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Frankfort, Ky.

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1999 KENTUCKY BANK FRANCHISE TAX FORMS AND INSTRUCTIONS



Bank Franchise Tax Return (Form 73A801)
Application for 90-Day Extension of Time to File (Form 73A802)
Kentucky Registration Application for Bank Franchise Tax (Form 73A800)

PURPOSE OF THE FORMS PACKET

This packet has been designed for financial institutions, both domestic and foreign, which are required by law to file the Bank Franchise Tax Return, Revenue Form 73A801. It contains the forms and schedules needed by most financial institutions.

WHO MUST FILE

Every financial institution regularly engaged in business in Kentucky at any time during the taxable year must file Form 73A801. A financial institution is presumed to be regularly engaging in business in Kentucky if during any taxable year it obtains or solicits business with 20 or more persons within Kentucky, or if receipts attributable to sources in Kentucky equal or exceed \$100,000.

"Financial institution" means:

- a. a national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. sec. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;
- b. any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 287.135;

- c. any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or
- d. any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997.

Each financial institution engaging in business in Kentucky should obtain and complete a Kentucky Registration Application for Bank Franchise Tax, Form 73A800. Copies of the application are available by using the Kentucky Revenue Cabinet's Fax-on-Demand system (502-564-4459), the home page on the Internet (<http://www.state.ky.us/agencies/revenue/revhome.htm>), or requesting a copy of the form from the taxpayer service centers throughout Kentucky or from the Revenue Cabinet, Miscellaneous Tax Branch, P. O. Box 1303, Frankfort, KY 40602-1303.

The bank franchise tax is in lieu of all city, county and local taxes, except the real estate transfer tax levied in KRS Chapter 142, real property and tangible personal property taxes levied in KRS Chapter 132, the local franchise tax

levied in KRS 136.575 and taxes upon users of utility services. Every financial institution regularly engaged in business in Kentucky will be subject to all state taxes except the corporation income tax levied in KRS Chapter 141 and the corporation license tax levied in KRS Chapter 136.

Any financial institution subject to the annual franchise tax that fails to file a return or that fails to pay the tax as listed on the return shall not maintain an action, suit, or proceeding in any court or before any agency in Kentucky or enforce in any way any obligation of any debts until the return is filed and the tax listed on the return is paid.

The president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any financial institution subject to the bank franchise tax will be personally and individually liable, jointly and severally, in the event that the financial institution is unable to make payment. Neither the corporate dissolution or withdrawal of the financial institution from Kentucky nor the cessation of holding any corporate office will discharge the liability. The personal and individual liability will apply to each and every person holding a corporate office at the time the taxes become or became due. No person will be personally and individually liable if that person did not have authority in the management of the business or financial affairs of the financial institution at the time the taxes become or became due.

ITEMS OF SPECIAL INTEREST

INTERNAL REVENUE CODE REFERENCE DATE— Unless specified otherwise, references to the "Internal Revenue Code" for bank franchise tax purposes mean the Internal Revenue Code (IRC) in effect on December 31, 1997, exclusive of any amendments made subsequent to that date.

AMENDED RETURNS—An amended bank franchise tax return may be filed by completing Form 73A801 and checking the box denoting Amended Return in the address section of the form. An amended return may be necessary to correct Form 73A801 as originally filed or as later adjusted by an amended return, claim for refund, etc.


GENERAL INFORMATION

REQUIRED FORMS AND INFORMATION—Each financial institution must enter all applicable information on Form 73A801 and Schedules A, A-1, A-2, A-3, A-4 and Schedule B. A financial institution whose business activity is taxable both within and without Kentucky must complete Schedule C to apportion its net capital. Failure by corporate officers to sign the return or to complete all applicable schedules will delay the processing of the tax return and may result in the form being returned for proper completion and assessment of penalty.

RTN (BANK FRANCHISE TAX ACCOUNT NUMBER)— The bank franchise tax account number is the bank routing and transit number (RTN). Enter this number in the appropriate box at the top of each form and schedule and

on checks and correspondence. This number is located in the upper right portion of the address label on the packet. Also enter the federal identification number where requested.

