

Regular Session, 2013  
HOUSE BILL NO. 456

# ACT No. 421

BY REPRESENTATIVE ROBIDEAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact the Louisiana Tax Delinquency Amnesty Act of 2013; to provide for definitions;  
3 to require the Department of Revenue to establish a tax amnesty program as provided  
4 for in this Act; to provide for terms and conditions of the program; to provide for the  
5 disposition of the monies collected pursuant to the tax amnesty program; to provide  
6 for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. This Act shall be known as and may be cited as the "Louisiana Tax  
9 Delinquency Amnesty Act of 2013".

10 Section 2. Definitions. As used in this Act, the following terms have the meaning  
11 ascribed to them in this Section, except when the context clearly indicates otherwise:

12 (1) "Courier" means a messenger other than the United States Postal Service that  
13 delivers parcels, packages, and the like, containing returns, reports, and other documents or  
14 payments.

15 (2) "Department" means the Department of Revenue.

16 (3) "Postmark" means an official mark made by the United States Postal Service on  
17 a piece of mail to cancel the stamp and to indicate the place and date of sending.

18 (4) "Tax period" means any period for which a tax return is required by law to be  
19 filed with the department.

20 (5) "Taxpayer" means any individual or entity subject to any tax imposed by any law  
21 of the state of Louisiana, payable to the state of Louisiana, and collected by the department.

22 Section 3.(A) The department shall develop and implement a tax amnesty program  
23 in accordance with the provisions of this Act. The secretary shall provide by regulation as  
24 necessary for the administration and implementation of this amnesty program. The secretary  
25 shall publicize the tax amnesty program in order to maximize the public awareness of and

1 participation in the program. The secretary may, for purpose of publicizing the tax amnesty  
2 program, contract with any advertising agency within or outside this state and use public  
3 service announcements, pamphlets, mail notices, and print, television, and radio  
4 announcements. Such publications shall include increasing public awareness that the tax  
5 amnesty program will provide amnesty for sales and use tax due on internet, mail order, or  
6 other purchases made from out-of-state vendors for which Louisiana sales or use tax was not  
7 charged at the time of purchase. In furthering the collections of amnesty, the secretary may  
8 procure amnesty program administration services on a fee basis; however, the fee shall not  
9 exceed ten percent of the total dollars collected.

10 (B) The amnesty program shall be effective for a period of at least two months  
11 duration in 2013 occurring prior to December 31, 2013; for a period of at least one month  
12 in 2014, occurring between July 1, 2014 and December 31, 2014; and for a period of at least  
13 one month in 2015, occurring between July 1, 2015, and December 31, 2015; all at the  
14 discretion of the secretary. The tax amnesty program shall apply to all taxes administered  
15 by the department except for motor fuel taxes and penalties for failure to submit information  
16 reports that are not based on an underpayment of tax.

17 (C) Notwithstanding the terms or provisions of any other Act or other provisions of  
18 law to the contrary, and except as provided in Subsection (B), the following taxes are  
19 eligible for amnesty:

20 (1) Taxes due prior to January 1, 2013, for which the department has issued an  
21 individual or a business proposed assessment, notice of assessment, bill, notice, or demand  
22 for payment not later than May 31, 2013; or

23 (2) Taxes for taxable periods that began before January 1, 2013; or

24 (3) Taxes for which the taxpayer and the department have entered into an agreement  
25 to interrupt the running of prescription pursuant to R.S. 47:1580 and said agreement  
26 suspends the running of prescription until December 31, 2013.

27 (D) Participation in the amnesty program shall be conditioned upon the agreement  
28 of the taxpayer that the right to protest or initiate an administrative or judicial proceeding is  
29 barred. The agreement shall only apply to the specific tax and the tax period for which  
30 amnesty is granted.

31 (E) Amnesty for matters under examination and in litigation.

1 (1) Taxpayers involved in field audits or litigation that participate in an amnesty  
2 program shall agree to abide by the department's interpretation of the law with respect to  
3 issues involved in the audit or litigation resolved through amnesty for all taxable periods  
4 beginning in 2014, 2015, and 2016 for the taxpayers participating in the 2013 amnesty  
5 period; for all taxable periods beginning on 2015, 2016, and 2017 for taxpayers participating  
6 in the 2014 amnesty period; and for all taxable periods beginning on 2016, 2017, and 2018  
7 for taxpayers participating in the 2015 amnesty period. Taxpayers shall agree to abide by  
8 the department's interpretation of the law at the time the returns for these periods are filed.  
9 Failure to abide by the department's interpretation of the law for these periods shall subject  
10 the taxpayer to the negligence penalty under R.S. 47:1604.1.

