

CONFERENCE COMMITTEE REPORT
House Bill No. 456 By Representative Robideaux

June 6, 2013

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 456 by Representative Robideaux, recommend the following concerning the Engrossed bill:

1. That Senate Amendment Nos. 1 through 5 and 7 through 9 proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on May 30, 2013, be adopted.
2. That Senate Amendment Nos. 6 and 10 proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on May 30, 2013, be rejected.
3. That Senate Amendment No. 2 proposed by the Senate Committee on Finance and adopted by the Senate on June 1, 2013, be adopted.
4. That Senate Amendment Nos. 1, 3, and 4 proposed by the Senate Committee on Finance and adopted by the Senate on June 1, 2013, be rejected.
5. That the set of Senate Floor Amendments proposed by Senator Adley and adopted by the Senate on June 3, 2013, be adopted.
6. That the Senate Floor Amendment proposed by Senator Crowe and adopted by the Senate on June 3, 2013, be adopted.
7. That Senate Floor Amendment No. 1 designated as SFAHB456 GUILLOTJ 3443 proposed by Senator Donahue and adopted by the Senate on June 3, 2013, be adopted.
8. That Senate Floor Amendment No. 1 designated as SFAHB456 HESSM 3437 proposed by Senator Donahue and adopted by the Senate on June 3, 2013, be rejected.
9. That the Engrossed bill be amended as follows:

AMENDMENT NO. 1

On page 3, line 2, after "participate in" and before "amnesty" delete "the" and insert "an"

AMENDMENT NO. 2

On page 3, line 5, after "2016" and before the period "." insert:

"for the taxpayers participating in the 2013 amnesty period; for all taxable periods beginning on 2015, 2016, and 2017 for taxpayers participating in the 2014 amnesty period; and for all taxable periods beginning on 2016, 2017, and 2018 for taxpayers participating in the 2015 amnesty period."

AMENDMENT NO. 3

On page 3, line 23, after "during" and before "amnesty" delete "the" and insert "an"

AMENDMENT NO. 4

On page 3, line 24, after "applicable, and" and before "interest" delete "half of the" and insert "any"

AMENDMENT NO. 5

On page 3, delete line 28, and on line 29, delete "amnesty period" and insert:

"application. Notwithstanding the terms or provisions of any other Act or other provisions of law to the contrary, if the amnesty application is approved during the 2013 amnesty period"

AMENDMENT NO. 6

On page 4, line 6, after "paid" and before "on" insert "or received"

AMENDMENT NO. 7

On page 4, line 7, after "paid" and before "on" insert "or received"

AMENDMENT NO. 8

On page 5, line 21, change "(L)" to "(L)(1))"

AMENDMENT NO. 9

On page 5, line 22, after "participate in" and before "amnesty" insert "the 2013"

AMENDMENT NO. 10

On page 5, between lines 24 and 25, insert:

"(2) For taxable periods beginning on or after January 1, 2015, and before December 31, 2020, taxpayers that participate in the 2014 amnesty and later fail to comply with any payment or filing provision administered by the secretary shall be subject to the negligence penalty under R.S. 47:1604.1 or a penalty of one hundred dollars, whichever is greater.

(3) For taxable periods beginning on or after January 1, 2016, and before December 31, 2021, taxpayers that participate in the 2015 amnesty and later fail to comply with any payment or filing provision administered by the secretary shall be subject to the negligence penalty under R.S. 47:1604.1 or a penalty of one hundred dollars, whichever is greater."

AMENDMENT NO. 11

On page 6, line 3, after "Act." delete the remainder of the line, delete lines 4 through 7 in their entirety, and insert:

"B.(1) After satisfaction of the requirements of Subsection A of this Section, all remaining monies collected pursuant to this Act shall be paid into the state treasury. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund and prior to any monies being placed into the state general fund or any other fund, an amount equal to the remaining collections shall be credited by the state treasurer to a special fund hereby created in the state treasury to be known as the 2013 Amnesty Collections Fund, hereinafter referred to as "fund". The monies in the fund shall be available for appropriation for any public purpose.

