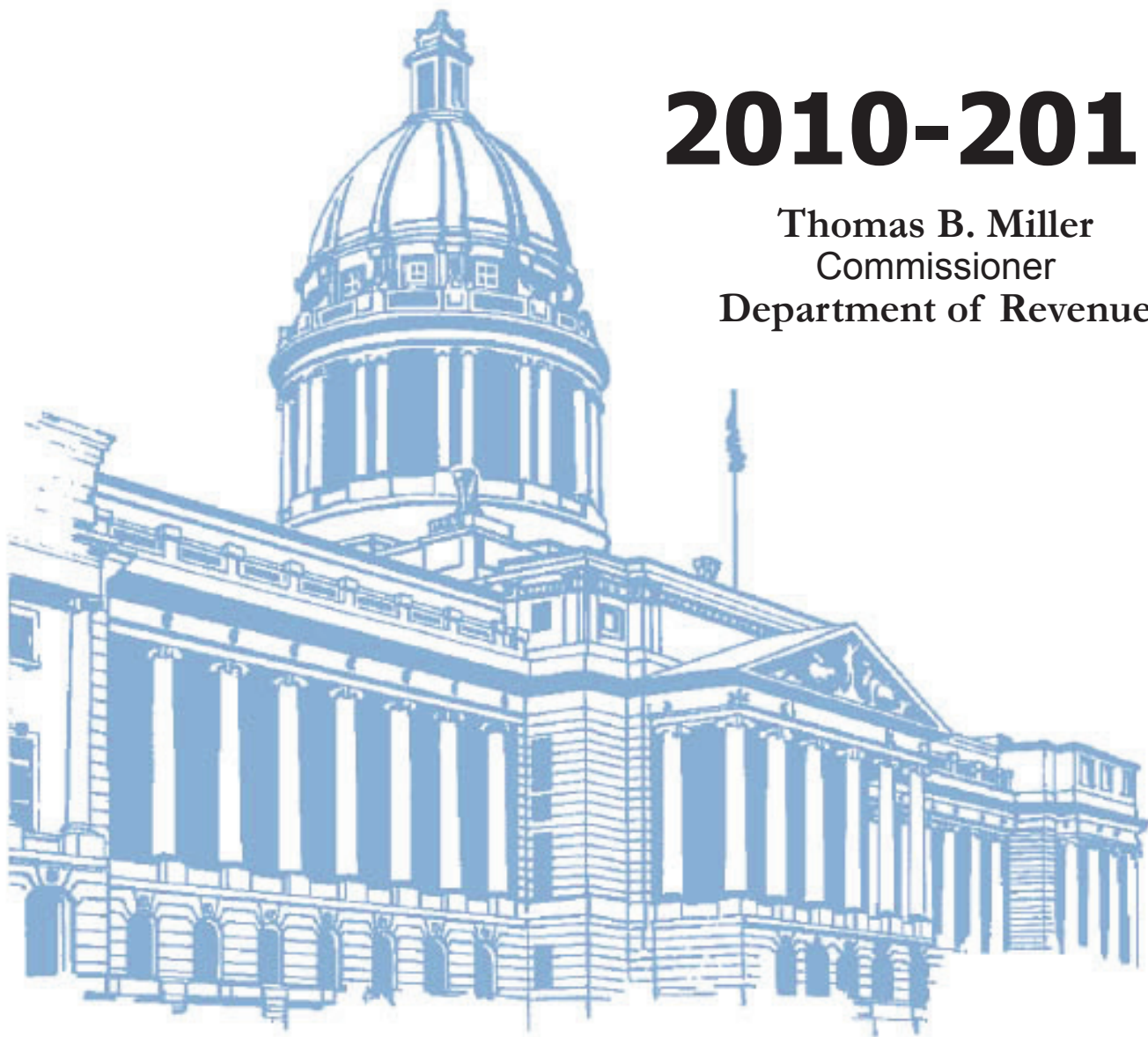


Annual Report

2010-2011

Thomas B. Miller
Commissioner
Department of Revenue



Steven L. Beshear
Governor
Commonwealth of Kentucky

Lori Hudson Flanery
Secretary
Finance and Administration Cabinet



**Kentucky Department of Revenue
Mission Statement**

As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the commonwealth and its citizens.

