.

In the past three years, at least 22 state and local jurisdictions have conducted tax amnesty programs.

Additional information can found using the "Tax Amnesty" link at www.portlandonline.com/amnesty. Businesses can also call the Revenue Bureau's "Tax Amnesty Hotline" anonymously at 503-865-6881 for additional details about the program or to talk through special circumstances.

Contacts:

*Thomas Lannom, Revenue Bureau Director (503) 823-5154
Scott Karter, Audit Supervisor (503) 865-2470*

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Appendix D – Draft Policy

2012 Tax Amnesty Policy

On April 24, 2012, the Revenue Bureau announced a proposed tax amnesty program that would be made available to businesses that are out of compliance with Portland City Code 7.02 (City of Portland Business License Tax) or Multnomah County Code Chapter 12 (Multnomah County Business Income Tax). This program is scheduled to be brought before Portland City Council on May 9, 2012. If approved, the details of the amnesty program are as follows:

Timing

The amnesty period will be from May 15, 2012 to July 16, 2012 and there will be no extensions or exceptions. Any returns postmarked after July 16, 2012 will not be allowed to benefit from the terms of this policy.

Eligibility

The amnesty program is limited to 1) taxpayers who do not have an existing City of Portland Business License Tax (BLT) or Multnomah County Business Income Tax (MCBIT) account with the Revenue Bureau and 2) taxpayers that have an existing BLT/MCBIT account, but who have not filed returns with the Bureau in each of the three most recently completed (as of the first day of the amnesty program) tax years. Taxpayers who have been previously contacted or pursued by the Revenue Bureau will still be eligible to participate in the program as long as at least one of the two above criteria are met.

Relief

Taxpayers are entitled to a waiver of penalties and a reduction of interest if returns are filed for all years of unreported business activity. Taxpayers are also entitled to a waiver/reduction of penalties and interest by filing the return for the current (most recently completed) tax year and the returns for all four preceding tax years. In either case, all penalties will be waived and the annual interest rate will be reduced from 10% to 5%. No interest on underpayment of quarterly payments will be due.

All unfiled returns (or the returns for the five most recently completed tax years) must be filed by the end of the amnesty period in order to receive any reduction of penalties or interest. In other words, amnesty relief will not be granted on any tax years unless the taxpayer complies with all aspects of the amnesty program during the amnesty period. The remaining tax and interest must also be paid (or a payment plan accepted by the Revenue Bureau must be in place) by the end of the amnesty period in order to receive any relief under the amnesty program.

If the taxpayer elects to file the returns for the five most recently completed tax years, the taxpayer will be considered in full compliance (i.e., the Revenue Bureau will not pursue the returns for the prior tax years) as long as all five of the most recent returns have been filed by the end of the amnesty period.

If the end of the amnesty period occurs prior to the extended due date of the return for the most recently completed tax period, an extension (with an estimated tax payment) will be accepted in lieu of a tax return. In tax years where a taxpayer is exempt from filing a tax return for BLT/MCBIT, an exemption request form with supporting tax pages will be accepted in lieu of a tax return.

Additional Incentive to Participate

As an additional means to encourage compliance under the amnesty program, any taxpayer that could have taken advantage of the amnesty program (and did not) will not be allowed to take advantage of the Revenue Bureau's existing "Voluntary Compliance Policy."

Filing Procedures

The Revenue Bureau's "2012 Tax Amnesty Program Application Form" should be completed. When filing tax returns (including extensions and exemption requests, if applicable) under the amnesty program, "2012 Tax Amnesty" should be written boldly across the top of the return. If possible, all returns and forms should be filed together in one packet.

Appendix E – Draft Confidentiality Ordinance

Ordinance No.

*Amend the Business License Law to provide full confidentiality to taxpayers under any tax amnesty program. (Ordinance; amend Code Section 7.02.230)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland, through the Revenue Bureau, needs to identify every opportunity to close the business license “tax gap” and increase revenue collections. The tax gap is the difference between taxes owed and taxes paid. All tax collection agencies have a tax gap, including the Internal Revenue Service and the Oregon Department of Revenue.
2. As the business community begins to show recovery from the economic downturn, it is important to provide an opportunity for those businesses who did not keep up with their tax obligations during the downturn to have an opportunity to do so voluntarily and with reduced penalties to remove this burden from their business recovery efforts.
3. Providing a period of tax amnesty for businesses can accomplish both goals – closing the tax gap and assisting businesses to come into compliance with local tax laws.
4. The Washington State Department of Revenue implemented a tax amnesty program between February 1 and April 30, 2011. Over 9,000 taxpayers applied for amnesty and 5,095 amnesties were granted. The program generated an estimated \$345.8 million in revenue for the State of Washington. In the past three years, at least 21 other state and local jurisdictions have conducted tax amnesty programs, including the State of Oregon.
5. The Revenue Bureau estimates that up to \$1 million will be collected for the City of Portland and Multnomah County, combined, under this program.
6. An essential element to encouraging business taxpayers to take advantage of an amnesty program is to guarantee confidentiality. Without a guarantee of confidentiality, most business taxpayers will not participate in a voluntary tax amnesty program. Any tax amnesty program offered by the City of Portland considers the identity of taxpayers applying for amnesty to be confidential and that disclosure of the identity of taxpayers taking part in the amnesty program would be not only detrimental to the taxpayer, but also cause harm to the public interest.