ADDRESS LABEL—Please use the address label on this packet in the name and address block of Form 73A801. Draw a line through any incorrect information and print the correct information above it.

 **SIGNATURE**—Form 73A801 must be signed by an authorized officer of the financial institution. Failure to complete forms properly may result in denial of deductions and delays in the issuance of any refunds.

SUBSTITUTE FORMS—Any form to be used in lieu of an official Kentucky Revenue Cabinet form must be submitted to the Cabinet for prior approval.

TAXABLE YEAR—"Taxable Year" means calendar year 1996 and every calendar year thereafter.

RETURN/PAYMENT DUE DATE—On or before March 15 following each calendar year, a bank franchise tax return for the preceding taxable year must be filed and payment must be made with the Kentucky Revenue Cabinet.

MARCH 2000						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Mail the return with payment to Kentucky Revenue Cabinet, P.O. Box 1303, Frankfort, Kentucky 40602-1303. Make your check payable to **Kentucky State Treasurer**.

EXTENSION OF TIME TO FILE RETURN—The Kentucky Revenue Cabinet will, upon receipt of Form 73A802, Application for Extension, on or prior to the due date of the return, grant an automatic extension of up to 90 days. An extension of time to file a return does not extend the time for payment of the bank franchise tax. In order to prevent the assessment of penalty, the payment must be postmarked by March 15 following each calendar year.

INTEREST—Interest at the "tax interest rate" is applied to all bank franchise tax liabilities not paid by the original due date of the return. The computation period is from the original due date of the return to the date of payment.

PENALTIES—Penalties are:

Failure to file a bank franchise tax return by the due date or the extended due date—2 percent of the tax due for each 30 days or fraction thereof that the return is late (maximum 20 percent). The minimum penalty is \$10. (KRS 131.180(1))

Failure to pay bank franchise tax by the due date— 2 percent of the tax due for each 30 days or fraction thereof that the payment is overdue (maximum 20 percent). The minimum penalty is \$10. (KRS 131.180(2))

Failure or refusal to file a bank franchise tax return or furnish information requested in writing—5 percent of the tax assessed for each 30 days or fraction thereof that the return is not filed or the information is not submitted (maximum 50 percent). The minimum penalty is \$25. (KRS 131.180(4))

Fraud—50 percent of the tax assessed. (KRS 131.180(8))

Negligence—10 percent of the tax assessed. (KRS 131.180(7))

Cost of Collection Fees—20 percent on all taxes which become final, due and owing. These collection fees are in addition to all other penalties provided by law. (KRS 131.440)

FORM 73A801—BANK FRANCHISE TAX RETURN—INSTRUCTIONS

DEFINITION OF NET CAPITAL

The value of net capital for each year is determined by:

1. adding together the book value of:
 - a. capital stock paid in;
 - b. surplus;
 - c. undivided profits and capital reserves;
 - d. net unrealized holding gains or losses on available-for-sale securities;
 - e. cumulative foreign currency translation adjustments; and

(NOTE: Equity related to investment in subsidiaries must be included in the above values.)
2. deducting from this total an amount equal to the same percentage of the total as the book value of United States obligations and Kentucky obligations bears to the book value of the total assets of the financial institution.

DEFINITION OF UNITED STATES AND KENTUCKY OBLIGATIONS

"United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States.

"Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

The foregoing book values and deductions for United States obligations and Kentucky obligations for each year shall be determined by the reports of condition for each quarter filed in accordance with the requirements of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or other applicable regulatory authority.

Securities which are merely "guaranteed" by the United States government are not United States obligations. The following list is provided to assist the bank in classifying United States obligations. This list is not an all-inclusive list. Obligations not listed may be referred to the Revenue Cabinet for a determination.

