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TAX AMNESTY

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INTRODUCTION

This pamphlet,¹ prepared by the staff of the Joint Committee on Taxation, discusses tax amnesty. It was prepared in response to a request dated April 15, 1997, from Congressman Bill Archer, Chairman of the Joint Committee on Taxation during the First Session of the 105th Congress.

Part I of the pamphlet provides a summary of findings; Part II provides an overview and background; Part III provides economic perspectives on tax amnesties; Part IV discusses State and foreign experience with tax amnesty; Part V discusses design parameters of a possible Federal tax amnesty; and Part VI presents conclusions concerning possible use of a Federal tax amnesty. The Appendix presents the estimated budget effects of possible Federal tax amnesty proposals.

¹This pamphlet may be cited as follows: Joint Committee on Taxation, *Tax Amnesty* (JCS-2-98), January 30, 1998.

I. SUMMARY OF FINDINGS

- The staff of the Joint Committee on Taxation estimates that a Federal tax amnesty would result in a net revenue loss to the Federal Government, as presented in the Appendix (the revenue table). This net revenue loss occurs primarily because a Federal tax amnesty is estimated to have the long-run effect of reducing overall taxpayer compliance with Federal tax laws. However, a form of amnesty could be designed to contain the amount of the revenue loss to relatively modest levels.

- Present law contains certain provisions that are similar to elements of tax amnesty programs. These provisions include the installment agreement provisions and offers in compromise. In contrast to a tax amnesty program, however, the present-law provisions are tailored to the situations of specific taxpayers, rather than providing broad relief from past taxes for noncompliant taxpayers. The Internal Revenue Service has substantially increased the use of these provisions in recent years.

- A taxpayer's decision whether to evade taxes depends in part on the resources and efforts that the Government expends on the enforcement of existing laws. While an amnesty may be one way to obtain taxes that have not been paid and to bring new taxpayers into the tax system, increasing resources devoted to enforcement and increasing the penalties for failure to comply with the tax laws are other ways to achieve the same objectives.

- Economists generally believe that taxpayers choose a level of compliance with the tax laws by weighing the tradeoff between compliance and evasion and choosing the level of compliance that will lead to the highest expected level of net benefits. Among the factors that will influence a taxpayer's decision between compliance and evasion are the probability of the evasion being detected through audit, the back taxes and civil and criminal penalties that will be imposed if evasion is detected, the taxpayer's ethics or degree of honesty, damage to the reputation of the taxpayer if the evasion is detected, the taxpayer's level of "risk aversion," and the perceived benefits derived from a successful evasion of taxes.

- In the standard economic model of tax evasion, the creation of an amnesty program alone would have no effect on taxpayer behavior because the taxpayer has chosen a level of compliance based on a rational weighing of the benefits and costs of evasion. If these costs and benefits are not changed, the taxpayer's behavior will not change. If, however, the penalties for evasion are increased or the likelihood of detection through audit increases, then the rational taxpayer may choose

to take advantage of the amnesty since the expected costs of previous evasion have been increased.

- State experience with tax amnesty will not necessarily parallel the experience that could be expected at the Federal level. First, many sources of State tax revenues do not have Federal counterparts. Second, pre-amnesty State tax enforcement efforts have generally been less rigorous than efforts at the Federal level. Thus, State amnesties that are coupled with increased enforcement efforts might be expected to be relatively more successful than a Federal amnesty because past evasion is likely to have been more common with respect to State taxes and taxpayers will view the increased enforcement efforts of the States as increasing the costs of State tax evasion. Further, many State amnesties included accounts receivable in their amnesties, which could be viewed as revenues that the State was likely to collect in any event.

- The experience of foreign governments with amnesty programs cannot generally be compared to the experience that might be expected in the United States. In most foreign countries, a larger portion of the national economy escapes the tax system than in the United States. Most foreign countries have larger underground economies. In addition, many countries exempt transactions occurring outside the country from taxation, creating an incentive to move untaxed profits outside the country. Few foreign countries have the level of tax enforcement that the United States has at the Federal level, especially with regard to the use of computer technology and requirements of withholding and information reporting.

II. OVERVIEW AND BACKGROUND

A. Overview of Tax Amnesty

Types of amnesty

There are theoretically several types of tax amnesty programs. The narrowest form of amnesty would require taxpayers to pay all taxes, interest, and civil penalties, but would forgive criminal penalties. The goal of this form of amnesty (as well as the variants of it described below) is both to collect taxes owing from prior years and to place on the tax rolls those who had previously escaped taxation. A broader form of amnesty would require taxpayers to pay all taxes and interest due, but would forgive all civil and criminal penalties.

Another form of amnesty would require taxpayers to pay all (or a portion of) past taxes, but would forgive all (or a portion of) the interest² due on those taxes. In addition, all civil and criminal penalties would be forgiven.

The broadest form of amnesty would forgive all past taxes, interest, and civil and criminal penalties. The goal of this type of amnesty is not to collect taxes owing from prior years, but to place on the tax rolls for the future those who previously had escaped taxation. This type of amnesty has not been attempted in the United States.

Most of the amnesty programs that have been operated by the States forgive both civil and criminal penalties; these programs have differed as to whether all or a portion of the interest due was forgiven. All have required payment of at least a portion of the past taxes.

Eligibility for amnesty

Amnesty programs can differ as to whether only nonfilers may participate, or whether individuals and entities that filed returns, but also either underreported income or overstated deductions or credits, may participate.

Amnesty programs can also differ as to the extent to which known tax evaders can participate in the amnesty. Individuals or entities under active criminal investigation or prosecution are generally not permitted by the States to participate in amnesty. Amnesty programs differ as to whether individuals or entities under audit or administrative investigation are permitted to participate. Amnesty programs also differ as to whether persons in accounts receivable status can participate in the amnesty. Persons in accounts

²This form of amnesty highlights two differing views of the role of interest in the tax system. Some view charging interest on past due taxes as a penalty. Others view interest provisions as reflecting the time value of money. Accordingly, absent the requirement to pay interest, a taxpayer would prefer to delay paying taxes for as long as possible so as to retain the use of the money for as long as possible.

receivable status are those for whom the audit and administrative processes have been completed and it has been determined that the taxpayer owes additional money, but the taxpayer has not yet paid the additional amounts determined to be owing.

B. Historical Background on the Federal Government and Tax Amnesty

The Federal Government has never legislatively instituted a program that provided amnesty from interest and civil and criminal penalties for taxpayers who both voluntarily disclosed that they had underpaid their taxes and then paid those amounts.³

The Internal Revenue Service (IRS) had an administrative policy, officially discontinued in 1952, that in effect provided amnesty from criminal prosecution (but not from civil penalties or interest) for taxpayers who voluntarily disclosed that they had underpaid their taxes. This program officially ended (though it may have continued informally) for a variety of reasons: charges of abuse, a desire to prevent use by organized crime figures, uneven administration of the tax law, and failure to pay the taxes once amnesty had been granted. In 1961, the IRS issued a news release suggesting to taxpayers that, since the IRS was then installing new data processing equipment, it might be a propitious time for taxpayers to disclose voluntarily any underpayments of tax. The news release also noted that the likelihood of criminal prosecution was not high in instances of voluntary disclosure, although the news release offered no assurances that amnesty from criminal prosecution would be granted. A current policy statement of the IRS includes voluntary disclosure of tax underpayments as one criterion to be considered in determining whether a case warrants criminal prosecution.⁴

In his January 25, 1984, State of the Union address, President Ronald Reagan instructed the Treasury Department to issue a Report on Fundamental Tax Simplification and Reform. The Treasury Department submitted its three-volume report to President Reagan on November 27, 1984 ("1984 Treasury Report"). The 1984 Treasury Report stated that "the Treasury Department rejects" amnesty.⁵ Treasury rejected any form of tax amnesty, whether it is restricted only to amnesty from criminal penalties or whether amnesty also extends to civil penalties, interest, and past taxes due. The 1984 Treasury Report rejected amnesty because of its negative effect on taxpayer morale: "To include tax, civil penalties, and interest in an amnesty would further undermine taxpayer morale by sending a clear signal to the American public concerning non-compliance and tax fraud: 'Don't bother to pay now. We may forget you

³The Current Tax Payment Act of 1943 initiated the still-utilized system of income tax withholding by employers from employees' wages. Prior to this Act, taxpayers made lump sum payments of taxes. During the first year of wage withholding, taxpayers would be saving amounts to pay the previous year's taxes as well as becoming subject to wage withholding. To provide for first-year transition to the wage withholding system, the 1943 Act also provided for the cancellation of 75 percent of the lower of either 1942 or 1943 tax liability. The remaining 25 percent was to be paid in two installments, on March 15, 1944, and March 15, 1945. See *Tax Notes*, September 1, 1997, pp. 1241–1244. This was not, however, a tax amnesty, but was instead a rate reduction applicable to all taxpayers. A distinguishing characteristic of an amnesty is that it treats similarly situated taxpayers differently, depending on whether they had previously voluntarily complied with the tax laws and fully paid their taxes, or not.

⁴IRM (31)330, "Criminal Tax Policies and Procedures: Voluntary Disclosure."

⁵1984 Treasury Report, Vol. 1, p. 91.

owe anything. Even if you have to pay tax, we won't charge interest."⁶ The 1984 Treasury Report also stated that amnesty "can only reinforce the growing impression that the tax system is unfair and encourage taxpayer noncompliance. After reviewing State and foreign experience with amnesties, the Treasury Department rejects their use by the Federal Government."⁷

On July 25, 1990, Michael J. Graetz, then Deputy Assistant Secretary (Tax Policy) of the Department of the Treasury,⁸ testified on tax amnesty before the Subcommittee on Commerce, Consumer and Monetary Affairs of the House Committee on Government Operations. His testimony described the State experiences, "outlined important differences in the State and Federal systems that make it difficult to translate the States' experiences to the Federal level, . . . and reviewed the revenue implications of a Federal amnesty program and explained why we [Treasury] believe substantial revenue increases would be unlikely."⁹ He concluded his testimony by indicating "our [Treasury's] lack of support for a general Federal tax amnesty. . . ."¹⁰ At that same hearing, Fred T. Goldberg, Jr., then Commissioner of Internal Revenue,¹¹ stated "[o]n balance, we believe that a general Federal tax amnesty would be ill-advised and counter-productive."¹²

C. Elements of Present Law That Are Similar to Tax Amnesty

Although there has never been a formal Federal tax amnesty, there are several aspects of the administration of present law by the IRS that bear similarities to elements of tax amnesty. These are described below.

Installment agreements

Section 6159 of the Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed. An installment agreement does not reduce the amount of taxes, interest, or penalties owed; it does, however, provide for a longer period during which payments may be made during which other IRS enforcement actions (such as levies or seizures) are held in abeyance. Many taxpayers can request an installment agreement by filing Form 9465. This form is relatively simple and does not require the submission of detailed financial statements. The IRS in most instances readily approves these requests if the amounts involved are not large (in general, below \$10,000) and if the taxpayer has filed tax returns on time in the past. Some taxpayers are required to submit background information to the IRS substantiating their application. If the request for an installment agreement is approved by the IRS, a user fee of \$43

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Now Justus S. Hotchkiss Professor of Law, Yale University.

