

CITY OF PORTLAND TAX AMNESTY & REAL ESTATE REFUNDS

Action required by key dates in July

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OVERVIEW

Spring was a busy time for the Portland City Council who passed a "once-in-a-lifetime" amnesty program aimed at bringing businesses into compliance and paying all back taxes owed to the City of Portland and Multnomah County. In addition the Portland Revenue Bureau spent time unsuccessfully defending its position that real estate brokers were subject to the 2.2% income tax. Despite the rain, spring turned out to be a pretty good time to be a Portland taxpayer.

Taxpayer Amnesty Program

The City Council has approved a tax amnesty program which expires July 16, 2012; the Revenue Bureau program eliminates all penalties and reduces interest from 10 percent to 5 percent, it is available to the following taxpayers:

Businesses without a Revenue Bureau business tax account –

- Business has never filed taxes or registered with the Revenue Bureau
- Business received a letter with a "P-number" on it but has yet to act on it
- Business has filed in the past, went out of business, and then restarted business without re-opening the account

Registered taxpayers that have not filed returns in each of the three most recently completed tax years –

- A calendar year-end business who has not filed since 2008 or before and is still in business (fiscal year taxpayers should call the hotline (503) 823-6881 for assistance determining eligibility)

- A business who has 3 or more years with presumptive tax bills that have been forwarded to the City's collection agency
- A business who recently registered and has received notice of multiple back tax years due

In order to qualify for this program, a taxpayer must first fill out a completed tax amnesty application, if the application is incomplete and all missing information is not received by the deadline, the application will be rejected. Second, the taxpayer must complete the five most recent tax returns based on the following –

- Calendar year and fiscal year filers with tax years ending April 30th or earlier must file 2007, 2008, 2009, 2010 & 2011
- Fiscal year filers with tax years ending May 1st or later must file 2006, 2007, 2008, 2009 & 2010

Taxpayers that have been operating within the jurisdiction of the City of Portland and Multnomah County for less than five years must file all years for which they would have been required to file had they been in compliance. Finally, the taxpayer must mail

the application and all completed tax returns in one envelope to the Revenue Bureau postmarked no later than July 16, 2012.

All taxes and computed interest must be paid in full at the time of filing unless a valid payment arrangement has been entered into. Payment arrangements on qualified applications will be based on the following criteria –

- Taxpayers with balances less than \$10,000 will be offered payment plans up to 12 months
- Taxpayers with balances greater than \$10,000 will be offered payment plans up to 24 months

Amnesty is NOT available to registered taxpayers who have filed a tax return in the three most recent tax years based on the following –

- Calendar year and fiscal year filers with tax years ending April 30th or earlier you cannot have filed 2009, 2010 & 2011
- Fiscal year filers with tax years ending May 1st or later you cannot have filed 2008, 2009 & 2010

If the taxpayer is unable to meet all of the requirements of the program by July 16, 2012, all applicable interest and penalties will become due as if they were never enrolled in the program.

Any taxpayer considering the program should seek professional tax advice before contacting the Revenue Bureau and should be aware the Revenue Bureau may share information with the Internal Revenue Service or other taxing jurisdictions.

Real Estate Brokers

For our friends in the real estate community who have not been following the story behind the Oregon Court of Appeals decision in Proctor & Rulien, PC v. City of Portland, now is your time to pay attention. You have an upcoming deadline looming of July 31, 2012 by which to take action. Here's the story you need to know.

Prior to 2008, the City of Portland assessed a Business License Fee for the privilege of doing business within the city limits. Under this former tax regime, certain licensed real estate brokers were exempt from paying

the City's Business License Fee because Oregon law prohibited such assessment. However, beginning in 2008, the City changed from a Business License Fee to a Business Income Tax regime similar to Multnomah County, and took the position that real estate brokers previously exempt from the 2.2% License Fee were now subject to the 2.2% Income Tax.

This change was successfully challenged in court, with the most recent development being the denial of the City's appeal by the Oregon Supreme Court in March of this year. The result of this is that certain qualifying real estate brokers are not subject to the City's Income Tax, and also are due refunds for any previously paid taxes. Thus, if you are one of these qualifying brokers, you may have refunds coming for calendar years 2008 through 2011.

To obtain a refund of any previously paid taxes, you must file an amended return with the City. However, only "*an individual licensed as a real estate broker who engages in professional real estate activity only as an agent of a principal real estate broker*" is entitled to these refunds. In addition, you need to indicate on your amended return the name of the principal broker you are an agent for as verification that you qualify for the refund.

Normally, you have just 3 years from the due date of the original return to file an amended return and claim a refund. Thus, you may be too late for 2008 if you filed that return by April 15, 2009. However, on May 11, 2012, the City of Portland adopted Interim Administrative Rule 280.12-1, which, among other things, extended the time for filing amended returns for calendar year 2008 pursuant to the Proctor case to July 31, 2012. Thus, you need to act fast if you qualify for a refund under these rules.

Please feel free to contact us or visit the City's website for more information. www.portlandonline.com

For any questions or additional clarification, please contact your tax advisor or one of the Perkins & Co tax shareholders or managers:

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