What’s New for Tax Year 2014

There have been some important changes affecting the preparation of New Jersey income tax returns and applications for New Jersey’s property tax relief programs this year:

Income Tax

• Property Tax Deduction/Credit — Homeowners applying for the property tax deduction/credit must enter new information on Lines 37b and 37c of the 2014 resident return, Form NJ-1040. Residents must report the following information about the principal residence they owned and occupied on Dec. 31, 2014: block number, lot number and qualifier (condominiums only) for the property, and county/municipality code for the location of that residence. Those who were not homeowners on Dec. 31 must provide information for the last home they owned and occupied in New Jersey during 2014. In addition, homeowners must fill in the oval on Line 37c if they completed Worksheet F-1, which can be found in the instructions for Form NJ-1040, to calculate the total property taxes paid amount for Line 37a.

• Credit for Excess UI/WF/SWF; DI; FLI Withheld — For 2014, the maximum employee unemployment insurance/workforce development partnership fund/supplemental workforce fund contribution was $133.88, the maximum employee disability insurance contribution was $119.70 and the maximum employee family leave insurance contribution was $31.50. If you had two or more employers, you may have contributed more than the maximum amount(s). You must complete Form NJ-2450 to claim credit on your New Jersey tax return for the excess withheld.

• Credit for Taxes Paid to Other Jurisdictions — The Philadelphia nonresident wage tax rate for 2014 was 3.495% (.03495) from Jan. 1 to June 30, 2014, and 3.4915% (.034915) from July 1 to Dec. 31, 2014.

• Alternative Business Calculation Adjustment — If you have losses in certain business-related categories of income, you may be able to use those losses to calculate an adjustment to your taxable income. In addition, you can carry forward unused losses in those categories for 20 years to calculate future adjustments. For tax year 2014, the percentage used to calculate the Alternative Business Calculation Adjustment on Schedule NJ-BUS-2 is 30 percent, up from 20 percent in 2013. The percentage is being phased in over a five-year period and will reach a maximum of 50 percent for tax year 2016 and after.

continued on page 2
• E-Filing Opt Out — If your tax preparer is required to file all returns electronically, you can still choose to file by paper as long as you fill out Form NJ-1040-O, E-File Opt-Out Request Form. Beginning this year, you must include the form with your return when you file, and your preparer must indicate that it is enclosed by filling in the oval in the section where he or she signs your return.

Property Tax Relief Programs
• 2014 Property Tax Reimbursement (Senior Freeze) — The Senior Freeze (Property Tax Reimbursement) Program reimburses eligible senior citizens or disabled persons for property tax increases. Eligible residents must file a 2014 Property Tax Reimbursement Application (Form PTR-1 or PTR-2) by June 1, 2015. The 2014 applications were mailed in mid-February.

With very few exceptions, all income received during the year, including income which is not required to be reported on Form NJ-1040, must be taken into account to determine eligibility for the property tax reimbursement. For residents applying for reimbursements for tax year 2014, total annual income must be:

2013: $84,289 or less, and
2014: $85,553 or less

These limits apply regardless of marital/civil union status. However, if your filing status was married/CU couple, and you lived in the same household, you must combine your incomes for that year.

Note: As a result of the amount appropriated in the State Budget for property tax relief programs, only certain applicants received reimbursement payments for 2013. Applicants who were eligible to receive reimbursement payments for 2013 were those whose 2012 income did not exceed $82,880 and whose 2013 income did not exceed $70,000, provided they met all the other program requirements. The amount appropriated for property tax relief programs may likewise affect eligibility for 2014 reimbursements.

Homestead Benefit Program — Information about filing for benefits under the Homestead Benefit Program is not yet available. Please continue to check our website as information will be posted as it becomes available.

New Grant and Credit Monitoring Unit Formed
Responsibility for administering certain tax incentives and grants available under State programs offered by the New Jersey Economic Development Authority now resides with the Office of Legislative Analysis and Disclosure (OLAD). A new Grant and Credit Monitoring Unit within OLAD, referred to as the “Credit Team,” was created to review and process applications for tax credits and grants submitted to the Division under the various programs.

