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Authors:

Mark F. Sommer
Elizabeth M. Ethington

Kentucky Tax Amnesty on the Horizon in 2022

House Bill 176, introduced by Rep. Ken Fleming (R) on the first day of the 2022 Kentucky Legislative Session, proposes a tax amnesty period in the Commonwealth. The last two Kentucky tax amnesties occurred in 2002 and 2012, where the state agreed to waive all penalties and a portion of interest outstanding for taxpayers that came forward with any tax due to the Kentucky Department of Revenue (the "Department").

H.B. 176 proposes yet another amnesty in the Commonwealth in which taxpayers are given the opportunity to clean up any outstanding Kentucky tax matters with full waiver of fees and penalties and half-interest. The proposed amnesty period would begin on October 1, 2022 and end on November 29, 2022. The amnesty would apply to those tax periods beginning October 1, 2011 and ending on December 1, 2021. It would apply for any non-filer with outstanding tax liability in Kentucky, as well as any taxpayers that have under-reported their Kentucky taxes, unless there is an active criminal investigation pending by a state or federal agency. The amnesty applies to all state-level taxes – thus, real property tax and portions of personal property tax that are received by local governments are not applicable for amnesty. Even if taxpayers are currently under audit or have received a bill, notice, or demand of payment from the Department, they can still apply for amnesty of any outstanding tax due.

The bill maintains many of the provisions that were included in prior amnesties, such as the 60-day window (i.e., the amnesty period) to complete all returns and pay all tax due for the applicable period unless the Department agrees to receive such payments in installments. Other similar provisions include the waiver of all civil and criminal penalties, an interest rate reduction by half (for example, 2019 tax assessment would be generally subject to a 7% interest rate, whereas cases under amnesty would be subject to a 3.5% interest rate), barring claims for refund of taxes paid through amnesty or protest of any assessments associated with the amnesty amounts, the ability to pay the amount due via an installment plan so long as the full payment is made within six (6) months, the power to revoke amnesty status and demand back payment of interest and penalties if the taxpayer is not compliant moving forward, and the power to impose additional penalty fees if a taxpayer has outstanding tax due for the applicable periods and does not come forward through the amnesty program.

We will continue to monitor the development of H.B. 176as well as all other Kentucky legislation that may affect your taxes. For more information, contact Mark Sommer, Elizabeth Mosley, or any attorney in Frost Brown Todd's Tax Practice. You can also visit our Tax Law Defined® Blog to read about the latest in federal, state and local tax administration.

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