Issuing Authority	U.S. Obligation
1. Commodity Credit Corporation	Yes
2. Farm Credit Financial Assistance Corporation	Yes
3. Farmers Home Administration	No
4. Farmers Home Corporation	No
5. Federal Credit Union	Yes
6. Federal Deposit Insurance Company	Yes
7. Federal Farm Credit Banks	Yes
8. Federal Farm Loan Corporation	Yes
9. Federal Financing Corporation	Yes
10. Federal Home Loan Banks	Yes
11. Federal Home Loan Mortgage Corporation	No
12. Federal Housing Administration	Yes
13. Federal Intermediate Credit Banks	Yes
14. Federal Land Banks	
a. Interest	Yes
b. Dividends from stock issued before 3-28-42	Yes
c. Dividends from stock issued on or after 3-28-42	No
15. Federal Land Bank Association	Yes
16. Federal Maritime Board and Maritime Administration	Yes
17. Federal National Mortgage Association	No
18. Federal Reserve Banks	
a. Interest	Yes
b. Dividends from stock issued before 3-28-42	Yes
c. Dividends from stock issued on or after 3-28-42	No
19. Federal Savings and Loan Association	
a. Dividends from stock issued before 3-28-42	Yes
b. Dividends from stock issued on or after 3-28-42	No
20. Federal Savings and Loan Insurance Corporation	Yes
21. General Insurance Fund	Yes
22. Government National Mortgage Association	No
23. Guam Bonds	Yes
24. Joint Stock Land Banks	No
25. National Farm Loan Association	Yes
26. Panama Canal Bond	Yes
27. Production Credit Association or Corporation	
a. Interest	Yes
b. Dividends	No
28. Puerto Rican Bonds	Yes
29. Student Loan Marketing Association	Yes
30. Tennessee Valley Authority	Yes
31. U.S. Housing Authority	Yes
32. U.S. Postal Service Bonds	Yes
33. Virgin Island Bonds	Yes
34. U.S. Treasury Bonds	Yes
35. Federal Home Loan Bank Stock	Yes

SCHEDULES A THROUGH A-4 AND SCHEDULE B—COMPUTATION OF NET CAPITAL—INSTRUCTIONS

To arrive at the total net capital for the taxable year, net capital is determined by adding the value determined for the current taxable year and the preceding four taxable years and dividing the resulting sum by five. Schedule A is used to compute net capital for the current year. Schedules A-1, A-2, A-3 and A-4 are used to compute net capital for the four preceding years. Schedule B is used to compute the total net capital for the taxable year.

Note: The 1998 Session of the General Assembly amended the bank franchise tax to allow the deduction of Kentucky obligations in determining the value of net capital. Therefore, all financial institutions which have Kentucky obligations are required to file Schedules A, A-1, A-2, A-3 and A-4 of the 1999 tax return.

If a financial institution has not been in existence for a period of five calendar years, net capital is determined by adding together the values determined for the number of calendar years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. A partial year is treated as a full year.

SCHEDULE C—APPORTIONMENT OF NET CAPITAL—INSTRUCTIONS

General Instructions—A financial institution whose business activity is taxable both within and without Kentucky must apportion its net capital in accordance with KRS 136.525. The three-factor apportionment formula of receipts, property and payroll is substantially the same as the Multistate Tax Commission uniformity recommendation for financial institution apportionment. Each factor must be calculated by the method of accounting used by the financial institution for the taxable year.

A financial institution must use the above statutory apportionment formula unless the financial institution has been required or granted approval in writing by the Cabinet to use a method other than the statutory formula provided in KRS 136.525. In this event, a copy of the letter from the Cabinet requiring or granting approval to use a method other than the statutory formula must be attached to the return when filed.

Computation of Apportionment Percentage

Part II—Receipts—The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in Kentucky during the taxable year and the denominator of which is the receipts of the financial institution within and without Kentucky during the taxable year. Receipts included in the factor computation and included in the numerator are outlined as follows:

Line 12—Receipts from the lease or rental or sublease of real property owned by the financial institution are included in the numerator if the property is located within Kentucky.

Line 13—Receipts from the lease or rental of tangible personal property other than transportation property owned by the financial institution are included in the numerator if the property is located within Kentucky when it is first placed in service by the lessee. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator to the extent that the property is used in Kentucky.

Line 14—Interest and fees or penalties in the nature of interest from loans secured by real property are included in the numerator if the secured property is located within Kentucky.

Line 15—Interest and fees or penalties in the nature of interest from loans not secured by real property are included in the numerator if the borrower is located in Kentucky.