Tax incentive grant programs have become an essential tool used by government and businesses to stimulate economic activity in blighted and contaminated areas and to help
spur development and create jobs within the State. The Credit Team currently handles tax credits and/or grants under the following programs: Angel Investor Tax Credit, Brownfield and Contaminated Site Remediation Program, Business Employment Incentive Program (BEIP), GROW NJ Assistance Program, Economic Redevelopment and Growth Grant Program (ERGG) and Urban Transit Hub Tax Credit Program. In addition, the Unit processes applications for Urban Enterprise Zone (Form UZ-6) and Salem County (Form SC-6) energy exemption certificates.

OLAD’s Credit Team is working to streamline the process of monitoring these grants, including the verification and tracking of tax credits and reimbursement payments to developers.

**New Laws for EFT Payments That Fail**

Recent legislation amended existing civil and criminal statutes to treat failed electronic funds transfer (EFT) payments the same way as bad checks, drafts or money orders.

This means that a taxpayer commits a crime if he or she authorizes an electronic funds transfer knowing that the payment will not be honored because of insufficient funds or because the taxpayer does not have an account at the financial institution on which the payment is drawn. Likewise, a taxpayer who makes a dishonored EFT payment is also subject to the provisions of civil law that provide for the recovery of funds and payment of damages.

These new laws will be of particular help to the Division of Taxation in recovering money due to the State of New Jersey. The Technical Enforcement Unit within the Division’s Office of Criminal Investigation is responsible for recouping funds owed as a result of EFT payments that are dishonored by financial institutions. This Unit now has the tools necessary to take the same actions, including criminal prosecution, against taxpayers who initiate bad EFT payments as they can against those who issue bad checks.

Now that fraudulent EFT payments can be treated as bad checks, violators who fail to pay after they have been notified by the Division that their EFT payment was dishonored can be charged with a crime ranging from a disorderly persons offense to a crime of the second degree. The degree of the crime and the associated penalties depend on the amount of the dishonored payment. In addition, the Division can also bring a civil action to recover the unpaid amount plus damages. These civil and criminal actions are in addition

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new laws for EFT - from page 3

to the penalties and interest that are imposed whenever tax is paid after the due date.

These new laws, P.L. 2014, c.45 and c.46, signed into law on Sept. 10, 2014, do not increase existing penalties for making a dishonored payment; they simply apply the existing provisions to dishonored payments made by electronic funds transfer.

**Criminal Enforcement**

Criminal enforcement over the past several months included:

- **On May 12, 2014,** the State, by an order of forfeiture, seized $75,407.25 from Gary Conover, property that has been, or was intended to be, used in criminal activity. Based on the distributive share analysis in N.J.S.A. 2C:64-4, an allocation of $25,000 was determined to be the share for the New Jersey Department of the Treasury. This case was a joint investigation with the Division of Criminal Justice and the Office of Criminal Investigation (OCI) into allegations that Mr. Conover was taking bets and paying out bets without filing the appropriate W-2 forms and other paperwork associated with income taxes on gambling winnings.

- **On July 16, 2014,** the Monmouth County Grand Jury returned a 20-count indictment against Anthony Gagliardi and a 10-count indictment against Richard Crossan. These indictments followed a criminal investigation conducted by the Monmouth County Prosecutor’s Office in conjunction with the Somerset County Prosecutor’s Office, the Monmouth County Sheriff’s Office, OCI and various police departments. The investigation revealed that both suspects were engaged in illegal gambling and financial activity, which included money laundering and tax evasion. Gagliardi was indicted on the following charges: second-degree racketeering conspiracy, first- and third-degree financial facilitation of criminal activity, third-degree promoting gambling, third-degree failure to file returns, third-degree failure to pay and third-degree filing a fraudulent return.

- **On Aug. 12, 2014,** Robert Greco, Jr., owner of East Creek Manor in Eldora, New Jersey, was indicted in Cape May County Superior Court on charges of second-degree theft by failure to make required disposition, third-degree failure to file return and third-degree failure to pay. Mr. Greco is accused of using funds from a resident’s bank accounts for his personal gain as well as business expenses associated with East Creek Manor.

