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If At First You Don't Succeed...Extend The Amnesty Period: California Use Tax Amnesty Extended Through 2007

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On September 22, 2005, Governor Schwarzenegger signed legislation extending California's use tax amnesty until January 1, 2008. Under the amnesty, certain "qualified purchasers" may remit delinquent use tax on certain property purchased from a retailer outside of California for storage, use, or other consumption in California in exchange for a waiver of related penalties. Prior to the signing of A.B. 671, the use tax amnesty expired on January 2, 2006. According to the California Legislature, more than \$1.35 billion in use tax is currently owed to the state and the legislation is intended "to inform taxpayers of their obligation to report and pay their use tax liability that is currently owed to [the] state."

The current California Revenue and Taxation Code provides amnesty to certain "qualified purchasers" who report and remit delinquent use tax. In exchange for coming forward, "qualified purchasers" are relieved of penalties, and the statute of limitations for the collection of delinquent use tax on specified purchases is reduced from eight years to three.

A "qualified purchaser" for purposes of the amnesty is a person that voluntarily files an Individual Use Tax Return for tangible personal property that is purchased from a retailer outside of California for storage, use, or other consumption in California, and that meets all of the following conditions:

- (1) the purchaser resides or is located within California and has not previously
a) registered with the State Board of Equalization; or b) filed an Individual Use Tax Return with the State Board of Equalization;
- (2) the purchaser is not engaged in business in California as a retailer;
- (3) the purchaser has not been contacted by the State Board of Equalization regarding failure to report the use tax; and
- (4) the State Board of Equalization has made a determination that the purchaser's failure to file an Individual Use Tax Return or to otherwise report, or pay the use tax was due to reasonable cause and was not caused by reason of negligence, intentional disregard of the law, or by an intent to evade the tax.

Under the amnesty program, purchasers must file a statement, signed under penalty of perjury, setting forth the facts forming the basis for the relief, and if the State Board of Equalization determines that the purchaser's failure to timely report or remit the use tax is due to reasonable cause or to circumstances beyond the taxpayer's control, the purchaser may be relieved of any penalties.

The amnesty does not cover the purchase of vehicles, vessels, or aircraft as defined in the Revenue & Taxation Code.■



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