



December 1995

Targeted Tax Amnesty

Review of New York State's
1994 Amnesty Program

Executive Summary

In 1994, New York State authorized a targeted three-month tax amnesty program. It provided amnesty to specific groups of taxpayers not included in the pool of delinquent filers known to the Department of Taxation and Finance. Policymakers believed that a targeted approach was beneficial for two reasons. First, the Department could not readily identify the targeted taxpayers. Second, targeting a small universe of taxpayers reduced the Department staff hours diverted from other activities to work on amnesty and increased the productivity of staff involved with amnesty.

The 1994 amnesty program targeted three specific groups of taxpayers. The income tax component targeted nonresidents of New York. The business tax component targeted out-of-state taxpayers, and the compensating use tax component targeted resident individuals and small businesses. Amnesty required eligible taxpayers to pay any taxes owed plus interest. Eligible taxpayers were also protected from any related criminal prosecution or administrative penalty.

Taxpayers previously contacted by the Department could not participate in the amnesty program. As a result, the amnesty program did not distort cash flow by accelerating the collection of anticipated revenues. Nor did it force the Department to divert significant staff resources from other responsibilities.

This report presents the Department's findings based on an analysis of the program.

- Net amnesty revenues equaled \$6.0 million. This amount represents gross amnesty revenues of \$7.4 million, minus expenses of \$156,100 and costs related to diverted staff resources of \$1,217,000.
- During the three-month limited amnesty program, taxpayers submitted 1,998 returns that were eligible for the amnesty program. Personal income taxpayers submitted more than 65 percent of these returns.

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- The Department of Taxation and Finance waived \$2.3 million in potential administrative penalties for eligible taxpayers. Over half the waived penalties applied to corporate taxpayers.
 - Corporate franchise taxpayers and corporation and utilities taxpayers remitted the largest portion of amnesty collections (62 percent), followed by personal income taxpayers (29 percent) and compensating use taxpayers (9 percent). No petroleum business taxpayers, banks or insurance companies applied for amnesty.
 - The targeted approach to amnesty minimized the Department's administrative burden and foregone revenues, improving the efficiency of the program. As a result, net amnesty collections (\$6.0 million) represented 81 percent of gross amnesty collections (\$7.4 million). The 1994 amnesty was more efficient than New York's 1985 amnesty in producing revenues.
 - Restrictive eligibility criteria reduced participation in this amnesty program. Excluding filing periods ending before 1986 and after 1993 from the program reduced the pool of eligible taxpayers and possibly confused some taxpayers, diminishing the effectiveness of the program. In terms of participation, the 1985 program was inherently more effective because the universe of eligible taxpayers was significantly larger.

Background

Tax amnesties waive civil and criminal penalties for delinquent taxpayers that come forward voluntarily during a certain period, file tax returns, and pay outstanding tax liabilities. In the last ten years, New York has provided delinquent taxpayers and nonfilers with two amnesty opportunities. In 1985, New York offered a broad amnesty. In 1994, New York authorized a targeted amnesty program for a smaller group of taxpayers. Unlike the 1985 program, the most recent amnesty was not coupled with stronger amnesty provisions.

Chapter 170 of the Laws of 1994 authorized the Department to establish a limited three-month amnesty program for eligible taxpayers. The amnesty program began on September 1, 1994, and ended on November 30, 1994.

The law allowed amnesty for the personal income tax, the corporate franchise taxes, the petroleum business tax and the use tax. Appendix A includes a copy of the enabling legislation.

Individuals and small businesses could apply for amnesty under the use tax. Small businesses included those with a New York payroll less than \$1 million during the period when the taxable use occurred. The amnesty covered outstanding compensating use tax liabilities for the period between June 1, 1986, and May 31, 1993. Taxpayers that filed a sales or compensating use tax return and were registered as a vendor, during the period for which they sought amnesty, could not participate in the program.

Nonresident individuals, trusts, and estates could apply for amnesty under the personal income tax. Eligible taxpayers included those that owed New York State personal income tax or New York City or Yonkers nonresident earnings taxes. The eligible period encompassed taxable years beginning on or after January 1, 1986, and ending before December 31, 1993.

Corporations, joint stock associations, or petroleum businesses, incorporated or organized outside New York State, could apply for amnesty under the business taxes. Eligible taxes included the corporations and utilities tax (Article 9), the franchise tax on general business corporations (Article 9-A), the corporation franchise tax on petroleum businesses (Article 13-A), the corporation franchise tax on banking corporations (Article 32), and the corporation franchise tax on insurance companies (Article 33). To apply, the business must not have filed tax returns for any taxable period beginning on or after January 1, 1986, and ending before December 31, 1993. Any petroleum business registered with the Department before and during the period for which they sought amnesty could not participate in the program.

Other restrictions applied generally to the whole program. Individuals or businesses currently under a tax-related criminal investigation, anyone that the Department contacted regarding outstanding liability for the period for which amnesty was being sought, and anyone who participated in New York's 1985 amnesty program could not participate in the 1994 program. This targeted the program to specific groups that the Department had no easy way to identify.

The Department publicized amnesty using a variety of media

Notifying eligible taxpayers proved challenging because the amnesty program was limited to taxpayers that the Department could not easily identify. The Department relied on targeted mailings (to partnerships and practitioners, in particular) and press releases to notify those who might qualify. The Department concentrated its efforts outside New York because the amnesty program targeted out-of-state taxpayers.

The Department used a multi-pronged approach to inform the public about the three-month limited amnesty program. Appendix B includes copies of the informational materials distributed by the Department.

