

**ACT No. 822**

Regular Session, 2014

HOUSE BILL NO. 663

BY REPRESENTATIVE ROBIDEAUX AND SENATOR THOMPSON

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AN ACT

To amend and reenact Section 3.(C), (G), and (I) and Section 4.(A) and (B)(1) and to enact Section 3.(M) and (N) of Act No. 421 of the 2013 Regular Session of the Legislature, relative to the Louisiana Tax Delinquency Amnesty Act of 2013; to provide relative to the amount of penalties and interest waived during certain amnesty periods; to provide with respect to the taxes eligible for amnesty; to provide for the doubling of penalties under certain circumstances; to prohibit certain forms of payment of delinquent tax, interest, penalty, or fees pursuant to the Amnesty Program; to authorize installment agreements for certain taxes; to provide for certain requirements and limitations for installment agreements; to authorize the procurement of collection services under certain circumstances; to provide with respect to amnesty administration services and for the procurement of such services; to authorize the promulgation of rules; to prohibit the implementation of future amnesty programs for a certain period of time; to provide for the disposition of amnesty collections; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 3.(C), (G), and (I) and Section 4.(A) and (B)(1) of Act No. 421 of the 2013 Regular Session of the Legislature are hereby amended and reenacted and Section 3.(M) and (N) of Act No. 421 of the 2013 Regular Session of the Legislature are hereby enacted to read as follows:

\* \* \*  
Section 3.  
\* \* \*

1 (C) Notwithstanding the terms or provisions of any other Act or other  
2 provisions of law to the contrary, and except as provided in Subsection (B) of this  
3 Section, the following taxes are eligible for amnesty:

4 (1) ~~Taxes due prior to January 1, 2013, for which the department has issued~~  
5 ~~an individual or a business proposed assessment, notice of assessment, bill, notice,~~  
6 ~~or demand for payment not later than May 31, 2013; or~~ For the 2013 amnesty  
7 program: taxes due prior to January 1, 2013, for which the department has issued an  
8 individual or a business proposed assessment, notice of assessment, bill, notice, or  
9 demand for payment not later than May 31, 2013.

10 (2) Taxes for taxable periods that began before January 1, ~~2013~~ 2014; ~~or~~ .

11 (3) Taxes for which the taxpayer and the department have entered into an  
12 agreement to interrupt the running of prescription pursuant to R.S. 47:1580 and said  
13 agreement suspends the running of prescription until December 31, ~~2013~~ 2014.

14 (4) For the 2014 amnesty program: taxes due prior to January 1, 2014, for  
15 which the department has issued an individual or a business proposed assessment,  
16 notice of assessment, bill, notice, or demand for payment not later than May 31,  
17 2014.

18 (5) For the 2015 amnesty program: taxes due prior to January 1, 2015, for  
19 which the department has issued an individual or a business proposed assessment,  
20 notice of assessment, bill, notice, or demand for payment not later than May 31,  
21 2015.

22 \* \* \*

23 (G)(1) Amnesty will be granted only for eligible taxes to eligible taxpayers  
24 who apply for amnesty during an amnesty period on forms prescribed by the  
25 secretary and who pay all of the tax, all fees and costs, if applicable, and any interest  
26 due upon filing the amnesty application. Pursuant to the provisions of Subsection  
27 (M) of this Section, taxpayers who apply for amnesty by opting to pay the tax and  
28 any applicable fees, costs, and interest in installments shall remain eligible to  
29 participate in the amnesty program only by making complete and timely payment of  
30 the entire amount due under the taxpayer's installment agreement. Taxpayers