* * * * *

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



Steven L. Beshear
Governor

**FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE**

Lori H. Flanery
Secretary

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FRANKFORT, KENTUCKY 40620
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Thomas B. Miller
Commissioner

December 1, 2011

The Honorable Steven L. Beshear
Commonwealth of Kentucky
The State Capitol
Frankfort, Kentucky 40601

Dear Governor Beshear:

I am pleased to present the Annual Report of the Department of Revenue for the Fiscal Year Ending (FYE) June 30, 2011. This report reflects the dedicated work of the many outstanding employees of the Department of Revenue.

From June 26 through June 29 of 2011, the Department hosted approximately 300 delegates at the Galt House Hotel in Louisville for the 61st Annual Conference of the Southeastern Association of Tax Administrators (SEATA). A distinguished speaker program was presented that included several nationally recognized tax experts.

The Department continued its emphasis on training its employees during the FYE June 30, 2011. A total of 67 training classes were taught by the Department to its employees during the fiscal year. These training courses enabled the Department to provide improved taxpayer assistance and compliance programs.

The Department saw significant efficiency gains due to the number of electronically filed returns for some of the major taxes during the FYE June 30, 2011. Approximately 75 percent of individual income tax returns were electronically filed, an increase of 12.6 percent from the previous fiscal year. 102,843 Sales and Use tax returns were electronically filed, an increase of approximately 20 percent from the previous fiscal year.

The Department continued its emphasis on resolving taxpayer protests during the FYE June 30, 2011. 882 cases were resolved through our Protest Resolution Program resulting in \$88.2 million in additional receipts.

Thank you for your support of the Department of Revenue and its employees.

Very truly yours,

A handwritten signature in black ink that reads "Thomas B. Miller".

Thomas B. Miller
Commissioner

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Revenue Receipts

Reprinted from the Governor's Office for Economic Analysis

Quarterly Economic & Revenue Report Fourth Quarter 2011 Fourth Quarter, FY 2011

General Fund Receipts Exceed Estimates by \$166 Million for FY 2011

Road Fund Receipts Exceed Estimates by \$73 Million for FY 2011

General Fund receipts rose 6.5 percent

Road Fund receipts rose 11.0 percent

Kentucky's General Fund receipts rose for the first time in three years and posted the highest growth rate since Fiscal Year 2006. For the fiscal year that ended June 30, 2011 (FY11), General Fund receipts totaled \$8,759.4 million, or 6.5 percent higher than FY10 collections. FY11 receipts were also noteworthy in that the General Fund exceeded the pre-recession total of \$8,664.3 million achieved in FY08.

Final FY11 revenues were \$166.1 million, or 1.9 percent more than the official revised revenue estimate which projected a 4.5 percent increase in revenues. Half of the excess revenues from severance taxes are statutorily dedicated to local governments. As a result, \$31.1 million of the revenues in excess of the official revenue estimate will be distributed to local governments. Unbudgeted excess revenues for FY11 are \$135.0 million.

Revenue collections showed solid growth in each of the four quarters throughout the fiscal year with especially strong growth in the final quarter. Growth rates in the four quarters were 4.4 percent, 6.3 percent, 5.2 percent and 9.6 percent.

Individual Income Tax

Individual income tax receipts increased \$263.3 million, or 8.3 percent, from last year as all four components of the tax (withholding, declarations, net returns and fiduciary) increased.

Sales and Excise Taxes

Sales and use tax receipts rose 3.7 percent, or \$102.2 million, as consumer spending rebounded. Cigarette tax receipts decreased \$16.1 million, or 5.7 percent, in FY11 due to smoking cessation and the impact of roll-your-own cigarettes.

Corporation Income and Limited Liability Entity Taxes

Corporation income taxes posted an increase of 37.3 percent during the fourth quarter of FY 11. Receipts totaled \$ 149.2 million and were \$ 40.5 million more than collected a year earlier. Corporation income tax receipts were up 26.4 percent for the year due to lower profits and other factors.

The LLET had collections of \$ 76.0 million in the fourth quarter of the fiscal year, an increase of 45.1 percent. LLET receipts were up 47.8 percent for the year.

Other Revenues

Coal severance taxes increased 8.8 percent in FY11. Total collections for the fiscal year were \$295.8 million. Property tax receipts decreased 0.3 percent or \$1.4 million from FY10. Among the major accounts, an increase in public service property tax collections helped offset declines in tangible and real property tax receipts. The lottery, meanwhile, rose 0.3 percent or \$0.5 million to post a dividend to the Commonwealth of \$200.5 million. The "other" category increased 4.7 percent or \$29.3 million.