The Department mailed an amnesty press release to several specialized electronic news release services; other state tax departments; major accounting firms that have newsletters or electronic information services; tax organizations, such as the Federation of Tax Administrators; and specialized financial or tax media, such as the Bureau for National Affairs and Tax Notes. The Department also mailed a letter to 104,000 partnerships filing returns in New York State, notifying them of the three-month limited amnesty program. The Department mailed a notice describing the amnesty program to 24,000 tax practitioners, attorneys, and tax associations. The Department also printed and mailed 115,000

amnesty applications to practitioners and taxpayers. Besides the mailings, Department representatives spoke at five seminars with tax practitioners in the New York City area.

Several tax departments in other states, including Kentucky, New Jersey, and Wisconsin, printed notices of our amnesty program in their special tax newsletters. The New York City Department of Finance also included notice of our amnesty program in their mailing to practitioners announcing the City's corresponding amnesty program.

General articles on the amnesty program appeared in several daily newspapers with wide circulations, including the *Wall Street Journal*, *The New York Times*, and *Newsday*. Publications, such as *State Tax Notes* and the *New York Law Journal*, carried stories about the amnesty program. Radio and television stations also publicized the amnesty program.

Finally, the Department's Taxpayer Services Bureau, Telephone Information Section, received 1,490 phone calls from taxpayers regarding the 1994 amnesty program.

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Findings

Gross amnesty collections exceeded \$7 million

Table 1 shows that taxpayers submitted 1,998 returns that met the criteria of the 1994 amnesty program. The Department's total gross amnesty collections equaled \$7,399,574.¹ This amount includes tax and interest.

Table 1: Amnesty Returns and Collections 1/

Tax	Number of Amnesty Returns	Percent of Total Returns	Total Amnesty Collections	Percent of Total Collections
Personal Income Tax	1,331	66.62%	2,173,635	29.38%
Corporation Tax	436	21.82%	4,560,826	61.64%
Use Tax	231	11.56%	665,113	8.99%
Total	1,998	100.00%	7,399,574	100.00%

1/ Amnesty returns and collections refer to returns and collections from taxpayers eligible for amnesty. The total collections represent the amount received by the Department as of May 20, 1995.

More eligible amnesty returns were submitted by personal income taxpayers than any other category of taxpayers, 1,331. Corporate taxpayers submitted the second largest number of amnesty returns, 436, followed by the 231 returns submitted by compensating use taxpayers. No petroleum business taxpayers, banks or insurance companies participated in the amnesty program.

Corporate taxpayers remitted more than 60 percent of total amnesty collections

Corporate taxpayers remitted \$4,560,826, 62 percent of amnesty collections. Personal income taxpayers remitted the second largest portion of amnesty collections, \$2,173,635. This amount represented 29 percent of total amnesty collections. Compensating use taxpayers represented 9 percent of amnesty collections.

*Amnesty taxpayers
slightly overpaid
outstanding tax liabilities*

Table 2 provides a breakdown of the \$7,396,087 owed to the Department by taxpayers eligible for the amnesty program. The table shows the amount owed, by type of taxpayer, for tax and interest from eligible returns.

Table 2: Amount Owed by Amnesty Taxpayers

Tax	Tax Due	Interest	Total Due from Amnesty Taxpayers	Percent of Total
Personal Income Tax	\$1,597,172	\$ 550,237	\$2,147,409	29.03%
Corporation Tax	3,475,432	1,151,323	4,626,755	62.56%
Use Tax	435,253	186,670	621,923	8.41%
Total	5,507,857	1,888,230	7,396,087	100.00%

The total amount amnesty taxpayers owed, \$7,396,087, was less than the total amount remitted with amnesty returns, \$7,399,574. Certain taxpayers failed to state their tax and interest due on their returns correctly, which accounts for the difference of more than \$3,000. The Department's calculated liabilities for these taxpayers were lesser or greater than the filer's self-assessed tax liability.

Overall, personal income taxpayers and compensating use taxpayers remitted \$69,416 more in tax and interest than they owed. Corporate taxpayers, in contrast, owed an additional \$65,929. Taxpayer miscalculations resulted in a \$3,487 net overpayment of tax and interest due from eligible taxpayers.

*The Department waived
\$2.3 million in potential
penalties*

As shown in Table 3, the Department waived \$2,253,406 in potential penalties for amnesty taxpayers. The distribution of the amount of waived penalties among the three tax categories is generally proportionate to the tax and interest due from taxpayers in that category. Over half the total amount of the potential penalties waived, \$1.4 million, was attributable to eligible corporate taxpayers. The penalty waived for eligible personal income taxpayers equaled about \$655,000. Finally, the Department waived over \$209,000 in penalties and interest on penalties for eligible compensating use taxpayers.

Table 3: Penalty & Interest Waived Under Amnesty 1/

Tax	Number of Amnesty Returns	Penalty & Interest on Penalty Waived for Amnesty Taxpayers
Personal Income Tax	1,331	\$ 654,812
Corporation Tax	436	1,389,238
Use Tax	231	209,356/1
Total	1,998	\$2,253,406

1/ Includes the additional rate of interest prescribed under section 1145 of the Tax Law.

The Department's opportunity costs for the 1994 amnesty were relatively small

Because the 1994 program targeted a discreet universe of taxpayers, and limited it to taxpayers that the Department had not previously contacted, it generated a low volume of applications. This, in turn, required the Department to divert few staff from routine day-to-day tax operations to implement and administer the 1994 amnesty. The Department lost \$1.2 million in revenues because it had to divert staff to work on amnesty.

Amnesty implementation costs equaled \$156,100

The 1994-95 State budget appropriated \$375,000 for the Department to implement the 1994 amnesty program. Expenditures for implementation costs totaled \$156,100.² Roughly two-thirds of the Department's total costs were attributable to the costs of processing applications and returns (\$62,200) and publicity for the program (\$47,000). Of the remaining expenditures, \$19,200 related to program administration and \$27,700 was attributable to systems analysis, coding, and testing.