Line 16—Net gains from the sale of loans secured by real property included in the numerator are determined by multiplying the net gains by a fraction, the numerator of which is the amount of interest and fees or penalties from loans secured by real property located in Kentucky and the denominator of which is the total amount of interest and fees or penalties from loans secured by real property.

Net gains from the sale of loans not secured by real property included in the numerator are determined by multiplying the net gains by a fraction, the numerator of which is the amount of interest and fees or penalties from loans not secured by real property from borrowers located in Kentucky and the denominator of which is the total amount of interest and fees or penalties from loans not secured by real property.

Line 17—Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders are included in the numerator if the billing address of the card holder is in Kentucky.

Line 18—Net gains from the sale of credit card receivables included in the numerator is determined by multiplying the net gains by a fraction, the numerator of which is the amount of interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders located in Kentucky and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

Line 19—Credit card issuer's reimbursement fees to be included in the numerator is determined by multiplying the amount of fees by a fraction, the numerator of which is the amount of interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders located in Kentucky and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

Line 20—Receipts from merchant discounts are included in the numerator if the commercial domicile of the merchant is in Kentucky.

Line 21—Loan servicing fees derived from loans secured by real property included in the numerator are determined by multiplying the amount of fees by a

fraction, the numerator of which is the interest and fees or penalties in the nature of interest from loans secured by real property located in Kentucky and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

Line 22—Loan servicing fees derived from loans not secured by real property included in the numerator are determined by multiplying the amount of fees by a fraction, the numerator of which is the amount of interest and fees or penalties in the nature of interest from loans not secured by real property where the borrower is located in Kentucky and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

Line 23—Interest, dividends, net gains, and other income from investment assets and activities and from trading assets and activities included in the numerator are determined by multiplying the income by a fraction, the numerator of which is the average value of the assets assigned to a regular place of business of the financial institution within Kentucky and the denominator of which is the average value of all the assets. In lieu of this fraction, the financial institution may elect or the Cabinet may require in order to fairly represent the business activity of the financial institution, the use of an alternative fraction, the numerator of which is gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within Kentucky and the denominator of which is gross income from all assets and activities.

Line 24—Sales of tangible personal property are in Kentucky if:

1. the property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within Kentucky regardless of the f.o.b. point or other conditions of the sale; or
2. the property is shipped from an office, store, warehouse, factory, or other place of storage in Kentucky and the purchaser is the United States government.

Line 25—Receipts from services not otherwise apportioned under this section are included in the numerator if the service is performed in Kentucky. If the service is performed both within and without Kentucky, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section if a greater proportion of the income-producing activity is performed in Kentucky based on cost of performance.

Throwback Rule—All receipts that would be assigned to a state in which the financial institution is not taxable are included in the numerator of the receipts factor, if the financial institution's commercial domicile is in Kentucky.

Parts III and IV—Property—The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the financial institution that is located or used within Kentucky during the taxable year, the average value of the financial institution's real and tangible personal property owned that is located or used within Kentucky during the taxable year, and the average value of the financial institution's loans and credit card receivables that are located within Kentucky during the taxable year, and the denominator of which is the average value of all such property located or used within and without Kentucky during the taxable year.

The value of real property and tangible personal property owned by the financial institution is the original cost or other basis of property for federal income tax purposes without regard to depletion, depreciation or amortization. Loans and credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts.

The average value of property owned by the financial institution is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two. The average value of real property and tangible personal property that the financial institution has rented from another and which is not treated as property owned by the financial institution for federal income tax purposes is determined annually by multiplying the gross rents payable during the taxable year by eight.

Real property and tangible personal property other than transportation property owned by or rented to the financial institution is considered to be located within Kentucky if it is physically located, situated or used within Kentucky. Transportation property is included in the numerator of the property factor to the extent that the property is used in Kentucky. If the extent of the use of any transportation property within Kentucky cannot be determined, then the property is deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is deemed to be used wholly in the state in which it is registered. The extent to which an aircraft shall be deemed to be used in Kentucky and the amount of value that is to be included in the numerator of Kentucky's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in Kentucky and the denominator of which is the total number of landings of the aircraft everywhere.

A loan is considered to be located within Kentucky if it is properly assigned to a regular place of business of the financial institution within Kentucky. A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. Credit card receivables will be treated as loans and be subject to the same provisions. A loan that has been properly assigned to a state will remain assigned to that state for the length of the original term of the loan.