NOW, THEREFORE, the Council directs:

- a. Amend Portland City Code 7.02.230 as follows:

7.02.230 Confidentiality.

It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Section 7.02.240 A. and C., to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Business License Law, unless otherwise required by law. Additionally, it is unlawful to divulge, release or make known in any manner identifying information about any taxpayer applying for tax amnesty, including, but not limited to, the name and address of the taxpayer, unless otherwise required by law. Except as noted above, this section does not prohibit:

- A. The disclosure of the names and addresses of any persons that have a Bureau account;
- B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- C. The filing of any legal action by or on behalf of the Bureau to obtain payment on unpaid accounts; or
- D. The assignment to an outside collection agency of any unpaid account balance receivable, provided that the Bureau notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the Bureau.

Section 2. The Council declares that an emergency exists because a delay will result in taxpayers who would otherwise self-identify and come into compliance under the 2012 tax amnesty program planned if their identity was confidential may elect to forego the option and remain non-compliant, which jeopardizes the addition of much needed tax revenues to the City's General Fund.

Passed by the Council:

Mayor Adams
 Prepared by: Terri Williams
 Date: April 13, 2012

LaVonne Griffin-Valade
 Auditor of the City of Portland

By:
 Deputy

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Business License Tax Amnesty
Final Revenues & Statistics
September 2012

City of Portland Revenue Bureau
Office of Management and Finance

Background and Summary

The Revenue Bureau's 60-day Tax Amnesty Program ended on July 16, 2012. The program was a success and resulted in Portland and Multnomah County receiving tax revenues that otherwise would have remained uncollected.

This document presents the final update of results of the Tax Amnesty Program. (A document presenting the preliminary results was released in late July.) These updated results are still subject to minor revision as the Bureau finalizes tax document entry, analyzes accounts and follows up with taxpayers.

For background information about the Tax Amnesty Program, see the document titled, "Business License Tax Amnesty" available from the Revenue Bureau.

Revenues

Actual one-time revenue significantly exceeded the projected amount while estimated ongoing revenue was lower than the projected amount. One-time amnesty revenues were committed to local schools for teacher funding (\$400,000) and a suicide prevention hotline (\$150,000). See *Figures 1 and 2* below for details.

Figure 1. Revenues - Projected vs. Actual

	Projected	Actual	Actual as % of Projected
City One-Time Revenue	\$394,350	\$615,703	156%
County One-Time Revenue	\$286,650	\$433,937	151%
Total One-Time Revenue	\$681,000	\$1,049,640	154%
Estimated Ongoing Revenue			
City Ongoing Revenue (Estimate*)	\$213,150	\$191,125	90%
County Ongoing Revenue (Estimate*)	\$154,350	\$133,520	87%
Total Ongoing Revenue (Estimate*)	\$367,500	\$324,645	88%
Number of Applicants			
	400	229	57%

*Note: Ongoing revenue from "Figure 1. Revenues – Projected vs. Actual" was calculated based upon the actual tax assessed on going concern amnesty accounts for the tax year 2011. Extension payments were used for amnesty accounts that filed a 2011 extension. Payments made on tax year 2011 for accounts that are now "out-of-business" were not included.

Figure 2. Other Revenue Statistics

	City of Portland	Multnomah County	Total
Actual Payments Received (to date)	\$595,803	\$420,372	\$1,016,175
Receivables (to date)	\$19,900	\$13,565	\$33,465
Estimated Penalties Waived	\$112,000	\$79,000	\$191,000
Estimated Interest Waived	\$51,000	\$35,000	\$86,000

Figure 3. Program Administration Statistics

Amnesty Applications	
Received	229
Approved	171
Denied	40
Pending	18
Program Costs	
Informational Mailings	\$1,869
Two Phone Lines	\$369
Call Traffic Study	\$360
<i>Total</i>	<i>\$2,598</i>
Other Statistics	
Phone Calls	698
Website Hits	10,040

Patterns

Out of the eleven accounts paying \$10,000 or more, only one taxpayer is headquartered with an easily locatable physical presence in Portland. The majority of taxpayers paying large amounts held their main physical presence outside of Portland and Multnomah County, with the majority of operations occurring out-of-state.

There were no other discernable patterns in the applications received by the Bureau. See *Figure 4* for a breakout of the business activities of the top 30 taxpayers that applied for amnesty.

Figure 4. Business Activity Types of Top 30 Taxpayers (In Alphabetical Order)

Business Activity Type
Commercial Property (Rental/Sales)
Consultant
Contractor
Real Estate Broker
Research and Development
Residential Property (Rental/Sales)
Software Development
Various Services (Financial, Medical, Freight, Power, Entertainment)
Wholesale Distributor