



OREGON TAX AMNESTY PROGRAM ALLOWS YOU  
FIFTY DAYS TO “CATCH UP”

Governor Kulongoski recently signed legislation that authorizes the Oregon Department of Revenue (“ODR”) to initiate and administer a tax amnesty program (the “Program”) for taxpayers subject to personal income, corporate income/excise, self-employment and inheritance taxes. The tax amnesty period will commence on October 1, 2009 and end on November 19, 2009 (the “Amnesty Period”).

**1. Eligibility Requirements:**

- A. Personal Income/Corporate Income/Excise Taxes - The taxpayer was required to file a tax return and pay any required tax for a tax year beginning prior to January 1, 2008.
- B. Inheritance Taxes - The taxpayer was required to file an inheritance tax return, and pay any required tax, if the return was due prior to January 1, 2008.
- C. Self-Employment Taxes - The taxpayer was required to pay self-employment taxes prior to January 1, 2008.

**2. Amnesty Benefits** - Eligible taxpayers that participate in the Program and comply with the related requirements will receive a complete waiver of penalties and 50% waiver of all interest due. The Program also allows taxpayers to enter into an installment agreement for the payment of tax and interest.

**3. Program Qualification Requirements:** To qualify, a taxpayer must:

- A. File a completed amnesty application with ODR between October 1, 2009 – November 19, 2009; and

The Closely Held Business Team attorneys at Harrang Long Gary Rudnick are committed to serving the needs of business owners in a responsive and proactive manner. They understand the challenges and the opportunities provided by the law in today’s business climate, and are focused on the advancement of each client’s success in business.

- Randall L. Duncan
- David R. Denecke
- Sharon A. Rudnick
- C. Robert Steringer
- Arden J. Olson
- Mark P. Amberg
- John A. Riherd
- Joshua P. Stump
- Jonathan D. Mishkin, LL.M.
- Marjorie A. Berger

B. Within 60 days after the Amnesty Period's conclusion:

- i. File completed tax returns or reports for all applicable tax years or reporting periods if the taxpayer has not already filed returns;
- ii. File completed amended returns or reports for all applicable tax years or reporting periods for which the taxpayer underreported or underpaid tax liability; and
- iii. Either:
  - a. Pay in full the taxes due and 50% of the interest due for all tax years or reporting periods; or
  - b. Have previously applied (at the time of filing the amnesty application) for an installment payment agreement.

**4. Amnesty Disqualification** - A taxpayer may not participate in the Program if, prior to October 1, 2009, ODR has:

A. Issued a notice of deficiency to such taxpayer; or

B. Has assessed a tax for a tax year for which the taxpayer could otherwise apply for the Program.

**5. Bankruptcy** - A taxpayer in a Chapter 11 bankruptcy protection proceeding may still participate in the Program if the taxpayer submits an order to ODR from the United States Bankruptcy Court allowing participation.

**6. Waiver of Refund Claims:** Taxpayers cannot request a refund with respect to any tax paid pursuant to the Program, and all appeal rights must be waived. Please be aware that ODR is not similarly precluded from assessing additional taxes against the taxpayer for taxes covered by these returns or reports.

#### **7. Penalties:**

A. Penalty waiver — A taxpayer who complies with all Program terms (including participation through use of an installment agreement, where applicable) receives a waiver of all applicable penalties (including specified criminal penalties) that would otherwise have been due.

B. Imposition of 25% penalty — If a taxpayer applies for amnesty and previously either:

- i. Failed to file a return for the tax at issue; or
- ii. Filed an original or amended return that failed to report or underreported the tax due, ODR will impose a 25% penalty in addition to all otherwise applicable taxes and penalties. This 25% penalty also applies if the taxpayer makes a successful application to participate in the Program and the ODR issues a notice of deficiency after the Amnesty Period closes with respect to a tax year covered by the taxpayer's amnesty application.

C. The 25% penalty does not apply to any additional Oregon income taxes that result from an adjustment to the taxpayer's federal income tax return by the IRS.

**8. Installment Agreement:** As aforementioned, the Program permits taxpayers to enter into an installment agreement for payment of the tax and reduced interest balance. To qualify for install-

ment payments, a taxpayer must, at the time it applies to participate in the Program, contemporaneously apply for installment treatment. Under such installment agreement, all taxes and interest must be paid on or before May 31, 2011. If the taxpayer fails to comply with all installment agreement terms, the waiver of penalties and interest reduction become void. Thus, the tax, interest, and all applicable penalties become immediately due and payable.

**9. ODR “Data Match” Program:** Please be aware that in the budget note attached to the ODR budget for 2009-2010 legislative session, ODR was instructed to research the viability of developing and operating a “data match” system that would utilize customer records from financial institutions to locate assets of delinquent taxpayers. ODR has been instructed to report its findings to the 76th Oregon Legislative Assembly in 2011 as part of its budget presentation before the Joint Committee on Ways and Means. If the “data match” system becomes a reality, delinquent and non-filing taxpayers will be at a significantly increased risk of having their assets seized by ODR to cover payment of tax, interest and penalties.

We advise that taxpayers in such position act now while they can mitigate interest and avoid the imposition of penalties. Please contact Jonathan D. Mishkin, LL.M. at (503) 242-0000, and he will be glad to assist you with Oregon’s Tax Amnesty Program application.



**Jonathan D. Mishkin, LL.M.**  
Of Counsel  
Direct Line: 503-417-6007  
jonathan.mishkin@harrang.com

*Nothing in this communication creates or is intended to create an attorney-client relationship with you, constitutes the provision of legal advice, or creates any legal duty to you. If you are seeking legal advice, you should first contact a member of the Closely Held Business Team with the understanding that any attorney-client relationship would be subsequently established by a specific written agreement with Harrang Long Gary Rudnick P.C. To maintain confidentiality, you should not forward any unsolicited information you deem to be confidential until after an attorney-client relationship has been established.*

## LOCATIONS

### Portland

1001 SW Fifth Avenue  
16th Floor  
Portland, OR 97204-1116  
Phone: (503) 242-0000  
(800) 315-4172  
Fax: (503) 241-1458

### Eugene

360 E. 10th Avenue, Suite 300  
Eugene, OR 97401-3273  
Phone: (541) 485-0220  
(800) 315-4172  
Fax: (541) 686-6564

### Salem

333 High Street, N.E.  
Suite 200  
Salem, OR 97301-3632  
Phone: (503) 371-3330  
(800) 315-4172  
Fax: (503) 371-5336

[www.harrang.com](http://www.harrang.com)