Net amnesty revenues equal \$6 million

Net revenues generated from the 1994 amnesty program equaled \$6,026,475. For purposes of this analysis, net revenues were defined as gross revenues, \$7,399,574, minus expenses, \$156,100 and the costs related to diverted staff resources, \$1,217,000. The legislation enabling amnesty did not include an appropriation for additional staff. The Department diverted staff from their regular responsibilities to work on amnesty.

The \$1.2 million represents the total revenues that Department employees would have generated through regular work activities during the period they were assigned to work on the amnesty program. If these employees were able to increase their productivity after resuming their regular work responsibilities, a portion of the \$1.2 million could be recouped. In this case, the \$1.2 million amount overstates the foregone revenue and

understates the net revenue generated by the amnesty program. To the extent that staff could not increase productivity after resuming regular work responsibilities, the \$1.2 million represents total revenue foregone as a result of amnesty.

Table 4 shows that taxpayers applying for amnesty submitted 851 ineligible returns. Collections from these taxpayers equaled about \$1.4 million. Amounts remitted with corporate tax returns represented 66 percent, or \$941,246, of the \$1.4 million. As shown in Table 5, ineligible taxpayers owed the Department \$1.8 million. This total reflects the \$1.1 million due on outstanding liabilities, \$260,591 for interest and \$430,843 for penalties.

Table 4: Collections from Taxpayers Ineligible for Amnesty 1/

Tax	Number of Returns	Percent of Total	Total Collections	Percent of Total
Personal Income Tax	408	47.94%	\$ 443,246	31.22%
Corporation Tax	371	43.60%	941,246	66.30%
Use Tax	72	8.46%	35,108	2.47%
Total	851	100.00%	\$1,419,600	100.00%

1/ The data provided in this table reflects returns and collections from taxpayers that applied for amnesty but did not meet the eligibility criteria. These amounts reflect collections as of May 20, 1995.

Table 5: Amount Due from Taxpayers Ineligible for Amnesty 1/

Tax	Amount of Tax Due	Interest Due	Penalty Due	Total
Personal Income Tax	\$ 331,809	\$ 88,640	\$115,874	536,323
Corporation Tax	728,562	152,978	295,474	1,177,014
Use Tax	69,351	18,973	19,495	107,819
Total	\$1,129,722	\$260,591	\$430,843	1,821,156

1/ The data provided in this table reflects the amounts due from taxpayers that applied for amnesty but did not meet the eligibility criteria.

The high percentage of ineligible returns submitted by amnesty applicants, 30 percent, indicates that taxpayers did not understand the amnesty eligibility criteria. The most common reason the Department declared returns ineligible for amnesty was that the tax, or the tax year that the return applied to, was outside the parameters of the amnesty program.

Conclusion

Evaluating the success of New York's limited three-month tax amnesty requires assessing the program's efficiency and effectiveness. This report measures efficiency by net amnesty revenues as a percentage of gross amnesty revenues. The higher the percentage, the greater the program's efficiency. Effectiveness refers to the success of the program in reaching the targeted taxpayers. This is measured by ineligible returns as a percentage of eligible returns submitted by amnesty applicants. The lower the percentage, the greater the program's effectiveness.

Accurately measuring the revenue impact of an amnesty requires recognizing three factors. First, to the extent that the amnesty includes accounts receivable and pending audits, revenues received from these taxpayers represent an acceleration of future revenues into the amnesty period. Second, if the amnesty accelerates revenues, a future revenue loss will result because of the foregone penalty and interest relating to those revenues. Third, the Department incurs administrative costs relating to the amnesty and also foregoes future revenues because staff is redeployed to work on amnesty. Any measure of amnesty revenues that does not reflect these costs overstates the true impact of an amnesty.

The targeted nature of the 1994 amnesty efficiently produced amnesty revenues

The 1994 amnesty attained the goal of introducing nonfilers to New York's tax rolls. It also succeeded in generating more than \$6 million in collections with a low volume of applications. Revenue acceleration was not an issue under this amnesty because the program did not apply to a pool of noncompliant taxpayers known to the Department. Because the Department's administrative costs relating to this program were so minimal and relatively little revenue was foregone as a result of diverted staff resources, net amnesty collections equaled 81 percent of gross amnesty collections. This indicates that the targeted approach efficiently produced amnesty collections.

While the 1994 targeted amnesty was efficient, about 30 percent of the returns submitted by amnesty applicants were ineligible. The total amount remitted with ineligible returns, \$1.4 million, represented 16.1 percent of collections from eligible and ineligible amnesty applicants.

The restrictive criteria necessary to target the 1994 amnesty reduced the program's effectiveness

This indicates that the eligibility criteria necessary to limit the scope of the program were confusing to taxpayers. This, in turn, reduced the effectiveness of the program.

The results from the 1994 program can be contrasted with New York's 1985 amnesty, which was much broader in scope. Gross amnesty revenues from the 1994 program equaled two percent of the total revenues collected under the 1985 program.³

The broad-based 1985 amnesty produced revenues less efficiently than the 1994 amnesty

The 1985 amnesty had a wide margin between gross amnesty revenues and net amnesty revenues. This resulted because the 1985 amnesty included accounts receivable and pending audits. The costs include, for example, the acceleration of revenues from future filing periods into the amnesty period and the foregone future revenues resulting from the redeployment of Department staffing resources to implement amnesty.