Sales and use tax receipts were short of the estimate by 1.5 percent. The individual income tax exceeded the forecasted level by \$83.2 million. Corporate income tax receipts exceeded expectations by \$42.0 million. Limited liability entity tax receipts were above the forecast by \$70.6 million. Cigarette taxes were below the estimate by 6.7 percent. The coal severance tax was \$65.4 million above the consensus estimate while property taxes were 4.7 percent lower than forecasted. Receipts were below the consensus forecast by \$4.9 million while all other taxes were 0.5 percent below the official estimate.

Road Fund

Road Fund revenues for FY11 were \$1,339.0 million, an increase of 11.0 percent from the previous fiscal year. Receipts for June were up 3.9 percent. Total receipts rose \$132.2 million from FY10 as motor fuels and motor vehicle usage tax receipts offset declines or small increases in virtually every other category. Like the General Fund, Road Fund receipts exceeded the previous high level of receipts set in FY08. Road Fund receipts have now grown for two straight fiscal years on the strength of 6 consecutive quarterly increases. Growth in fuels taxes has paved the way for a robust rebound in the Road Fund.

Motor fuels tax receipts rose by \$77.1 million or 11.8 percent in FY11. The increase was the result of the automatic statutory increase in the tax rate due to increased wholesale prices. Wholesale prices rose significantly over the fiscal year. Motor vehicle usage taxes rose by \$49.0 million, or 14.7 percent, indicating rebounding vehicle sales and reversing a three-year decline in vehicle sales tax receipts. Motor vehicle license receipts rose \$1.0 million while

Revenue Receipts

motor vehicle operators' receipts decreased 1.3 percent. Investment income declined \$1.6 million. Fund collections for FY11 were above the official consensus estimate by \$73.0 million, or 5.8 percent. Statutorily dedicated excess revenues of \$27.9 million will be distributed to local governments, resulting in net excess revenues of \$45.1 million in the Road Fund for FY11.

Among the major accounts, motor fuels and motor vehicle usage taxes were underestimated by more than 5 percent. All other accounts, taken together, were within \$2.1 million of the forecasted levels. As with the General Fund, the Road Fund ending balance for FY11 will be determined later in July. Pursuant to the enacted budget, all surplus funds in the Road Fund are appropriated to the State Construction Account.

Revenue Receipts

GENERAL FUND TOTAL RECEIPTS

Fiscal Year	Receipts	Percent Change
2010-11	\$8,759,442,646	6.5
2009-10	8,225,127,620	-2.4
2008-09	8,426,351,594	-2.7
2007-08	8,664,336,663	1.1
2006-07	8,573,819,250	2.4
2005-06	8,376,083,216	9.6
2004-05	7,645,046,634	9.6
2003-04	6,977,623,200	2.9
2002-03	6,783,458,295	3.4
2001-02	6,560,216,551	-1.4

ALCOHOLIC BEVERAGE TAXES—Distilled Spirits

Fiscal Year	Receipts	Percent Change
2010-11	\$38,885,318	1.0
2009-10	38,689,977	0.1
2008-09	38,670,484	4.2
2007-08	37,110,587	5.0
2006-07	35,332,563	6.0
2005-06	33,518,873	8.2
2004-05	27,432,580	5.4
2003-04	26,030,680	4.7
2002-03	24,854,482	5.9
2001-02	23,477,073	1.7

