

SENATE BILL NO. 376
INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A TAX AMNESTY PROGRAM FOR TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE; ESTABLISHING CONDITIONS FOR THE PROGRAM; PROVIDING THAT THE TAX AMNESTY PROGRAM IS IN EFFECT FOR 2 MONTHS; PROVIDING AN ADDITIONAL COLLECTION PENALTY FOR TAX LIABILITIES NOT PAID UNDER THE TAX AMNESTY PROGRAM; REQUIRING THE DEPARTMENT TO REPORT TO THE GOVERNOR AND THE LEGISLATURE REGARDING THE TAX AMNESTY PROGRAM; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Tax amnesty program -- conditions and limitations -- publicity -- rules.

(1) (a) Except as provided in subsection (2), there is a tax amnesty program for all tax types administered by the department. The tax amnesty program must be for a period of 2 consecutive months beginning August 1, 2004, and ending September 30, 2004. During the tax amnesty period, the department may waive all penalties and one-half of the interest that could be assessed by the department under 15-1-216, Title 15, chapters 30 and 31, 15-37-109, and 69-1-225 for failure of the taxpayer to:

(i) timely file a required return for any tax type and for any tax period;

(ii) file proper returns and report the full amount of the taxpayer's liability for any tax type and for any tax years or periods;

(iii) timely pay any tax liability; or

(iv) pay the proper amount of any required estimated payment toward a tax liability.

(b) A taxpayer who applies for the tax amnesty program is not required to show reasonable cause or the absence of willful neglect if the taxpayer, before the expiration of the tax amnesty period, voluntarily files proper returns for all tax types for all periods for which the taxpayer has or had a filing obligation and pays, or at the discretion of the department provides security for, the full amount of tax shown on the taxpayer's returns or upon the department's assessments, together with one-half of interest due on the taxes.

(2) The tax amnesty program does not apply to a tax liability of any tax type for a tax year or tax period beginning on or after January 1, 2003.

(3) (a) For the purposes of the tax amnesty program, "taxpayer" means a person subject to a tax

administered by the department or who is required to collect a tax administered by the department.

(b) The term includes an individual, trust, estate, corporation, limited liability company, partnership, S. corporation, disregarded entity, joint-stock company, fiduciary, association, or any other person or entity that has a tax liability with respect to taxes administered by the department.

(4) (a) Tax amnesty returns submitted by a taxpayer must be on a form prescribed by the department and contain the information required by the department. The form must provide for the specifications by the applicant of the tax liability with respect to the tax amnesty sought. The applicant shall also provide additional information required by the department. Tax amnesty may be granted only for tax liabilities specified by the taxpayer on the form.

(b) A refund or credit is not allowed for any penalty or interest paid before the taxpayer applies for tax amnesty.

(c) The department may grant tax amnesty to a taxpayer who either has an unpaid self-assessed liability or has been assessed a tax liability, whether before or after the taxpayer files a return, and the assessed liability remains unpaid.

(d) Unless the department redetermines the amount of tax due, including applicable interest, a refund or credit is not allowed for any taxes, including applicable interest, paid under the tax amnesty program.

(5) A tax amnesty return filed by the taxpayer is subject to review and assessment as provided by law for the tax type. 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 tax amnesty program, the department shall deny or rescind the tax amnesty for the taxpayer.

(6) (a) Except as provided in subsection (6)(b), the department may not initiate civil, administrative, or criminal actions or proceedings against an eligible taxpayer applying for tax amnesty under this section. However, failure by the taxpayer to pay all taxes, plus related interest, by the later of December 15, 2004, or the date prescribed in an assessment against the taxpayer by the department invalidates any tax amnesty granted to the taxpayer by the department pursuant to this section.

(b) The department may not waive penalties during the tax amnesty period for a taxpayer who, before August 1, 2004, is or has been the subject of a tax-related criminal investigation or prosecution.

(7) The tax and one-half of the interest associated with the tax liability are payable in full from the date that the department issues notice of assessment. Upon payment by the taxpayer of the tax and one-half of the interest of the outstanding assessment, the department shall waive all penalties associated with the assessment.

(8) An eligible taxpayer may apply for tax amnesty under an existing installment payment agreement with

the department. Notwithstanding the terms of the agreement, a taxpayer, as a condition of receiving tax amnesty, shall pay the liability in full as determined under this section by the last day of the tax amnesty period or the date prescribed in a notice for payment issued by the department.

(9) A taxpayer may seek review, pursuant to 15-1-211, of any determination made by the department under this section.

(10) A taxpayer described in subsection (1)(a) who fails to pay a tax liability under the tax amnesty program provided for in this section must be assessed an additional 25% collection penalty on the amount of any unpaid tax liability incurred before January 1, 2003.

(11) The tax amnesty does not apply to penalties and interest assessed on:

- (a) property taxes;
- (b) gasoline and vehicle fuels taxes collected by the department of transportation pursuant to Title 15, chapter 70; or
- (c) taxes, fees, or assessments collected by any other state agency or local government.

(12) The department shall publicize the tax amnesty program provided for in this section to maximize public awareness of and participation in the program.

(13) The department shall adopt rules to implement and administer the tax amnesty program.

NEW SECTION. Section 2. Report to governor and legislature. (1) On or before February 1, 2005, the department of revenue shall submit a report to the governor, the president of the senate, the speaker of the house, the senate taxation standing committee, and the house taxation standing committee regarding the tax amnesty program. The report must include the following information:

- (a) the number of applications by tax type in which requests for tax amnesty were made;
- (b) the number of applications by tax type in which requests for penalty and interest penalty waivers were approved;
- (c) the amount of tax and interest due in all approved and unapproved cases by tax type and the amount of penalty for unapproved cases by tax type;
- (d) the amount of penalty and interest waived in all approved cases by tax type;
- (e) the gross revenue collected under each tax type and the year or other applicable period that the liability was incurred;
- (f) the amount of money spent on advertising, notification, and outreach activities, by each activity, and a description of the form and content of the activities, by each activity;

(g) the amount paid by the department for services and expenses related to the establishment of the tax amnesty program;

(h) an estimate of the amount of revenue received during the period of the tax amnesty program that would have otherwise been received during another period; and

(i) an estimate of the net revenue generated from the tax amnesty program.

(2) By November 15, 2004, the department shall report to the revenue and transportation interim committee and to the legislative finance committee the information, as of November 1, 2004, required to be reported under subsection (1).

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 1, and the provisions of Title 15, chapter 1, apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective January 1, 2004.

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