Under the 1985 amnesty, gross amnesty revenues equaled \$401 million. This total included collections from accounts receivable (\$207 million), resolution of pending audits (\$71 million), and payments from noncompliant taxpayers not already discovered by the Department (\$123 million). Therefore, over two-thirds of the collections were attributable to delinquent taxpayers previously identified by the Department. A portion of the \$278 million in collections from accounts receivable and pending audits represented revenues that the Department would have collected in future filing periods in the absence of amnesty. Any measure of amnesty that includes the full \$278 million does not accurately measure the revenue impact of the program. Moreover, the Department never officially quantified the revenue foregone that resulted from the redeployment of staff resources to work on the amnesty program.⁴ Failing to offset gross amnesty revenues with foregone revenue also overstates the impact of the program. Given the potential magnitude of the costs of the 1985 program, net amnesty collections as a percentage of gross amnesty collections were certainly lower than 81 percent, the percentage for the 1994 program.

The 1985 program, by its very nature, reached its target population because the amnesty eligibility criteria were not very restrictive. Under the 1985 program, 2.3 percent of the total \$401 million in amnesty collections was attributable to ineligible returns.

If New York's policymakers consider future amnesties, they must weigh the costs and benefits of multiple amnesties

The two amnesties offered by New York in the last decade have provided many taxpayers with the opportunity to come forward and pay outstanding liabilities. Options for future amnesties would include providing another amnesty opportunity for the same universe of taxpayers or targeting taxpayers that were not included in the 1985 and 1994 amnesties.

In considering future amnesties, policymakers should identify and weigh the potential costs and benefits related to multiple amnesties. Articles authored by practitioners and academics have made two significant observations about amnesties. First, one-time amnesties, followed by increased enforcement efforts and increased penalties, may not significantly diminish future taxpayer compliance and tax revenues. Second, multiple amnesties may reduce voluntary compliance.⁵

New York's policymakers must establish criteria to measure the efficiency of any future amnesty

To determine the success of an amnesty as a revenue-producing tool, it is critical that policymakers establish clear criteria to measure the program's efficiency. Determining the efficiency of the program requires identifying and measuring the program's full costs. The revenue foregone because of diverted staff resources, or opportunity costs, must be included in total costs. Measuring the efficiency of the 1985 amnesty accurately is not possible because the program's opportunity costs were not quantified. As a result, the net revenues generated by the program are unknown. In contrast, the Department can assign a number to the 1994 amnesty program's net revenues because the opportunity costs were quantified. Thus, the 1994 amnesty program provides a benchmark for comparison.

Multiple amnesties within the space of a few years will inevitably tend to reduce voluntary taxpayer compliance. This can be minimized by targeting amnesties at specific taxpayer populations. The effectiveness of a targeted amnesty could be enhanced by eliminating one set of restrictive criteria, such as the nonresident requirement that applied under the 1994 program. However, it should be recognized that, as the Department continues to improve the effectiveness of its auditing and compliance measures, there will be a decline in the number and value of revenue-raising "targets of opportunity" under amnesty.

Endnotes

1. For purposes of this report, the definition of “gross amnesty collections” includes amounts remitted by eligible amnesty applicants. This definition excludes collections remitted by ineligible amnesty applicants.
2. The Department did not spend the balance of the \$375,000 appropriation, \$218,900. The unspent appropriation lapsed at the end of the 1994-95 State fiscal year. Appendix C details the Department’s actual expenditures for implementing the 1994 amnesty program.
3. New York’s experience is similar to the experience of Massachusetts, which also offered its taxpayers a broad amnesty followed by an amnesty targeted at nonresident nonfilers. The revenues collected under the second amnesty equaled about 15 percent of the revenues collected under the first amnesty. Florida, in contrast, first offered a narrow amnesty targeted at the personal property tax on intangibles, followed by an amnesty that included all taxes. The revenues collected under Florida’s targeted amnesty equaled 58 percent of the revenues collected under its broad amnesty. Only two other states, Louisiana and Connecticut, have offered two amnesties. These programs included all taxes. Oskar R. Harmon, “Tax Amnesty Program: Delinquents are Given a Second Chance for a Second Time,” *The Connecticut Economy*, October 1995, page 5.
4. During the peak period of the 1985 amnesty, 200 Department employees were redeployed to administer the program and 1,600 district office employees contributed to the program. Many of these employees were diverted from revenue-producing positions in audit and tax compliance.
5. See, for example, James Alm, Michael McKee and William Beck, “Amazing Grace: Tax Amnesties and Compliance,” *National Tax Journal* 43 (March 1990), pp. 23-37; James Alm and William Beck, “Tax Amnesties and Tax Revenues,” *Public Finance Quarterly* 18 (October 1990), pp. 433-453; Federation of Tax Administrators, *State Tax Amnesty Programs*, Research Report No. 133, August 1990; John H. Mikesell, “Amnesties for State Tax Evaders: The Nature of and Response to Recent Programs,” *National Tax Journal* 39 (December 1986), pp. 507-525; and Peter Stella, “An Economic Analysis of Tax Amnesties,” *Journal of Public Economics* 46 (December 1991), pp. 383-400.

Appendix A: 1994 Amnesty Enabling Legislation (Chapter 170 of the Laws of 1994)

§ 156. Notwithstanding the provisions of any other law to the contrary, (a) the commissioner of taxation and finance shall establish a three month amnesty program as described herein, to be effective during a period commencing on the first day of a month occurring after the effective date of this act and ending on or before February 28, 1995, applicable to eligible taxpayers. An eligible taxpayer shall be:

(1) A person, as such term is defined in article 28 of the tax law, who or which owes compensating use tax imposed under such article 28 or pursuant to the authority of article 29 of the tax law, with respect to the use of tangible personal property or services on or after June 1, 1986 and before May 31, 1993, where such person

(i) had a New York state payroll, if any, of less than one million dollars during its, his or her taxable year under section 183, 185 or 186, or article 9, 9-A, 22, 32 or 33 of the tax law during which such use occurred,

(ii) did not file a sales or compensating use tax return relating to such use or relating to a period during which such use occurred, and

(iii) was not registered as a vendor under section 1134 of the tax law at the time of such use or prior thereto;