1 involved in field audits or litigation shall not be eligible for installment agreements  
2 under the amnesty program. The amnesty application for taxpayers involved in field  
3 audits or litigation shall include all issues and all eligible periods involved in the  
4 audit or litigation. The secretary shall reserve the right to require taxpayers to file  
5 tax returns with the amnesty application. Notwithstanding the terms or provisions  
6 of any other Act or other provisions of law to the contrary, if the amnesty application  
7 is approved during the 2013 amnesty period, the secretary shall waive one-half of the  
8 interest and all of the penalties associated with the tax periods for which amnesty is  
9 applied. If the amnesty application is approved during the 2014 amnesty period, the  
10 secretary shall waive ~~fifteen percent~~ of all of the penalties associated with the tax  
11 periods for which amnesty is applied, ~~but no~~ and fifty percent of the interest shall be  
12 waived. If the amnesty application is approved during the 2015 amnesty period, the  
13 secretary shall waive ~~ten~~ thirty-three percent of all of the penalties associated with  
14 the tax periods for which amnesty is applied, ~~but no~~ and seventeen percent of the  
15 interest shall be waived. However, any taxpayer who has a final judgment in  
16 accordance with R.S. 47:1565 or 1568 rendered against him by a court or who has  
17 exhausted all rights to protest taxes owed to the state pursuant to such statutes ninety  
18 days prior to either the 2014 or 2015 amnesty period, and who then fails to submit  
19 an amnesty application before the end of the applicable amnesty period ninety days  
20 prior to which the final judgment was rendered or ninety days prior to which his  
21 rights to protest taxes have been exhausted, shall be subject to double penalties. An  
22 amnesty payment or application submitted in a properly addressed envelope with  
23 sufficient postage delivered by the United States Postal Service is deemed paid or  
24 received on the date it is postmarked. An amnesty payment or application delivered  
25 by courier or taxpayer is deemed paid or received on the date it is delivered to the  
26 department's headquarters or a regional office. ~~No installment agreements will be~~  
27 ~~entered into for tax periods that are approved for amnesty.~~ The department shall not  
28 accept tax credits as payment of any tax, interest, penalty, or fee paid as a result of  
29 participation in the amnesty program.



1 state; and ineligible for redetermination under the provisions of R.S. 47:1565(C);  
 2 however, a taxpayer shall be eligible for a refund or credit if the overpayment arises  
 3 after the amnesty application is submitted and is attributable to a properly claimed  
 4 Louisiana net operating loss or attributable to an adjustment made by the Internal  
 5 Revenue Service to the taxpayer's federal income tax, and the taxpayer provides  
 6 notice of the adjustment to the secretary within sixty days of receipt of the  
 7 adjustment from the Internal Revenue Service. A taxpayer who files an application  
 8 for amnesty retains all administrative and judicial rights of appeal with respect to any  
 9 additional tax assessed by the department.

10 \* \* \*

11 (M)(1) Installment agreements. A taxpayer's application to make installment  
 12 payments of a delinquent tax and its interest, penalties, and fees shall, upon approval  
 13 by the secretary, enter the taxpayer into an installment agreement with the secretary  
 14 of the department, whereby continuation in the amnesty program is dependent upon  
 15 complete and timely payments of all installment payments. All installment  
 16 agreements approved by the secretary shall require the taxpayer to provide a down  
 17 payment of no less than twenty percent of the total amount of delinquent tax, penalty,  
 18 interest, and fees owed to the department at the time the installment agreement is  
 19 approved by the secretary. Additionally, every installment agreement shall include  
 20 fixed, equal, monthly payments that shall not extend for more than six months.

21 (a) For the 2014 amnesty program, "timely payment" shall mean all  
 22 installment payments shall be received no later than May 1, 2015.

23 (b) For the 2015 amnesty program, "timely payment" shall mean all  
 24 installment payments shall be received no later than May 1, 2016.

25 (2) Automated electronic drafts. Applicants seeking to enter into an  
 26 installment agreement with the department shall provide necessary information for  
 27 installment payments to be drafted from an account from which the taxpayer is  
 28 authorized to remit payment. All payments shall be drafted through electronic  
 29 automated transactions initiated by the department. Taxpayers who cannot enter into

1 an agreement to make payment by way of automated electronic transactions shall not  
2 be eligible for an installment agreement with the department.