11 (2) Taxpayers involved in litigation that elect to participate in amnesty shall agree  
12 to pay all applicable attorney fees pursuant to R.S. 47:1512 and their own costs of litigation.

13 (3) Taxpayers electing to participate in amnesty who have paid under protest and  
14 filed suit in accordance with R.S. 47:1576 shall agree that upon approval of their amnesty  
15 application, the department shall release their payment from escrow and apply it in  
16 accordance with the grant of amnesty. Any refunds resulting from the application of the  
17 payment shall be made in accordance with Subsection (J) of this Section. The application  
18 for amnesty shall be subject to the provisions of Paragraphs (1) and (2) of this Subsection.

19 (F) Taxpayers with existing liens on their property, both movable and immovable,  
20 filed pursuant to R.S. 47:1577, as well as taxpayers the department has initiated proceedings  
21 against under the assessment and distraint procedure pursuant to R.S. 47:1569 through 1573  
22 are eligible for amnesty; however, taxpayers are required to pay any and all lien fees  
23 associated with the tax periods for which amnesty is applied for.

24 (G) Amnesty will be granted only for eligible taxes to eligible taxpayers who apply  
25 for amnesty during an amnesty period on forms prescribed by the secretary and who pay all  
26 of the tax, all fees and costs, if applicable, and any interest due upon filing the amnesty  
27 application. The amnesty application for taxpayers involved in field audits or litigation shall  
28 include all issues and all eligible periods involved in the audit or litigation. The secretary  
29 shall reserve the right to require taxpayers to file tax returns with the amnesty application.  
30 Notwithstanding the terms or provisions of any other Act or other provisions of law to the  
31 contrary, if the amnesty application is approved during the 2013 amnesty period the

1 secretary shall waive one-half of the interest and all of the penalties associated with the tax  
2 periods for which amnesty is applied. If the amnesty application is approved during the 2014  
3 amnesty period, the secretary shall waive fifteen percent of all of the penalties associated  
4 with the tax periods for which amnesty is applied, but no interest shall be waived. If the  
5 amnesty application is approved during the 2015 amnesty period, the secretary shall waive  
6 ten percent of all of the penalties associated with the tax periods for which amnesty is  
7 applied, but no interest shall be waived. An amnesty payment or application submitted in  
8 a properly addressed envelope with sufficient postage delivered by the United States Postal  
9 Service is deemed paid or received on the date it is postmarked. An amnesty payment or  
10 application delivered by courier or taxpayer is deemed paid or received on the date it is  
11 delivered to the department's headquarters or a regional office. No installment agreements  
12 will be entered into for tax periods that are approved for amnesty.

13 (H) Ineligible taxpayers. Amnesty shall not be granted to taxpayers who are parties  
14 to any criminal investigation or criminal litigation in any court of the United States or the  
15 state of Louisiana pending on the effective date of this Act for nonpayment, delinquency, or  
16 fraud in relation to any state tax imposed by a law of the state of Louisiana and administered  
17 by the department. Further, a taxpayer who delivers or discloses any false or fraudulent  
18 application, document, return, or other statement to the department in connection with an  
19 amnesty application shall be ineligible for amnesty and shall be subject to the fraud penalty  
20 under R.S. 47:1604 or a penalty of ten thousand dollars, whichever is greater.

21 (I) Amnesty applications shall include a written waiver of all rights, restrictions, and  
22 delays for assessing, collecting, or protesting taxes and interest due as set forth in R.S.  
23 47:1562 through 1565 and 1576. The filing of such applications shall make the tax, interest,  
24 and penalty immediately due and payable; subject to the distraint procedure provided for in  
25 Title 47 of the Louisiana Revised Statutes of 1950; ineligible for refund, credit, or claim  
26 against the state; and ineligible for redetermination under the provisions of R.S. 47:1565(C);  
27 however, a taxpayer shall be eligible for a refund or credit if the overpayment arises after the  
28 amnesty application is submitted and is attributable to a properly claimed Louisiana net  
29 operating loss or attributable to an adjustment made by the Internal Revenue Service to the  
30 taxpayer's federal income tax, and the taxpayer provides notice of the adjustment to the  
31 secretary within sixty days of receipt of the adjustment from the Internal Revenue Service.