(2) An individual, trust or estate

(i) who or which owes personal income tax imposed under article 22 of the tax law as a nonresident individual, estate or trust, and, if applicable, tax imposed pursuant to the authority of article 30-B of the tax law or article 2-E of the general city law, with respect to a taxable year beginning on or after January 1, 1986 and ending before December 31, 1993; and

(ii) who or which did not file a tax return under such article 22, and, if applicable, did not file a tax return required with respect to a tax imposed pursuant to the authority of article 30-B of the tax law or article 2-E of the general city law, for such taxable year; or

(3) A corporation, joint stock company or association, or petroleum business who or which owes any of the taxes, surcharges and fees (hereinafter "taxes") imposed under article 9, 9-A, 13-A, 32 or 33 of

the tax law for a taxable year or taxable month beginning on or after January 1, 1986 and ending before December 31, 1993 where such person

(i) was incorporated or organized outside of New York state, or was, in the case of an individual, domiciled outside of New York state for more than half of such taxable year or month,

(ii) did not file a tax return or report under such article for such taxable year or taxable month; and

(iii) in the case of applications relating to tax due under article 13-A of the tax law, was not registered under such article during a taxable month with respect to which amnesty is sought nor prior thereto.

In addition to the requirements set forth above, in order to qualify as an eligible taxpayer a person, prior to the first day of the amnesty program: (i) must not have received any benefit under the amnesty program established under chapter 66 of the laws of 1985, as amended and (ii) must not have received any notice (including a notice of determination or notice of deficiency) issued by the commissioner of taxation and finance concerning a period of time and concerning a tax for which a waiver is sought under the amnesty program, or any other notice issued by such commissioner where such notice indicates such commissioner's knowledge that such person may be subject to any tax for any period with respect to which tax and period a waiver is sought under the amnesty program.

(b) The amnesty program established by the commissioner of taxation and finance under this section shall provide that upon written application by an eligible taxpayer, and upon evidence of payment to the state of New York by such taxpayer of the taxes (plus related interest) referred to above with respect to which amnesty is sought ("designated taxes"), such commissioner shall waive any applicable penalties (including the additional rate of interest prescribed under section 1145 of the tax law) (i) for failure to pay any such tax, (ii) for failure to file a return or report with respect to any such tax, and (iii) for failure to pay estimated tax with respect to tax imposed under article 22 of the tax law or pursuant to the authority of article 30-B of the tax law or article 2-E of the general city law. Such waiver shall apply separately to each tax liability with respect to which the applicant for amnesty is an eligible taxpayer. In addition, no civil, administrative or criminal action or proceeding shall be brought against such an eligible taxpayer relating to the tax and period covered by such waiver. Failure to pay all such taxes plus interest shall invalidate any amnesty granted pursuant to this act.

(c) Amnesty tax return forms shall be in a form prescribed by the commissioner of taxation and finance and shall provide for specifications

by the applicant of the tax and the taxable period for which amnesty is being sought. The applicant must also provide such additional information as is required by such commissioner. Amnesty shall be granted only for the designated taxes and taxable periods specified by such taxpayer on such forms. Any return filed under the amnesty program established herein is subject to verification and assessment as provided by statute. If the applicant files a false or fraudulent tax return or report, or attempts in any manner to defeat or evade a tax under the amnesty program, amnesty may be denied or rescinded.

(d) Amnesty shall not be granted to any taxpayer who is a party to any criminal investigation being conducted by an agency of the state or any political subdivision thereof or to any civil or criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency or fraud in relation to any of the designated taxes plus interest. A civil litigation shall not be deemed to be pending if the taxpayer withdraws from such litigation prior to the granting of amnesty.

(e) No refund shall be granted or credit allowed with respect to any penalty paid prior to the time the taxpayer makes a request for amnesty pursuant to subdivision (b) of this section.

(f) Unless the commissioner of taxation and finance on such commissioner's own motion redetermines the amount of designated taxes plus interest, no refund shall be granted or credit allowed with respect to any taxes plus interest paid under this program.

(g) (1) Where a waiver of penalty has been afforded under the amnesty program with respect to compensating use tax, and all such tax due with respect to taxable uses occurring on or after June 1, 1986 and before May 31, 1993 has been paid by an eligible taxpayer by the last day of the amnesty period, the period of limitation on assessment with respect to any unpaid compensating use tax due from such eligible taxpayer with respect to taxable uses occurring prior to June 1, 1986 shall be deemed to have expired upon the occurrence of such events.

(2) Where a waiver of penalty has been afforded under the amnesty program with respect to any tax described in paragraph (2) of subdivision (a) of this section, and all such tax due from the eligible taxpayer with respect to taxable years beginning on or after January 1, 1986 and ending before December 31, 1993 has been paid by the last day of the amnesty period, the period of limitation on assessment with respect to any such tax due from such eligible taxpayer with respect to taxable years beginning before January 1, 1986 shall be deemed to have expired upon the occurrence of such events.

(3) Where a waiver of penalty has been afforded under the amnesty program with respect to any tax described in paragraph (3) of subdivision (a) of this section, and all such tax due from [from] the eligible taxpayer with respect to taxable years or taxable months beginning on or after January 1, 1986 and ending before December 31, 1993 has been paid by the last day of the amnesty period, the period of limitation on assessment with respect to any such tax due from [from] such eligible taxpayer with respect to taxable years or taxable months beginning before January 1, 1986 shall be deemed to have expired upon the occurrence of such events.

(h) Eligible taxpayers, as a condition of receiving amnesty, must pay or enter into and comply with deferred payment agreements for all outstanding assessments of any tax administered by the commissioner of taxation and finance where such assessment has become final and is no longer subject to administrative or judicial review.