- **On Aug. 21, 2014,** OCI special agents arrested Othello Alferd of Old Bridge, New Jersey, following an investigation into his illegal import of counterfeit Newport cigarettes. The investigation also resulted in the seizure of 93.4 cartons of counterfeit cigarettes imported from mainland China. Alferd was processed and incarcerated in lieu of $25,000 bail, no 10%.

- **On Aug. 26, 2014,** Stevens Castor of East Orange, New Jersey, was arrested by OCI special agents for various violations of the U.S. Attorney’s Office and five years of supervised release on unrelated mortgage fraud charges brought by the Federal Bureau of Investigation. He was ordered to pay restitution in the amount of $4,046,382 to the State for unpaid cigarette tax and an additional $1,405,000 for the mortgage fraud. OCI initiated this investigation and requested the assistance of the Bureau of Alcohol, Tobacco, Firearms and Explosives from June 2011 until Mohammad Shafiq’s arrest in February 2012.

- **On Aug. 11, 2014,** Mohammad Shafiq was sentenced to 57 months in prison on four counts of federal cigarette trafficking violations brought by the U.S. Attorney’s Office and five years of supervised release on unrelated mortgage fraud charges brought by the Federal Bureau of Investigation. He was ordered to pay restitution in the amount of $4,046,382 to the State for unpaid cigarette tax and an additional $1,405,000 for the mortgage fraud. OCI initiated this investigation and requested the assistance of the Bureau of Alcohol, Tobacco, Firearms and Explosives from June 2011 until Mohammad Shafiq’s arrest in February 2012.

**Interest 6.25%**

The interest rate assessed on amounts due for the period Jan. 1, 2015 – Dec. 31, 2015, will be 6.25%.

The assessed interest rate history is listed below.

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/09</td>
<td>7.00%</td>
</tr>
<tr>
<td>1/1/10</td>
<td>6.25%</td>
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<tr>
<td>1/1/11</td>
<td>6.25%</td>
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<tr>
<td>1/1/12</td>
<td>6.25%</td>
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<tr>
<td>1/1/14</td>
<td>6.25%</td>
</tr>
<tr>
<td>1/1/15</td>
<td>6.25%</td>
</tr>
</tbody>
</table>

Winter 2014/2015
the Cigarette Tax Act relative to cigarette sales via the Internet. Each sale was for a legitimate product; however, the cigarettes were stolen from a drugstore where Castor was employed as a security guard. Special agents have begun to monitor Internet sales of tobacco, cigarettes and counterfeit products for Master Settlement Agreement violations.

- On Sept. 15, 2014, OCI was notified of a suspect’s receiving a carload of suspected untaxed cigarettes. The vehicle delivering the cigarettes had Virginia license plates. OCI agents responded to the scene and observed cigarettes through the open back doors of two vans. A total of 690 cartons of Virginia-stamped cigarettes and $2,202 in U.S. currency were seized. Special agents arrested Hany M. Faltas of Hatfield, Pennsylvania, and Fateh Alwesh Sabbagh of Brooklyn, New York, and transported them to the Jersey City Police Department South for processing. The suspects were charged with third-degree possession of out-of-State stamped cigarettes, fourth-degree engaging in conduct requiring licensure without registration or license, third-degree failure to maintain records and fourth-degree engaging in a cigarette transaction with an unlicensed person with the intent to evade the State cigarette tax. Additionally, the vehicle used to illegally transport the cigarettes was seized pending forfeiture by OCI.

- On Sept. 17, 2014, Cynthia Perella was indicted on tax charges in Gloucester County. A joint investigation conducted by the Gloucester County Prosecutor’s Office and the Office of Criminal Investigation revealed that she failed to report all of her income on her New Jersey resident tax returns for tax years 2012 and 2013. While employed by the Harrison Township Fire District, Perella negotiated unauthorized checks made payable to herself and failed to report the checks as income on her New Jersey tax returns. Perella was charged with filing a fraudulent tax return and failure to pay. In addition to the tax charges, Perella was charged with forgery, theft by unlawful taking and official misconduct.