Part I, Lines 7, 8 and 9—Payroll—The payroll factor is a fraction, the numerator of which is the total amount paid in Kentucky during the taxable year by the financial institution for compensation and the denominator of which is the total compensation paid both within and without Kentucky during the taxable year. The compensation of any employee for services or activities which are not connected with business activities and payments made to any independent contractor or any other person not properly classified as an employee will be excluded from both the numerator and denominator of the factor.

Compensation is paid in Kentucky if any of the following tests is met:

- a. The employee's services are performed entirely within Kentucky.
- b. The employee's services are performed both within and without Kentucky, but the service performed without Kentucky is incidental to the employee's service within Kentucky.
- c. If the employee's services are performed both within and without Kentucky, the employee's compensation will be attributed to Kentucky if:
 1. the employee's principal base of operation is within Kentucky;
 2. there is no principal base of operation in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in Kentucky; or
 3. the principal base of operation and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in Kentucky.

TAX RATE

The bank franchise tax rate is 1.1 percent of net capital after apportionment, if applicable. Each financial institution regularly engaged in business in Kentucky shall pay a minimum tax of \$300 per year.

ACCOUNTING PROCEDURES—The book values of net capital and the deductions for United States obligations and Kentucky obligations for each year are determined by the reports of condition for each quarter filed in accordance with the requirement of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or other applicable regulatory authority. Book values must be calculated by averaging the quarterly book values as determined by the reports of condition. In the case of a financial institution which does not file reports of condition, book values must be determined in accordance with generally accepted accounting principles.



CHANGES IN IDENTITY OR FORM

A change in identity, form or place of organization of one financial institution will be treated as if a single financial institution had been in existence prior to as well as after the change. The combination of two or more financial institutions into one will be treated as if the constituent financial institutions had been a single financial institution in existence prior to as well as after the combination and the book values and deductions for United States obligations and Kentucky obligations from the reports of condition of the constituent institutions will be combined. A combination includes any acquisition required to be counted for by the surviving financial institution under the pooling of interest method in accordance with generally accepted accounting principles or a statutory merger or consolidation.



The combination of one or more financial institutions and one or more savings and loan associations taxable under KRS 136.300 into a single financial institution shall be treated for the taxable year in which the combination occurs as if the single financial institution had been in existence prior to as well as after the combination. To determine the book values and deductions for United States and Kentucky obligations for the year of the combination as well as the four preceding taxable years the reports of condition of the financial institution and the reports to the federal regulatory agency for a savings and loan association which are the equivalent of the reports of condition of a financial institution must be combined.

The conversion of a savings and loan association taxable under KRS 136.300 into a financial institution shall be treated for the taxable year in which the conversion occurs as if the savings and loan association had been a financial institution prior to as well as after the conversion. To determine the book values and deductions for United States and Kentucky obligations for the year of the conversion as well as the four preceding taxable years the reports to the federal regulatory agency for a savings and loan association which are the equivalent of the reports of condition of a financial institution must be used.

The savings and loan association shall not be relieved of the responsibilities of filing and paying tax under KRS 136.300 for taxable years prior to the year of any combination or conversion.

A financial institution resulting from a combination with or conversion of a savings and loan association shall receive a credit on the bank franchise tax return filed for the year of the combination or conversion equal to the amount of tax paid under KRS 136.300 for the assessment date occurring within the taxable year during which the combination or conversion takes place.

TAXPAYER ASSISTANCE

Information and Forms:

Miscellaneous Tax Branch
Revenue Cabinet
P.O. Box 1303
Frankfort, KY 40602-1303
(502) 564-2198



(502) 564-4459 (Forms by fax)
(502) 564-3058 (Telecommunication Device for the Deaf)

KENTUCKY TAXPAYER SERVICE CENTERS

Information and forms are available from Kentucky Taxpayer Service Centers in the following cities.