(i) The commissioner of taxation and finance shall formulate such regulations as are necessary, issue forms and instructions and take any and all other actions necessary to implement the provisions of this act. Such commissioner shall publicize the amnesty program provided for herein so as to maximize public awareness of and participation in such program.

(j) For purposes of this section, the amnesty tax return forms and other documents filed by taxpayers shall be deemed to be reports and returns subject to and referred to in subsection (e) of section 697 of the tax law.


§ 157. For purposes of accounting for the moneys and revenues received pursuant to section one hundred fifty-six of this act, the commissioner of taxation and finance shall report the gross revenue collected under each tax pursuant to the amnesty program. Such report shall be on a monthly basis commencing the first month after the amnesty program is established and ending with the month prior to the issuance of the final report required pursuant to section one hundred fifty-eight of this act. Such reports shall include information concerning the gross revenue collected under each tax and the year for which the liability was incurred, and by such other significant taxable periods as the commissioner determines to be appropriate.

§ 158. On or before December 1, 1995, the commissioner of taxation and finance shall submit a report to the chairman of the assembly ways and means committee, the chairman of the senate finance committee and the director of the division of the budget regarding the amnesty program created pursuant [to] sections one hundred fifty-six and one hundred fifty-seven of to this act. The report shall contain the following information: (1) the number of cases by tax area in which

requests for penalty and interest penalty waiver were made; (2) the number of cases by tax area in which requests for penalty and interest penalty waiver were approved; (3) the amount of tax and interest due in all approved and unapproved cases by tax area; (4) the amount of penalty and interest waived in all approved cases by tax area; (5) the gross revenue collected under each tax and the year for which the liability was incurred, and by such other significant taxable periods as such commissioner determines to be appropriate; (6) the amount of moneys spent on advertising, notification and outreach activities, by each activity, and a description of the form and content of such activities, by each activity; (7) the amount paid by the department of taxation and finance for services and expenses related to the establishment of the amnesty program; and (8) the net revenue generated from the amnesty program.

NOTE: Notations made in brackets, or underscored, correct actual typographical errors included in enabling legislation.

Appendix B: New York State Department of Taxation and Finance Amnesty Publications and Notices



**NEW YORK STATE
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TAXATION AND FINANCE**



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Release No. 26

NEW YORK STATE TAX AMNESTY PROGRAM

Starting September 1, 1994, New York State will begin a limited three-month amnesty program aimed at specific taxpayers during particular years. Those who qualify must pay any taxes owed, plus interest, but will be protected from any related criminal prosecution or administrative penalty.

The income tax component applies only to nonresidents of New York who have failed to file any required income tax returns for tax years beginning on and after January 1, 1986 and ending before December 31, 1993. Thus, 1992 would be the last calendar year for which participants can file for amnesty. Excluded is anyone currently under criminal investigation, anyone who has already been contacted by the Tax Department, and anyone who participated in New York's 1985 general Amnesty Program.

Similarly, the business tax component applies only to out-of-state businesses that have been doing business in New York and who should have filed returns between 1986 and December 1, 1993. Thus,

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1992 would be the last calendar year, and November 1993 the last month for which participants can file for amnesty. Once again, any business under criminal investigation or already contacted by the Tax Department is ineligible.

The use tax component of amnesty applies to resident individuals and smaller businesses, those with a New York payroll of less than a million dollars. The Compensating Use Tax is the flip side of the Sales Tax and applies to any taxable goods or services that are brought into, shipped into, or used in New York. For example, the computers, supplies, reference materials, etc. that professionals such as architects, dentists, lawyers, and doctors have shipped into the state without the sales tax being charged are subject to a use tax equal to the sales tax. To qualify for amnesty, any individual or business must not have already filed a sales or use tax return or have been registered for the period in question. Also, they must not be under criminal investigation, nor have already been contacted by the Tax Department. Only use tax liabilities for goods or services brought into or used in New York during the period June 1, 1986, to May 31, 1993, will be covered.

Additional information and amnesty forms can be obtained by writing: Amnesty, New York State Department of Taxation and Finance, Building 8, W. A. Harriman Campus, Albany, N.Y. 12227.

From within New York, you may call 1 800 CALL-TAX (225-5829), and from outside New York 1 518 438-8581.

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Contact:

Karl E. Felsen
(518) 457-4242

Paul A. Rickard
(518) 457-4242

PLEASE NOTE: The City of New York is also conducting a tax amnesty from September 1, 1994 to November 30, 1994. The taxes covered are the commercial rent tax (for periods ending on or before May 31, 1993); the utility tax (for periods ending on or before March 31, 1994); the real property transfer tax (for taxable events occurring before April 1, 1994); and the hotel room occupancy tax (for periods ending on or before February 28, 1994). More information is available from the New York City Department of Finance at (718) 935-6000 or (718) 935-6675.

Dear Managing Partner:

We are writing to all 104,000 partnerships filing returns in New York State to tell them of a three-month limited tax amnesty program that begins on September 1, 1994. There are two components of the amnesty program that may be of interest to partnerships.

Many of our well publicized computer match enforcement projects of the past several years involving law firms, securities businesses, accounting firms, and the like, have turned up personal income tax filing problems with nonresident partners. Almost all the New York partners were filing, but some of the nonresident partners in, for example, Miami, Los Angeles, or Seattle had neglected to file and pay taxes on their portion of income generated in New York.

Under the limited amnesty program, nonresident individuals who should have filed New York income tax returns for tax years beginning on or after January 1, 1986 and ending before December 31, 1993 are eligible. Thus, 1992 is the last calendar year for which participants can file for tax amnesty. Those who qualify must pay any taxes owed, plus interest, but will be protected from any criminal prosecution and administrative penalties. Excluded from the amnesty program is anyone currently under criminal investigation, anyone who has already been contacted by the Tax Department about a potential liability, and anyone who participated in New York's 1985 general tax amnesty program.