⁹ Page 2.

¹⁰ Page 8.

¹¹ Now a partner at the law firm of Skadden, Arps, Slate, Meagher & Flom.

¹² Page 11.

is charged.¹³ This user fee is in addition to the tax, interest, and penalties that are owed.

The IRS enters into a very significant number of installment agreements each year. For each of the last three fiscal years, the IRS has entered into on average 2.6 million new installment agreements. At any given point during the last three fiscal years, on average 4.4 million installment agreements were in effect (many are in effect for longer than one year). The IRS collected \$4.7 billion through installment agreements in FY 94.

Installment agreements may in part resemble tax amnesties in the effects that they have on certain taxpayers. Taxpayers who are unable to pay their full tax liability on a timely basis can obtain (1) partial relief from the IRS via a lengthier period over which payment is permitted and (2) forbearance by the IRS from using more disruptive collection measures.

Offers in compromise

Section 7122 of the Code permits the IRS to compromise a taxpayer's tax liability. In general, this occurs when a taxpayer submits an offer in compromise to the IRS. An offer in compromise is a proposal to settle unpaid tax accounts for less than the full amount of the balance due. They may be submitted for all types of taxes, as well as interest and penalties, arising under the Internal Revenue Code.

Taxpayers submit an offer in compromise on Form 656. There are two bases on which an offer can be made. The first is doubt as to the liability for the amount owed. The second is doubt as to the taxpayer's ability fully to pay the amount owed. An application can be made on either or both of these grounds. Taxpayers are required to submit background information to the IRS substantiating their application. If they are applying on the basis of doubt as to the taxpayer's ability fully to pay the amount owed, the taxpayer must complete a financial disclosure form enumerating assets and liabilities.

As part of an offer in compromise made on the basis of doubt as to ability fully to pay, taxpayers must agree to comply with all provisions of the Internal Revenue Code relating to filing returns and paying taxes for five years from the date IRS accepts the offer. Failure to observe this requirement permits the IRS to begin immediate collection actions for the original amount of the liability.

Starting in 1992, the IRS has both liberalized the terms under which it will accept an offer in compromise and increased the publicity of the availability of offers in compromise. The following table shows the numbers of offers in compromise received by the IRS.

¹³This user fee is imposed pursuant to 31 U.S.C. 9701. See T.D. 8589 (February 14, 1995).

Table 1.—Offers In Compromise Received By IRS, 1983–1996

Fiscal year	Offers received (rounded to nearest thou- sand)
1983	4,000
1984	5,000
1985	5,000
1986	6,000
1987	7,000
1988	7,000
1989	8,000
1990	9,000
1991	9,000
1992	18,000
1993	50,000
1994	50,000
1995	55,000
1996	57,000

Source: IRS Annual Reports.

The percentage of offers in compromise accepted has also risen significantly. In fiscal year (FY) 1991, 25 percent of offers in compromise that were submitted to the IRS were accepted. In FY 1992 the percentage accepted rose to 45 percent.¹⁴ For FY 1994, 1995, and 1996, the percentage accepted averaged 49 percent. In FY 1996, the IRS accepted \$287 million through the offers in compromise program, and eliminated a total of \$2.2 billion of taxpayers' liability for aggregated taxes, interest, and penalties. Accordingly, in FY 1996, the IRS accepted on average 12 cents on the dollar through the offers in compromise program.

The IRS is currently in the process of issuing a new publication that will highlight the availability of offers in compromise and installment agreements.

Offers in compromise strongly resemble tax amnesties in that taxpayers can obtain forgiveness of a portion of the taxes, interest, and penalties that they owe. The principal difference is that offers in compromise are generally tailored to the financial circumstances of each taxpayer;¹⁵ their assets as well as their present and future earnings are considered by the IRS in determining whether to accept a taxpayer's offer. For example, an offer may be rejected if the taxpayer does not agree to liquidate certain assets to pay the amount owed. Tax amnesties generally are not tailored to the circumstances of individual taxpayers, but instead offer identical terms to everyone.

¹⁴ 1992 IRS Annual Report, p. 8.

¹⁵ It should be noted that installment agreements (described above), unlike offers-in-compromise, are generally available, regardless of financial circumstances, to any taxpayer owing less than \$10,000.

III. ECONOMIC PERSPECTIVES ON TAX AMNESTIES

A. Economic Theory of Tax Evasion and Tax Amnesties

A complete discussion of tax amnesties must also address the related issue of tax law enforcement. Tax noncompliance is a necessary precursor to an amnesty, and the level of noncompliance depends in part on the resources and efforts that the government expends on the enforcement of existing laws. Thus, the current and past status of the government's enforcement efforts will in part determine the amount of back taxes that potentially can be raised in an amnesty. Furthermore, while an amnesty may be one way to obtain those back taxes and to bring new taxpayers into the tax system, increasing the resources devoted to enforcement of the tax laws is another way to achieve the same objectives. For reasons described below, both of these measures may be pursued simultaneously. In fact, it generally has been the practice of the States that have offered amnesty programs to also increase enforcement efforts. Because of this, it is important, while interpreting the results of State amnesty programs, to bear in mind that the State programs generally have been amnesty/enforcement programs, and not simply stand-alone amnesty programs.

The following is a discussion of the economic considerations that in part determine taxpayers' decisions with regard to tax evasion or compliance, and whether to take part in any amnesty program that is offered. The government's decisions with regard to the setting of enforcement parameters and the potential offering of amnesty are also examined, as is the academic literature that has examined the evidence on amnesties.

Taxpayer's decision

Economists typically view the taxpayer's decision to comply fully or not to comply fully with the tax laws as a rational choice. In this view, the taxpayer chooses a level of compliance by weighing the tradeoff between compliance and evasion and choosing the level of compliance that will lead to the highest expected level of net benefits. The taxpayer's choice will depend on the various factors that affect the benefits and costs of tax evasion relative to complying with the tax laws. Among the factors that will influence the decision are the probability of the evasion being detected through audit, the back taxes and civil and criminal penalties that will be imposed if evasion is detected, the taxpayer's ethics or degree of honesty (alternatively, the expected level of guilt that would arise from evasion of taxes), damage to the reputation of the taxpayer if

the evasion is detected, the taxpayer's level of "risk aversion," and the perceived benefits derived from a successful evasion of taxes.¹⁶

On the cost side, the audit probabilities and the penalties imposed are the principal determinants of the expected costs of tax evasion. Anything that would raise these expected costs, such as increased penalties for evasion, both civil and criminal, or an increased likelihood of evasion being detected due to increased audit rates, would decrease the amount of evasion undertaken. Another cost factor is the guilt that one might feel after evading taxes. While guilt, or more broadly one's feelings about the morality of paying one's taxes, is not often modeled in the economic analysis of tax evasion, it clearly is a factor that influences human behavior. If one expects to feel guilty from tax evasion, less tax evasion will be engaged in.

The benefit from tax evasion is primarily the addition to after-tax income that results from such cheating, but also may include the avoidance of the costs of complying with the tax laws. It should be noted that the monetary benefit of tax evasion in the form of under-reporting income or overstating deductions will depend on the level of tax rates. For example, for each dollar of income that is not reported, the taxpayer will benefit by the amount of the taxes that would have been paid on that dollar of income, which is equal to the taxpayer's marginal tax rate multiplied by that dollar. Thus, if other factors are held constant, tax evasion would be expected to increase the higher the tax rate that is imposed on the tax base. While higher tax rates may provide an incentive for greater cheating, this incentive could well be offset by higher audit probabilities for persons in higher marginal tax brackets. If audit rates are correlated with higher tax rates, then it will not necessarily be the case that persons in higher tax brackets will have greater propensity to cheat. Again, one must weigh both the benefit side and the cost side of cheating before rationally determining a compliance level that maximizes one's expected net benefits.

Further, there is the taxpayer's "degree of risk aversion," or the extent to which the taxpayer likes or dislikes risk taking. Taxpayers will vary in their attitudes towards risk taking, and thus some will choose to cheat, and others to comply, even though they might agree as to the potential costs and potential benefits of cheating. The less risk-averse taxpayer is more likely to risk the downside of cheating—getting caught—in order to reap the benefits of cheating—the addition to after-tax income. Essentially, the taxpayer's attitude towards risk is the final link in weighing the cost and benefits to determine whether to evade taxes. While the government can affect the benefits and costs of cheating, it basically has no control over the attitudes toward risk of a given taxpayer.

In the standard economic model of tax evasion, the declaration of an amnesty standing alone would have no effect on the behavior of taxpayers. That is, no one would come forward to take advantage of the amnesty. The reason for this is that in the standard model,

¹⁶In theory, the net benefits should include consideration of the impact of one's tax evasion on the provision of public goods from which the taxpayer benefits. In a large community of taxpayers, the marginal personal benefit directly derived solely from one's own taxes is likely to be insignificant due to the diffuse benefits of the public good. Thus, in large communities the potential tax evader can dismiss the effect that his evasion may have on his benefits from the provision of public goods and services.

the taxpayer has made a choice based on a rational weighing of the benefits and costs of evasion, and because these benefits and costs have not changed, the taxpayer's chosen level of compliance remains the same. If, however, the penalties for evasion also are increased, or the relevant authorities increase the likelihood of detection through audits, then the rational taxpayer will reevaluate past choices and may choose to take advantage of the amnesty since the expected costs of previous evasion have been increased. It is for this reason that State amnesties have been offered in conjunction with increased enforcement efforts.

Clearly, this theoretical model of tax evasion does not represent the behavior of all taxpayers, and the real world certainly would produce some taxpayers who would take advantage of an amnesty even without changes in the relevant enforcement parameters. For example, a tax evader might experience more guilt from tax evasion than expected, or might find that living with the prospect of the tax evasion being detected is more unappealing than expected, and wish to reverse the earlier decision to evade taxes.¹⁷ However, a possible constraint on a taxpayer's willingness to take part in an amnesty is that to do so labels oneself a tax evader and may thus increase the probability that the IRS would audit that taxpayer's returns in future years. Even if one intended to comply with the tax laws in the future, one presumably would prefer to avoid an audit whenever possible. A possible additional constraint on tax evaders considering an application for amnesty is the potential damage to the taxpayer's reputation should such information become public.

An important complication in the economics of any amnesty proposal is the degree to which the amnesty will affect future tax compliance. Economists typically have noted that the granting of amnesty will forever change taxpayers' perceptions of the "rules of the game" between the taxing authority and the taxpayer. Once an amnesty is granted, taxpayers may perceive that the likelihood of future amnesties has increased, and thus an incentive may be created to evade current taxes in anticipation of the future amnesty.¹⁸ It should also be noted that serious discussions of amnesty proposals could have the same effect. While an actual amnesty is likely to increase one's expectation of a future amnesty, mere discussions of amnesties in advance of an amnesty will also likely raise expectations that an amnesty will occur, thus potentially inducing greater noncompliance in advance of an amnesty.

