

My Turn: Tax amnesty is good policy, but leaves out some distressed taxpayers



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The Massachusetts Department of Revenue announced a tax amnesty program that will run from Nov. 1 to Dec. 30, 2024. The program will forgive penalties for some taxpayers who are able to pay in full their tax balances and interest.

When the Legislature included the amnesty in the state budget, it projected raising \$100 million in revenue. The program will also resolve the tax burdens of those who can make amends within the limited time window. A win-win, it seems. Except for those distressed taxpayers who cannot quickly come up with a lump sum to pay off their outstanding debts.

Amnesties targeting a class of individuals who can pay up do not take into account the individual circumstances of a taxpayer who can't. Though not well known, Massachusetts law includes an Offer in Final Settlement program that has been on the books since 1998. These individual settlements are akin to personalized amnesties. In our practice, however, tax debtors with very limited resources have a much better chance at negotiating their troubles away with the IRS than with the state.

The IRS Offer in Compromise program is not perfect, and it is definitely not as easy as late-night infomercials or scam artists make it seem, but tax practitioners know that the federal program is much more accessible and transparent than the state version. Unsurprisingly, the state accepts vanishingly few offers and taxpayers are often reluctant to even try. Thus, we propose that the IRS model be adopted in Massachusetts.

There is a pending bill that would update our state Offer in Final Settlement program, making it accessible and more equitable. "An Act Providing for Settlement in Tax Liability" received a favorable review from the Committee on Revenue and is currently pending (languishing?) in the Ways and Means Committee. It would give more guidance to the DOR, eliminate high minimum payments that are out of reach of many residents, and it would demand as a condition that taxpayers granted this relief remain in compliance with their tax obligations for three years or the deal is rescinded.

By rehabilitating taxpayers who are suffering undue hardship and for whom it is impossible to repay the entire debt, we would actually increase the tax rolls and foster future compliance. By taking into account their particular circumstances we can create a more humane tax system. Taxpayers who cashed their retirement savings due to a job loss or a disabling illness are among those who would benefit from a fair settlement offer.

The DOR has developed a strong financial hardship program that can put a hold on collections, such as levying bank accounts or garnishing wages, but it does not abate any penalties or interest. It keeps thousands of taxpayers in limbo and uncollectable debts on the state books. There are administrative costs associated with overseeing accounts on hardship status, subjecting taxpayers to periodic reviews of income and status renewals — resources that could instead go toward screening viable offers. As

with any amnesty, the DOR will receive a partial payment, and the taxpayer gets precious peace of mind.

One-shot tax amnesties are not directed at low- to moderate-income residents. Our current law has not served these taxpayers either. By adopting the IRS model, the legislature would increase revenue as well as make “fresh starts” accessible to more low- to middle-income taxpayers who are suffering.

The stress associated with tax debt cannot be overstated. The DOR commissioner has enormous collection powers, among them bank account garnishment, suspension of driver’s and professional licenses, or issuances of liens on property. Many taxpayers honestly trying to resolve their debts are often disheartened to find that the accumulated penalties and interest may be as large as the original tax owed.

By settling in appropriate cases, more taxpayers will be encouraged to come into compliance, bringing in revenue to the commonwealth, and the DOR saves administrative resources better used elsewhere. Rather than pushing struggling residents deeper into hardship, we can strive toward a tax system that works for more working-class households and small business owners who have fallen on hard times.

While we are glad for those taxpayers who will be able to sleep better after taking advantage of the coming amnesty, we would like to see more residents helped going forward by improving the Offer in Final Settlement program. That would be a long-term win-win for both taxpayers and the commonwealth.

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