

1 AN ACT relating to tax amnesty and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 131.400 is amended to read as follows:

4 (1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax
5 Amnesty Act."

6 ~~(2) The department shall develop and administer tax amnesty programs as provided in
7 KRS 131.410 to 131.445.~~

8 ~~(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:~~

9 (a) **"Account receivable" means an amount of state or federal tax, penalty, fee,**
10 **or interest which has been recorded as due and entered in the account**
11 **records of the department, or which the taxpayer should reasonably expect**
12 **to become due as a direct or indirect result of any pending or completed**
13 **audit or investigation which the taxpayer knows is being conducted by any**
14 **federal or state government taxing authority;**

15 (b) "Amnesty period" means the period of time established pursuant to subsection
16 ~~(3)(a) or (b)~~ of this section during which a taxpayer may apply for tax
17 amnesty;

18 (c) **"Due and owing" means an assessment which has become final and is**
19 **owed to the Commonwealth due to either the expiration of the taxpayer's**
20 **appeal rights pursuant to KRS 131.110 or, if an assessment has been**
21 **appealed, the issuance of a final order by the board or by any court of this**
22 **Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments**
23 **that have been appealed shall be final, due and owing fifteen (15) days after**
24 **the last unappealed or unappealable order sustaining the assessment or any**
25 **part thereof has become final;**

26 (d) **"Federal government" means either the United States Department of**
27 **Treasury or the Internal Revenue Service; and**

1 ~~(e)~~~~(b)~~ "Taxpayer" means any individual, partnership, joint venture, association,
2 corporation, receiver, trustee, guardian, executor, administrator, fiduciary,
3 limited liability company, limited liability partnership, or any other entity of
4 any kind subject to any tax set forth in subsection ~~(3)~~~~(4)~~ of this section or
5 any person required to collect any such tax under subsection ~~(3)~~~~(4)~~ of this
6 section;

7 ~~(c)~~—"Account receivable" means an amount of state tax, penalty, fee, or interest
8 which has been recorded as due and entered in the account records of the
9 department, or which the taxpayer should reasonably expect to become due as
10 a direct or indirect result of any pending or completed audit or investigation
11 which the taxpayer knows is being conducted by any federal or state
12 government taxing authority; and

13 ~~(d)~~—"Due and owing" means an assessment which has become final and is owed to
14 the Commonwealth due to either the expiration of the taxpayer's appeal rights
15 pursuant to KRS 131.110 or, if an assessment has been appealed, the issuance
16 of a final order by the board or by any court of this Commonwealth. For the
17 purposes of KRS 131.410 to 131.445, assessments that have been appealed
18 shall be final, due and owing fifteen (15) days after the last unappealed or
19 unappealable order sustaining the assessment or any part thereof has become
20 final.

21 ~~(3)~~~~(4)~~—(a) Notwithstanding the provisions of any other law to the contrary, a tax
22 amnesty program shall be conducted by the department during the fiscal year ending
23 June 30, 2003, for a period of not less than sixty (60) days nor more than one
24 hundred and twenty (120) days and shall apply to all taxpayers owing taxes,
25 penalties, fees, or interest subject to the administrative jurisdiction of the
26 department, with the exceptions of ad valorem taxes levied on real property
27 pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats

1 collected by the county clerks, and ad valorem taxes on personal property levied
 2 pursuant to KRS Chapter 132 that are payable to local officials. The program shall
 3 apply to tax liabilities for taxable periods ending or transactions occurring after
 4 December 1, 1987, but prior to December 1, 2001. Amnesty tax return forms shall
 5 be in a form prescribed by the department.

