

INSTRUCTIONS FOR FILING PUBLIC SERVICE COMPANY PROPERTY TAX RETURN

INTRODUCTION

This packet has been designed for public service companies who are required by KRS 136.120 through KRS 136.180 to file Kentucky property tax returns. It contains the necessary returns, schedules and instructions for this purpose.

WHO MUST FILE (KRS 136.120)

In accordance with state law, every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, railroad car line company, cellular telephone company, coin-operated telephone, 2-way radio telephone and every other like company, business or association performing any public service shall file property tax returns, schedules, regulatory reports and other such facts as the Department of Property Valuation may require.

The Department of Property Valuation shall have the sole responsibility to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those mentioned above and all others to whom this section may apply.

WHAT TO FILE (KRS 136.130–KRS 136.140)

All public service companies are required to file Revenue Form 61A200, Public Service Company Property Tax Return, and all accompanying schedules (G through T). In addition to these returns, any public service company that is regulated in any capacity by a federal or Kentucky authority **must** submit a copy of the annual report filed with that authority. **Also, all companies must submit a copy of their annual report to stockholders and/or parent company annual report.** Companies who have bought or sold any operating property must include detailed information regarding the transaction.

All returns, reports and schedules shall cover a period of 12 months ending December 31. Taxpayers may substitute individual schedules on taxpayer form as long as all information requested is supplied.

Type of Company	Supplementary Reports Required
Airlines & air freight	Stockholders report & U.S. Department of Transportation Form RSPA 41
Cable television	Annual report to stockholders & audited financial statements
Cellular telephone	KY Public Service Commission annual report & stockholders annual report & FCC annual report for cellular communication licensees
Coin-operated telephone	Revenue Form 61A208 & financial statements
Electric utility	KY Public Service Commission annual report & FERC annual report & stockholders report
Gas utility	
Gas transmission	
Gas & electric utility	
Landfills	Annual report to stockholders & audited financial statements
Oil transmission	FERC annual report & stockholders report
Operator services	
Radio common carriers	KY Public Service Commission annual report & report to stockholders
Railroads	ICC annual report & stockholders report
Rural electric co-ops	REA annual report & stockholders report
Rural telephone co-ops	FCC (M) annual report & stockholders report
Telecommunications	FCC (M) annual report & stockholders report & KY Public Service Commission report
Privately owned sewer	KY Public Service Commission annual report
Water	KY Public Service Commission annual report & stockholders annual report

WHEN TO FILE

All public service companies as specified in KRS 136.120(1) shall make, file and deliver to the Department of Property Valuation on or before April 30 of each year the required tax returns, schedules, regulatory reports and other such facts covering the preceding calendar year.

WHERE TO FILE

All tax returns, schedules and regulatory reports must be mailed to the following address:

Kentucky Revenue Cabinet
Department of Property Valuation
Public Service Branch, Station 32, Fourth Floor
200 Fair Oaks Lane
Frankfort, KY 40620

FILING EXTENSIONS (KRS 136.130)

A taxpayer may be granted a 30-day extension for filing the public service company property tax return if it requests the extension before the due date of the return and includes with the extension request a report of any increases or decreases in property of \$50,000 or more in any taxing district.

Upon written application, the Department of Property Valuation **may** grant an extension when in its judgment an extension is deemed necessary and proper.

No extension will be granted beyond May 30.

LATE FILING PENALTY (KRS 132.290)

Any public service company that fails to timely complete, file and deliver the required tax return, schedules and regulatory reports on or before the due date, shall pay a minimum penalty of 10 percent of the total taxes due.

PENALTY FOR NONCOMPLIANCE (KRS 136.150, KRS 136.990, KRS 132.290)

If any public service company fails to report as required by KRS 136.130 and KRS 136.140 on or before April 30 of each year, the Department of Property Valuation shall ascertain the required facts and determine the assessment values in such a manner and by such means as it deems proper, at the cost of the company failing to comply with state law.

The penalty for failure to file is 20 percent of the total taxes due.

Furthermore, any public service company, or officer thereof, that willfully fails or refuses to make, file and deliver reports as required by KRS 136.130 and KRS 136.140 shall be fined \$1,000, and \$50 for each day the reports are not made after April 30 of each tax year. In addition, civil action may be brought to compel the company or officer thereof to make the required reports.

DETERMINATION OF THE ASSESSMENT (KRS 136.160)

Each year the Department of Property Valuation shall determine the fair cash value of the operating property (real estate, tangible and franchise) of a public service company as a unit. This unit value shall then be apportioned to Kentucky based on the average of the property factor and the business factor.

The property factor shall fairly reflect the amount of operating property owned and/or leased in Kentucky compared to the total amount of operating property owned and/or leased everywhere. The business factor shall fairly reflect the utilization of the operating property owned and/or leased in Kentucky compared to the utilization of operating property owned and/or leased everywhere. These factors may be a single factor or an average of several factors.

The nonoperating tangible and nonoperating intangible property of public service companies shall be valued separately using the same fair cash value standard as utilized by the county assessor. The value is **not** apportioned.

Public service companies that own mineral resources that are reported on Revenue Forms 62A024, Undeveloped Oil and Gas Property Tax Return; 62A377-A, Mineral Property Report and Mineral Owners' Tax Return on Unmined Coal; 62A384, Oil Property Tax Return; and 62A384-G, Natural Gas Property Tax Return, must include copies of these reports with the public service company tax return. The assessment for mineral property is considered nonoperating real estate and will be in addition to the assessment for a company's operating property. The mineral property must be itemized on Schedule K in order to situs such property.