Any amnesty offer, no matter how designed, could potentially have an impact on future levels of compliance. Any amnesty could affect future compliance if it served to indicate to taxpayers that enforcement of existing tax laws was lax, leading taxpayers to change their assumptions as to how much evasion they might reasonably expect to get away with. Contrary to the result intended, an amnesty that is successful at increasing tax revenues in the short term might be a signal to some that enforcement of tax laws

¹⁷See Arun Malik and Robert Schwab "The Economics of Tax Amnesties," *Journal of Public Economics* 46, 1991, pp. 29–49, for a model of taxpayer behavior and amnesties that considers these issues and allows for adaptive behavior on the part of the taxpayer.

¹⁸Several States have already offered second amnesties (see Table 2).

is lax, and could induce these taxpayers to begin to cheat on their taxes, or to increase existing levels of noncompliance.

The likely effect on future noncompliance from a current amnesty can be mitigated. The incentive for future tax evasion stemming from a current amnesty will depend critically on the design of the amnesty. An amnesty that forgives only criminal penalties, and requires that all back taxes, interest, and civil penalties be paid, is unlikely to have a significant effect on future compliance. That is, the specific expectation of a future amnesty of the same or similar design would be unlikely to affect future compliance, though there might still be an effect on future compliance from an amnesty per se, as discussed previously. Under the amnesty design just described, it is unlikely that a taxpayer would simultaneously evade current taxes and plan to come forward in a future amnesty to pay the back taxes, interest, and penalties. The rational taxpayer considering this evasion/amnesty combination would recognize it as effectively a very expensive loan from the government under the best of circumstances, or worse, an expensive loan potentially coupled with a jail term if the evasion is detected prior to the next amnesty. However, if civil penalties and some or all interest charges are waived, then the evasion/amnesty combination begins to resemble an interest-subsidized or interest-free loan from the government, and the taxpayer willing to risk the prospect of being caught prior to the next amnesty may be induced to cheat.¹⁹ It is because of this potential dynamic effect that amnesties are usually advertised as one-time-only events, in conjunction with a switch to a tougher enforcement regime. However, the government's credibility in declaring the amnesty a one-time-only event may be suspect. If the reasons exist to offer an amnesty once, it is likely that the same reasons will exist at some future point, and that the same decision to offer amnesty will be made.²⁰

Government's decision

Most of the above discussion has focused on the individual taxpayer's rational, benefit-maximizing choices with respect to compliance with the tax laws and the use of any tax amnesties that are offered. The government objective is to design a tax system that raises the desired amount of revenues in an equitable and efficient manner, taking into consideration the likely response of the public to the policies it adopts.²¹ In this system, the government policy options include setting the enforcement parameters (civil and criminal penalties and the resources devoted to audits) and making the decisions as to the granting of amnesties. Like the rational tax-

¹⁹To the extent that this is true, second offerings of amnesty under the same terms might be expected to bring in significant revenues (though the net revenue effect over the long-run would not necessarily be positive). Connecticut recently offered a second amnesty, and over 10 percent of the revenues came from taxpayers who had participated in the first amnesty. New York also recently offered a second general amnesty, although taxpayers could not participate in it with respect to a particular type of tax if they had taken advantage of the first general amnesty for the same type of tax.

²⁰Georgia provided statutorily that its first amnesty would be its only amnesty. It is unclear whether such a law should be viewed with any more credibility than the mere promise not to offer a second amnesty, as the law could easily be overturned in the legislation offering the second amnesty. To date Georgia has not offered a second amnesty, although only five years have passed since its amnesty.

²¹The general design of this system, in terms of the magnitude of the revenues raised and from which sources, is beyond the scope of the current discussion.

payer, the rational government should choose from these options with due consideration of the costs and benefits that result from the choices it makes.

With respect to the enforcement parameters, the government benefits from more stringent enforcement in several ways. First, more stringent enforcement in the form of higher audit rates will bring in increased revenues by identifying more tax delinquents and collecting back taxes and penalties. Similarly, more stringent enforcement in the form of increased monetary penalties from evasion will result in more revenues for each tax delinquent uncovered. Second, increasing the enforcement parameters will lead to greater voluntary compliance with the tax laws since this will raise the expected costs of evasion to the taxpayer, and such greater voluntary compliance results in greater tax revenues.²² Furthermore, it seems reasonable to expect that a given individual is more likely to comply with the tax laws if it is believed that others are generally in compliance as well. Such a taxpayer may be more motivated by a sense of collective responsibility to pay taxes rather than the strict individualistic cost/benefit analysis previously outlined, and might willingly pay their tax obligation provided that others do so as well. However, in the face of widespread noncompliance, they may come to feel that the tax system is unjust to those who do pay the tax. If the government cannot achieve a reasonable level of compliance, a taxpayer's moral resolve to continue to pay the tax may begin to slip. For these taxpayers, increased enforcement may not directly keep them in compliance out of fear of the consequences of cheating, but rather indirectly keep them in compliance by virtue of keeping other taxpayers in compliance whose motivations may differ.

There are costs to increased enforcement efforts as well. The most direct of these are the necessary resources devoted to audits. These resources clearly include the auditor's time, but also include the time of the law abiding taxpayers that are subject to audit. Additionally, excessive enforcement efforts could undermine compliance if such enforcement leads to an unnecessarily adversarial relationship between the taxpayer and government, leading taxpayers to "get back" at the government by evading taxes. The government needs to balance these costs and benefits in setting its enforcement policies.

With respect to the amnesty decision, the potential benefit of an amnesty program, from the standpoint of the government, is an increase in tax revenues. However, as the above discussions have noted, there are potential costs to amnesties as well, because they could have a negative impact on future compliance. Thus, in the long-run, there may not be net increases in revenues from an amnesty. The proponents of amnesties argue that the long-run effect of an amnesty on compliance and revenues is positive, since an amnesty would bring into the system non-filers who would continue

²² For discussion and analysis of the effects of enforcement on compliance, see Frank Malanga, "The Relationship Between IRS Enforcement and Tax Yield," *National Tax Journal*, Vol. XXXIX, No. 3, September 1986; Ann Witte and Diane Woodbury, "The Effect of Tax Laws and Tax Administration on Tax Compliance: The Case of the U.S. Individual Income Tax," *National Tax Journal*, Vol. XXXVIII, No. 1, March 1985; and Jeffrey Dubin and Louis Wilde, "An Empirical Analysis of Federal Income Tax Auditing and Compliance," *National Tax Journal*, Vol. XLI, No. 1, March 1988.

in their non-filing status but for the chance to come clean during the amnesty. This argument presumes that, in the absence of amnesty, tax evaders will not come into compliance for the current and future years for fear that doing so would expose the new taxpayer to audits for the previous years of non-filing. Thus, the argument goes, even though the taxpayer would like to begin complying with the tax laws, he will not do so without first having been granted absolution for previous evasion.²³

The government needs to consider other potential costs of amnesties prior to embarking on an amnesty program. Among these potential costs are administrative costs (including any advertising costs), the production of any new tax forms, and the manpower to run the program. Diversion of resources from other compliance efforts is likely to have negative repercussions that should also be considered. An accurate accounting of the costs of an amnesty should also consider the lost penalties and interest from taxpayers who take advantage of the amnesty but who already have been caught in the usual enforcement efforts, or who would be so caught in the future. Benefits from forgone administrative expenses of pursuing the delinquent taxpayers would offset these costs somewhat.

Perhaps above all, the government objective should be to strive to maintain a tax system that is broadly viewed as fair to all. The high level of voluntary compliance with the tax laws, as compared to numerous other countries, is one of the greatest assets of the Federal tax system, and such voluntary compliance will no doubt be aided by fostering fairness in the tax code.²⁴ Views differ as to the fairness of a general tax amnesty. Opponents believe that an amnesty is fundamentally unfair to taxpayers who have voluntarily and honestly paid the appropriate amount of taxes over the years. They see amnesties as letting dishonest taxpayers off the hook, and rewarding them for their dishonesty. Proponents argue that amnesties are fair to the loyal taxpayer because they bring in tax revenues not otherwise collectable—revenues that can finance additional public services without raising taxes on the law-abiding, or that can be used to reduce taxes for the law-abiding. Clearly, the proponent's view is dependent on the long-run revenues from an amnesty being positive.²⁵

In making its amnesty decision a government must weigh all of the pros and cons outlined above. Specifically, a government must decide whether it thinks that any long-run compliance problems from the amnesty are outweighed by the combination of immediate revenue increases from the amnesty and any future increases that could possibly stem from adding some new taxpayers to the rolls. In a system with a very large number of taxpayers, it should be

²³These long-run effects on revenues would also presumably apply to underreporting of income, though to a lesser degree if an increase in reported income due to previously unreported income (as opposed to from filing *de novo*) were seen as less likely to trigger an audit for past returns. To the extent that such a taxpayer can currently begin to report income accurately at any time without triggering audits for past behavior, there would be no long-run positive revenue effects from an amnesty for such taxpayers.

²⁴See testimony on tax amnesties by Michael J. Graetz, former Deputy Assistant Secretary, Treasury Department (Tax Policy), before the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations, July 25, 1990, reprinted in *Tax Notes*, April 11, 1996, p. 32 (herein referred to as "Graetz testimony").

²⁵It should also be noted that if the net long-run revenues from amnesties are positive, the overall tax structure will be more efficient because the tax base is effectively broadened, thus allowing for potentially lower tax rates.

noted that small changes in voluntary compliance could have large revenue consequences.

B. Evidence on Efficacy of Tax Amnesties

The experience of the States, 34 of which, plus the District of Columbia, have had at least one amnesty, might be expected to provide some data with which to assess the likely effects of a Federal tax amnesty, at least in the short run. However, care should be taken in drawing the parallels to the potential effects of a Federal tax amnesty.

An important consideration is that many sources of tax revenues for the States do not have Federal counterparts. The principal example of this is the common State retail sales tax, which only has a modest counterpart in the Federal excise taxes on certain products or services such as alcohol and tobacco or airline tickets. Many States also rely on personal property taxes as a source of revenue. Despite these differences in State tax structures compared to the Federal structure, the income tax was still a major source of revenue in many State amnesties, and is a major component of state taxes. Income taxes are also the principal source of Federal revenues. Amnesty proponents suggest that differences in the tax bases between the States and the Federal Government are not significant enough to dismiss the State experiences as a predictor of the revenue results from a potential Federal amnesty.

Another consideration in drawing parallels to the States' experiences with amnesties is that State tax enforcement efforts have typically been lax relative to the Federal Government, and thus taxpayers are probably more likely to have evaded State taxes than Federal taxes.²⁶ Indeed, the evidence indicates that most non-filers that came forward in State tax amnesties had filed their Federal tax returns.²⁷ Hence, State amnesties, especially if coupled with increased enforcement, might be expected to be relatively more successful than a Federal amnesty because past evasion is likely to have been more common. Contributing to this likely greater success of State programs is the lower cost of coming into compliance with State taxes, at least for those who have evaded Federal and State taxes, as State taxes and compliance costs are typically lower than Federal taxes and compliance costs. Also contributing to the likely greater success of State amnesties are the additional enforcement levers potentially at a State's disposal. For example, States can take actions against evaders such as revocation of business licenses necessary to practice in a State. Both Illinois and Massachusetts were known to threaten such actions as part of their amnesty programs in order to bring forward evaders.²⁸ The Federal Government does not have similar enforcement levers.