6 ~~(b)~~ Notwithstanding the provisions of any other law to the contrary, a tax amnesty
 7 program shall be conducted ~~by the department during the fiscal year ending June~~
 8 ~~30, 2013,~~ for a period of ~~not less than~~ sixty (60) days, **beginning on October 1,**
 9 **2022, and ending on November 29, 2022** ~~nor more than one hundred twenty (120)~~
 10 ~~days~~. The program shall be available to all taxpayers owing:

11 **(a)** Taxes, penalties, fees, or interest subject to the administrative jurisdiction of
 12 the department, with the exception of:

- 13 1. Ad valorem taxes levied on real property pursuant to KRS Chapter 132;
- 14 2. Ad valorem taxes on motor vehicles and motorboats collected by the
 15 county clerks;
- 16 3. Ad valorem taxes on personal property levied pursuant to KRS Chapter
 17 132 that are payable to local officials; and
- 18 4. Any penalties imposed under KRS 131.630 or 138.205; **and**

19 **(b) Federal taxes, penalties, fees, or interest referred to the department from the**
 20 **federal government for collection purposes.**

21 **(4)** The program shall apply to tax liabilities for taxable periods ending or transactions
 22 occurring **on or** after ~~December 1, 2001, and prior to~~ October 1, 2011, **but prior to**
 23 **December 1, 2021, and any federal tax liability referred to the department** ~~.~~
 24 ~~Amnesty tax forms and submissions shall be in a form prescribed by the~~
 25 ~~department~~.

26 ➔ Section 2. KRS 131.410 is amended to read as follows:

27 (1) For any taxpayer who meets the requirements of KRS 131.420:

- 1 (a) 1. For taxes which are owed as a result of the nonreporting or
2 underreporting of tax liabilities or the nonpayment of any account
3 receivable owed by an eligible taxpayer, the Commonwealth shall waive
4 criminal prosecution and all civil penalties and fees which may be
5 assessed under any KRS chapter subject to the administrative
6 jurisdiction of the department for the taxable years or periods for which
7 tax amnesty is requested.
- 8 2. For the amnesty periods described in KRS 131.400~~(3)~~~~(4)~~, the
9 Commonwealth shall waive interest as provided in ~~subsection (1) of~~
10 KRS 131.425~~(1)~~.
- 11 (b) Except when the taxpayer and department enter into an installment payment
12 agreement authorized under ~~subsection (3) of~~ KRS 131.420~~(3)~~, failure to pay
13 all taxes as shown on the taxpayer's amnesty tax return shall invalidate any
14 amnesty granted under ~~pursuant to~~ KRS 131.410 to 131.445.
- 15 (2) This section shall not apply to any taxpayer who is on notice, written or otherwise,
16 of a criminal investigation being conducted by an agency of the state or any political
17 subdivision thereof or the United States, nor shall this section apply to any taxpayer
18 who is the subject of any criminal litigation which is pending on the date of the
19 taxpayer's application in any court of this state or the United States for nonpayment,
20 delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes
21 to which this amnesty program is applicable.
- 22 (3) No refund or credit shall be granted for any interest, fee, or penalty paid prior to the
23 time the taxpayer requests amnesty pursuant to KRS 131.420.
- 24 (4) Unless the department in its own discretion redetermines the amount of taxes due,
25 no refund or credit shall be granted for any taxes paid under the amnesty program.
26 Any administrative or judicial proceeding or claim seeking the refund or recovery of
27 any amount paid under an amnesty program is hereby barred.

1 ➔Section 3. KRS 131.420 is amended to read as follows:

- 2 (1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who
3 files an application for amnesty within the time prescribed **under subsection (3) of**
4 **Section 1 of this Act**~~[by the department]~~ and does the following:
- 5 (a) Files completed tax returns for all years or tax reporting periods as stated on
6 the application for which returns have not previously been filed and files
7 completed amended tax returns for all years or tax reporting periods as stated
8 on the application for which the tax liability was underreported, except in
9 cases in which the tax liability has been established through audit;
- 10 (b) Pays in full the taxes due for the periods and taxes applied for at the time the
11 application or amnesty tax returns are filed within the amnesty period and
12 pays the amount of any additional tax owed within thirty (30) days of
13 notification by the department;
- 14 (c) Pays in full within the amnesty period all taxes previously assessed by the
15 department that are due and owing at the time the application or amnesty tax
16 returns are filed;~~and~~
- 17 (d) **Pays in full within the amnesty period all taxes, penalties, fees, and interest**
18 **assessed by the federal government and referred to the department for**
19 **collection purposes; and**
- 20 (e) With regard to the program described in KRS 131.400~~(3)~~~~(4)(b)~~, agrees to
21 file all tax returns when due and make all tax payments when due for three (3)
22 years following the date amnesty is granted to the taxpayer.
- 23 (2) An eligible taxpayer may participate in the amnesty program whether or not the
24 taxpayer is under audit, notwithstanding the fact that the amount due is included in
25 a proposed assessment or an assessment, bill, notice, or demand for payment issued
26 by the department, and without regard to whether the amount due is subject to a
27 pending administrative or judicial proceeding. An eligible taxpayer may participate

