

CHAPTER 29

(SB 112)

AN ACT relating to the confidentiality of tax information.

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

➔Section 1. KRS 67.790 is amended to read as follows:

- (1) A business entity subject to tax on gross receipts or net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:
 - (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the tax district; or
 - (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).

- (2) Every employer who fails to file a return or pay the tax on or before the date prescribed under KRS 67.783 may be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month.
- (4) Every tax subject to the provisions of KRS 67.750 to 67.790, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the tax district.
- (5) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return, willfully makes a false return, or willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.
- (6) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under KRS 67.750 to 67.790 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- (7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of KRS 67.750 to 67.790, or by the rules of the tax district or by written request for information to the business entity by the tax district.
- (8) (a) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to:
 1. Information required in prosecutions for making false reports or returns for taxation~~[,]~~ or any other infraction of the tax laws;
 2. **Information that is~~[, or]~~** in any way made a matter of public record;
 3. **Information requested for audit purposes by a taxing jurisdiction;**
 4. ~~[, Nor does it preclude]~~Furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return; **or**
 5. ~~An~~[, Further, this prohibition does not preclude any]~~ employee of the tax district **when the employee is~~[from]~~** testifying in any court~~[,]~~ or~~[from]~~ introducing as evidence returns or reports~~

filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

- (b) Any person who violates the provisions of paragraph (a) of this subsection by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.
 - (c) Any person who violates the provisions of paragraph (a) of this subsection by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- (9) If a tax district that imposes a net profits or gross receipts occupational license tax fails to comply with the requirements of KRS 67.766(1) or (2), the Secretary of State shall inform the tax district in writing of its noncompliance. If the tax district is not in compliance within thirty (30) days following the notice from the Secretary, the Secretary shall notify all state agencies which deliver services or payments of money from the Commonwealth to the tax district of the tax district's noncompliance. Those agencies shall suspend delivery of all services or payments to a tax district which fails to comply with the requirements of KRS 67.766(1) or (2). The Secretary of State shall immediately notify those same agencies when the tax district is in compliance with the requirements of KRS 67.766(1) or (2), and those agencies shall reinstate the delivery of services or payments to the tax district.

Signed by Governor March 20, 2023.