One has to consider carefully the conclusions some have drawn from the observation noted above that the typical State amnesty participant was in compliance with Federal tax laws. Some opponents of amnesties have cited it as evidence that a Federal amnesty is unlikely to be as successful as State amnesties have been,

²⁶ See Graetz testimony, pp 27–35. See also Treasury Study of Tax Amnesty Programs, Department of the Treasury, Internal Revenue Service, August 1987, pp. 11–12.

²⁷ *Ibid.*

²⁸ See Treasury Study of Tax Amnesty Programs.

since the data would seem to suggest that the typical State tax evader has been in compliance with Federal laws. However, this argument ignores the fact that the incentives inherent in the State amnesties will likely cause only certain types of tax evaders to step forward to apply for amnesty. Those who come forward in the State amnesties are thus not a random sample of tax evaders but rather a self-selected sub-group of all State tax evaders. This self-selection could influence the observed characteristics of the group that comes forward to participate. Specifically, one would expect that evaders of both Federal and State taxes will not choose to identify themselves to a State government amnesty program for fear that they will then be discovered by the Federal Government. Hence, only those State tax evaders who are in compliance with Federal laws are likely to identify themselves in State amnesties.

Proponents of amnesties cite this same evidence (and the self-selection argument) as likely to indicate that a Federal amnesty, especially if coordinated with State amnesties, will be more successful than States' amnesties have been, on the grounds that the past State amnesties have been hampered by a lack of coordination with a parallel Federal effort. However, without coordination with the State amnesties, which presumably would be difficult to achieve, the same motivations would provide a disincentive for those not in compliance with State taxes to come forward in a Federal tax amnesty. Furthermore, if State tax evasion is more common than Federal tax evasion, there may be relatively few people in the group most likely to come forward in a Federal amnesty that is not coordinated with State amnesties—that is, those who have evaded Federal taxes but not State taxes. Thus, it seems likely that a Federal amnesty that is not coordinated with State amnesties will be less successful than State amnesties not coordinated with a Federal amnesty.

One needs also to examine with some skepticism the claims of success of the State tax amnesties even with respect to the immediate revenues generated. For example, many of these programs included accounts receivable in their amnesties, and thus the amnesty revenues include taxes that would have been collected in the absence of an amnesty.²⁹ With respect to these taxes, the amnesties may have merely accelerated the payment of taxes rather than produced revenues that would not have been collected without an amnesty. Additionally, some who took part in an amnesty might have been caught in the future enforcement efforts of the States and also been liable for greater civil penalties and interest. The reported State revenue figures should in theory account for these costs, resulting in downward estimates of the net revenue intake. As previously discussed, the administrative costs of an amnesty should also be taken into account, including any advertising costs, the production of any new forms, and the manpower necessary to run the program.

To date, the evidence on the long-run impact of State tax amnesties on State tax revenues, inclusive of their effect on future compliance, has been spotty. One academic study, which used experimental methods to model the tax system, found that the subjects

²⁹ *Ibid.*

decreased their compliance after an amnesty.³⁰ The results of Connecticut's second amnesty, discussed in Part IV of this document, could, in part, be interpreted as consistent with this experimental result. In the same academic study, compliance was found to rise when the amnesty was coupled with increased enforcement. Another academic study examined the 1985 Colorado tax amnesty and concluded that the amnesty, coupled with the increased enforcement efforts, had no long-run effect on either the level of tax revenues, or the trend growth of tax revenues.³¹ However, this study could not distinguish between the effect of the amnesty from the effect of the simultaneous increase in enforcement efforts. The study thus concluded that Colorado's post-amnesty revenues might well have fallen had the amnesty not been coupled with increased enforcement efforts. A study of the Michigan amnesty found that most non-filers were out of compliance for only a single year, perhaps indicating that chronic non-filers do not come forward in amnesties.³² If true, this would undermine the claims of amnesty proponents that an amnesty would induce chronic non-filers to begin to participate in the tax system and produce long-run revenue gains.

Ultimately, the experience of the States provides an incomplete guide to the likely effect of a Federal tax amnesty. Federal enforcement practices *vis-a-vis* the States are a crucial distinction limiting the comparison between the State experiences and a possible Federal amnesty. An important element in the State amnesties has been the simultaneous switch to more stringent law enforcement. However, Congress has not proved very willing to appropriate funds for increased enforcement in the past, and Federal audit rates have been declining over time. Because State amnesties have taken place in conjunction with greater enforcement, it is not apparent that their experiences (even if observers could agree on how to interpret them) would be relevant for a Federal amnesty that occurred during stable or decreasing enforcement efforts. An amnesty under circumstances of decreasing enforcement efforts could potentially have deleterious revenue consequences.

³⁰ See James Alm, Michael McKee and William Beck, "Amazing Grace: Tax Amnesties and Compliance," *National Tax Journal*, Vol. XLIII, No. 1, March 1990, pp. 23-37.

³¹ See James Alm and William Beck, "Tax Amnesties and Compliance in the Long Run: A Time Series Analysis," *National Tax Journal*, Vol. XLVI, No. 1, March 1993, pp. 53-60.

³² See Ronald Fisher, John Goddeeris and James Young, "Participation in Tax Amnesties: The Individual Income Tax," *National Tax Journal*, Vol. XLII, No. 1, March 1989, pp. 15-27.

IV. STATE AND FOREIGN EXPERIENCE WITH TAX AMNESTY

A. State Experience with Tax Amnesty

In general

Since 1983, a total of 44 general tax amnesty programs have been conducted by 34 U.S. States and the District of Columbia. A general tax amnesty is a program involving all or a major portion of the taxes levied by the jurisdiction. In addition to these general amnesty programs, several States have undertaken more narrow amnesties covering a single tax or a few types of taxes. While the terms of each program were different, under all programs penalties, both civil and criminal, for tax liabilities owed with respect to certain periods were abated if the tax liability was paid to the State during the amnesty period. Almost all of these general amnesties also required payment of interest on the tax liability owed, although several amnesties permitted interest payments at less than the normal interest rate. No State amnesty during the period considered has allowed reduction of actual tax liabilities, as opposed to penalties and interest. Six States—Connecticut, Florida, Louisiana, New Jersey, New York, and Rhode Island—and the District of Columbia have each conducted two general amnesty programs since 1983. Arkansas has had three general amnesties during this period. Many state amnesties have been combined with announcements of increased State tax enforcement measures to take effect after the amnesty period. Several local jurisdictions have also conducted tax amnesty programs, some in conjunction with their States, others independently.

Significant aspects of the general State and District of Columbia amnesties since 1983 are set forth in Table 2. As shown on that table, most of these amnesties applied to all major taxes levied by the jurisdiction, although several contained exceptions for certain types of taxes. There was wide variance among amnesty programs as to which taxpayers already in the audit process could participate in the amnesty. All of the general amnesties listed in Table 2 excluded taxpayers who were under criminal tax investigation or prosecution. Almost all excluded taxpayers who were in civil litigation with the State with regard to tax matters.³³ There was an approximately equal division among the States as to whether taxpayers were allowed to participate if their audits had progressed to the point where the State booked an account receivable for an amount of tax liability owed.³⁴ There also has been an approximately equal division among States as to whether taxpayers could

³³ Both New York amnesties and New Jersey's second amnesty allowed taxpayers who were in civil tax litigation with the State to participate in the amnesty.

³⁴ This would be the point in each State's tax procedure that is analogous to "assessment" under Federal tax procedure.

benefit from the amnesty if they paid their tax liabilities in installments after the amnesty period.

There was marked variation in the amounts collected in the general State amnesties. The 1985–1986 New York amnesty collected the most in absolute terms, generating \$401.3 million. The 1996 New Jersey amnesty collected \$350 million, which was the most relative to State population. Table 2 reports both the gross collections resulting from the amnesty and collections as a percentage of State revenue for the prior fiscal year from the taxes covered by the amnesty. The percentage calculation facilitates cross-State comparisons since total tax receipts reflect a State’s population and effective tax rates. The percentage figures also improve cross-year comparisons because the gross collection figures are not adjusted for inflation and, thus, gross collections in the 1980s are not directly comparable to collections in the 1990s. The State amnesties with the largest collections as a percentage of prior-year revenue were the 1996 New Jersey amnesty, at 2.6 percent, followed by the 1987 New Jersey amnesty and the 1984 Illinois amnesty, both at 2.2 percent, and the 1985–1986 New York amnesty, at 2.1 percent.

In addition to the general State amnesties listed in Table 2, several States have conducted amnesties with respect to a single tax or a few taxes. For example, in 1993, Nevada conducted an amnesty limited to the use tax on personal property brought into the State from other jurisdictions. In 1994, Vermont conducted an amnesty limited to the State’s meals and rooms tax for take-out sales. In 1994, New York conducted an amnesty covering three types of taxes: (1) income taxes owed by non-resident individuals, trusts and estates; (2) corporate franchise taxes owed by out-of-State businesses; and (3) use taxes on personal property.

Since 1983, several local jurisdictions have also conducted tax amnesty programs. Some of these have been coordinated with the State amnesty programs set out in Table 2. For example, during the period of both of New York State’s general amnesties, New York City conducted an amnesty for most city taxes on the same terms as the State amnesty and with a coordinated publicity and advertising campaign. Some local jurisdictions also have conducted amnesties independent of State amnesties, such as the 1985 amnesty for Chicago city taxes on all computer leases and other leases of property involving related parties.

Table 2.—State Tax Amnesty Programs, 1983–1997

State	Amnesty period	Major taxes covered	Accounts receivable included	Amnesty collections (\$ millions) ¹	Collections as percentage of relevant revenue ²	Installments arrangements permitted ³
Alabama	01/20/84–04/01/84	All	No	3.2	0.1	No
Arkansas:						
First	11/22/82–01/20/83	All	No	6.0	0.2	Yes
Second	09/01/87–11/30/87	All	No	1.7	0.09	Yes
Third	09/01/97–11/30/97	All	No	⁴ 3.0	.05(1994)	Yes
California	12/10/84–03/15/85	Individual income	Yes	154.0	1.7	Yes
Colorado	09/16/85–11/15/85	Sales & Use	No	43.0	0.5	Yes
Connecticut:						
First	09/01/90–11/30/90	All	No	6.4	0.3	Yes
Second	09/01/95–11/30/95	All	Yes	54.0	1.1	Yes
Florida:						
First	01/01/88–06/30/88	All	No	⁵ 8.4	0.09	No
Second	10/01/92–12/03/92	Most ⁶	No	14.0	0.1	No
Georgia	10/01/92–12/05/92	Most ⁷	Yes	51.3	0.7	No
Idaho	05/20/83–08/30/83	All	No	0.3	0.02(1981)	No
Illinois	10/01/84–11/30/84	All	Yes	160.5	2.2	No
Iowa	09/02/86–10/31/86	All	Yes	35.1	1.6(1984)	N.A.
Kansas	07/01/84–09/30/84	All	No	0.6	0.04	No
Kentucky	09/15/88–09/30/88	All	No	61.1	1.9	No
Louisiana:						
First	10/01/85–12/31/85	All	No	1.2	0.04	Yes ⁸
Second	10/01/87–12/15/87	All	No	0.3	0.008	Yes
Maine	11/01/90–12/31/90	All	Yes	29.0	1.8	Yes
Maryland	09/01/87–11/02/87	All	Yes	⁹ 34.6	0.7	No
Massachusetts	10/17/83–01/17/84	All	Yes	86.5	1.7	Yes ¹⁰
Michigan	05/12/86–06/30/86	All	Yes	109.8	1.3(1984)	No
Minnesota	08/01/84–10/31/84	All	Yes	12.1	0.3	No
Mississippi	09/01/86–11/30/86	All	No	1.0	0.06(1984)	No
Missouri	09/01/83–10/31/83	All	No	0.9	0.02(1981)	No