1 in the amnesty program to the extent of the uncontested portion of any assessed
2 liability. However, participation in the program shall be conditioned upon the
3 taxpayer's agreement that the right to protest or initiate an administrative or judicial
4 proceeding or to claim any refund of moneys paid under the program is barred with
5 respect to the amounts paid under the amnesty programs.

6 (3) (a) The department may enter into an installment payment agreement as provided
7 in KRS 131.081(9) in cases of severe hardship in lieu of the complete
8 payment required under subsection (1) of this section.

9 (b) Failure of the taxpayer to make timely payments shall void the amnesty
10 granted the taxpayer.

11 (c) ~~1. All agreements and payments under the program described in KRS~~
12 ~~131.400(4)(a) shall include interest as provided under subsection (2) of~~
13 ~~KRS 131.425.~~

14 ~~2.~~ All agreements and payments under the program described in KRS
15 131.400~~(3)~~~~(4)(b)~~ shall include interest as provided under KRS 131.425(3).

16 (d) All required payments under an installment payment agreement under the
17 program described in KRS 131.400~~(3)~~~~(4)(b)~~ shall be made on or before May
18 31, 2023~~[2013]~~.

19 (e) 1. If a taxpayer fails to make all required payments under paragraph (d) of
20 this subsection by May 31, 2023~~[2013]~~, the amnesty received by the
21 taxpayer shall be invalidated, and all civil penalties, fees, and interest
22 waived under the amnesty agreement shall:

- 23 a. Be reinstated;
- 24 b. Be subject to immediate collection by the department; and
- 25 c. Not be subject to protest under KRS 131.110.

26 2. The department may utilize any remedy allowed by law to recover the
27 amounts reinstated, and no statute of limitations shall apply.

1 (4) If, following the termination of the tax amnesty period, the department issues a
 2 deficiency assessment based upon information independent of that shown on a
 3 return filed pursuant to subsection (1) of this section, the department shall have the
 4 authority to impose penalties and criminal action may be brought where authorized
 5 by law only with respect to the difference between the amount shown on the
 6 amnesty tax return and the correct amount of tax due. The imposition of penalties or
 7 criminal action shall not invalidate any waiver granted under KRS 131.410. With
 8 the exception of the cost-of-collection fee imposed under ~~subsection (1) of~~ KRS
 9 131.440(1), all assessments issued by the department under KRS 131.410 to
 10 131.445 may be protested by the taxpayer in the same manner as other assessments
 11 pursuant to the terms of this chapter.

12 ➔Section 4. KRS 131.425 is amended to read as follows:

13 (1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid under an amnesty
 14 program return~~[-~~:

15 ~~(a) Filed under the program described in KRS 131.400 (4)(a) shall bear no~~
 16 ~~interest imposed under KRS 131.183(1) or other applicable statutes; and~~

17 ~~(b)]~~ filed under the program described in KRS 131.400(3)~~[(4)(b)]~~ shall bear interest at
 18 one-half (1/2) the tax interest rate established by KRS 131.183(1) or other
 19 applicable statutes.

20 (2) Notwithstanding the provisions of KRS 131.183(2) and 141.235, if any
 21 overpayment of tax under KRS 131.410 to 131.445 is refunded or credited within
 22 one hundred eighty (180) days after the return is filed, no interest shall be allowed.

23 (3) All installment payment agreements entered into pursuant to KRS 131.420 relating
 24 to the program described in KRS 131.400(3)~~[(4)(b)]~~ shall bear interest on the
 25 outstanding amount of tax due during the installment period at the full rate
 26 established by KRS 131.183 or other applicable provisions of the Kentucky Revised
 27 Statutes.

