

HOUSE Substitute for SENATE BILL No. 427

By Committee on Taxation

3-19

9 AN ACT concerning taxation; relating to amnesty from assessment or
10 payment of penalties and interest with respect to certain taxes; require-
11 ments and procedures.
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) (1) Notwithstanding the provisions of any other law to
15 the contrary, with respect to the following taxes administered by the de-
16 partment of revenue, an amnesty from the assessment or payment of all
17 penalties and interest with respect to unpaid taxes or taxes due and owing
18 shall apply upon compliance with the provisions of this section and if such
19 tax liability is paid in full within the amnesty period, from September 1,
20 2010, to December 31, 2010, or pursuant to a payment plan such tax
21 liability will be collected by June 30, 2011: (A) Privilege tax under K.S.A.
22 79-1106 et seq., and amendments thereto; (B) taxes under the Kansas
23 estate tax act, K.S.A. 2009 Supp. 79-15,100 et seq., and amendments
24 thereto; (C) taxes under the Kansas income tax act, K.S.A. 79-3201 et
25 seq., and amendments thereto; (D) taxes under the Kansas withholding
26 and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amend-
27 ments thereto; (E) taxes under the Kansas cigarette and tobacco products
28 act, K.S.A. 79-3301 et seq., and amendments thereto; (F) taxes under the
29 Kansas retailers' sales tax act, K.S.A. 79-3601 et seq., and amendments
30 thereto and the Kansas compensating tax act, K.S.A. 79-3701 et seq., and
31 amendments thereto; (G) local sales and use taxes under K.S.A. 12-187
32 et seq., and amendments thereto; (H) liquor enforcement tax under
33 K.S.A. 79-4101 et seq., and amendments thereto; (I) liquor drink tax
34 under K.S.A. 79-41a01 et seq., and amendments thereto; and (J) mineral
35 severance tax under K.S.A. 79-4216 et seq., and amendments thereto.

36 (2) Except for the Kansas privilege tax and individual and corporate
37 income tax, amnesty shall apply only to tax liabilities due and unpaid for
38 tax periods ending on or before December 31, 2009. For the Kansas
39 privilege tax and individual and corporate income tax, amnesty shall apply
40 only to tax liabilities due and unpaid for tax periods ending on or before
41 December 31, 2009. For the eligible taxes and tax periods, amnesty shall
42 apply to the under-reporting of such tax liabilities, the nonpayment of
43 such taxes and the nonreporting of such tax liabilities.

- 1 (3) Amnesty shall not apply to any matter or matters for which, on or
2 after September 1, 2010, any one of the following circumstances exist:
3 (A) The taxpayer has received notice of the commencement of an audit;
4 (B) an audit is in progress; (C) the taxpayer has received notice of an
5 assessment pursuant to K.S.A. 79-2971 or 79-3643, and amendments
6 thereto; (D) as a result of an audit, the taxpayer has received notice of a
7 proposed or estimated assessment or notice of an assessment; (E) the
8 time to administratively appeal an issued assessment has not yet expired;
9 or (F) an assessment resulting from an audit, or any portion of such as-
10 sessment, is pending in the administrative appeals process before the
11 secretary or secretary's designee pursuant to K.S.A. 79-3226 or 79-3610,
12 and amendments thereto, or the state court of tax appeals, or is pending
13 in the judicial review process before any state or federal district or ap-
14 pellate court. Amnesty shall not apply to any matter that is the subject of
15 an assessment, or any portion of an assessment, which has been affirmed
16 by a reviewing state or federal district or appellate court. Amnesty shall
17 not apply to any party to any criminal investigation or to any civil or
18 criminal litigation that is pending in any court of the United States or this
19 state for nonpayment, delinquency or fraud in relation to any tax imposed
20 by the state of Kansas.
- 21 (b) Upon written application by the taxpayer, on forms prescribed by
22 the secretary of revenue, and upon compliance with the provisions of this
23 section, the department of revenue shall not seek to collect any penalty
24 or interest which may be applicable with respect to taxes eligible for
25 amnesty.
- 26 (c) Amnesty for penalties and interest shall be granted only to those
27 eligible taxpayers who, within the amnesty period of September 1, 2010,
28 to December 31, 2010, and in accordance with rules and regulations es-
29 tablished by the secretary of revenue, have properly filed a tax return for
30 each taxable period for which amnesty is requested, paid the entire bal-
31 ance of tax due or executed a payment plan that will collect any amount
32 due by June 30, 2011, and obtained approval of such amnesty by the
33 department of revenue.
- 34 (d) If a taxpayer elects to participate in the amnesty program estab-
35 lished pursuant to this section as evidenced by full payment of the tax
36 due as established by the secretary of revenue or entering into a payment
37 plan that will collect any amount due June 30, 2011, that election shall
38 constitute an express and absolute relinquishment of all administrative
39 and judicial rights of appeal with respect to such tax liability. No tax
40 payment received pursuant to this section shall be eligible for refund or
41 credit. No payment of penalties or interest made prior to September 1,
42 2010, shall be eligible for amnesty.
- 43 (e) For tax returns for which amnesty has been requested, nothing

1 in this section shall be interpreted to prohibit the department from ad-
2 justing such tax return as a result of a federal, department or other state
3 agency audit.

4 (f) Fraud or intentional misrepresentation of a material fact in con-
5 nection with an application for amnesty shall void such application and
6 any waiver of penalties and interest from amnesty.

7 (g) The department may promulgate such rules and regulations or
8 issue administrative guidelines as are necessary to administer the provi-
9 sions of this section.

10 Sec. 2. This act shall take effect and be in force from and after its
11 publication in the Kansas register.