

The Advantages & Disadvantages of Ohio's Use Tax Amnesty

Recently the Ohio Department of Taxation announced an amnesty program for non compliant taxpayers. One part of this program that may be of interest to you relates to Consumer's Use Tax. The following explains the amnesty program, what Consumer's Use Tax is and the advantages and disadvantages of the program.

CONSUMER'S USE TAX AMNESTY PROGRAM

The Consumer's Use Tax Amnesty provisions of H.B. 153 (see uncodified section 757.42) provide an excellent opportunity for taxpayers to satisfy their past consumer's use tax liability. The amnesty program began October 1, 2011 and ends May 1, 2013.

Step-by-step-instructions on how to request amnesty can be found at http://tax.ohio.gov/divisions/sales_and_use/index_use.stm#TUTORIALS. You will also find Tutorials that provide assistance in registering for an OBG account, establishing a Consumer's Use Tax account, completing a return and setting up a payment plan.

"Consumer's Use Tax Amnesty" filing services are now available through the Ohio Business Gateway (OBG).

WHAT IS CONSUMER'S USE TAX?

Consumer's Use Tax must be paid on all taxable purchases of tangible personal property or services used, stored or otherwise consumed in Ohio unless Ohio sales tax has been paid to a vendor or the tax has been properly paid to another state. In general, if you have paid Ohio sales tax on the purchase of tangible personal property or a taxable service, you do not owe Consumer's Use Tax on that transaction. Examples of tangible personal property subject to use tax are computer equipment, printers, fax machines, office supplies (paper, envelopes, folders, pens, paper clips, etc.), furniture and cleaning supplies (mops, brooms, cleaners, paper towels, etc.). Consumer's Use Tax is also due on the use of taxable services in Ohio. Examples of taxable services include, but are not limited to, installation, repair, employment services (temporary labor), automatic data processing, janitorial and maintenance services, storage services and maintenance contracts. The Ohio Department of Taxation ("ODT") has developed a series of fact sheets to further explain use tax and how use tax commonly applies to certain types of businesses such as construction contractors, manufacturing, retail and service-related enterprises.



WHAT CONSUMER'S USE TAX PERIODS SHOULD BE INCLUDED IN MY AMNESTY APPLICATION?

Consumer's Use Tax due on purchases made on or after January 1, 2009 should be included in your amnesty application. However, if you have been issued an assessment for Consumer's Use Tax due for any period, you are not eligible for amnesty. You can apply for Consumer's Use Tax Amnesty only once during the program.

WHAT IF I DON'T QUALIFY FOR CONSUMER'S USE TAX AMNESTY?

Taxpayers who do not qualify for Consumer's Use Tax Amnesty may still qualify for ODT's Voluntary Disclosure Program. For more information on voluntary disclosure, please scroll down to the bottom of this page. However, if you qualify for Consumer's Use Tax Amnesty, you are not eligible for voluntary disclosure for consumer's use tax.

WHAT ARE THE ADVANTAGES OF AMNESTY?

The Tax Commissioner will waive all use tax liability that has not been assessed for any periods prior to January 1, 2009. Consumer's Use Tax paid under amnesty is not subject to interest or civil or criminal penalties. However, if you are registered for Ohio use tax as of June 1, 2011, you will be required to pay interest on any under-reported or unreported Consumer's Use Tax.

WHAT ARE THE DISADVANTAGES OF THE AMNESTY PROGRAM?

The main disadvantage of applying for amnesty is that taxpayers who participate will be burdened with ongoing compliance. If you believe that your Use Tax exposure is minimal the advantages of the amnesty program may not be worth the cost and effort of ongoing compliance.

Ultimately the taxpayer is responsible for complying with use tax filing requirements and determining if the Consumer's Use Tax Amnesty Program is worthwhile. The Barnes Wendling tax department is happy to discuss this with you and assist you in determining your use tax exposure.

Please contact Larry Friedman at 216.566.9000 or Phil Seguin and Mitch Zunich at 440.934.3850 if you would like to discuss this opportunity in more detail.

