



# Special Notice

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STATE BOARD  
OF EQUALIZATION

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## TAX AMNESTY

### *Related Penalties and Billing Time Limits*

In 2005, the Board conducted a short-term sales and use tax amnesty program. The program allowed taxpayers to pay the tax and interest they owed for certain reporting periods without paying penalties that usually apply. The new law also:

- Created new penalties that apply to taxpayers who owed tax but did not participate in the tax amnesty program or participated in the program but failed to fulfill certain program requirements.
- Created an extended statute of limitations that allows the Board to bill for tax, penalties and interest up to ten years after the tax was first due in certain cases.

The new penalties and extended billing time limits may apply to you, as explained in this special notice.

### TAX AMNESTY PROGRAM SUMMARY

The tax amnesty program took place in early 2005. It applied to tax reporting periods that began before January 1, 2003 (called "amnesty-eligible periods"). To participate in the program, you had to do three things:

- Apply for tax amnesty between February 1, 2005, and March 31, 2005.
- File tax returns for any amnesty-eligible period in which you did not report enough tax – either because you didn't file a return or because you reported less tax than was actually due by May 31, 2005.
- Pay all of the tax and interest due for those amnesty-eligible periods or enter into an amnesty installment payment agreement by May 31, 2005.

### AMNESTY-RELATED PENALTIES

As of April 1, 2005, you generally owe amnesty-related penalties if you:

- Owe sales or use tax for amnesty-eligible periods, *and*
- Did not participate in the amnesty program or participated but did not fulfill certain program requirements.

### *50 percent interest penalty*

This penalty is 50 percent of the interest that was due on tax you owed for amnesty-eligible periods as of March 31, 2005, the end of the amnesty application period. However, you do not owe the penalty if:

- You had arranged to pay the amount due under an installment payment agreement by February 1, 2005, or
- You participated in the tax amnesty program and entered into an amnesty installment payment agreement by May 31, 2005, or
- You participated in the tax amnesty program and paid the tax by May 31, 2005.

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*Example:* On March 31, 2005, a business owed tax of \$1,000 for the third quarter of 2002, a reporting period that was eligible for tax amnesty. The business did not file for tax amnesty. The interest on the unpaid tax – from the due date through May 31, 2005 – was \$200. The business owes a 50 percent interest penalty of \$100 ( $\$200 \text{ interest} \times 50\% = \$100$ ).

The 50 percent interest penalty is due when your bill (Notice of Determination) becomes final.

### ***Double Penalties***

As of April 1, 2005, applicable penalties are doubled on all new billings issued for amnesty-eligible periods. These double penalties are *in addition* to the 50 percent interest penalty described above. The 50 percent interest penalty will *not* be doubled.

### **YOU MAY ASK US TO RELIEVE OR REFUND YOUR AMNESTY-RELATED PENALTIES**

State law allows relief of amnesty-related penalties if it is determined that you did not pay your tax on time for a good reason or because of conditions or events beyond your control. For example, you might have paid late because you were sick in the hospital and unable to file.

To request relief from your amnesty-related penalties, you must file form BOE-735, *Request for Relief from Penalty*. Be sure to explain why penalties should be relieved and state the facts that support your request. You must sign the form under penalty of perjury.

If you have already paid tax amnesty-related penalties and you would like to request relief, you should not file a request for relief form. Instead, you should file a claim for refund containing your request for relief. See our Publication 117, *Filing a Claim for Refund*, for information and a copy of form BOE-101, *Claim for Refund*.

You may obtain forms and publications from our website, [www.boe.ca.gov](http://www.boe.ca.gov), or by calling our Information Center at 800-400-7115.

### **EXTENSION OF BILLING TIME LIMITS**

Under the extended statute of limitations contained in the tax amnesty law, in some cases billings can be issued for tax, interest, and penalties for amnesty-eligible periods as late as ten years after the sales or use tax was originally due. This extension of the time limit for billing applies when the time limit for issuing a bill for an amnesty-eligible period had not expired by August 16, 2004 (taking into consideration waivers of the statute of limitations).

Before this new law went into effect, the latest a billing could be issued was three years after the tax was due if you filed a tax return or eight years after the tax was due if you did not file a return. There is no time limit for issuing a bill in cases involving fraud.

### **AUDITS**

Businesses are selected for audit based on various factors. When a business is audited, the audit generally covers a three-year period. However, there may be situations where an audit is extended to cover a longer period. Consideration will be given to the following factors:

- You did not participate in the tax amnesty program.
- We have not already audited the amnesty-eligible periods.
- The normal three-year audit period starts immediately after or overlaps the amnesty-eligible periods.
- Our initial review of your records indicates a reporting error in the amnesty-eligible periods.
- We have other specific or direct information indicating you may owe tax for the amnesty-eligible periods.

If you are being audited and have any concerns, be sure to discuss them with your auditor.

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