- On Oct. 1, 2014, an OCI Technical Enforcement Unit Investigator provided testimony to the Mercer County Grand Jury that resulted in a three-count indictment of Kalpesh M. Patel. He was charged with three separate counts of theft by deception illegal retention, misapplication of entrusted government property and failure to pay New Jersey State taxes. The charges are the result of an investigation into Mr. Patel’s failure to replace dishonored payments of sales and use tax totaling $91,035.55 for the six businesses that he operates in New Jersey. If convicted, this will be a second conviction of the same nature as Mr. Patel pled guilty to similar charges in 2013 in the Trenton Municipal Court.

- On Oct. 6, 2014, an OCI special agent performed a compliance inspection at a business in Montvale, New Jersey, which resulted in the seizure of 437.7 counterfeit-stamped and out-of-State stamped cartons of cigarettes. The owner of the business was arrested and charged with multiple cigarette-and forgery-related crimes.

- On Oct. 21, 2014, Vito Alberti, Domenick Pucillo, Robert Spagnola, Manuel Rodriguez, Abel J. Rodriguez and John W. Trainor were arrested and charged with first-degree racketeering, first-degree money laundering, first-degree conspiracy and various other charges. Following their arrests, the defendants were jailed and bail was set at $400,000 each. This ongoing criminal investigation is being conducted by the New Jersey Division of Criminal Justice in conjunction with the

Enforcement Summary Statistics
Fourth Quarter 2014

Following is a summary of enforcement actions for the quarter ending Dec. 31, 2014.

<table>
<thead>
<tr>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank Levies</td>
<td>531</td>
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<tr>
<td>Certificates of Debt</td>
<td>2,540</td>
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<tr>
<td>Seizures</td>
<td>90</td>
</tr>
<tr>
<td>Auctions</td>
<td>11</td>
</tr>
<tr>
<td>Warrants of Satisfaction</td>
<td>4,678</td>
</tr>
</tbody>
</table>

• On Oct. 28, 2014, OCI seized a total of 763.4 cartons of counterfeit New Jersey tax-stamped cigarettes (485.4 cartons) and Virginia tax-stamped cigarettes (278.0 cartons) discovered by the Newark Police Department during an unrelated narcotics investigation. OCI also seized 59,400 counterfeit New Jersey tax stamps, 44,722 counterfeit Pennsylvania tax stamps, $20,872 in U.S. currency and a mini¬van. The owner of the business, Kelvin Nunez, was arrested by special agents in Newark along with his father, Jose Nunez, who was later arrested at his home in Bloomfield, New Jersey. Both were charged with 13 offenses comprised of Title 54 and Title 2C related charges.

• An OCI auditor on the Stolen Identity Refund Fraud Task Force worked in collaboration with the U.S. Postal Inspection Service in an ongoing fraud investigation. He confirmed that four fraudulent New Jersey income tax refund checks in the amount of $5,672 were suspicious based on the proximity of their addresses. In addition, three fraudulent paid preparers were blocked from submitting returns in the future. The paid preparers’ addresses were in Philadelphia, Pennsylvania; Bronx, New York; and Queens, New York. The preparer from Queens submitted 151 fraudulent income tax returns for the 2013 tax year that represented $126,584 in requested refunds. The procedures put in place by the Special Frauds Unit prevented 96 percent of this amount from being released.

The taxpayer received a payment as a result of her husband’s death. Her husband was a firefighter who died in the 9/11 terrorist attack and the payer is the Fire Pension Fund. She will receive a payment every year for life. The taxpayer received Form 1099-R with an amount in Box 7, Distribution Code 4 (Death).

N.J.S.A. 54A:6-4(b) provides that “employees’ death benefits, if such amounts are paid by or on behalf of an employer and are paid by reason of the death of the employee” are excluded from gross income.

Additionally, payments from the September 11th Victim Compensation Fund and other qualified disaster relief payments that are excluded from income when received by a victim are also excluded when received as a survivor annuity by a child, spouse, or former spouse of a public safety officer. This exclusion applies to the amount of the annuity based on the decedent’s service as a public safety officer. For this purpose, the term “public safety officer” includes police and law enforcement officers.