New Jersey:	09/10/87–12/08/87	All	Yes	186.5	2.2	Yes	
	First						
	Second	All	Yes	350.0	2.6(1994)	No	
	New Mexico	Most ¹¹	No	13.6	1.0	Yes	
	New York:	11/01/85–01/31/86	Most ¹²	Yes	401.3	2.1	Yes
		First			¹³ 277.5	0.9	Yes
		Second	Most	Yes	37.6	0.5	No
		North Carolina	Most ¹⁴	Yes	0.2	0.02	Yes
		North Dakota	All	No	13.9	0.9	No ¹⁵
	Oklahoma	Income, Sales	Yes	93.0	0.6	No	
Pennsylvania	All	Yes					
Rhode Island:	10/13/95–01/10/96						
	First	All	No	0.7	0.08	Yes	
	Second	All ¹⁶	Yes	7.9	0.6(1994)	Yes	
	South Carolina	All	Yes	7.1	0.3	Yes	
	Texas	All ¹⁷	Yes	0.5	0.006	No	
	Vermont	All	Yes	1.0	0.2	No	
	Virginia	All	Yes	32.2	0.5	No	
	West Virginia	All	Yes	15.9	0.9	Yes	
	Wisconsin	All	Yes ¹⁸	27.3	0.5	Yes	
	District of Columbia:	09/15/85–11/22/85					
	First	All	Yes	24.3	N.A.	Yes	
Second	All	Yes	19.5	N.A.	Yes		

¹ Where applicable, the amount indicates local portions of certain taxes collected under the State tax amnesty program. Adjustments have not been made for inflation.

² The figure expresses collections in the amnesty as a percentage of the State's revenue from the taxes covered in the last full fiscal year prior to the amnesty. E.g., where the amnesty covers only income taxes, the figure represents amnesty collections as a percentage of prior fiscal year income tax revenue. Where revenue amounts for the prior fiscal year are unavailable, the fiscal year utilized is indicated in parentheses.

³“No” indicates requirement of full payment by the expiration of the amnesty period. “Yes” indicates allowance of full payment after the expiration of the amnesty period.

⁴ Estimated as of January 7, 1998.

⁵ Did not include intangibles tax and drug taxes. Gross collections totaled \$22.1 million, with \$13.7 million in penalties withdrawn. Estimated as of January 1, 1990.

⁶Did not include personal property taxes.

⁷ Did not include alcohol and tobacco excise taxes and property and intangibles taxes.

⁸Amnesty taxpayers were billed for the interest owed with payment due within 30 days of notification.

9 Figure includes \$11 million for the separate program conducted by the Department of Natural Resources for the boat excise tax amnesty taxpayers were billed for the interest owed within 90 days of notification.

¹⁰The amnesty statute was construed to extend the amnesty to those who applied to the tax department before the end of the amnesty period, and permitted them to file overdue returns and pay back taxes and interest at a later date.

¹¹ The severance taxes (including the six oil and gas severance taxes), the resources excise tax, the corporate franchise tax, and the special fuels tax were not subject to amnesty.

¹² In both New York amnesties, availability of amnesty for the corporation tax, the oil company taxes, the transportation and transmissions companies tax, the gross receipts oil tax and the unincorporated business tax was restricted to entities with 500 or fewer employees in the United States on the date of application. In addition, a taxpayer principally engaged in a aviation, or a utility subject to the supervisor of the State Department of Public Service was also ineligible.

¹³ As of May 1, 1997.

¹⁴ Did not include real property taxes.

¹⁵ Full payment of tax liability required before the end of the amnesty period to avoid civil penalties.

¹⁶ Employment security taxes were not included.

¹⁷ Texas does not impose a corporate or individual income tax. In practical effect, the amnesty was limited to the sales tax and other excises.

¹⁸ Waiver terms varied depending upon the date the tax liability was accessed.

Source: The Federation of Tax Administrators (Updated by Staff of the Joint Committee on Taxation).

Detailed discussion of several States' experiences

New York

New York's amnesty experience is notable for the number of amnesty programs it has undertaken, the high amounts they have collected, and the coordination of similar amnesties for New York City taxes. New York's first general amnesty program in 1985 and 1986 yielded \$401.3 million, the highest total collected in any State amnesty thus far. The 1985–1986 New York amnesty ranks fourth among the amnesties set out in Table 2 on the basis of collections as a percentage of prior-year revenue. This amnesty was coordinated with an amnesty for New York City taxes available during the same period. During the early 1990s, New York State and New York City conducted limited amnesties with respect to specific types of taxes. Then, in 1996 and 1997, New York undertook a second general amnesty program on terms similar to the 1985–1986 program, but which resulted in fewer collections. Collections for the 1996–1997 amnesty have been estimated at \$277.5 million.³⁵

New York's first general tax amnesty from November 1, 1985, through January 31, 1986, yielded collections of \$401.3 million. This total came from diverse sources. Over 148,000 taxpayers participated in the amnesty, with payments ranging from a few cents to \$2.5 million from a single individual, and an average of about \$3,000 per taxpayer. Payments came from the following sources: 44 percent from personal income taxes; 40 percent from sales taxes; and 14 percent from corporate taxes. One-half of the total revenues and 43 percent of total applications were received or postmarked on the last day of the amnesty period.³⁶ Nearly 30 percent of the revenue generated by the amnesty was from tax liabilities for which the New York Department of Taxation and Finance did not have information, with the result that at least 1,500 additional businesses were added to the New York tax rolls in 1986.³⁷

The New York amnesty provided for a waiver of civil penalties for taxes owed for periods before January 1, 1985, if taxpayers made payments of the tax liability plus interest on or prior to January 31, 1986. The amnesty covered most New York State taxes, including all personal income, corporate franchise, sales and use, withholding, motor fuels and estate and gift taxes. Excluded were excise taxes on alcoholic beverages, cigarettes and other tobacco, real estate transfer taxes, real property gains taxes, and corporate income taxes on banks, insurance companies, public utilities and other corporations with more than 500 employees.

The 1985–1986 New York amnesty was reported to have originated as a political compromise between then Governor Mario Cuomo and Republicans in the State legislature.³⁸ The Cuomo administration initially opposed Republican proposals for an amnesty. Eventually, the Cuomo administration agreed to an amnesty in exchange for passage by the State legislature of the Omnibus Tax Eq-

³⁵ *New York Daily News*, May 5, 1997, p. 43.

³⁶ "Tax Amnesty: the New York State Experience," New York State Department of Taxation and Finance, p. 6 (February, 1988).

³⁷ "Federal Tax Amnesty: Reflecting on the State's Experiences," 40 *Tax Lawyer* 145, p. 176 (Fall, 1986).

³⁸ "Tax Amnesty Enters Final Week: New York May Get \$200 Million," *New York Times*, January 26, 1986, p. 22.

uity and Enforcement Act (“OTEEA”) of 1985, a comprehensive package of tax enforcement measures that took effect after the amnesty.³⁹ Under the OTEEA, seven tax offenses were increased to felonies, including failure to file returns, whether or not willful, for three or more years, and failure to pay withholding taxes in excess of \$250. The maximum fine for a felony was raised to \$50,000 for individuals and \$250,000 for corporations. Civil penalties were also increased, and broader enforcement and investigating powers were given to the Department of Taxation and Finance. Finally, \$68 million was appropriated for a new State tax computer system under the supervision of a new Revenue Opportunity Division in the Department. This division was directed to undertake broad-ranging projects to match tax data with other data available to the State. For example, a State publication about the amnesty announced a “doctors project” for matching tax returns of medical doctors with the payments they received from Blue Cross, Blue Shield and Medicaid.⁴⁰

New York State made much of the increased enforcement measures of the OTEEA in its announcements of the amnesty program, which attempted to convince taxpayers that “the rules of the tax evasion game” had changed.⁴¹ An advertising agency was retained to develop a campaign using bus and subway posters and some television and radio commercials centered on the slogan, “It would be a crime to miss out on Amnesty.” Officials of the New York Department of Taxation and Finance also gave over 550 interviews, speeches and presentations on the program.⁴²

Coordinated with the New York State amnesty program was an amnesty conducted by New York City on largely the same terms. The amnesty applied to several New York City taxes, including the personal income tax, the general corporation tax and the unincorporated business tax. The City of Yonkers also conducted an amnesty for city taxes in conjunction with the State amnesty.

Both the New York State and New York City amnesties applied to all taxpayers other than those who were in criminal litigation, or who had previously been convicted, or were under investigation, for a State tax criminal charge. Thus, taxpayers who were under audit, including those for whom accounts receivable had been established, were entitled to participate. Taxpayers in civil litigation could participate if they withdrew from litigation. Taxpayers who could demonstrate severe financial need could qualify for the amnesty by committing to make payments in installments; a down payment of 50 percent was required for this option. The costs of administering the amnesty program were approximately \$2.8 million.⁴³ At the height of the program, 200 employees of the New York Department of Taxation and Finance were assigned to a separate State building to administer the amnesty.⁴⁴

The measures of the OTEEA that were used as the incentive for the amnesty program reportedly led to a significant increase in

³⁹ *Ibid.*

⁴⁰ “Amnesty Briefing,” New York State Department of Taxation and Finance, p. 3.

⁴¹ “Tax Amnesty: the New York State Experience,” *supra*, p. 9.

⁴² *Ibid.*, p. 10.

⁴³ 40 *Tax Lawyer*, *supra*, p. 176.

⁴⁴ “Tax Amnesty; the New York State Experience,” *supra*, p. 6.

New York State enforcement activities.⁴⁵ For example, in the first six months of 1986, New York handed out more jail terms for tax offenses than in the previous 20 years.⁴⁶

Based on the success of the 1985–1986 general amnesty, New York State conducted two limited amnesties in the early 1990s. From April 1, 1992, until February 28, 1993, New York offered an amnesty for the State's real property gains tax. In 1994, the State of New York granted amnesty for three types of taxes normally paid by out-of-State residents. From September 1, 1994, until November 30, 1994, amnesty was given for penalties for income taxes owed by individuals, trusts and estates that were not residents of the State and corporate franchise and other business taxes owed by out-of-State businesses doing business in the State. Also included were use taxes owed by individuals and certain small businesses on property brought into the State. The terms of the amnesty were largely the same as for the earlier general amnesty, except that taxpayers who had participated in the first amnesty or who had been contacted for audit could not participate. In coordination with the State's 1994 program, New York City granted an amnesty for payments of four specific taxes: the Commercial Rent Tax, the Utility Tax, the Real Property Transfer Tax and the Hotel Room Occupancy Tax.

