

131.445 Civil and criminal penalties following amnesty -- Invalidation of amnesty.
(See LRC Note below)

- (1) After the expiration of the tax amnesty period, the department shall vigorously pursue all civil, administrative, and criminal penalties authorized by state and federal law for all taxes found to be due the Commonwealth.
- (2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, 131.990, and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.
- (3) (a) Amnesty received by a taxpayer under the program described in KRS 131.400(3) shall be invalidated if:
 1. The taxpayer fails to timely file any tax return or timely pay any tax and interest due for any period ending on or after October 1, 2011, but prior to December 1, 2023; or
 2. The taxpayer fails to timely file any tax return or timely pay any tax for any period beginning December 1, 2023, and ending within three (3) years of the date amnesty was granted to the taxpayer.
- (b) Except as provided in paragraph (d) of this subsection, if the provisions of paragraph (a) of this subsection apply, then the civil penalties, fees, and interest waived pursuant to KRS 131.410 shall:
 1. Be reinstated;
 2. Be subject to immediate collection by the department; and
 3. Not be subject to protest under KRS 131.110.
- (c) The department may utilize any remedy permitted under the law to collect amounts due under this subsection, and no statute of limitations shall apply.
- (d) If paragraph (a) of this subsection applies to a taxpayer as the result of an audit or other investigation by the department, the amnesty shall not be invalidated until the taxpayer has had the opportunity to protest as provided in KRS 131.110, and has failed to pay the tax within thirty (30) days of the date on which the assessment becomes final, due, and owing as provided in KRS 131.500(1).

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 166, sec. 47, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 212, sec. 39, effective April 14, 2022. -- Amended 2012 Ky. Acts ch. 110, sec. 6, effective April 11, 2012. -- Amended 2005 Ky. Acts ch. 85, sec. 140, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 366, sec. 6, effective July 15, 2002. -- Amended 1992 Ky. Acts ch. 403, sec. 3, effective July 14, 1992. -- Created 1988 Ky. Acts ch. 322, sec. 8, 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 "2021" to "2023" in subsection (3)(a) of this section to provide that amnesty received by a taxpayer under the program described in KRS 131.400(3) shall be invalidated if the taxpayer fails to timely file any tax return or timely pay "any tax and interest due for any period ending on or after October 1, 2011, but prior

to December 1, 2023," or "any tax for any period beginning December 1, 2023, and ending within three (3) years of the date amnesty was granted to the taxpayer." 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.