

# Gross Receipts Tax Exemption Increased for Small Businesses

*by Marjorie Roberts and Harris Angell*

On Thursday, U.S. Virgin Islands taxpayers will file their gross-receipts tax returns for the month of September with the V.I. Bureau of Internal Revenue (BIR). And, for the first time, taxpayers with more than \$5,000 in monthly gross receipts (but less than \$9,000) may not have a tax liability. The monthly exemption for a small business has been raised from \$5,000 to \$9,000, and the annual tax cap that effectively defines a small business is now \$225,000 instead of \$150,000.

Gov. John deJongh Jr. signed the increase in the gross receipts tax exemption amount into law Sept. 17, amending Section 43(f), Chapter 3, Title 33 of the V.I. Code. Pursuant to Act No. 7015, a small business is now defined as a business or a controlled group of businesses that grosses less than \$225,000 annually (instead of \$150,000 annually). These small businesses will be exempted from the payment of gross receipts tax on the first \$9,000 of gross receipts each month.

The law requiring businesses with annual gross receipts greater than \$120,000 to file a monthly return on Form 720 VI and to pay the four percent gross receipts tax monthly (by the 30th day after the end of the month for which taxes are being paid) is not changed, nor is the definition of "control group" as an arrangement entered into by proprietorships or entities with more than a 50 percent common ownership. Similarly, those businesses with annual gross receipts of \$120,000 or less can continue to file and pay the gross receipts tax annually on Form 720B VI. The definition of "gross receipts" continues to mean all receipts of a business, whether on a cash basis or accrual basis, without any deductions for expenses.

The increases in the amount of gross receipts that can be received annually, as well as the monthly exemption amount, affect months starting with September 2008. It is not retroactive, so a business that has the same gross receipts in different months of 2008 may well owe different amounts of tax on the same amount of gross income.

For example, assume a seasonal business can report its gross receipts and pay its tax annually because it has less than \$120,000 in gross receipts for 2008 and had gross receipts of \$7,500 in both January and December. In preparing Form 720B VI (due Jan. 30, 2009), the business would owe a tax equal to four percent of \$2,500 (\$7,500 less the \$5,000 monthly exemption), or \$100 for January. In contrast, for the month of December, the business would have gross receipts that are less than the \$9,000 exemption, so the business would owe no tax.

Also, the change in the middle of the year means that a business with annual gross receipts of \$180,000 would not be eligible for any exemption for the months of January through August. For September to December, in contrast, the business would qualify for the exemption. Thus, if the business receives \$15,000 in gross receipts each month from September to December, it would only have \$6,000 in monthly taxable receipts and owe \$240 per month in tax.

Any business filing returns and paying taxes using the new exemptions for months prior to September 2008 will be billed for the additional tax, interest and penalties, according to Gizette L. Thomas, director of the BIR. The BIR is now updating its forms to reflect the increases, but businesses should use the existing forms and write in the

correct exemption amounts until new forms are available.

For taxpayers who did not pay their gross receipts tax in full for 2007 and prior years, the V.I. government has also enacted an amnesty -- temporarily waiving outstanding penalties and interest owed on gross receipts taxes for businesses that voluntarily pay outstanding gross receipts taxes. Act No. 7009, signed into law July 4 by deJongh, provided in Section 7 that the BIR "shall establish a six-month amnesty period during which all interest and penalties must be waived to the payment of outstanding penalties and interest owed on gross receipts taxes for year 2007 and prior years for any taxpayer who voluntarily pays due and owed gross receipts taxes." The amnesty is in effect until Feb. 6, 2009. Without such an amnesty in effect, taxpayers would be subject to a penalty of five percent per month of the amount due but not timely paid (but not exceeding 25 percent), as well as interest at the annual rate of 12 percent.

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