Most recently, from November 1, 1996, to January 31, 1997, New York State offered a second general amnesty involving most major taxes. The amnesty applied to penalties on taxes owed for periods before January 1, 1995. Once again, New York City and Yonkers offered amnesties for city taxes on a coordinated basis. To encourage taxpayers to come forward, the State tax penalties were increased by 5 percent for periods after the amnesty for taxpayers who would have been entitled to amnesty under the program. With few exceptions, the taxes and taxpayers covered and the requirements for the amnesty were the same as for the 1985–1986 general amnesty.⁴⁷ Taxpayers who received amnesty under the 1985–1986 program were not entitled to amnesty under the 1996–1997 program for the same type of tax; for example, a taxpayer who received amnesty for personal income taxes in 1985–1986 could receive amnesty for withholding tax liabilities in the later amnesty, but not for personal income tax liabilities.

Despite a large-scale publicity effort and commitment of resources by the New York Department of Taxation and Finance, payments under the second amnesty fell short of those under the first general amnesty, indicating that the second amnesty may have reduced taxpayer expectations of the State's future tax enforcement.⁴⁸ The State had projected \$450 million in receipts from the second program.⁴⁹ Collections as of May 1, 1997, were estimated at \$277.5 million;⁵⁰ \$73 million of the total was from tax liabilities for which the audit system did not have information.

⁴⁵ "Your Taxes: A Guide to Preparing 1986 Returns," *New York Times*, February 27, 1987, p. D1.

⁴⁶ "No More Mr. Nice Guy," *Wall Street Journal*, July 9, 1986, p.1.

⁴⁷ The New York Beverage Container Tax and the Special Tax on Passenger Car Rentals were subject to the amnesty although they were not enacted until after the 1985–1986 amnesty.

⁴⁸ See discussion at pp. 11–12.

⁴⁹ *New York Times*, March 15, 1997, *supra*.

⁵⁰ *New York Daily News*, May 5, 1997, *supra*.

Based on these results, State Comptroller H. Carl McCall characterized the second amnesty as “ill advised” and a “disappointment.”⁵¹

California

California conducted a tax amnesty program from December 10, 1984, until March 15, 1985, which covered personal income taxes and sales and use taxes. Corporate franchise taxes were not covered. Collections under the amnesty program totaled \$197 million, the fifth highest total for State amnesty programs thus far, although it ranks somewhat lower as a percentage of prior-year revenue. These collections were obtained without a large expenditure on advertising, which is a dissimilarity between the California program and most of the other high-yielding amnesty programs.

The terms of the California amnesty were a waiver of civil penalties on personal income and sales and use taxes owed for periods prior to January 1, 1984, if the taxpayer paid the tax liability during the amnesty period. For both the personal income tax and sales and use tax, taxpayers did not qualify for the amnesty if they were involved in a proceeding, or were subject to an investigation, with respect to a State tax criminal charge. Taxpayers with accounts receivable were not entitled to participate in the sales and use tax amnesty, although other taxpayers under audit could participate. Taxpayers under audit, including those with accounts receivable, were entitled to participate in the personal income tax amnesty. Where full payment of the tax liability during the amnesty period would cause undue hardship, taxpayers could qualify for the amnesty by committing to make payments in installments.

The legislation that approved the amnesty also adopted a new set of enforcement measures that took effect after the amnesty period. Penalties for State tax offenses were raised to a minimum of 5 percent of the liability and a maximum of \$20,000 and three years imprisonment. Special penalties for failure to report cash payments were introduced, which included loss of State business and professional licenses. Authorization was granted to utilize private collection agencies to collect tax deficiencies, to use California State police to serve warrants for criminal tax charges, and to institute continuous levies against non-wage payments. Requirements of information returns for real property sales and registration of tax shelters were introduced. Finally, the amnesty legislation also provided for a new State tax computer system having the ability to cross-reference with respect to a single taxpayer information on all State taxes, as well as State and local business records.

In the months leading up to the amnesty, the State attempted to project a tough and high-profile image on tax enforcement, with announcements of tax criminal prosecutions and arrests, public seizures of boats and luxury automobiles and auctions of unusual property seized.⁵² Although the State conducted an advertising and public relations campaign to increase public awareness of the amnesty, its budget for this campaign was \$550,000, which is one of the smallest for the State amnesty programs considered, especially

⁵¹*New York Times*, March 15, 1997, *supra*.

⁵²E. Dronenburg, Jr., “Amnesty, a Tool for Closing the California Tax Gap,” *Tax Notes Today*, July 26, 1990, p. 155.

when compared with California's size. The advertising campaign included brochures, billboards and public-service announcements on television and radio with the slogan "Get to us before we get to you."⁵³ The amnesty also benefited from widespread coverage on television news, including dramatic footage by a local Fresno station of amnesty applicants running out of a State tax office because they did not want to appear on film.⁵⁴

The \$197 million collected by the California amnesty was from diverse sources. About 160,000 taxpayers applied for the amnesty,⁵⁵ with an average payment of about \$1,200 per taxpayer. For the personal income tax, the receipts break down as follows: 55 percent from taxpayers who had failed to file returns; 40 percent from taxpayers who had failed to pay the tax on previously filed returns; and 5 percent from liabilities not disclosed on returns as filed.⁵⁶ Payments under the amnesty ranged from a few cents to a single payment of \$1.7 million from a corporate taxpayer.

After the amnesty, the State undertook large-scale enforcement actions using the new mechanisms available under the amnesty legislation. Special emphasis was placed on tax protesters.⁵⁷ Based on its favorable experience with the general amnesty, California conducted an amnesty for the motor vehicles tax from January 1, 1986, to March 31, 1986.

Georgia

Georgia conducted a general tax amnesty program from October 1 through December 5, 1992. Collections under the program totaled \$51.3 million, which ranks eleventh among the general amnesty programs in the period since 1983. Noteworthy about the Georgia amnesty is that the State amnesty legislation provided that there would be no other general amnesty in the future.

The amnesty applied to almost all Georgia State taxes for periods before December 30, 1990, including individual and corporate income taxes, withholding, motor fuel and sales taxes. Excluded were tobacco and alcohol excise taxes and property and intangibles taxes. The amnesty applied to all taxpayers other than those who were in litigation with the State on criminal tax charges or taxpayers who had received notice of a criminal investigation on such charges. Taxpayers under audit, including those for whom accounts receivable had been established, were eligible for the amnesty.

The terms of the amnesty were a waiver of civil penalties if payment of the taxes due, plus accrued interest, was paid to the State no later than December 5, 1992. For taxpayers for whom full payment during the amnesty period would be a severe hardship, the Georgia Department of Revenue was authorized to accept a commitment to make payments in installments.

Both the legislation approving the amnesty and the State's announcements of it stated that the amnesty was a one-time offer

⁵³ *Ibid.*

⁵⁴ "Amnesty Brings Tax Bonanza; Rush to Beat Cutoff Nets \$100 Million," *Los Angeles Times*, March 16, 1985, p. 1.

⁵⁵ 40 *Tax Lawyer*, *supra*, p. 163.

⁵⁶ "Study of Tax Amnesty Programs," Research Division; Assistant Commissioner (Planning, Finance and Research), Internal Revenue Service, Appendix 1, p. 3 (August, 1987).

⁵⁷ "Rise in Tax Protest Cases Because of Crackdown," *Los Angeles Times*, June 30, 1985, p. 6.

which would not be repeated,⁵⁸ and no subsequent amnesty has been conducted by the State. The legislation authorizing the amnesty also adopted stiffer penalties and tax enforcement mechanisms that took effect after the amnesty period. The legislation instituted a new “cost of collection” fee of 20 percent of tax deficiencies collected after the amnesty, which could be raised to 50 percent by regulations of the Department of Revenue. After the amnesty, willful failure to file a return, pay taxes, or willful filing of a false return was made a felony, punishable by a fine of up to \$5,000 or imprisonment for up to three years. The Department of Revenue was authorized to hire additional auditors and agents and to utilize private collection agencies, and appropriations were provided for a new computer system that would allow the Department of Revenue to retrieve information on a taxpayer-by-taxpayer, rather than a tax-by-tax, basis.

Public awareness of the Georgia amnesty program was heightened by a media campaign directed by a private advertising agency and costing over \$2 million.⁵⁹ The advertising campaign included images of barking dogs, guillotines and open sharks’ jaws intended to symbolize the consequences of non-compliance with the amnesty program. Despite these efforts, the success of the Georgia program largely occurred in its last few days. As of December 3, 1992, two days before the filing deadline, only \$20.4 million of the final total of \$51.3 million had been received.⁶⁰

After the amnesty, the Georgia Department of Revenue increased enforcement against tax evaders, especially criminal actions using the new mechanisms provided by the amnesty legislation.⁶¹ Based on the success of the State amnesty, Georgia authorized a property tax amnesty program in 1994, to be administered by local tax authorities, that was modeled on the 1992 State program.

Pennsylvania

Pennsylvania conducted a general tax amnesty program from October 13, 1995, to January 17, 1996. The total collected was \$93 million, the eighth highest for State programs since 1983, although the Pennsylvania total ranks somewhat lower as a percentage of prior-year revenue. A distinctive aspect of the Pennsylvania program was the requirement that amnesty participants file all required State returns and pay all required State taxes due within two years after the last day of the amnesty period.

Proposals for a tax amnesty had circulated in the Pennsylvania State legislature for a number of years. One general amnesty bill was struck down by gubernatorial veto. The concept of a general tax amnesty received renewed support in 1994, when gubernatorial candidate Tom Ridge pledged to seek an amnesty program combined with stepped-up enforcement against tax violators after the amnesty.⁶² In the final legislation, the general amnesty was com-

⁵⁸ Georgia H.B. 1405, which was substantially unchanged from the form reprinted in *State Tax Notes*, April 2, 1992, p. 67.

⁵⁹ “Georgia Cashes in on Tax Amnesty Spots,” *The Wall Street Journal*, December 17, 1992, p. B9.

⁶⁰ “Georgia Tax Amnesty Ends on Successful Note,” *State Tax Notes*, December 14, 1992, p. 240.

⁶¹ *The Tax Enforcer* (newsletter of the Federation of Tax Administrators), vol. 2, no. 1 (1994).

⁶² “Pennsylvania DOR Issues Report Regarding Amnesty,” *State Tax Notes*, July 24, 1996, p. 143.

bined with the enactment of a 15-percent “non-participation” penalty for tax liabilities collected after the amnesty. In addition, the legislation made appropriations for the “Keystone Integrated Tax System,” a new computer technology system designed to enhance the State’s ability to identify delinquent taxpayers.

The terms of the Pennsylvania amnesty were abatement of civil penalties for tax liabilities for periods before January 1, 1994, if payment of the tax liability plus interest was made during the amnesty period. The amnesty was originally announced to be from October 15, 1995, until January 10, 1996, although the deadline was extended until January 17, 1996, due to a major blizzard on the East coast. Eighteen State taxes were covered by the amnesty, including personal and business income taxes, sales and use taxes, employer withholding, inheritance taxes and the motor fuels tax. As noted above, there was an additional requirement for amnesty that the taxpayer file all required State returns and pay all required State taxes due within two years after the end of the amnesty period. If this condition was not met, the State could retroactively assess the penalties abated in the amnesty. Taxpayers who could substantiate a severe financial hardship could make payments in installments, but such payments did not qualify for the abatement of penalties under the amnesty. They were, however, not subject to the new 15-percent “non-participation” penalty. All taxpayers were entitled to participate, other than those who were in litigation with the State on a criminal tax charge or who had received notice from the State of a criminal tax investigation. Other taxpayers under audit, including those for whom accounts receivable had been established, were fully entitled to participate.

