

131.420 Requirements for amnesty -- Installment payments -- Invalidation of amnesty -- Protests. (See LRC Note below)

- (1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed under KRS 131.400(3) and does the following:
 - (a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit;
 - (b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period and pays the amount of any additional tax owed within thirty (30) days of notification by the department;
 - (c) Pays in full within the amnesty period all taxes previously assessed by the department that are due and owing at the time the application or amnesty tax returns are filed;
 - (d) Pays in full within the amnesty period all taxes, penalties, fees, and interest assessed by the federal government and referred to the department for collection purposes; and
 - (e) With regard to the program described in KRS 131.400(3), agrees to file all tax returns when due and make all tax payments when due for three (3) years following the date amnesty is granted to the taxpayer.
- (2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the department, and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid under the amnesty programs.
- (3)
 - (a) The department may enter into an installment payment agreement as provided in KRS 131.081(9) in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section.
 - (b) Failure of the taxpayer to make timely payments shall void the amnesty granted the taxpayer.
 - (c) All agreements and payments under the program described in KRS 131.400(3) shall include interest as provided under KRS 131.425(3).
 - (d) All required payments under an installment payment agreement under the program described in KRS 131.400(3) shall be made on or before May 31, 2025.
 - (e) 1. If a taxpayer fails to make all required payments under paragraph (d) of

this subsection by May 31, 2025, the amnesty received by the taxpayer shall be invalidated, and all civil penalties, fees, and interest waived under the amnesty agreement shall:

- a. Be reinstated;
 - b. Be subject to immediate collection by the department; and
 - c. Not be subject to protest under KRS 131.110.
2. The department may utilize any remedy allowed by law to recover the amounts reinstated, and no statute of limitations shall apply.
- (4) If, following the termination of the tax amnesty period, the department issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the department shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost-of-collection fee imposed under KRS 131.440(1), all assessments issued by the department under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 166, sec. 44, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 212, sec. 35, effective April 14, 2022. -- Amended 2012 Ky. Acts ch. 110, sec. 3, effective April 11, 2012. -- Amended 2005 Ky. Acts ch. 85, sec. 137, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 366, sec. 3, effective July 15, 2002. -- Created 1988 Ky. Acts ch. 322, sec. 3, effective July 15, 1988.

Legislative Research Commission Note (7/15/2024). During the 2024 Regular Session, the General Assembly enacted House Bill 8, which included amendments to this statute that changed the deadline for remittance of all installment payments under the tax amnesty program described in KRS 131.400(3) from May 31, 2023, to May 31, 2025. On April 9, 2024, the Governor vetoed House Bill 8, in part, including the amendments to this section. The Governor did not, however, veto Section 43 of House Bill 8, which amended KRS 131.400 to establish a tax amnesty period from October 1, 2024, through November 29, 2024, and apply the program to "tax liabilities for taxable periods ending or transactions occurring on or after October 1, 2011, but prior to December 1, 2023, and any federal tax liability referred to the department." On April 12, 2024, the House of Representatives ruled that House Bill 8 is not an appropriation bill and that the Governor's line-item vetoes had no effect on the bill. Upon request by the Speaker of the House and President of the Senate for an opinion on whether the Governor's purported line-item vetoes of House Bill 8 are valid and whether those vetoed sections should be included in the Kentucky Acts and Kentucky Revised Statutes, the Attorney General issued OAG 24-06 on May 20, 2024, stating, in part, that because House Bill 8 is not an appropriation bill, the Governor's purported use of the line-item veto exceeds the powers granted to him by Section 88 of the Kentucky Constitution, the attempted line-item vetoes are invalid and nullities, the sections that the Governor purported to veto became law along with the rest of the bill, and the purportedly vetoed provisions must be incorporated into the permanent laws of the Commonwealth.