(2) Monies in the fund shall be invested by the state treasurer in the same manner as those in the state general fund and interest earned on such investment shall be credited to the fund after compliance with the requirements of the Bond Security and Redemption Fund. All unexpended and unencumbered monies in the fund at the end of the year shall remain in the fund."

AMENDMENT NO. 12

In Senate Committee Amendment No. 1 proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on May 30, 2013, on page 1, line 4, after "duration" delete the remainder of the line and insert:

"in 2013 occurring prior to December 31, 2013; for a period of at least one month in 2014, occurring between July 1, 2014 and December 31, 2014; and for a period of at least one month in 2015, occurring between July 1, 2015, and December 31, 2015; all at the"

AMENDMENT NO. 13

In Senate Committee Amendment No. 7 proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on May 30, 2013, on page 1, at the end of line 23, delete ""one-half of"" and insert ""one-half""

AMENDMENT NO. 14

In Senate Committee Amendment No. 8 proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on May 30, 2013, on page 1, delete line 26 in its entirety and insert:

"4, delete line 1, on line 2 delete "periods for which amnesty is applied.", and insert:

"If the amnesty application is approved during the 2014 amnesty period, the secretary shall waive fifteen percent of all of the penalties associated with the tax periods for which amnesty is applied, but no interest shall be waived. If the amnesty application is approved during the 2015 amnesty period, the secretary shall waive ten percent of all of the penalties associated with the tax periods for which amnesty is applied, but no interest shall be waived."

Respectfully submitted,

Representative Joel Robideaux

Senator John Alario

Representative Sam Jones

Senator Robert Adley

Representative Stuart J. Bishop

Senator Neil Riser

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 456 by Representative Robideaux

Keyword and oneliner of the instrument as it left the House

REVENUE DEPARTMENT: Establishes the Louisiana Tax Delinquency Amnesty Act of 2013

Report adopts Senate amendments to:

1. Delete limitation for amnesty to taxes that became due on or after July 1, 2001.
2. Reduce the amount of interest that the secretary is authorized to waive during the 2013 amnesty period from all interest to one-half of the interest owed.
3. Require that publicity for the amnesty program include provisions promoting public awareness that the amnesty program provides amnesty for sales and use tax due on sales from remote sellers.
4. Specify that provisions of proposed law are enacted notwithstanding any other provision of law to the contrary.
5. Delete provisions for a 24 month amnesty period beginning July 1, 2013, and ending December 31, 2015.
6. Provide for a two month amnesty period occurring prior to Dec. 31, 2013.
7. Delete provisions imposing double the amount of penalties owed to the state for any eligible taxpayer who fails to apply for amnesty.
8. Delete provisions tying the effectiveness of proposed law to the concurrence in and enactment of various House bills.

Report rejects Senate amendments which would have:

1. Established the 2013 Amnesty Collections Fund and provide for the use of monies deposited therein.

Report amends the bill to:

1. Establish the 2013 Amnesty Collections Fund and provide for the use of monies deposited therein.
2. Authorize a total of three amnesty periods: a period of at least two months in 2013, occurring before Dec. 31, 2013, during which 50% of interest owed and all penalties may be waived; a period of at least one month in 2014, occurring between July 1, 2014 and Dec. 31, 2014, during which 15% of the penalties and none of the interest owed may be waived; and period of at least one month in 2015, occurring between July 1, 2015 and Dec. 31, 2015, during which 10% of the penalties and none of the interest owed may be waived.

Digest of the bill as proposed by the Conference Committee

Proposed law enacts the "Louisiana Tax Delinquency Amnesty Act of 2013" which requires the Dept. of Revenue ("DOR") to develop and implement a tax amnesty program to be effective for the following three periods of time, the specific dates of which shall be determined by the secretary of DOR ("secretary"):

- (1) A period of at least two months duration occurring prior to December 31, 2013.
- (2) A period of at least one month occurring between July 1, 2014 and Dec. 31, 2014.
- (3) A period of at least one month occurring between July 1, 2015 and Dec. 31, 2015.