If you have any nonresident partners, we urge you to inform them of New York's amnesty program beginning September 1, 1994.

The second amnesty component of potential interest to partnerships involves the compensating use tax — and applies to resident individuals and businesses with a New York payroll of less than a million dollars.

The use tax complements the sales tax and applies to any taxable goods or services that are brought into, shipped into, or used in New York. For example, the computers, office supplies, reference materials, equipment, etc. that professionals such as architects, dentists, lawyers, and doctors have shipped into the state without the appropriate sales tax being charged are subject to a use tax equal to the sales tax. When we audit such professional businesses for income or other taxes, we often find a significant use tax liability of which the business was totally unaware.

The new, limited amnesty program will allow businesses and individuals, not registered for or filing sales tax returns for the period(s) in question, to take care of their use tax responsibilities and thus avoid any penalties. Once again, the business or individual cannot already be under criminal investigation, nor already contacted by the Tax Department about a potential liability. The use tax amnesty will cover liabilities for goods or services brought into or used in New York during all or part of the period June 1, 1986 through May 31, 1993.

We urge you to review the purchases made by your partnership during this period to determine if use tax is due and if you qualify for amnesty.

Additional information can be obtained by calling our Taxpayer Assistance Bureau. Call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York, call (518) 438-8581.

To obtain forms, call toll free (from New York State only) 1 800 462-8100. From areas outside New York, call (518) 438-1073.

Additional information and amnesty forms can also be obtained by writing: Amnesty, New York State Tax Department, Building 8, W A Harriman Campus, Albany NY 12227.

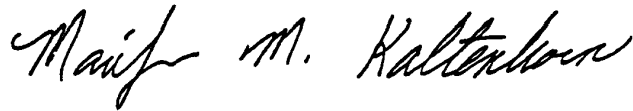
New York City is also conducting a tax amnesty from September 1, 1994 to November 30, 1994. The New York City taxes covered under its amnesty are the:

- *commercial rent* tax (for periods ending on or before May 31, 1993);
- the *utility* tax (for periods ending on or before March 31, 1994);
- the *real property transfer* tax (for taxable events occurring before April 1, 1994); and
- the *hotel room occupancy* tax (for periods ending on or before February 28, 1994).

More information is available from the New York City Department of Finance. Call: (718) 935-6000 or (718) 935-6675. Write: NYC Department of Finance, Outreach Tax Form Development, 25 Elm Place, 4th Floor, Brooklyn, NY 11201.

The limited amnesty program will end November 30, 1994, so please act quickly if you qualify.

Sincerely,

A handwritten signature in cursive script that reads "Maif M. Kaltenborn".

Director, Taxpayer Services Division

Important Notice

Limited Tax Amnesty Program

New York State is conducting a limited tax amnesty program. The three-month amnesty period begins on September 1, 1994, and ends on November 30, 1994. Tax amnesty is an opportunity for previous nonfilers to file and pay certain back taxes without penalty or criminal prosecution.

Only individuals and businesses meeting limited criteria and owing particular taxes incurred during specific time periods are eligible for amnesty.

To be granted amnesty, those who meet the requirements must file the required returns and pay any taxes owed, plus interest. Unpaid penalties will be waived, and those granted amnesty will be protected from criminal prosecution and any administrative penalty.

The following taxes are included in the limited tax amnesty program.

Compensating Use Tax

The compensating use tax is the companion to the state and local sales tax. Generally, it applies to taxable goods or services brought into or shipped into New York and used in New York by resident individuals or businesses operating in the state. For example, a computer that a business purchases and has shipped into the state without the sales tax being charged is subject to a use tax equal to the sales tax.

Only resident individuals or small businesses (businesses having an annual New York State payroll, if any, of less than \$1 million in the taxable year during which the taxable use occurred) may apply for amnesty for compensating use tax.

To be eligible, use tax must be owed on property or services used in New York State between June 1, 1986, and May 31, 1993. Applicants will not be eligible if they:

- filed a sales or use tax return for the period in which the taxable use occurred, or
- were a registered sales tax vendor at or before the time of the taxable use.

Personal Income Tax

Only individuals, trusts, or estates that were nonresidents during the period for which amnesty is sought may apply for amnesty for New York State personal income tax or New York City or Yonkers nonresident earnings taxes. Residents of New York State are not eligible for amnesty for New York State personal income tax or either of the cities' nonresident earnings taxes.

To be eligible, taxes owed must be for taxable years beginning on or after January 1, 1986, and ending before December 31, 1993. The last calendar year taxpayers are eligible for amnesty is 1992.

Applicants will not be eligible if they filed a New York State personal income tax return and, if applicable, a city nonresident earnings tax return for the period for which New York State tax amnesty is sought.

Corporation Franchise and Other Business Taxes

Only businesses incorporated or organized outside New York State, or individuals domiciled outside New York for more than one-half of the applicable year or other taxable period for which amnesty is sought, are eligible to apply for amnesty for business taxes.

The taxes covered are the taxes (including surcharges and fees) imposed under the following Articles of the Tax Law:

- 9 (transportation companies, utilities, etc.)
- 9-A (general business corporations)
- 13-A (petroleum businesses)
- 32 (banks)
- 33 (insurance companies)

To be eligible, taxes owed must be for taxable years or taxable months beginning on or after January 1, 1986, and ending before December 31, 1993.

Applicants will not be eligible if they:

- filed a tax return or report or paid tax for the period and tax type for which amnesty is sought, or
- with regard to the petroleum business tax, were registered as a petroleum business under Article 13-A before or during a taxable month for which amnesty is sought.