3 (3)(a) Forfeiture. If for any reason a taxpayer subject to an installment  
4 agreement fails to fulfill his obligation under the agreement by remitting the last  
5 installment by the first day of May of the amnesty program year to which the  
6 agreement applies, no amnesty shall be granted and the installation agreement shall  
7 be null and void. All payments remitted to the department during the duration of  
8 such void installment agreement shall be allocated in accordance with department  
9 rules and regulations as applied in the absence of an amnesty program. The taxpayer  
10 shall be obligated to pay the entirety of the delinquent tax, along with all applicable  
11 interest, penalties, and fees.

12 (b) A taxpayer who is approved to participate in the amnesty program who  
13 is also a party to an existing installment agreement with the department may be  
14 eligible to participate in an installment agreement under the amnesty program. Upon  
15 approval by the secretary of an installment agreement under the amnesty program,  
16 the original installment agreement with the department shall be cancelled in favor  
17 of the installment agreement under amnesty which shall be subject to the provisions  
18 of this Subsection.

19 (4) Collection of installment agreements. The secretary may procure  
20 amnesty program collection services for the administration and collection of  
21 installment agreements. The fee for such services shall be in accordance with the  
22 fees authorized in R.S. 47:1516.1.

23 (5) Emergency rules. The secretary of the department may promulgate rules  
24 and regulations in accordance with the emergency rulemaking authority of the  
25 Administrative Procedure Act as provided for in R.S. 49:953(B) as are necessary to  
26 implement the provisions of this Act relative to installment agreements. For  
27 purposes of qualifying as an emergency under the provisions of the Administrative  
28 Procedure Act, necessity of promulgating these rules by emergency rulemaking shall  
29 be deemed to meet the definition of imminent peril to the public health, safety, or  
30 welfare of the citizens of the state.

1                    (N) After conclusion of the amnesty period in 2015, there shall be no new  
 2                    amnesty program implemented by the Department of Revenue before January 1,  
 3                    2025.

4                    Section ~~4.A.~~ 4.(A) The secretary shall retain from monies collected under  
 5                    this Act an amount equal to all penalties waived under this Act, an amount equal to  
 6                    the costs for contractual information technology and amnesty program administration  
 7                    services, including, without limitation, marketing, advertising, and public  
 8                    information services, and an amount equal to any collection fees, legal fees, or any  
 9                    other fees the department incurs that are associated with granting amnesty. Such  
 10                    monies shall be designated as self-generated revenues. Notwithstanding any  
 11                    provision of law to the contrary, amnesty program administration services and  
 12                    information technology services, including, without limitation, marketing,  
 13                    advertising, and public information services, to implement amnesty may be acquired  
 14                    using the emergency procurement process. The secretary shall also retain an amount  
 15                    not to exceed two hundred fifty thousand dollars for advertising expenses from  
 16                    monies collected from taxes paid pursuant to this Act.

17                    ~~B.(1)~~(B)(1) After satisfaction of the requirements of Subsection A of this  
 18                    Section, all remaining monies collected pursuant to this Act shall be paid into the  
 19                    state treasury. After compliance with the requirements of Article VII, Section 9(B)  
 20                    of the Constitution of Louisiana relative to the Bond Security and Redemption Fund  
 21                    and prior to any monies being placed into the state general fund or any other fund,  
 22                    an amount equal to the remaining collections shall be credited by the state treasurer  
 23                    as follows:

24                    (a) For Fiscal Year 2013-2014, the monies shall be credited to a special fund  
 25                    hereby created in the state treasury to be known as the 2013 Amnesty Collections  
 26                    Fund, hereinafter referred to as "fund". The monies in the fund shall be available for  
 27                    appropriation for any public purpose.

28                    (b) For Fiscal Year 2014-2015:

29                    (i) One hundred million dollars of such monies shall be credited to the fund  
 30                    and shall be available for appropriation for any public purpose.