Ashland, 134 Sixteenth Street, 41101-7670
(606) 920-2037

Bowling Green, 1502 Westen Street, 42104-3356
(270) 746-7470

Corbin, Falls Road Plaza
1707 18th Street, Suite 5, 40701-8676
(606) 528-3322

Hazard, 233 Birch Street, 41701-2179
(606) 435-6017

Hopkinsville, 105 Hammond Plaza
4011 Ft. Campbell Blvd., 42240-4929
(270) 889-6521

Lexington, 301 East Main Street,
Suite 500, 40507-1556
(606) 246-2165

Louisville, 620 South Third Street
Suite 102, 40202-2446
(502) 595-4512

Northern Kentucky, Turfway Ridge Office Park
7310 Turfway Road, Suite 190
Florence, 41042-1385
(606) 371-9049

Owensboro, Building C, Suite 201
401 Frederica Street, 42302
(270) 687-7301

Paducah, Paducah Bank Building, Suites 302/306
555 Jefferson Street, 42001-1001
(502) 575-7148

Pikeville, Uniplex Center, 126 Trivette Drive, 41501
(606) 433-7675

Kentucky Revenue Cabinet Mission Statement

To provide courteous, accurate and efficient services for the benefit of Kentucky and its citizens, and administer the tax laws of the Commonwealth in a fair and impartial manner.

The Kentucky Revenue Cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

YOUR RIGHTS AS A KENTUCKY TAXPAYER

The mission of the Kentucky Revenue Cabinet (KRC) is to provide courteous, accurate and efficient services for the benefit of Kentucky and its citizens, and administer the tax laws of the Commonwealth in a fair and impartial manner.

As a Kentucky taxpayer, you have the right to expect the KRC to honor its mission and uphold your rights every time you contact or are contacted by the KRC.

RIGHTS OF TAXPAYER

Privacy—You have the right to privacy of information provided to the KRC.

Assistance—You have the right to advice and assistance from the KRC in complying with state tax laws.

Explanation—You have the right to a clear and concise explanation of:

- basis of assessment of additional taxes, interest and penalties, or the denial or reduction of any refund or credit claim;
- procedure for protest and appeal of a determination of the KRC; and
- tax laws and changes in tax laws so that you can comply with the law.

Protest and Appeal—You have the right to protest and appeal a determination of the KRC if you disagree with an assessment of tax or penalty, reduction or a denial of a refund, a revocation of a license or permit, or other determination made by the KRC.

Conference—You have the right to a conference to discuss a tax matter.

Representation—You have the right to representation by your authorized agent (attorney, accountant or other person) in any hearing or conference with the KRC. You have the right to be informed of this right prior to the conference or hearing. If you intend for your representative to attend the conference or hearing in your place, you may be required to give your representative a power of attorney before the KRC can discuss tax matters with your authorized agent.

Recordings—You have the right to make an audio recording of any meeting, conference or hearing with the KRC, or to be notified in advance if the KRC plans to record the proceedings and to receive a copy of any recording.

Consideration—You have the right to consideration of:

- waiver of penalties or collection fees if "reasonable cause" for reduction or waiver is given ("reasonable cause" is defined in KRS 131.010(9) as: "an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the cabinet pursuant to law or administrative regulation");
- installment payments of delinquent taxes, interest and penalties;

- waiver of interest and penalties, but not taxes, resulting from incorrect written advice from the KRC if all facts were given and the law did not change or the courts did not issue a ruling to the contrary;
- extension of time for filing reports or returns; and
- payment of charges incurred resulting from an erroneous filing of a lien or levy by the KRC.

Guarantee—You have the right to a guarantee that KRC employees are not paid, evaluated or promoted based on taxes assessed or collected, or a tax assessment or collection quota or goal imposed or suggested.

Damages—You have the right to file a claim for actual and direct monetary damages with the Kentucky Board of Claims if a KRC employee willfully, recklessly and intentionally disregards your rights as a Kentucky taxpayer.

Interest—You have the right to receive interest on an overpayment of tax, except delinquent property tax, payable at the same rate you would pay if you underpaid your tax.