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Sales and Use Tax

**Donation Made Through a Crowdfunding Website** – The Division received an inquiry as to whether a donation made through a “crowdfunding” website is subject to sales and use tax.

Crowdfunding websites provide a platform for filmmakers, musicians, artists, authors, designers and others to solicit donations for their projects. For example, an author located in New Jersey who wants to raise money to publish a book may agree to provide a copy of the finished book to his or her contributors in return for a $10 donation to the project.

The New Jersey Sales and Use Tax Act imposes tax on the retail sale of tangible personal property unless a valid exemption exists. N.J.S.A. 54:32B-3(a); N.J.S.A. 54:32B-6. The Division concluded that there is no “retail sale” of tangible personal property when a donation is made through a crowdfunding website. Therefore, in the example above, the $10 donation to the author is not subject to sales or use tax. The fact that, in return for a donation to the project, the author agrees to provide a copy of the finished book to contributors at a later date does not change this conclusion. However, the author is required to pay either sales or use tax (depending on the circumstances) on the books given to contributors.

**Taxability of Walk-In Bathtubs** – A taxpayer, who is a seller of walk-in bathtubs, inquired whether sales tax must be collected on retail sales of walk-in bathtubs to customers. The taxpayer described the walk-in bathtubs as having built-in powered bath chairs and lifts. These walk-in bathtubs are specially designed for individuals who cannot use conventional bathtubs due to a disability or chronic illness. The built-in powered bath chairs and lifts aid individuals to raise or lower themselves in and out of the water.


Mobility enhancing equipment is defined in N.J.S.A. 54:32B-8.1(b) as “equipment, other than durable medical equipment, that:

1. is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle; and
2. is not generally used by persons with normal mobility; and
3. does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.”

Based on the above, sales of walk-in bathtubs that contain built-in powered bath chairs and lifts are exempt from tax as mobility enhancing equipment, so long as the purchaser presents a doctor’s prescription to the seller.

Sales of walk-in bathtubs which do not have built-in powered bath chairs and lifts are taxable because they are generally used by people with normal mobility and do not, therefore, satisfy the requirements for exemption from tax.

In Our Courts

**Administration**


McGlone was the President and 100% shareholder of a construction company incorporated in New Jersey (the Company) which filed for bankruptcy in 1990. The Division filed a timely priority claim estimating that the Company owed $100,000 in various taxes, including employer withholdings of gross income tax, which is a trust tax. In 1997, a final decree was entered in Bankruptcy Court on the Chapter 7 liquidation.

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Note: Effective June 1, 2015, the NJ TaxFax Service will be discontinued.
In 2001, McGlone filed the Gross Income Tax Reconciliation of Tax Withheld (Form NJ-W-3) for 1988, 1989 and 1990 on behalf of the Company. Three months later the Division issued a Notice of Finding of Responsible Person Status to McGlone that assessed $175,071 for unpaid gross income tax withholdings plus penalty and interest for 1988 through 1990.

McGlone filed a complaint in Tax Court alleging that the Division filed the 2001 assessment after the statute of limitations had expired, and that the liability for the assessment expired at the end of the bankruptcy proceedings in 1997.

The Tax Court first addressed McGlone’s claim that the Division’s assessment was beyond the statute of limitations. The Court found that the Division’s 2001 Notice of Finding of Responsible Person Status was timely because the 1988, 1989 and 1990 NJ-W-3s were filed in 2001, which was when the three-year statute of limitations began to run (N.J.S.A. 54A:9-4(a)).

With respect to McGlone’s contention that the Company’s tax debt and his responsibility for that debt expired at the end of the bankruptcy proceedings, the Court ruled that because the debt was for trust fund taxes it was not dischargeable in bankruptcy. The Court cited a case decided by the Supreme Court of the United States that held that trust fund tax debts are not dischargeable under any circumstances. Additionally, as a responsible person, McGlone was personally liable for any withholding taxes that were not remitted by the Company.

Penalties – United Parcel Service General Services Co. v. Director, Division of Taxation, decided Dec. 4, 2014; New Jersey Supreme Court No. A-16/17 September Term 2013, 072421.

