

131.440 Cost-of-collection fees -- Accrual of interest -- Applicability. (See LRC Note below)

- (1) For purposes of the program described in KRS 131.400(3):
 - (a) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, 131.990 and any other law, there are hereby imposed after the expiration of the tax amnesty period the following cost-of-collection fees:
 1. A cost-of-collection fee of twenty-five percent (25%) on all taxes which are or become due and owing to the department for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this paragraph;
 2. Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2023, shall be charged a cost-of-collection fee of twenty-five percent (25%) at the time of assessment; and
 3. For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost-of-collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.
 - (b) After expiration of the tax amnesty period, an amnesty-eligible tax liability that remains unpaid and that is not covered by an installment agreement as provided in KRS 131.420 shall accrue interest at a rate that is two percent (2%) above the interest rate established by KRS 131.183 or other applicable provisions of the Kentucky Revised Statutes, beginning on the day after the tax amnesty period ends.
- (2) The commissioner shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was due to reasonable cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under the amnesty program because of the exclusions under KRS 131.410(2) shall not be subject to these fees.
- (3) The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the department prior to or during the amnesty period.
- (4) The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 166, sec. 46, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 212, sec. 38, effective April 14, 2022. -- Amended 2012 Ky. Acts ch. 110, sec. 5, effective April 11, 2012. -- Amended 2005 Ky. Acts ch. 85, sec. 139, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 366, sec. 5, effective July 15, 2002. -- Created 1988 Ky. Acts ch. 322, sec. 7, 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 (1)(a) of this section to impose a 25 percent cost-of-collection fee on "[t]axes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2023," for purposes of the program described in KRS 131.400(3). 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 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.