1 ➔Section 5. KRS 131.435 is amended to read as follows:

2 *(1) The department and the Finance and Administration Cabinet shall begin*
3 *procurement for services necessary to implement the tax amnesty program under*
4 *KRS Chapter 45A, except as provided under subsection (2) of this section.*

5 *(2) (a) The General Assembly deems that the use of competitive sealed bidding is*
6 *not practicable for the provision of tax amnesty services by a firm.*

7 *(b) The department shall issue a request for proposal, which complies with*
8 *KRS 131.081, to solicit sufficient information for evaluating firms*
9 *submitting statements of interest in providing tax amnesty services*
10 *according to the following criteria:*

11 *1. The qualifications of the firm to:*

12 *a. Provide advertising services prior to the start of the program*
13 *described in subsection (3) of Section 1 of this Act and a toll-free*
14 *telephone number for taxpayers to call for assistance;*

15 *b. Provide a customer-service approach and strategy to ensure a*
16 *positive relationship with each taxpayer;*

17 *c. Contact every amnesty-eligible taxpayer, including by written*
18 *correspondence and other forms of electronic and nonelectronic*
19 *communication delivery channels, using contact and account*
20 *receivable data supplied by the department related to tax amnesty*
21 *and the tax amnesty period;*

22 *d. Employ the use of contact information correction sources,*
23 *including data for all undeliverable mail, updated telephone*
24 *numbers, and electronic mail addresses;*

25 *e. Assist any amnesty-eligible taxpayer by using tax-specific data,*
26 *billing codes, or other information provided by the department;*

27 *f. Maintain the confidentiality of all data under KRS 131.190*

- 1 which is supplied by the department or the taxpayer; and
- 2 g. Remit daily to the department all amnesty applications and tax
- 3 payments received and all data corrections for the department's
- 4 databases;
- 5 2. The ability of all professional personnel employed by the firm that will
- 6 provide tax amnesty services, including:
- 7 a. The total number of personnel that will provide tax amnesty
- 8 services to taxpayers leading up to and during the amnesty
- 9 period;
- 10 b. The title of each specific position type and total number of
- 11 personnel filling each specific position type; and
- 12 c. The minimum qualifications for each specific position type;
- 13 3. The past record and experience of the firm in performing tax amnesty
- 14 services or other tax-related services;
- 15 4. Performance data related to past tax amnesty services or other tax-
- 16 related services performed by the firm;
- 17 5. Certification that the firm will meet the time requirements for the tax
- 18 amnesty program and will conclude all services in a timely manner as
- 19 required by the department or pay to the department a fee for failure
- 20 to meet the timeframe;
- 21 6. Verification of the location of all employees providing tax amnesty
- 22 services;
- 23 7. An agreement by the firm to provide a report to the department for
- 24 posting to the department's website related to the following items:
- 25 a. A report of the public information campaign performed by the
- 26 firm, including an itemized cost incurred;
- 27 b. The number of incoming telephone calls answered by week;

- 1 c. The number of mailings sent to taxpayers;
- 2 d. The number of returned mail items received;
- 3 e. The number of amnesty applications received from taxpayers by
- 4 week;
- 5 f. The number of amnesty applications that were approved by
- 6 taxpayer type;
- 7 g. The number of amnesty applications that were denied by
- 8 taxpayer type and the number of denied amnesty applications by
- 9 reason for denial;
- 10 h. According to the address listed on the amnesty application,
- 11 information related to the absolute number and percentage of
- 12 total for:
- 13 i. Amnesty applications received from businesses or
- 14 individuals and whether the taxpayer was in-state or out-
- 15 of-state;
- 16 ii. Amounts collected from businesses or individuals and
- 17 whether the taxpayer was in-state or out-of-state; and
- 18 iii. The total amount collected by county, including the
- 19 number of applications received by a business, individual,
- 20 or office or member and the total amount paid for each
- 21 category;
- 22 i. The number of amnesty applications received by appropriate
- 23 payment ranges for the population of applications;
- 24 j. The payment amount received by type of tax;
- 25 k. The amount of tax collected by tax year;
- 26 l. The amount of federal tax collected by tax year;
- 27 m. The number of newly registered taxpayers; and

1 n. The amount of tax collected on protested audits by tax type and
 2 whether the amnesty payment paid the tax protested in full or
 3 was a partial payment on the audit; and

4 8. Any other information required by the department.

