



Voluntary Disclosure: An Alternative to Arizona's Upcoming Amnesty Program

This month's state and local tax (SALT) column explains how unsatisfied tax liabilities can be resolved under Arizona's voluntary disclosure program.

As taxpayers, all of us should pay our fair share. However, for a variety of legitimate and illegitimate reasons, sometimes taxpayers do not timely pay the right amount of tax. When that happens and Arizona taxing authorities discover it, they generally assess penalties that often amount to at least 25 percent or more of the tax liability, plus interest, which can really add up over time — especially if the taxpayer lost the protection of Arizona's standard four-year statute of limitations by underreporting tax by 25 percent or more.

Accordingly, many Arizona taxpayers are planning to satisfy outstanding tax liabilities during the state's upcoming amnesty period scheduled for September 1 through October 31, 2015. However, some taxpayers would be better off pursuing a voluntary disclosure agreement (VDA).

How VDAs Generally Work in Arizona

As the name suggests, VDAs are agreements that the Arizona Department of Revenue (Department) enters into with taxpayers that voluntarily disclose unsatisfied tax liabilities. Because our tax system relies on voluntary compliance and the Department is not able to catch every person and company that does not pay taxes or that did not pay as much tax as it should have, the Department rewards taxpayers that voluntarily disclose unsatisfied tax liabilities.

The Department's VDA program applies to transaction privilege (sales), use, withholding, individual, and corporate income tax obligations.

Taxpayers that enter into voluntary disclosure agreements with the Department generally get all of the penalties that otherwise would be assessed abated, and those that owe taxes for more than four years back often can get the Department to agree to accept just four years of past taxes, plus interest. Taxpayers that approach the Department with gray nexus or tax issues may be able to get the Department to agree to abate all or some of the interest and past taxes as well.

When a VDA May Be Preferable to Amnesty

While the Arizona legislature periodically establishes amnesty programs that last for a couple of months at a time, the Department always entertains offers from taxpayers to enter into VDAs. So, VDAs are a good option for taxpayers that miss out on a particular amnesty period.

For taxpayers that have the luxury of deciding between pursuing relief under an amnesty period and pursuing a VDA, a VDA may work out better for taxpayers that: (1) have outstanding tax liabilities for more than four years that are not protected by Arizona's standard four-year statute of limitations, (2) would find it burdensome or expensive to complete the original or amended tax returns that must be completed in order to participate in Arizona's upcoming amnesty program, (3) want to resolve city privilege (sales) tax liabilities at the same time they resolve state sales tax liabilities.



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On the other hand, while Arizona's upcoming amnesty period requires taxpayers to file original or amended tax returns, does not limit the statute of limitations, and does not apply to the cities, it may be a better option for taxpayers that would owe a lot of interest under Arizona's VDA program because interest generally is not abated as part of Arizona's VDA program.

How to Pursue a VDA in Arizona

Although taxpayers that decide to pursue a VDA in Arizona can attempt to negotiate agreements directly with the Department, taxpayers that have a representative anonymously negotiate for them generally have more leverage than they would if they approached the Department themselves because, when working through representatives, taxpayers can walk away from negotiations and remain anonymous if they choose to do so.

VDAs may be negotiated either directly with the Department or through the Multistate Tax Commission's

(MTC's) multistate VDA program. Taxpayers that need to resolve the same issue in multiple states may save time by negotiating through the MTC, which will coordinate with the appropriate states on the taxpayers' behalf.

The Department and the MTC have voluntary disclosure applications on their websites that require the taxpayer to disclose information about their nexus with Arizona; the type and amount of their unsatisfied tax liability; the types of state taxes they have paid, if any; whether they collected sales taxes from their customers, if applicable; whether the taxpayer has been contacted by Department; and the VDA terms they propose.

Practice Tip! - CPAs who encounter taxpayers with unsatisfied Arizona tax liabilities should help them evaluate whether Arizona's VDA program is the best way for them to satisfy their outstanding tax liability.