General Qualifying Requirements

The following general requirements must be met in order to qualify for amnesty:

- The application for amnesty must be in writing (Form AM-1).
- Appropriate tax returns must be completed and submitted.
- Taxes and related interest must be paid for the period for which amnesty is sought. Failure to pay the taxes plus interest invalidates any amnesty granted under this program.
- Outstanding assessments (for tax periods other than those for which amnesty is sought) of any tax administered by the New York State Tax Department which are final must be paid or a deferred payment agreement must be entered into. Failure to comply with all the terms of a payment agreement will result in revocation of amnesty.

Additional Disqualifying Factors

Applicants will not be eligible for amnesty if they:

- received any benefit under the New York State amnesty program Conducted in 1985,
- received any notice of tax due (including a notice of determination or notice of deficiency) from the Tax Department for a tax and specific tax period for which amnesty is sought, or
- received any notice from the Tax Department that indicates the Department's knowledge that the applicant may be subject to the tax and tax period for which amnesty is sought.

Amnesty will not be granted to any applicant who:

- is a party to any criminal investigation being conducted by an agency of New York State or any of its political subdivisions, or
- is a party to any civil or criminal litigation which is pending, on the date of the amnesty application, in any court for nonpayment, delinquency or fraud related to any of the taxes designated under the amnesty program.

Civil litigation is not considered *pending* if the taxpayer withdraws from the litigation before the granting of amnesty.

Amnesty Benefits

When amnesty is granted, penalties will be waived. These include penalties for failure to pay tax, failure to file a return or failure to pay estimated personal income taxes covered by the waiver.

Waivers will apply separately to each tax and tax period for which amnesty applies. Those granted amnesty will be protected from civil, administrative or criminal action or proceedings related to the tax and the period covered by the waiver.

Once amnesty has been granted for a particular tax, and all of that tax has been paid, the state may not assess the taxpayer for any amounts of that type of tax later found to be due for periods prior to the first period for which amnesty is available. In this instance the tax for that prior period is forgiven.

No refund or credit will be made or allowed of any penalty paid prior to the time the taxpayer makes a request for amnesty. Further, unless the Commissioner of Taxation and Finance redetermines the amount of the taxes and interest, no refund or credit will be allowed with respect to taxes paid under the amnesty program.

Forms and Instructions

For additional information on the amnesty program, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829).

From areas outside New York State, call (518) 438-8581.

To order forms, call toll free (from New York State only) 1 800 462-8100.

From areas outside New York State, call (518) 438-1073.

You may also write to the following address for forms and instructions:

AMNESTY
NYS TAX DEPARTMENT
BUILDING 8
W A HARRIMAN CAMPUS
ALBANY NY 12227

NOTE

New York City is also conducting a tax amnesty from September 1, 1994, to November 30, 1994, for certain taxes imposed and administered by the city. The New York City taxes covered under its amnesty are the:

- *commercial rent* tax (for periods ending on or before May 31, 1993);
- the *utility* tax (for periods ending on or before March 31, 1994);
- the *real property transfer* tax (for taxable events occurring before April 1, 1994); and
- the *hotel room occupancy* tax (for periods ending on or before February 28, 1994).

More information is available from the New York City Department of Finance. Call: (718) 935-6000 or (718) 935-6675. Write: NYC Department of Finance, Outreach Tax Form Department, 25 Elm Place, 4th Floor, Brooklyn, NY 11201.

Appendix C: 1994 Amnesty Expenses

Administration		
Planning & Overseeing program		\$ 19,200
Systems analysis, coding and testing		27,700
Application processing		11,500
Preliminary processing	\$10,300	
Eligibility review	1,200	
Return processing		50,700
Corporation tax	\$11,800	
Income tax	19,200	
Use tax	9,500	
Accounting services	5,700	
Bank processing	4,500	
Advertising & Outreach		47,000
Advertising	\$ 7,550	
Publications	19,700	
Outreach - Taxpayer Services		
Telephones	19,400	
Other	350	
Total Implementation Costs		\$156,100

Appendix D: Distribution of Gross Collections from Amnesty Applicants

Nearly 40 percent of total collections were attributable to the 1987 tax year

Table D-1 shows the distribution of gross collections from amnesty applicants by tax and by tax year. This table presents amounts remitted with eligible and ineligible returns.

Table D-1: Gross Amnesty Revenues by Liability Year 1/

	Personal Income Tax	Corporation Tax	Use Tax	Total
Number of Returns	1,739	807	303	2,849
1985 & Prior Tax Years	\$ 39,943	\$ 6,924	\$ 0	\$ 46,866
1986	361,537	661,174	124,174	1,146,886
1987	197,814	3,046,506	123,471	3,367,790
1988	238,879	462,116	78,720	779,716
1989	374,707	117,590	45,636	537,933
1990	414,145	154,935	68,461	637,541
1991	419,215	317,016	134,190	870,421
1992	444,025	649,892	78,635	1,172,552
1993 & 1994	126,617	85,918	46,934	259,470
Total	\$2,616,882	\$5,502,072	\$700,222	\$8,819,175

1/ Gross revenues include tax and interest collected from eligible returns, and tax, interest, and penalty collected from ineligible returns as of May 20, 1995.

The largest portion of gross collections was attributable to the 1986, 1987, and 1992 tax years. Collections remitted with returns for the 1987 tax year totaled \$3.4 million. Corporate taxpayers accounted for

more than \$3 million of this amount. Collections for the 1986 tax year and the 1992 tax year each exceeded \$1.1 million, with corporate taxpayers representing about 55 percent of this amount.

The amounts of gross collections from taxpayers eligible and ineligible for amnesty, as shown in Table D-1, differ from the amounts reported in the Department's monthly amnesty reports. To expedite the deposit of amnesty remittances, the Department applied all monies received from an applicant to the earliest tax year for which they submitted a return. After reviewing the returns, the Department assigned the monies to the appropriate tax years.