

## HOUSE BILL No. 2747

By Committee on Taxation

3-29

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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 September 1,  
20 2010, to December 31, 2010: (A) Privilege tax under K.S.A. 79-1106 et  
21 seq., and amendments thereto; (B) taxes under the Kansas estate tax act,  
22 K.S.A. 2009 Supp. 79-15,100 et seq., and amendments thereto; (C) taxes  
23 under 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, 2008. 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 September 1, 2010, any one of the following circumstances exist:  
2 (A) The taxpayer has received notice of the commencement of an audit;  
3 (B) an audit is in progress; (C) the taxpayer has received notice of an  
4 assessment pursuant to K.S.A. 79-2971 or 79-3643, and amendments  
5 thereto; (D) as a result of an audit, the taxpayer has received notice of a  
6 proposed or estimated assessment or notice of an assessment; (E) the  
7 time to administratively appeal an issued assessment has not yet expired;  
8 or (F) an assessment resulting from an audit, or any portion of such as-  
9 sessment, is pending in the administrative appeals process before the  
10 secretary or secretary's designee pursuant to K.S.A. 79-3226 or 79-3610,  
11 and amendments thereto, or the state court of tax appeals, or is pending  
12 in the judicial review process before any state or federal district or ap-  
13 pellate court. Amnesty shall not apply to any matter that is the subject of  
14 an assessment, or any portion of an assessment, which has been affirmed  
15 by a reviewing state or federal district or appellate court. Amnesty shall  
16 not apply to any party to any criminal investigation or to any civil or  
17 criminal litigation that is pending in any court of the United States or this  
18 state for nonpayment, delinquency or fraud in relation to any tax imposed  
19 by 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 September 1, 2010,  
27 to December 31, 2010, and in accordance with rules and regulations es-  
28 tablished by the secretary of revenue, have properly filed a tax return for  
29 each taxable period for which amnesty is requested, paid the entire bal-  
30 ance of tax due, and obtained approval of such amnesty by the department  
31 of 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 September 1, 2010, shall  
39 be 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.