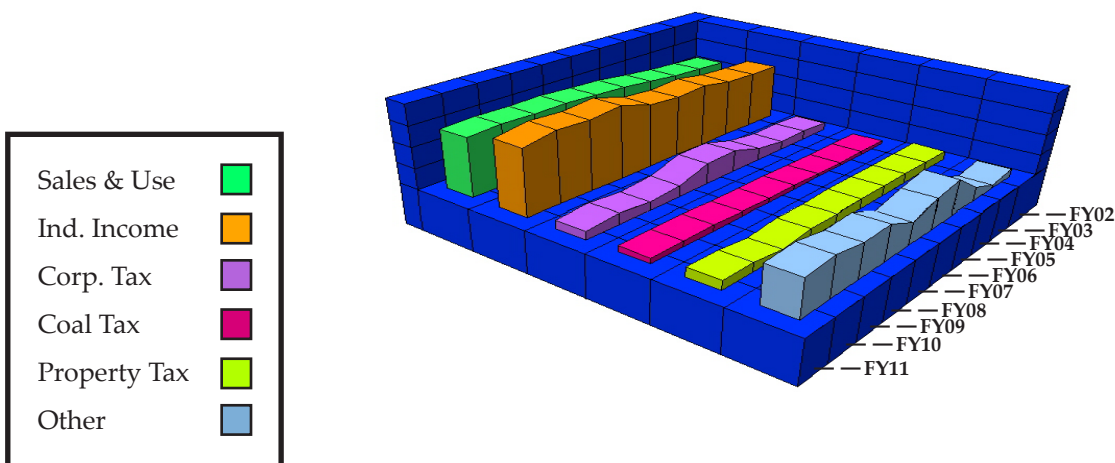
ALCOHOLIC BEVERAGE TAXES—Malt Beverage

Fiscal Year	Receipts	Percent Change
2010-11	\$58,033,262	0.5
2009-10	57,761,760	-1.0
2008-09	58,175,089	3.8
2007-08	56,066,611	5.5
2006-07	53,150,265	3.0
2005-06	51,600,592	8.6
2004-05	44,203,035	1.0
2003-04	43,760,805	3.4
2002-03	42,304,059	4.4
2001-02	40,883,326	5.2

ALCOHOLIC BEVERAGE TAXES—Wine

Fiscal Year	Receipts	Percent Change
2010-11	\$16,332,735	12.5
2009-10	14,524,249	-1.0
2008-09	14,748,769	2.9
2007-08	14,330,732	4.5
2006-07	13,718,442	10.0
2005-06	12,456,900	8.2
2004-05	10,115,015	8.6
2003-04	9,312,250	7.1
2002-03	8,698,754	6.3
2001-02	8,183,587	4.3

General Fund Receipts by Major Sources
Millions of Dollars



Revenue Receipts

CIGARETTE TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$262,220,720	-5.7
2009-10	278,159,743	48.9
2008-09	186,756,010	10.1
2007-08	169,547,927	0.5
2006-07	168,778,213	-2.0
2005-06	172,069,493 ¹	589.2
2004-05	24,966,880	45.7
2003-04	17,136,198	4.7
2002-03	16,367,947	17.4
2001-02	13,943,208	-0.5

¹ Rate increase \$0.27 surtax.

CORPORATION LICENSE TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$10,654,547	94.7
2009-10	5,470,951	-40.2
2008-09	9,154,338	224.4
2007-08	2,822,279	-75.9
2006-07	11,734,452	-73.0
2005-06	43,516,942	-67.6
2004-05	134,149,794	9.3
2003-04	124,096,012	8.1
2002-03	152,595,257	29.9
2001-02	117,500,770	-20.3

COAL SEVERANCE TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$295,836,611	8.8
2009-10	271,943,100	-7.1
2008-09	292,591,094	25.6
2007-08	232,977,827	5.0
2006-07	221,952,516	-1.1
2005-06	224,490,111	21.7
2004-05	184,436,935	25.0
2003-04	147,498,230	4.1
2002-03	141,664,981	-11.5
2001-02	160,160,116	13.1

INDIVIDUAL INCOME TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$3,417,778,504	8.3
2009-10	3,154,488,000	-4.9
2008-09	3,315,368,217	-4.8
2007-08	3,483,137,317	14.5
2006-07	3,041,535,604	4.2
2005-06	2,918,610,982	-3.9
2004-05	3,036,230,706	8.6
2003-04	2,796,331,049	1.8
2002-03	2,746,386,944	1.6
2001-02	2,702,510,022	-2.7

CORPORATION INCOME TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$300,782,364	26.4
2009-10	237,867,392	-11.2
2008-09	267,984,858	-38.4
2007-08	435,222,566	-56.0
2006-07	988,064,957	-1.4
2005-06	1,001,618,543	109.3
2004-05	478,504,505	57.8
2003-04	303,262,821	9.1
2002-03	278,035,794	34.1
2001-02	207,353,777	-28.5

LIMITED LIABILITY ENTITY TAX (LLET)

Fiscal Year	Receipts	Percent Change
2010-11	\$215,741,157	47.8
2009-10	145,948,432	20.0
2008-09	121,650,092	23.6
2007-08	98,407,313	N/A

Revenue Receipts

INHERITANCE AND ESTATE TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$41,350,929	11.2
2009-10	37,201,611	-9.8
2008-09	41,234,240	-19.2
2007-08	51,001,299	17.0
2006-07	43,578,107	-5.2
2005-06	45,990,266	-27.2
2004-05	63,174,866	-4.4
2003-04	66,083,705	-31.1
2002-03	95,864,480	15.0
2001-02	83,359,872 ¹	-0.1

¹ Phase out of estate tax begins.