1 A taxpayer who files an application for amnesty retains all administrative and judicial rights  
2 of appeal with respect to any additional tax assessed by the department.

3 (J) No interest shall be paid on refunds for those amounts previously collected by  
4 the department from the taxpayer for a tax period for which amnesty is granted.

5 (K) Post amnesty collection penalty. If, following the termination of the tax amnesty  
6 period, the secretary issues a deficiency assessment for a period for which amnesty was  
7 taken, the secretary shall have the authority to impose penalties and institute civil  
8 proceedings or criminal proceedings as authorized by law only with respect to the difference  
9 between the amount shown on the amnesty application and the correct amount of tax due.  
10 The secretary may by regulation impose after the expiration of the tax amnesty period a cost  
11 of collection penalty not to exceed twenty percent of any additional deficiency assessed for  
12 any taxable period for which amnesty was taken. This penalty shall be in addition to all  
13 other applicable penalties, fees, or costs. The secretary shall have the right to waive any or  
14 all of the collection penalty when it is demonstrated that any of the deficiency of the  
15 taxpayer was not due to negligence, intentional disregard of administrative rules and  
16 regulations, or fraud. The imposition of penalties or civil proceedings or criminal  
17 proceedings shall not invalidate the amnesty that was previously granted. No penalty shall  
18 be imposed if the deficiency results from an adjustment made by the Internal Revenue  
19 Service to the taxpayer's federal income tax and the taxpayer provides written notice of the  
20 adjustment to the secretary within sixty days of receipt of the adjustment from the Internal  
21 Revenue Service, or if the taxpayer's application for amnesty was based on a proposed  
22 assessment or notice of assessment.

23 (L)(1) For taxable periods beginning on or after January 1, 2014, and before  
24 December 31, 2019, taxpayers that participate in the 2013 amnesty and later fail to comply  
25 with any payment and filing provision administered by the secretary shall be subject to the  
26 negligence penalty under R.S. 47:1604.1 or a penalty of one hundred dollars, whichever is  
27 greater.

28 (2) For taxable periods beginning on or after January 1, 2015, and before December  
29 31, 2020, taxpayers that participate in the 2014 amnesty and later fail to comply with any  
30 payment or filing provision administered by the secretary shall be subject to the negligence  
31 penalty under R.S. 47:1604.1 or a penalty of one hundred dollars, whichever is greater.

1           (3) For taxable periods beginning on or after January 1, 2016, and before December  
2 31, 2021, taxpayers that participate in the 2015 amnesty and later fail to comply with any  
3 payment or filing provision administered by the secretary shall be subject to the negligence  
4 penalty under R.S. 47:1604.1 or a penalty of one hundred dollars, whichever is greater.

5           Section 4.A. The secretary shall retain from monies collected under this Act an  
6 amount equal to all penalties waived under this Act, an amount equal to the costs for  
7 contractual information technology and amnesty program administration services, and an  
8 amount equal to any collection fees, legal fees, or any other fees the department incurs that  
9 are associated with granting amnesty. Such monies shall be designated as self-generated  
10 revenues. Notwithstanding any provision of law to the contrary, amnesty program  
11 administration services and information technology services to implement amnesty may be  
12 acquired using the emergency procurement process. The secretary shall also retain an  
13 amount not to exceed two hundred fifty thousand dollars for advertising expenses from  
14 monies collected from taxes paid pursuant to this Act.

15           B.(1) After satisfaction of the requirements of Subsection A of this Section, all  
16 remaining monies collected pursuant to this Act shall be paid into the state treasury. After  
17 compliance with the requirements of Article VII, Section 9(B) of the Constitution of  
18 Louisiana relative to the Bond Security and Redemption Fund and prior to any monies being  
19 placed into the state general fund or any other fund, an amount equal to the remaining  
20 collections shall be credited by the state treasurer to a special fund hereby created in the state  
21 treasury to be known as the 2013 Amnesty Collections Fund, hereinafter referred to as  
22 "fund". The monies in the fund shall be available for appropriation for any public purpose.

23           (2) Monies in the fund shall be invested by the state treasurer in the same manner  
24 as those in the state general fund and interest earned on such investment shall be credited to  
25 the fund after compliance with the requirements of the Bond Security and Redemption Fund.  
26 All unexpended and unencumbered monies in the fund at the end of the year shall remain  
27 in the fund.

28           Section 5. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature  
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

PRESIDENT OF THE SENATE

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_