

2012 Kansas Statutes

79-3233a. Compromise of delinquent income taxes of taxpayers; procedure; rules and regulations. (a) (1) Any taxpayer, such taxpayer's heirs, or legal representative may petition the secretary to abate all or part of any final income tax liability of the taxpayer. As used in this section, "tax liability," "tax," or "liability" shall include the amount of tax due and the penalties and interest thereon. The petition shall be in writing and shall set forth: (A) The reasons why all or part of the liability should be abated; (B) the facts that support such an abatement; and (C) a waiver of the taxpayer's right to confidentiality under the confidentiality provisions of chapter 79 of the Kansas Statutes Annotated, conditioned on the secretary's abatement of all or part of the liability. A petition shall be accompanied by a sworn statement of the taxpayer's assets and liabilities, whenever the petition is based on insolvency or inability to pay. The petition shall be signed under penalty of perjury by the petitioner and by the taxpayer, if available. A petition for the abatement of a final liability shall not operate to stay the collection of any tax.

(2) The secretary shall review each petition and may: (A) Issue a determination that rejects the petition without further comment; (B) require the petitioner to submit additional verified documentation in support of the abatement; or (C) require the petitioner and the taxpayer to appear and testify under oath concerning the abatement. If the secretary finds that there is serious doubt as to the either the collectability of the tax due or the taxpayer's liability, the secretary may abate all or part of the tax liability. If the secretary abates any tax liability, the secretary shall make a written finding that determines the tax amount the taxpayer should reasonably be required to pay, and sets forth the reasons for the abatement being made. Such a finding may require payment to be made as directed within 30 days as a condition for the abatement. If at any time within four years following the entry of such a finding, the secretary finds that the petition is fraudulent, the matter may be reopened by the secretary and the taxpayer shall be subject to the tax liability to the same extent as if such abatement had not been made.

(3) No taxpayer shall have a right to the abatement of any tax liability under this section. Any decision by the secretary regarding the abatement of a final tax liability shall be discretionary and may only be made upon finding there is serious doubt either as to the collectability of the tax due or the taxpayer's liability. Any order or finding shall be final and conclusive and shall not be subject to review under K.S.A. 74-2438, K.S.A. 77-501 et seq., or K.S.A. 79-3226, and amendments thereto.

(b) This section shall be construed as a part of and supplemental to the Kansas income tax act.

History: L. 1965, ch. 527, § 1; L. 1972, ch. 342, § 96; L. 1988, ch. 383, § 2; L. 1999, ch. 94, § 2; July 1.