OIL PRODUCTION TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$8,287,566	9.6
2009-10	7,564,121	-10.3
2008-09	8,430,228	-17.4
2007-08	10,201,113	64.6
2006-07	6,198,342	-2.9
2005-06	6,386,501	35.6
2004-05	4,710,832	39.1
2003-04	3,387,884	8.7
2002-03	3,116,954	20.3
2001-02	2,590,722	-22.9

LOTTERY RECEIPTS

Fiscal Year	Receipts	Percent Change
2010-11	\$200,500,000	0.3
2009-10	200,000,000	3.4
2008-09	193,500,000	3.2
2007-08	187,461,591	0.4
2006-07	186,625,113	-1.8
2005-06	190,000,000	17.8
2004-05	161,252,000	-7.2
2003-04	173,800,000	1.6
2002-03	171,000,000	1.2
2001-02	169,000,000	7.6

PARI-MUTUEL TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$4,607,322	----
2009-10	(82,480)	----
2008-09	4,387,515	-17.6
2007-08	5,327,540	-3.0
2006-07	5,489,552	-2.4
2005-06	5,626,849	19.5
2004-05	4,710,111	29.8
2003-04	3,629,292	-39.0
2002-03	5,953,247	14.9
2001-02	5,179,952	-16.2

MINERALS AND NATURAL GAS TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$38,195,264	1.5
2009-10	37,639,344	-31.5
2008-09	54,963,206	9.6
2007-08	50,155,157	6.3
2006-07	47,161,910	-7.0
2005-06	50,701,858	7.7
2004-05	38,801,666	7.1
2003-04	36,223,062	32.7
2002-03	27,294,398	10.7
2001-02	24,656,955	-17.9

PROPERTY TAXES—REAL ESTATE

Fiscal Year	Receipts	Percent Change
2010-11	\$247,034,036	-0.7
2009-10	248,756,857	3.2
2008-09	241,008,338	1.6
2007-08	237,153,330	3.9
2006-07	228,282,174	6.0
2005-06	215,351,439	6.5
2004-05	202,182,555	5.0
2003-04	192,534,530	3.5
2002-03	186,000,177	3.5
2001-02	179,678,050	4.8

Revenue Receipts

PROPERTY TAXES—TANGIBLE

Fiscal Year	Receipts	Percent Change
2010-11	\$186,665,683	-3.4
2009-10	193,234,982	-5.2
2008-09	203,783,916	-1.0
2007-08	205,763,426	7.0
2006-07	192,343,695	16.1
2005-06	165,622,948	3.6
2004-05	159,883,091	7.2
2003-04	149,155,206	-0.2
2002-03	149,426,286	-1.2
2001-02	151,308,795	7.7

SALES AND USE TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$2,896,251,816	3.7
2009-10	2,794,057,329	-2.2
2008-09	2,857,665,168	-0.7
2007-08	2,877,814,014	2.1
2006-07	2,817,652,253	2.5
2005-06	2,749,765,011	6.0
2004-05	2,594,966,373	6.0
2003-04	2,447,584,698	3.5
2002-03	2,364,182,478	2.8
2001-02	2,299,990,621	2.3

PROPERTY TAXES—INTANGIBLE

Fiscal Year	Receipts	Percent Change
2010-11	----	----
2009-10	----	----
2008-09	----	----
2007-08	----	----
2006-07	48,841	-99.8
2005-06	30,955,124	15.0
2004-05	26,912,813	-2.3
2003-04	27,547,183	6.4
2002-03	25,883,197	12.0
2001-02	23,113,567	2.5

BANK FRANCHISE TAX

Fiscal Year	Receipts	Percent Change
2010-11	\$88,400,971	28
2009-10	69,085,922	-5.8
2008-09	73,339,144	1.9
2007-08	71,976,055	12.6
2006-07	63,912,315	7.2
2005-06	59,603,147	-6.6
2004-05	63,837,587	15.1
2003-04	55,467,195	3.2
2002-03	53,747,906	6.3
2001-02	50,549,168	1.9