ALLOCATION OF THE ASSESSMENT (KRS 136.170)

Once the operating property is valued as a unit, the department shall allocate the assessed value in this state among the county, school, city and/or other special taxing districts.

Nonoperating tangible property shall be allocated to the county, school, city and/or other special taxing districts where the property is located.

Nonoperating intangible property is taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services.

Refer to the instructions for Schedule L, Schedule L2 and Schedule M for the allocation factors required by industry type.

NOTIFICATION OF ASSESSMENT (KRS 136.180)

Each year the Department of Property Valuation shall determine the assessed value of the operating property and other property of a public service company and notify the company by mail of the assessment amount and the state tax liability.

Once the valuation has been finalized, the Department of Property Valuation shall immediately certify the assessment to the county clerk of each county in which any of the operating property or nonoperating tangible property is liable to local taxation. The county clerk shall then certify the assessment to the proper collecting officer of the county, school, city and/or special taxing district for collection.

PROTESTING YOUR ASSESSMENT (KRS 131.110, KRS 136.180(2), KRS 134.590 and 103 KAR 1:010)

The Department of Property Valuation is required to mail to the taxpayer a notice of any tax assessed. The assessment shall be final if not protested in writing to the department within 45 days from the date of the notice. Such protest shall be accompanied by a supporting written statement setting forth the grounds upon which the protest is made. The supporting statement must set forth whether the protest is based on a factual disagreement and/or disagreement in the interpretation of the applicable statutes. If there are disputed factual issues, the taxpayer must provide financial statements, records, assessments or other documents which will allow the Kentucky Revenue Cabinet some basis for reconsideration. Further, the statement must clearly identify the specific portion(s) of the assessment to which the protest relates.

Effective July 15, 1998, no appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and other local jurisdictional taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. Once the appeal is finalized and the valuation finally determined, the taxpayer shall be billed for any additional tax and interest (at the rate as defined in KRS 131.010(6)) from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

Per KRS 136.180(2), any unprotested portion (your claimed value) of the assessment becomes final at the end of the 45-day period. After the 45-day protest period expires, a notice of tax due for state taxes will be prepared and values will be certified to the local taxing jurisdictions for billing. Therefore, your protest letter must contain (1) a statement of claimed system unit value, (2) the Kentucky allocation factor, (3) the Kentucky assessment value, (4) the classification and certification of property to state and local taxing jurisdictions and (5) the basis by which the said values were derived.

After a timely protest has been filed, the taxpayer **may** request a conference with the department. The taxpayer may appear in person or by representative. All taxpayers represented by attorney or tax agent must file a power of attorney with the department. Further conferences may be held by mutual agreement. Consideration is given to additional information presented by the taxpayer at the conference.

If the taxpayer's protest of an assessment or refund denial cannot be resolved through correspondence and/or conferences, the Revenue Cabinet shall issue a written final ruling on any matter still in controversy to be mailed to the taxpayer. The ruling shall state that it is a final ruling of the Cabinet, the issues of controversy, the taxpayer's position, the Cabinet's position and the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals (KBTA).

The taxpayer may request a final ruling from the Revenue Cabinet at any time after filing a timely protest. When it is requested, the Cabinet shall issue such ruling within 30 days from the date the request is received.

After the final ruling has been issued, the taxpayer may appeal to the KBTA.

**KENTUCKY BOARD OF TAX APPEALS
(KRS 131.340—KRS 131.370, KRS 136.050,
103 KAR 1:010)**

If a taxpayer desires to appeal a final ruling of the Revenue Cabinet, the taxpayer must apply for a hearing before the KBTA within 30 days from the date of issuance of the final ruling.

The appeal must be filed in quintuplicate; contain a brief statement of the law and the facts in issue; contain the petitioner's position regarding the law, facts or both; and must contain the petitioner's position regarding the Revenue Cabinet. The board will set a date for a formal hearing and notify the taxpayer.

On the basis of the hearing, briefs and other documents, the board will issue a written order which will affirm, reverse, modify or remand the final ruling, and will forward a copy of the order to the taxpayer and the Revenue Cabinet.

Assessments upheld by the board shall be due and payable 30 days after the date of the board's order. All taxes (state, county, school, city and other special taxing districts) found to be due on any protested assessment or portion thereof shall begin to bear interest at the appropriate rate per annum on the 61st day after the KBTA acknowledges receipt of the protest, but in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the returns, schedules and regulatory reports are due.

Any party aggrieved by a final order of the KBTA may, within 30 days after such order becomes final, file an appeal with the Franklin Circuit Court or the circuit court of the county in which the aggrieved party resides or conducts his place of business.

PAYMENT OF TAX (KRS 136.050)

All state taxes assessed against any public service company under the provisions of KRS 136.120 to KRS 136.200 shall be due and payable 30 days after the state assessment has become final, unless otherwise protested. State taxes are payable to the "Kentucky State Treasurer."

All county, school, city and other special taxes shall be due and payable 30 days after a notice of tax due is issued by the designated collecting officer, unless otherwise protested.

FAILURE TO PAY TAX (KRS 136.050, KRS 136.990)

Every public service company that fails to pay its state, county, school, city and other special taxes when due shall be deemed delinquent, subject to a 10 percent penalty on the tax due and thereafter subject to interest at the appropriate rate as defined in KRS 131.010(6). In addition, a 20 percent cost of collection fee will be added to liabilities that have become final, due and owing.

Furthermore, any public service company that willfully fails to pay its taxes, penalty and interest, shall be fined \$1,000 and \$50 for each day the same remains unpaid to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.