

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, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, commercial air carrier, air freight carrier, pipeline company, privately owned regulated sewer company, municipal solid waste disposal facility, railroad car line company 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 Revenue, Office of Property Valuation may require.

The Department of Revenue, Office 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 (A through U). 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

Airlines & air freight

Electric utility
Gas utility
Gas transmission
Gas & electric utility
Electric & gas marketing

Landfills

Oil transmission
Railroads
Rural electric co-ops
Privately owned sewer

Water

Supplementary Reports Required

Stockholders report & U.S. Department of Transportation Form RSPA 41

KY Public Service Commission annual report & FERC annual report & stockholders report

Annual report to stockholders & audited financial statements
FERC annual report & stockholders report
ICC annual report & stockholders report
REA annual report & stockholders report
KY Public Service Commission annual report

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 Office 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 Department of Revenue
Office of Property Valuation
Public Service Branch, Station 32, Fourth Floor
501 High Street
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 jurisdiction.

Upon written application, the Office 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. See Schedule E.

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 Office 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 Office 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 jurisdictions.

Nonoperating tangible property shall be allocated to the county, school, city and/or other special taxing jurisdictions 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.

NOTIFICATION OF ASSESSMENT (KRS 136.180)

Each year the Office 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 Office 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 jurisdiction for collection.

Effective January 1, 2006, the Department of Revenue shall bill, collect and distribute all state and local property taxes for all commercial water transportation companies. Any fees owed to the Department of Revenue by any local taxing district shall be deducted before any distribution is made to any local taxing district under the provisions of this subsection.

WHERE TO PROTEST

All protests must be mailed to the following address:

Finance and Administration Cabinet
Division of Protest Resolution
Office of Legal Services for Revenue
Property Tax Resolution/Public Service Section
PO Box 3
Frankfort KY 40602-0003

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

The Office of Property Valuation is required to mail to the taxpayer a notice of any property assessed. The assessment shall be final if not protested in writing to the Division of Protest Resolution, Office of Legal Services for Revenue, within 45 days from the date of the notice of assessment or the assessment will become final and the state taxes will be due. 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 Division of Protest Resolution 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.

Any unprotested portion (your claimed value) of the assessment becomes final at the end of the 45-day protest period. If you protest your assessment, payment of your state and local tax on the claimed value is due with your protest letter. Your protest letter must clearly and logically identify how your claimed valuation was determined and must specify the value which you claim to be the true value of property. The Kentucky claimed value must be (1) classified into the various state property tax classifications, (2) the state tax must be calculated on the classified claimed value and (3) the claimed value must be properly allocated to the affected local taxing jurisdictions.

After a timely protest has been filed, the taxpayer **may** request a conference with the Division of Protest Resolution. 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 Division of Protest Resolution. 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 Division of Protest Resolution 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 department, the issues of controversy, the taxpayer's position, the department'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 Division of Protest Resolution at any time after filing a timely protest. When it is requested, the department 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 Division of Protest Resolution, 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 Division of Protest Resolution. 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, Division of Protest Resolution and the Department of Revenue.

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 jurisdictions) 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 131.110 and 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 45 days from the date of the notice of assessment, unless otherwise protested. State taxes are payable to the "Kentucky State Treasurer."

If you intend to pay your state taxes assessed against a public service company by use of the Coal Incentive Tax Credit granted under KRS 141.110, you must file the Coal Incentive Tax Credit Certificate with this return.

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.

AMENDED RETURNS

Adjustments to assessments will only be considered if amended data is supplied before the protest period expires or as part of

the supporting documentation included with a protest.

To amend any portion of the return, submit a new schedule with "AMENDED," the date submitted and a signature and title of the person filing the amendment written on each page of the amended schedule or on a cover page.

Forms may be obtained from:

www.revenue.ky.gov (Internet)

Other Reports Required
<p>All companies are required to submit a complete copy of their Public Service Commission Annual Report. (KRS 136.130 and KRS 136.140)</p> <p>Also, a copy of stockholder's annual report, parent company's annual report, organization's financial statements, organizational chart and informational reports, copy of all sales/merger/exchange agreements and completion of the appropriate sales form (Revenue Form 61A209 or 61A210) are required as well as the other reports requested on page 1. (KRS 136.130 and KRS 136.140)</p>