ROAD FUND TOTAL RECEIPTS

Fiscal Year	Receipts	Percent Change
2010-11	\$1,338,811,926	11.0
2009-10	1,206,622,639	1.2
2008-09	1,191,982,894	-5.6
2007-08	1,262,798,750	3.0
2006-07	1,225,943,515	5.2
2005-06	1,165,409,505	3.4
2004-05	1,126,554,402	0.9
2003-04	1,116,734,272	-0.6
2002-03	1,123,103,133	0.4
2001-02	1,119,005,317	5.2

MOTOR FUELS TAXES—Motor Fuels Normal

Fiscal Year	Receipts	Percent Change
2010-11	\$732,826,112	11.8
2009-10	616,967,780	5.3
2008-09	585,871,307 ²	2.4
2007-08	571,983,920 ^{1,2}	6.1
2006-07	539,147,756 ^{1,2}	7.3
2005-06	502,494,550 ^{1,2}	7.0
2004-05	469,621,779 ^{1,2}	6.4
2003-04	441,382,996	0.6
2002-03	438,564,438	2.0
2001-02	429,812,296	5.1

¹ Figures reflect annual rate increase capped at 10% of average wholesale prices.

² Reflects correction in reporting method.

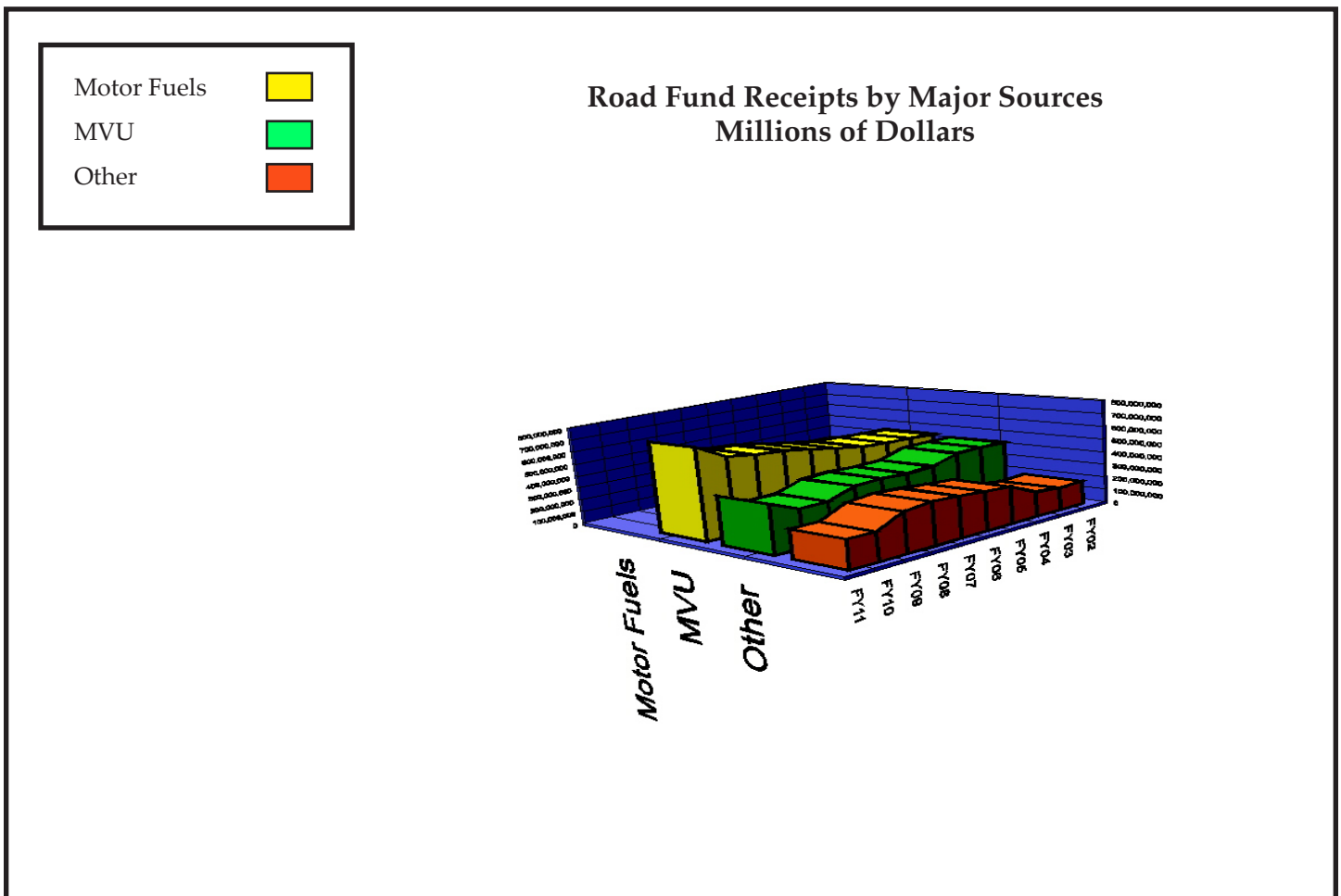
Revenue Receipts

MOTOR VEHICLE OPERATOR'S LICENSE FEE

MOTOR VEHICLE USAGE TAX

Fiscal Year	Receipts	Percent Change	Fiscal Year	Receipts	Percent Change
2010-11	\$15,736,805	-1.3	2010-11	\$381,767,869	14.7
2009-10	15,941,488	2.7	2009-10	295,190,610	-1.0
2008-09	15,521,191	1.0	2008-09	296,062,866 ¹	-18.2
2007-08	15,372,618	-2.8	2007-08	361,723,956 ¹	-2.5
2006-07	15,811,880	8.6	2006-07	370,943,429 ¹	1.9
2005-06	14,553,623	146.7	2005-06	363,976,577 ¹	-2.4
2004-05	5,899,247	4.9	2004-05	373,034,898 ¹	-4.6
2003-04	5,623,874	0.2	2003-04	390,976,367	0.5
2002-03	5,610,829	0.8	2002-03	388,959,153	2.0
2001-02	5,564,009	-0.5	2001-02	381,398,176	10.5

¹ Reflects correction in reporting method.



Accomplishments

MAJOR ACCOMPLISHMENTS IN FISCAL YEAR 2010-2011

OFFICE OF THE COMMISSIONER

From June 26 through June 29 of 2011, the Department was privileged to host approximately 300 delegates at the Galt House Hotel in Louisville for the 61st Annual Conference of the Southeastern Association of Tax Administrators (SEATA). A distinguished speaker program was presented that included several nationally recognized tax experts, including Dr. Bill Fox, Dr. Rick Pomp, Joe Huddleston of the Multistate Tax Commission and Paul Frankel. Dozens of Department employees worked very hard to make the conference a tremendous success.

The Commissioner's Office participated in the review and approval of 70 formal protest settlements that resulted in \$47,278,000 in additional revenues being collected.