In the weeks leading up to the amnesty, the Pennsylvania Department of Revenue mailed 600,000 notices of the amnesty to known delinquent taxpayers, which emphasized the higher penalties and enforcement effort planned for the post-amnesty period.⁶³ Public awareness of the amnesty also was increased by a \$2 million advertising campaign run by a private advertising agency with the slogan that the State would “look the other way” about tax liabilities only for the amnesty period. The principal television commercial featured conversations with somber men cast as revenue agents who proceeded to look away from the camera.⁶⁴ Seventy-five employees of the Department of Revenue worked on the amnesty full-time. The total administrative costs of the program (including advertising) were \$10 million.⁶⁵

The \$93 million collected under the Pennsylvania amnesty was from widely diverse sources. More than 63,000 taxpayers applied for amnesty—6,000 of whom were unknown to the Department of Revenue prior to the amnesty. Payments ranged from a few dollars to a single payment of \$1.4 million.⁶⁶ The total amount collected came from the following sources: 22 percent from sales and use taxes; 15 percent from personal income taxes; 14.4 percent from employer withholding; and 9.5 percent from inheritance taxes.

⁶³ “Special Edition of ‘Pennsylvania Tax Update’ Announces First Ever Tax Amnesty Program,” *State Tax Notes*, December 7, 1995, p. 235.

⁶⁴ “Tax Amnesty Ads are Heavy-Duty,” *Pittsburgh Post-Gazette*, November 8, 1995, p. C11.

⁶⁵ “Pennsylvania DOR Issues Report Regarding Amnesty,” *supra*.

⁶⁶ *Ibid.*

Motor taxes, realty transfer taxes, fuel taxes and the special oil company franchise tax accounted for most of the remaining 39.1 percent.⁶⁷

After the amnesty, the Pennsylvania Department of Revenue undertook a large-scale enforcement effort against taxpayers who had not applied for amnesty. An additional 174 criminal tax prosecutions were filed. Collections due to enforcement actions of the Department of Revenue in 1995 (not including the amnesty) totaled \$488.1 million, just \$18.9 million less than the record set in previous year.⁶⁸

Connecticut

Connecticut is one of several States that have offered amnesty to tax evaders more than once. Connecticut's first general amnesty was from September 1, 1990, to November 30, 1990, and covered all major taxes. This amnesty raised \$54 million. The second amnesty occurred over the same dates in 1995, and also covered all major taxes. The primary rationale for offering the second amnesty was that a new tax, the personal income tax, was introduced since the last amnesty, and thus there was potentially an entire new class of tax evaders. Connecticut's literature discussing the results of the second amnesty also states that the Connecticut General Assembly and Governor mandated that the Department of Revenue Services (DRS) offer the second tax amnesty program, and indicates that the DRS was "given a goal to collect \$31 million in additional and unanticipated revenues" and "to collect \$31 million in back taxes to meet expected State budget requirements."⁶⁹

This second Connecticut amnesty generated \$40.9 million as of June 30, 1996. The principal sources of revenues in this amnesty were the sales and use taxes (44 percent of collections), and the personal income tax and corporation taxes (both at 26 percent).⁷⁰ The revenue raised from the amnesty with respect to the personal income tax accounted for less than 0.5 percent of the annual revenue collections resulting from the personal income tax.

The data that Connecticut has released concerning the second amnesty are worth highlighting. First, more than half of the revenues (51 percent) came from accounts receivable, and thus, as previously discussed, these revenues may merely represent an acceleration of revenues that would have been eventually collected. Second, a subset of the data shows the amnesty revenues raised from participants in the second amnesty who had also participated in the first amnesty. These are the only available data on taxpayers who have taken advantage of more than one amnesty.

The 1995 Connecticut amnesty had 219 participants, out of a total of 14,929 applications accepted for amnesty, who had also participated in the 1990 amnesty. In the 1990 amnesty, these 219 taxpayers accounted for \$2.4 million of the amnesty revenues, or about 4.5 percent of total amnesty collections. In the 1995 program, these same taxpayers accounted for collections of \$4.2 million or about

⁶⁷"Pennsylvania Tax Amnesty Yields \$93 Million," *State Tax Notes*, July 22, 1996, p. 141.

⁶⁸"Pennsylvania DOR Issues Report Regarding Amnesty," *supra*.

⁶⁹"1995 Connecticut Tax Amnesty Final Report," pp. ii and 1.

⁷⁰*Ibid.*, p. 4.

10.3 percent of total collections.⁷¹ In inflation-adjusted dollars, these figures represent approximately a two-thirds increase in the dollar amount of non-compliance by these taxpayers.

Definitive conclusions cannot be drawn from these data about the general impact of amnesties on future taxpayer compliance. However, these data do show that at least some taxpayers who participate in amnesties continue in their non-compliance, and perhaps even increase the dollar magnitude of their non-compliance. For at least these taxpayers, this contradicts the notion that amnesty participants “come clean” and henceforth are compliant taxpayers.

B. Foreign Experience with Tax Amnesty

The history of tax amnesties in foreign countries is far longer than in the United States, going back to ancient Rome. Many foreign jurisdictions have had tax amnesties, both general amnesties and amnesties covering only certain taxes. Some foreign amnesties have yielded larger collections than those of U.S. States. For example, the general Argentine amnesty of 1995 yielded about \$3.9 billion.⁷² The Irish amnesty of 1988 yielded more than \$700 million.⁷³ Some foreign countries have made repeated use of amnesties, whereas no U.S. State has had more than three general amnesties. Ireland offered five amnesties in six years, and Italy has had more than a dozen amnesties.

There are several aspects of foreign amnesties that limit their comparability with the United States. In most foreign countries, a larger portion of the national economy escapes the tax system than probably occurs in the United States.⁷⁴ For example, many estimates put the portion of the Italian economy that escapes taxation in the 20 percent range.⁷⁵ Most foreign countries have larger underground economies than the United States, which means that they have greater reliance on cash and barter as forms of payment.⁷⁶ Many foreign systems also exempt transactions occurring outside the country from taxation, giving an incentive to move untaxed profits outside the country. Few foreign countries have reached the U.S. Federal level of development of enforcement mechanisms, especially with regard to use of computer technology and requirements of withholding and information reporting. In fact, some foreign amnesties have been used as an accompaniment to introducing enforcement measures that incurred popular resistance, but that are already utilized in the United States.⁷⁷

Some foreign countries that have recently adopted sophisticated tax systems, such as those in Eastern Europe, have relied on amnesties to deal with honest confusion as to what tax liabilities were owed.⁷⁸ Some foreign amnesties, including several of the Argentine tax amnesties, have coincided with a change in government, and

⁷¹ *Ibid.*, p. 7.

⁷² “Argentine Tax Amnesty Promises Big Yield,” *Tax Notes International*, December 14, 1995, p. 240.

⁷³ “Irish Run Out of Luck over Tax Amnesty,” *The Independent*, July 4, 1993, p. 6.

⁷⁴ L. Talley and W. Morrison, Tax Amnesty: State and European Experience,” Congressional Research Service, p. 13 (1984).

⁷⁵ “The Taxing Problem Italy Faces,” *Financial Times*, August 7, 1989, p. I-15.

⁷⁶ Talley and Morrison, *supra*, pp. 13-14.

⁷⁷ *Ibid.*

⁷⁸ “Russia Announces Tax Amnesty,” *Tax Notes International*, November 16, 1993, p. 220.

thus suggest a repudiation of the previous government's policies.⁷⁹ Another factor in the comparability of the foreign experience is that many foreign jurisdictions, including those of Western Europe, raise a high proportion of revenue from value-added taxes and other direct taxes, as opposed to personal income taxes. Because value-added taxes are collected by businesses, amnesty programs in these countries can generate large totals as a result of a few large payments by delinquent businesses.

The terms offered to taxpayers in many foreign amnesties also have been different from U.S. state practices. Many foreign amnesties have not only abated penalties but also interest and even liabilities for tax. In the 1996 Venezuelan amnesty, tax liabilities of participating taxpayers were reduced by 75 percent and, in the 1974 Panamanian amnesty, by 80 percent. Most foreign amnesties have allowed taxpayers with accounts receivable or in civil tax litigation to participate. Some, such as the 1995 Argentine amnesty, have even allowed participation of taxpayers involved in criminal tax proceedings. Many foreign systems allow the national tax administration to waive penalties and interest as a matter of administrative discretion, which can be used for "standing" offers of amnesty.

As a result of the level of their economic development and the sophistication of their tax systems, the experiences of Western Europe and the other countries in the Organization for Economic Cooperation and Development are probably most relevant to the United States. In 1982, France undertook both a general tax amnesty and a special program to encourage repatriation of untaxed assets from abroad. The general amnesty applied to all income and value-added taxes, and offered an abatement of both interest and penalties for participating taxpayers. Collections were relatively small compared to U.S. State amnesties, amounting to about \$19 million from 2,786 taxpayers.⁸⁰ Under the repatriation program, French residents who brought back capital from abroad that represented undeclared income or that was illegally exported were taxed at a flat rate of 25 percent (regardless of the original rate owed, which was in most cases higher). The repatriation program had 276 participants, from whom a total of about \$22 million was collected.⁸¹ In 1986, France undertook a second special amnesty for assets held abroad with a tax rate of 10 percent on the assets repatriated.

Ireland conducted a total of five amnesty programs in six years, with general amnesties in 1988 and 1993, both of which received considerable publicity. The 1988 general amnesty yielded more than \$700 million in collections.⁸² This amnesty offered participants a waiver of all penalties and interest and was publicized as an opportunity to pay tax liabilities before increased penalties, interest and enforcement measures were adopted as part of an overall tax reform. Although the 1988 amnesty was publicized as a one-time opportunity, Ireland undertook a second general amnesty in 1993. Faced with a budget deficit, the Irish government announced

⁷⁹ "Study of Tax Amnesty Programs," Internal Revenue Service, *supra*, p. 13.

⁸⁰ Talley and Morrison, *supra*, p. 14.

⁸¹ *Ibid.*, p. 16.