The amnesty program applies to all taxes administered by DOR, except for motor fuel taxes, and penalties for failure to submit information reports that are not based on an underpayment of tax.

Proposed law provides that the amnesty program shall apply to taxes for taxable periods that began before Jan. 1, 2013, and taxes for which taxpayers and DOR have entered into an agreement to interrupt prescription until Dec. 31, 2013.

Proposed law provides that amnesty is only granted for taxpayers who apply for amnesty during the amnesty period who pay all of the tax, all fees and costs, if applicable, and any interest due upon filing the amnesty application. The secretary is authorized to waive penalties and interest associated with the tax periods for which amnesty is applied as follows:

- (1) All penalties and 50% of the interest owed if the amnesty application is approved during the 2013 amnesty period.
- (2) 15% of penalties owed if the amnesty application is approved during the 2014 amnesty period.
- (3) 10% of penalties owed if the amnesty application is approved during the 2015 amnesty period.

Proposed law authorizes DOR to retain from monies collected under the tax amnesty program an amount equal to all penalties waived, an amount equal to the costs for contractual information technology and amnesty program administration services, and an amount equal to any collection fees, legal fees, or any other fees the department incurs that are associated with granting amnesty.

Proposed law establishes the 2013 Amnesty Collections Fund, hereinafter "fund", as a special treasury fund. After compliance with requirements of the Bond Security and Redemption Fund, and after the allocation of collections to DOR as provided in proposed law all remaining monies shall be credited to the 2013 Amnesty Collections Fund, which fund is established as a special treasury fund in proposed law. Monies in the fund shall be available for appropriation for any public purpose. Money in the fund shall be invested by the treasurer in the same manner as those in the state general fund, interest earned thereon shall be credited to the fund, and all unexpended and unencumbered money in the fund at the end of the fiscal year shall remain in the fund.

Proposed law further authorizes the secretary to procure amnesty program administration services on a fee basis; however, prohibits the fee from exceeding 10% of total collections.

Proposed law requires that DOR publicize the tax amnesty program in order to maximize public awareness of and participation in the program. Included in any publication shall be notice that the tax amnesty program will include amnesty for sales and use taxes due on internet, mail order, or other purchases made from remote sellers and for which La. sales and use tax was not charged at the time of purchase.

Proposed law provides various requirements relative to amnesty for matters under examination or litigation, including the requirement that taxpayers participating in amnesty

abide by DOR's interpretation of law. Further, taxpayers involved in litigation that elect to participate in amnesty shall agree to pay all applicable attorney fees pursuant to present law.

Proposed law provides that taxpayers electing to participate in amnesty who have paid under protest and filed suit shall agree that upon approval of their amnesty application, the department shall release their payment from escrow and apply it in accordance with the grant of amnesty.

Proposed law prohibits the extension of amnesty to taxpayers who are parties to any criminal investigation or litigation in any court of the U.S. or La. for nonpayment, delinquency, or fraud in relation to any state tax administered by the department.

Proposed law provides with respect to DOR's authority to impose penalties and fines and to institute civil proceedings under certain circumstances.

Proposed law authorizes DOR, by regulation, to impose after the expiration of the tax amnesty period a cost of collection penalty not to exceed 20% of any deficiency assessed for any taxable period for which amnesty was taken. This penalty shall be in addition to all other applicable penalties, fees, or costs.

Proposed law authorizes tax refunds or credits associated with overpayments arising after the amnesty application is submitted under certain circumstances.

Proposed law prohibits the department from imposing a penalty if a deficiency results from an adjustment made by the I.R.S. to the taxpayer's federal income tax.

Proposed law provides that if a taxpayer who participated in an amnesty fails to comply with any payment or filing provision of law during the five year period beginning after the year in which the amnesty was granted, the taxpayer shall be subject to the negligence penalty under present law or a penalty of \$100, whichever is greater.

Effective upon signature of governor or lapse of time for gubernatorial action.