REVENUE CABINET RESPONSIBILITIES

The KRC has the responsibility to:

- perform audits, conduct conferences and hearings with you at reasonable times and places;
- authorize, require or conduct an investigation or surveillance of you only if it relates to a tax matter;
- make a written request for payment of delinquent taxes which are due and payable at least 30 days prior to seizure and sale of your assets;
- conduct educational and informational programs to help you understand and comply with the laws;
- publish clear and simple statements to explain tax procedures, remedies, your rights and obligations, and the rights and obligations of the KRC;
- notify you in writing when an erroneous lien or levy is released and, if requested, notify major credit reporting companies in counties where lien was filed;
- advise you of procedures, remedies and your rights and obligations with an original notice of audit or when an original notice of tax due is issued, a refund or credit is denied or reduced, or whenever a license or permit is denied, revoked or canceled;
- notify you in writing prior to termination or modification of a payment agreement;
- furnish copies of the agent's audit workpapers and a written narrative explaining the reason(s) for the assessment; and
- resolve tax controversies on a fair and equitable basis at the administrative level whenever possible.

PROTEST AND APPEAL PROCEDURE

Protest—You have the right to protest a determination of the KRC, such as an assessment of tax or penalty, reduction or a denial of a refund, or a revocation of a license or permit. To do so:

- submit a written protest within 45 days from the original notice date;
- identify the type of tax involved and give the account number, Social Security number or other identification number;
- explain why you disagree;
- attach any proof or documentation available to support your protest or request additional time to support your protest;
- sign your statement, include your daytime telephone number and mailing address; and
- mail to the Kentucky Revenue Cabinet at the address shown on the KRC's determination which is being protested.

Conference—If you have not been able to resolve the tax matter through your protest, you have the right to request a conference to discuss the issue.

Independent Informal Review—If you feel after the conference that you have not been treated in a fair and equitable manner, you have the right to request an independent informal review.

Final Ruling—If you do not want to have a conference or if the conference did not resolve your protest, you have the right to request a final ruling of the KRC so that you can appeal your case further.

Appeal—If you do not agree with the KRC's final ruling, you can file a written appeal with the Kentucky Board of Tax Appeals. If you do not agree with the decision of the Kentucky Board of Tax Appeals, you have the right to appeal the ruling to the Kentucky courts (first to the circuit court in your home county or in Franklin County, then to the Kentucky Court of Appeals, and finally to the Kentucky Supreme Court).

Note: The above protest and appeal procedures do not apply for real property which is valued by the local property valuation administrator (PVA). Contact the local PVA for information about how to appeal the valuation of real property.

WHERE TO GET ASSISTANCE

The KRC has offices in Frankfort and taxpayer service centers in 11 cities and towns throughout Kentucky. KRC employees in the service centers answer tax questions and provide assistance. The office locations and telephone numbers are listed on page 7 of the instructions in this packet.

The KRC also has a Taxpayer Ombudsman's Office which consists of the Ombudsman and a staff whose job is to serve as an advocate for taxpayers' rights. One of the main functions of the office is to ensure that your rights as a Kentucky taxpayer are protected by the KRC.

Also, an important function of the Taxpayer Ombudsman's Office is to confer with KRC employees when you have a problem or conflict that you have been unable to resolve. However, it is not the role of the Ombudsman's Office to intercede in an audit, handle a protest, waive taxes, penalty or interest, or answer technical tax questions. To file a protest, see PROTEST AND APPEAL PROCEDURE. Please do not mail your protest to the Ombudsman.

The Ombudsman's Office is your advocate and is there to make sure your rights are protected. If you think you are not being treated fairly or if you have a problem or complaint, please contact the Ombudsman's Office so they can help you.

The Taxpayer Ombudsman's Office may be contacted by telephone at (502) 564-7822 (between 8:00 a.m. and 4:30 p.m. weekdays). From a Telecommunication Device for the Deaf (TDD), call (502) 564-3058. The mailing address is: Office of Taxpayer Ombudsman, P.O. Box 930, Frankfort, Kentucky 40602-0930.

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This information merely summarizes your rights as a Kentucky taxpayer and the responsibilities of the Revenue Cabinet. The Kentucky Taxpayers' Bill of Rights may be found in the Kentucky Revised Statutes (KRS) at Chapter 131.041—131.081. Additional rights and responsibilities are provided for in KRS 131.020, 131.110, 131.170, 131.183, 131.500, 133.120, 133.130, 134.580 and 134.590.