The New Jersey Supreme Court (Court) affirmed the New Jersey Tax Court and the Appellate Division on the issue of whether late payment penalties and amnesty penalties applied.

The Court concurred with the New Jersey Tax Court and the Appellate Division that the Division should have waived the late payment penalties because the taxpayer had “reasonable cause” for not paying the tax. In writing, the Division stated that one of the United Parcel companies demonstrated “reasonable cause in this matter.” Additionally, there was no “directly pertinent legal authority” in existence regarding the issue.

The Court concurred with the Appellate Division’s affirmation of the New Jersey Tax Court conclusion that the Division improperly assessed amnesty penalties under the 1996 and 2002 tax amnesty statutes. (N.J.S.A. 54:53-17, -18). After reviewing the statutes, the Court found that neither amnesty statute addressed a taxpayer who was found to owe additional taxes pursuant to an audit and who paid all its reported tax liabilities on its timely filed tax returns. The Court relied on the legislative history and the State Treasurer’s testimony concerning the 1996 amnesty statute. During that testimony, the Treasurer stated that the penalty would not be applied to taxes found on a routine audit of a compliant taxpayer in which a question of law or fact exists.


N.J.S.A 54:10A-4(k)(2)(C) of the Corporation Business Tax Act requires that when determining New Jersey entire net income a taxpayer must add back certain taxes, including taxes on or measured by profits or income or business presence or business activity that were deducted for federal tax purposes. In this case, the relevant taxes that the Division required the taxpayer to add back include taxes paid to Pennsylvania that are measured by profits or income or business presence or business activity. At issue was whether the (1) Pennsylvania Gross Receipts Tax (PAGRT) and/or (2) Pennsylvania Capital Stock Tax (PACST) must be added back to determine New Jersey entire net income for tax years 1999 and 2000.

The PAGRT is measured solely on the amount of electricity sold, and the tax is passed on to the consumer of electricity. The Court ruled that the PAGRT is an excise tax, and the taxpayer was not required to add it back to determine entire net income because the tax is not measured by

Public Auction Information

Announcements of upcoming public auctions of seized property are published on the Division of Taxation’s website under “Auctions.” Select the name of the business for details about that auction.

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in our courts - from page 8

business presence or business activity or income or profits.

The PACST is determined by using the taxpayer’s average accumulated book income over five years and the taxpayer’s net worth. In examining the PACST, the Court found that the Pennsylvania courts have held that the PACST resembles a property tax. The Tax Court decided that the taxpayer was not required to add back the PACST because it is measured by the value of the company’s assets, and therefore not a tax measured by profits or income or business presence or business activity.

Tax Calendar

The following three calendars provide listings of filing and payment dates for tax year 2014 (Jan. 1, 2014 – Dec. 31, 2014) and tax year 2015 (Jan. 1, 2015 – Dec. 31, 2015) for businesses and individuals:

- **Chronological List of Filing Deadlines** — This calendar is for use by both businesses and individuals. If you are responsible for a return that is not listed in this calendar, please refer to the instructions that accompanied the return, or contact the Customer Service Center at 609-292-6400 for the appropriate filing deadline.

<table>
<thead>
<tr>
<th>2014</th>
<th>2015</th>
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- **Alphabetical Summary of Due Dates by Tax Type**

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<tr>
<th>2014</th>
<th>2015</th>
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</thead>
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</table>

- **Payment Dates for Weekly Payers** — An employer or other withholding of New Jersey gross income tax is designated a “weekly payer” if the amount of tax it withheld during the previous tax year was $10,000 or more.

<table>
<thead>
<tr>
<th>2014</th>
<th>2015</th>
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</thead>
<tbody>
<tr>
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<td></td>
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</tbody>
</table>

**Current Amnesty Programs**

The following jurisdictions are conducting tax amnesty programs. During the designated amnesty period, taxpayers have a chance to pay back taxes with reduced (or eliminated) penalty and/or interest. For more information, including eligibility requirements, or to obtain an application, visit the jurisdiction’s website.