5 (c) When evaluating firms submitting statements of interest in providing tax
 6 amnesty services, the department shall use a weighted-evaluation approach
 7 to select a firm, including:

8 1. The ability of the firm to:

9 a. Provide a customer-service and taxpayer-assistance approach in
 10 providing amnesty services, including communication with
 11 taxpayers before and during the amnesty period, weighted no
 12 more than thirty percent (30%) of the evaluation score; and

13 b. Maintain lines of communication with the department related to
 14 strategy for and delivery of amnesty services and report to the
 15 department regarding the results from the firm delivering
 16 amnesty services, weighted no more than twenty-five percent
 17 (25%) of the evaluation score;

18 2. The bid of the firm to provide amnesty services, weighted no more
 19 than fifteen percent (15%) of the evaluation score; and

20 3. The past performance of the firm with other states, including how well
 21 the firm met goals established by the other states, weighted no more
 22 than thirty percent (30%) of the evaluation score.

23 (3) For purposes of accounting for the revenues received pursuant to KRS 131.410 to
 24 131.445, the department shall establish within the general fund a separate and
 25 distinct tax amnesty receipt account. All receipts collected as a result of the amnesty
 26 program shall be paid into this account, and all transactions involving this account
 27 shall be accounted for and reported as such.

1 **(4) Following receipt of the report required by subsection (2) of this section and the**
 2 **disposition of moneys as required by subsection (3) of this section, the department**
 3 **shall provide a report summarizing the amnesty program results to the Interim**
 4 **Joint Committee on Appropriations and Revenue no later than July 1, 2023.**

5 ➔Section 6. KRS 131.440 is amended to read as follows:

6 (1) ~~(a) For purposes of the program described in KRS 131.400(4)(a), in addition to~~
 7 ~~all other penalties provided under KRS 131.180, 131.410 to 131.445, and~~
 8 ~~131.990 and any other law, there is hereby imposed after the expiration of the~~
 9 ~~tax amnesty period the following cost-of-collection fees:~~

10 1. ~~A cost of collection fee of twenty five percent (25%) on all taxes which~~
 11 ~~are or become due and owing to the department for any reporting period,~~
 12 ~~regardless of when due. This fee shall be in addition to any other~~
 13 ~~applicable fee provided in this paragraph;~~

14 2. ~~Taxes which are assessed and collected after the amnesty period for~~
 15 ~~taxable periods ending or transactions occurring prior to December 1,~~
 16 ~~2001, shall be charged a cost-of-collection fee of twenty five percent~~
 17 ~~(25%) at the time of assessment; and~~

18 3. ~~For any taxpayer who failed to file a return for any previous tax period~~
 19 ~~for which amnesty is available and fails to file the return during the~~
 20 ~~amnesty period, the cost-of-collection fee shall be fifty percent (50%) of~~
 21 ~~any tax deficiency assessed after the amnesty period.~~

22 ~~(b)}~~ For purposes of the program described in KRS 131.400(3)~~[(4)(b)]~~:

23 (a) ~~(a)}~~ In addition to all other penalties provided under KRS 131.180, 131.410
 24 to 131.445, 131.990 and any other law, there are hereby imposed after the
 25 expiration of the tax amnesty period the following cost-of-collection fees:

26 1. ~~(a)}~~ A cost-of-collection fee of twenty-five percent (25%) on all taxes which
 27 are or become due and owing to the department for any reporting period,

1 regardless of when due. This fee shall be in addition to any other
2 applicable fee provided in this paragraph;

3 ~~2. [b.]~~ Taxes which are assessed and collected after the amnesty period for
4 taxable periods ending or transactions occurring prior to December 1,
5 2021~~[October 1, 2011]~~, shall be charged a cost-of-collection fee of
6 twenty-five percent (25%) at the time of assessment; and

7 ~~3. [e.]~~ For any taxpayer who failed to file a return for any previous tax period
8 for which amnesty is available and fails to file the return during the
9 amnesty period, the cost-of-collection fee shall be fifty percent (50%) of
10 any tax deficiency assessed after the amnesty period.

