

HOUSE BILL No. 2740

By Committee on Taxation

3-15

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 July 1, 2010,
20 to December 31, 2010: (A) Privilege tax under K.S.A. 79-1106 et seq.,
21 and amendments thereto; (B) taxes under the Kansas estate tax act, K.S.A.
22 2009 Supp. 79-15,100 et seq., and amendments thereto; (C) taxes under
23 the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments
24 thereto; (D) taxes under the Kansas withholding and declaration of esti-
25 mated tax act, K.S.A. 79-3294 et seq., and amendments thereto; (E) taxes
26 under the Kansas cigarette and tobacco products act, K.S.A. 79-3301 et
27 seq., and amendments thereto; (F) taxes under the Kansas retailers' sales
28 tax act, K.S.A. 79-3601 et seq., and amendments thereto and the Kansas
29 compensating tax act, K.S.A. 79-3701 et seq., and amendments thereto;
30 (G) local sales and use taxes under K.S.A. 12-187 et seq., and amendments
31 thereto; (H) liquor enforcement tax under K.S.A. 79-4101 et seq., and
32 amendments thereto; (I) liquor drink tax under K.S.A. 79-41a01 et seq.,
33 and amendments thereto; and (J) mineral severance tax under K.S.A. 79-
34 4216 et seq., and amendments thereto.

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

43 (3) Amnesty shall not apply to any matter or matters for which, on or

1 after July 1, 2010, any one of the following circumstances exist: (A) The
2 taxpayer has received notice of the commencement of an audit; (B) an
3 audit is in progress; (C) the taxpayer has received notice of an assessment
4 pursuant to K.S.A. 79-2971 or 79-3643, and amendments thereto; (D) as
5 a result of an audit, the taxpayer has received notice of a proposed or
6 estimated assessment or notice of an assessment; (E) the time to admin-
7 istratively appeal an issued assessment has not yet expired; or (F) an
8 assessment resulting from an audit, or any portion of such assessment, is
9 pending in the administrative appeals process before the secretary or
10 secretary's designee pursuant to K.S.A. 79-3226 or 79-3610, and amend-
11 ments thereto, or the state court of tax appeals, or is pending in the
12 judicial review process before any state or federal district or appellate
13 court. Amnesty shall not apply to any matter that is the subject of an
14 assessment, or any portion of an assessment, which has been affirmed by
15 a reviewing state or federal district or appellate court. Amnesty shall not
16 apply to any party to any criminal investigation or to any civil or criminal
17 litigation that is pending in any court of the United States or this state
18 for nonpayment, delinquency or fraud in relation to any tax imposed by
19 the state of Kansas.

20 (b) Upon written application by the taxpayer, on forms prescribed by
21 the secretary of revenue, and upon compliance with the provisions of this
22 section, the department of revenue shall not seek to collect any penalty
23 or interest which may be applicable with respect to taxes eligible for
24 amnesty.

25 (c) Amnesty for penalties and interest shall be granted only to those
26 eligible taxpayers who, within the amnesty period of July 1, 2010, to De-
27 cember 31, 2010, and in accordance with rules and regulations established
28 by the secretary of revenue, have properly filed a tax return for each
29 taxable period for which amnesty is requested, paid the entire balance of
30 tax due and obtained approval of such amnesty by the department of
31 revenue.

32 (d) If a taxpayer elects to participate in the amnesty program estab-
33 lished pursuant to this section as evidenced by full payment of the tax
34 due as established by the secretary of revenue, that election shall consti-
35 tute an express and absolute relinquishment of all administrative and ju-
36 dicial rights of appeal with respect to such tax liability. No tax payment
37 received pursuant to this section shall be eligible for refund or credit. No
38 payment of penalties or interest made prior to July 1, 2010, shall be
39 eligible for amnesty.

40 (e) For tax returns for which amnesty has been requested, nothing
41 in this section shall be interpreted to prohibit the department from ad-
42 justing such tax return as a result of a federal, department or other state
43 agency audit.

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

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

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