⁸² "Irish Run Out of Luck over Tax Amnesty," *supra*.

a special amnesty for repatriation of undeclared income from abroad.⁸³ In addition to waiver of all penalties and interest and promises of confidentiality, the repatriated funds were subject to a special low rate of 15 percent, in contrast to normal Irish tax rates which rose above 50 percent. The amnesty was criticized by the parliamentary opposition and trade unions as a concession to wealthy taxpayers.⁸⁴ In response, the Irish government also adopted a general tax amnesty.⁸⁵ The general amnesty offered abatement of both penalties and interest, although no liabilities were reduced. Collections for the 1993 amnesty were widely reported to be significantly lower than for the 1988 amnesty,⁸⁶ which is consistent with the view that repeated tax amnesties decrease taxpayer expectations of enforcement.⁸⁷ Moreover, the 1993 amnesty has continued to receive negative publicity, especially due to the revelation that the chief suspect in Ireland's biggest robbery benefited from the amnesty for a large tax deficiency.⁸⁸

Italy has conducted more than a dozen tax amnesties, an average recently of about one every two years. Collections in recent Italian amnesties have not been large, supporting the view that repeated use of amnesties reduces their effectiveness.⁸⁹ For example, for its general amnesty in 1982, the Italian government predicted collections of \$4.6 billion, but actual collections totaled less than \$700,000.⁹⁰ Tax amnesties have occurred so regularly in Italy that the expectation of future amnesties has been cited as a factor in the low national level of tax compliance.⁹¹

In Canada, a flexible program of tax "compassion" was begun in 1993 by the Ministry of National Revenue, utilizing the Ministry's discretionary authority to abate penalties and interest.⁹² Non-filers who voluntarily came forward were offered a waiver of all penalties. Others with outstanding tax liabilities were promised the opportunity to pay in installments and offered the possibility of penalty waivers. The tax administrations of several countries, including Germany, the Netherlands, Sweden, Norway and Denmark, have in recent years had "standing" offers of amnesty, under which the national tax administration has committed to use its authority to abate all or a portion of penalties or interest for taxpayers who voluntarily pay their tax liabilities.⁹³

There has been no tax amnesty in the United Kingdom in recent years.

Although not a foreign country, the amnesties conducted by Puerto Rico are also relevant. Puerto Rico undertook general tax amnesties in both 1988 and 1991 on very similar terms. Participating taxpayers were offered an abatement of all interest and penalties, plus a special flat rate of 20 percent for payment of liabilities (compared with a top individual rate of 41 percent in 1988).

⁸³ *Ibid.*

⁸⁴ "Irish Count on Windfall from Tax Amnesty to Ease Budget Shortfall," *The Guardian*, November 27, 1993, p. 37.

⁸⁵ *Ibid.*

⁸⁶ "Irish Run Out of Luck over Tax Amnesty," *supra*.

⁸⁷ See discussion at pp. 11-12.

⁸⁸ "Someone's Got to Do It," *The Guardian*, December 4, 1995, p. T14.

⁸⁹ See discussion at pp. 11-12.

⁹⁰ Talley and Morrison, *supra*, p. 17.

⁹¹ "The Taxing Problem Italy Faces," *supra*.

⁹² "Hard-hit Taxpayers May Get Amnesty from Fines," *Toronto Star*, August 17, 1993, p. A1.

⁹³ "Study of Tax Amnesty Programs," Internal Revenue Service, *supra*, pp. 13-17.

Both taxpayers under audit and those involved in civil tax litigation were entitled to participate.

V. DESIGN PARAMETERS OF A POSSIBLE FEDERAL TAX AMNESTY

The following are the principal parameters employed by the staff of the Joint Committee on Taxation in estimating the individual income tax amnesty proposals contained on the revenue table in the Appendix:

1. The IRS would be given a lead time of approximately six to nine months between the date of enactment and the commencement of amnesty. A shorter period would not be feasible because it would not give the IRS sufficient time to redeploy and train staff resources, to develop and print appropriate forms, applications, and instructions, and to publicize the coming of tax amnesty. A significantly longer period would not be desirable because it would increase the open window during which taxpayers may alter their current behavior in anticipation of the amnesty.

2. The determination of the exact starting and ending dates of the amnesty must be done carefully to provide the optimal scheduling of the amnesty. For example, an amnesty that overlapped the April 15 filing date could seriously overburden the administrative systems of the IRS and lead to serious difficulties with or the failure of the filing season or of the amnesty (or of both). Alternatively, an amnesty that occurred solely during the summer months or during the Thanksgiving through New Year's Day holiday period might not achieve optimal results because many individuals' attention would be focussed elsewhere. Most State amnesties have occurred in the fall; that is likely to be the optimal time for a Federal amnesty as well. One alternative would be to permit the IRS to select the exact starting and ending dates within legislatively established parameters.

3. The amnesty would be approximately 90 days in length. A shorter period may not allow sufficient time for the amnesty publicity to affect taxpayers' behavior. Too lengthy a period may cause taxpayers to wait until later in the amnesty period to come forward; some of those who delay may never come forward.

4. Participants would be permitted to pay through installment agreements. Although this is not a universal feature of State amnesties, it is a necessary feature of a Federal amnesty seeking to maximize receipts. This is because the average size of the amounts owed to the Federal Government is significantly larger than the average size of amounts owed to State governments. Absent installment agreements, some taxpayers who wish to avail themselves of amnesty would be unable to do so because they could not afford to make one lump payment. The permissible period for installment payments cannot be too lengthy, however, because increasing its length also increases the risk of loss attributable to taxpayers being unable to meet their installment agreement obligations. A

taxpayer would continue to owe interest (as under present law) during the period the taxpayer was making installment payments.

5. The amnesty would apply to all open tax years (except as noted in the next item). Taxpayers who, prior to the commencement of the amnesty, resolved a dispute with the IRS and paid the amount owed would not be eligible for a refund of amounts paid (although if they had waited for the amnesty to commence, they would have paid a lesser amount).

6. Amnesty would not be available with respect to liabilities incurred in the year in which amnesty is announced nor in the year of the amnesty.

7. Amnesty would not be available to individuals currently under criminal investigation.

8. Participants in the amnesty generally would not be subject to criminal penalties.

9. An amnesty would require widespread publicity. Most States provided significant funding for amnesty publicity; significant additional funding would also be necessary so the IRS can publicize the Federal tax amnesty.

10. The amnesty would explicitly state that no future amnesty would be offered. There are, however, several reasons why not all taxpayers will necessarily believe that that will be true. First, several States have had second amnesties despite pronouncements that the first amnesty would be the only amnesty. Second, it is not legally possible to prevent future Congresses from enacting a subsequent amnesty.

In addition to these design parameters, the staff of the Joint Committee on Taxation made the following assumptions for the purposes of preparing the revenue estimates in the Appendix:

1. There would be a reduction in receipts attributable to IRS staff redeployment regardless of how staffing is provided for the amnesty. If no new employees are provided to the IRS, but rather existing IRS employees are redeployed, there would be a reduction in receipts due to reallocation of IRS resources. This would occur because IRS employees who would otherwise perform audits or bring in collection receipts would instead process requests to be included in the amnesty program. Even if the IRS is provided with additional personnel to handle the work created by a Federal tax amnesty, this effect would not be eliminated because there are practical limitations on how rapidly the IRS can hire and train new employees; consequently, some redeployment (and consequent revenue loss) would be inevitable. Providing the IRS with more lead time for hiring and training can minimize their redeployment losses, but providing more time would also increase the period during which some taxpayers would reduce their current compliance levels in anticipation of the amnesty (see next item), which would further reduce receipts.

2. There would be a reduction in receipts upon announcement of amnesty even if amnesty is not enacted. There are two ways in which this would occur. First, some taxpayers currently involved in disputes with the IRS would cease working to resolve those disputes in anticipation of a possibly better deal under amnesty. Consequently, voluntary enforcement collections would be substantially reduced. Second, some taxpayers might alter their current behavior

and reduce their compliance in the current year in the erroneous anticipation of amnesty applying to them. A small number might do so by ceasing to file tax returns; those individuals are, however, likely to be caught. Most of those who reduce their compliance are likely to do so by altering slightly reporting positions taken on tax returns that they will still file with the IRS. The IRS may be unable to either detect or respond to numerous relatively small changes on tax returns.

3. Two factors would result in a reduction in receipts in years following the amnesty. First, some taxpayers may alter their behavior to reduce their compliance in anticipation of a future amnesty (whether or not that is explicitly ruled out as part of the first amnesty). Second, some taxpayers may believe that amnesty was unfair, in that taxpayers who cheated and then took advantage of the amnesty receive a “better deal” from the Government than those who voluntarily complied with the laws (or who did not but were caught by the IRS prior to the amnesty). To the extent that some of these taxpayers respond to these perceptions of unfairness by reducing their compliance in the future, there would be a reduction in receipts in years following the amnesty.

4. Tax amnesties generally are not tailored to the circumstances of individual taxpayers, but instead offer identical terms to everyone. For example, the Minnesota amnesty forgave 20 percent of the total interest and penalties owed for taxpayers who had filed returns (up to a \$2,000 limit). Amnesty would consequently have two opposing effects. On the one hand, it would accelerate collections due to more prompt payment of amounts owed than would otherwise occur through the normal collection process. On the other hand, however, amnesty would reduce collections in that some taxpayers will avail themselves of amnesty (and the consequent reduction in the total amount owed) who may otherwise have the ability to pay a larger portion of the total owed and who would have paid it in the course of the normal collection process. This means that there would be an initial acceleration into the first year of the amnesty amounts that would otherwise be collected (absent the amnesty) in later years, but that there also would be a loss in the later years because some taxpayers would pay less under amnesty than they would have paid in the course of the normal collection process.

VI. CONCLUSIONS CONCERNING THE POSSIBLE USE OF A FEDERAL TAX AMNESTY

There are several factors that may influence the decision as to whether to employ a Federal tax amnesty. One is the revenue consequences of a Federal tax amnesty. The staff of the Joint Committee on Taxation estimates that a Federal tax amnesty would result in a net revenue loss to the Federal Government. This net revenue loss occurs primarily because a Federal tax amnesty will have the long-run effect of modestly reducing overall taxpayer compliance with Federal tax laws.

Other factors in addition to revenue effects may significantly influence the decision as to whether to employ a Federal tax amnesty. One factor might be whether the Internal Revenue Code is being significantly reformed or replaced. For example, in the context of a complete restructuring of the Internal Revenue Code, consideration might be given to implementing a Federal tax amnesty to “wipe the slate clean” for prior noncompliance.

Another context in which a Federal tax amnesty might be considered is whether it might be an appropriate element of legislation to restore taxpayers’ confidence in the fairness of the Internal Revenue Service. Some might argue that a Federal tax amnesty would provide an appropriate opportunity to resolve prior disagreements with the IRS, which could help restore confidence. Others might argue that amnesty would not be an appropriate mechanism to restore confidence in the fairness of the tax system, since some taxpayers who fulfilled their tax obligations could view it as unfair that others received a “better deal” under amnesty.

APPENDIX—ESTIMATED BUDGET EFFECTS OF POSSIBLE FEDERAL TAX AMNESTY PROPOSALS
Fiscal Years 1998–2007

[Billions of Dollars]

Proposal	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998– 2002	1998– 2007
1. Individual taxpayers only: waiver of penalties and 50% interest, include accounts receivable, for taxpayer years 1996 and prior; amnesty period for 90 days.	aco 10/1/98		4.2	-1.7	-1.7	-1.8	-1.8	-1.8	-1.9	-0.7	-0.7	-1.0	-8.0
2. Individual taxpayers who have not filed returns with the IRS only: waiver of penalties and 50% interest for taxable years 1996 and prior; amnesty period for 90 days.	aco 10/1/98		(1)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	-0.2

¹ Gain of less than \$10 million.
² Loss of less than \$50 million.

Legend for "Effective" column: aco=amnesty commencing on

Note. Details may not add to totals due to rounding. Estimates do not include outlay effects for promoting and administering a Federal income tax amnesty.
Source: Joint Committee on Taxation.

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