11 ~~(b) [2.]~~ After expiration of the tax amnesty period, an amnesty-eligible tax
12 liability that remains unpaid and that is not covered by an installment
13 agreement as provided in KRS 131.420 shall accrue interest at a rate that is
14 two percent (2%) above the interest rate established by KRS 131.183 or other
15 applicable provisions of the Kentucky Revised Statutes, beginning on the day
16 after the tax amnesty period ends.

17 (2) The commissioner shall have the right to waive any penalties or collection fees
18 when it is demonstrated that any deficiency of the taxpayer was due to reasonable
19 cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under
20 the amnesty program because of the exclusions under~~[in subsection (2) of]~~ KRS
21 131.410~~(2)~~ shall not be subject to these fees.

22 (3) The provisions of subsection (1) of this section shall not relate to any account which
23 has been protested pursuant to KRS 131.110 as of the expiration of the amnesty
24 period and which does not become due and owing, or to any account on which the
25 taxpayer is remitting timely payments under a payment agreement negotiated with
26 the department prior to or during the amnesty period.

27 (4) The fee levied under subsection (1) of this section shall not apply to taxes paid

1 pursuant to the terms of the amnesty program nor shall the judgment penalty of
2 twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the
3 fee levied under this section is applicable.

4 ➔Section 7. KRS 131.445 is amended to read as follows:

- 5 (1) After the expiration of the tax amnesty period, the department shall vigorously
6 pursue all civil, administrative, and criminal penalties authorized by state and
7 federal law for all taxes found to be due the Commonwealth.
- 8 (2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445,
9 131.990, and any other law, any taxpayer who willfully fails to make a return or
10 willfully makes a false return, or who willfully fails to pay taxes owing or collected,
11 with intent to evade payment of the tax or amount collected, or any part thereof,
12 shall be guilty of a Class D felony.
- 13 (3) (a) Amnesty received by a taxpayer under the program described in KRS
14 131.400~~(3)~~~~(4)(b)~~ shall be invalidated if:
- 15 1. The taxpayer fails to timely file any tax return or timely pay any tax and
16 interest due for any period ending on or after October 1,
17 2011~~[December 31, 2001]~~, but~~[and]~~ prior to December 1, 2021~~[October~~
18 ~~1, 2011]~~; or
- 19 2. The taxpayer fails to timely file any tax return or timely pay any tax for
20 any period beginning December 1, 2021~~[October 1, 2011]~~, and ending
21 within three (3) years of the date amnesty was granted to the taxpayer.
- 22 (b) Except as provided in paragraph (d) of this subsection, if the provisions of
23 paragraph (a) of this subsection apply, then the civil penalties, fees, and
24 interest waived pursuant to KRS 131.410 shall:
- 25 1. Be reinstated;
- 26 2. Be subject to immediate collection by the department; and
- 27 3. Not be subject to protest under KRS 131.110.

1 (c) The department may utilize any remedy permitted under the law to collect
2 amounts due under this subsection, and no statute of limitations shall apply.

3 (d) If paragraph (a) of this subsection applies to a taxpayer as the result of an
4 audit or other investigation by the department, the amnesty shall not be
5 invalidated until the taxpayer has had the opportunity to protest as provided in
6 KRS 131.110, and has failed to pay the tax within thirty (30) days of the date
7 on which the assessment becomes final, due, and owing as provided in KRS
8 131.500(1).

9 ➔Section 8. The following KRS section is repealed:

10 131.430 Administration and publicizing of program.

11 ➔Section 9. Whereas the Department of Revenue and the Finance and
12 Administration Cabinet are required to procure services necessary to implement the tax
13 amnesty program, which begins on October 1, 2022, an emergency is declared to exist,
14 and this Act takes effect upon its passage and approval by the Governor or upon its
15 otherwise becoming a law.