

THE COUNSELOR

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Alabama Announces Tax Amnesty Program

“OPERATION CLEAN SLATE”

David M. Woolbridge

Taxpayers who have failed to file Alabama tax returns or who have underpaid their Alabama taxes can avoid civil penalties and criminal prosecution if they voluntarily file or correct their returns and pay the taxes by May 15, 2009. A program of tax amnesty for State of Alabama taxes, called “Operation Clean Slate,” was announced by Governor Riley and Revenue Commissioner Tim Russell on January 15 and became effective February 1, 2009.

In addition, the Department is requiring only the last three years of tax returns to be filed and the last three years of tax deficiencies to be paid. It promises not to seek tax, interest or penalty with respect to older returns. The three-year “look-back” period is as of February 1, 2009. So the only returns and taxes that must be addressed are the last three years (or 36 months) of returns and taxes that are past due on February 1.

The program affects any taxpayer who has not filed tax returns in the past or who has underpaid taxes on past returns for any reason. Under the amnesty program, the State promises to waive all civil penalties for failure to file returns and underpayment of taxes, including negligence and civil fraud penalties, if the taxpayer voluntarily files any delinquent original returns (falling within the “look-back”

period) or amends such returns to correct any underpayment of taxes, and pays the taxes, in each case, by the May 15 deadline. The taxes may not be paid in installments.

The State also promises to waive criminal prosecution if the delinquent return filings and payments falling within the “look-back” period are made. However, interest will still be applied to unpaid taxes, and any interest must be paid within 90 days of the date it is billed by the Department of Revenue.

The amnesty program applies to most Alabama taxes, including personal and corporate income taxes, business privilege taxes, as well as excise, severance, tobacco, gasoline, motor fuels and consumers use taxes. Sales and use taxes are eligible for relief, but only if the taxpayer is not presently registered with the Department of Revenue. “Trust fund” taxes (withheld income FICA and FUTA taxes, previously collected sales taxes, and motor fuel taxes) are not eligible for the limited “look-back” period, and trust fund taxes are not eligible for relief from penalties if the taxpayer already has an account set up to remit such taxes. Leniency under Operation Clean Slate is available only if the correction is voluntary. Therefore, relief is not available if the taxpayer is

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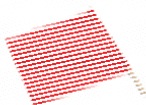
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already under investigation or audit, or has already been contacted by the Department of Revenue concerning their delinquent returns or unpaid taxes.

An additional incentive for taxpayers to correct their errors under Operation Clean Slate is cited in the Governor’s press release. The Department of Revenue will soon be bringing online new computer capabilities that will better enable the Department to detect noncompliance and nonfiling.

A deadline of May 15, 2009 applies to this amnesty program, so taxpayers must act promptly to take advantage of it and make sure their submission is postmarked by May 15. Original and amended returns under this program are to be sent to a special address:

Department of Revenue
“Operation Clean Slate”
P.O. Box 327010
Montgomery, AL 36132-7010

Tax returns must be labeled “Operation Clean Slate” at the top of the return and on every form filed with the return.

For further information, contact David Wooldrige at (205) 930-5219 or Greg Rhodes at (205) 930-5445.



DAVID M. WOOLDRIDGE’S practice is focused toward substantial tax controversies with federal and state authorities involving administrative proceedings, litigation, business, corporate and shareholder controversies. He teaches regularly on tax practice and procedures at the University of Alabama School of Accounting and School of Law and is certified in dispute mediation by the American Arbitration Association. David is very active in fundraising efforts for the United Way and United Cerebral Palsy. David earned his B.S. from The University of Alabama, a J.D. from The University of Alabama School of Law and an LL.M. in Taxation from New York University.

Tax Changes for 2009

Jay G. Maples

There’s a new sheriff in town (so to speak), and the winds of tax law change are blowing. Let’s take this opportunity to examine some of the tax law changes we know about and some that we can only speculate about. Here is what we know:

Social Security and Medicare

For 2009, the Social Security maximum has been raised to \$106,800 – an increase of \$4,800 over last year’s maximum. The rate of increase continues to outpace inflation, or the cost of living increase in wages you might expect from your employer. The maximum Social Security benefit was increased to \$2,399 per month in 2009, and the Cost of Living Adjustment (COLA) was 5.8 percent.

Standard Deductions

The new standard deduction is \$11,400 for married couples filing a joint return (up \$500), \$5,700 for singles and married individuals filing separately (up \$250) and \$8,350 for heads of household (up \$350). Nearly two out of three taxpayers take the standard deduction, rather than itemizing deductions, such as mortgage interest, charitable contributions, and state and local taxes.