The Division of Special Investigations had 29 indictments resolved by guilty plea or guilty verdict involving 149 felony charges. The Division had 24 new cases indicted during the year involving 108 felony charges and two misdemeanor charges. The Division brought in \$521,931 in restitution paid to the Department and saved another \$673,371 in fraudulent income tax refunds that were identified and halted, for a total of \$1,195,302. This amount is almost double that of the prior fiscal year. During the fiscal year the courts ordered defendants to pay \$1,155,912 in restitution to the Department over time.

The Commissioner's Office provided new employee orientation and computer security set-up for 82 new employees. The Security and Disclosure Branch completed the installation and implementation of Symantec SSIM auditing software on our federal servers and also installed WSFTP Software for mainframe encryption on the federal servers.

OFFICE OF PROCESSING AND ENFORCEMENT

Division of Collections

Delinquent debt collection for the current two fiscal years totaled \$390 million, an increase of approximately \$55 million from the previous two fiscal years.

The Federal Vendor Offset Program was implemented in January 2011. This program facilitates offsetting Federal non-tax payments to both tax and non-tax debt owed to the Commonwealth and as authorized under KRS 44.065(1), the Commonwealth offsets tax and non-tax payments to Federal debt. In the last six months of FY11, this program was responsible for 1,859 offsets, representing \$10.1 million in Kentucky delinquent debt collection.

The Division of Collections continues to collect child support for the Cabinet for Health and Family Services. Delinquent child support collections for the current two fiscal years totaled \$44.1 million, an

increase of \$10.9 million from the previous two fiscal years.

The Division of Collections also collects delinquent debt on behalf of other state government agencies, under the authority of KRS 45.237(4) and KRS 45.241(6). Collections total \$7.7 million in the current fiscal year. Since inception, the program has distributed \$9.1 million back to referring agencies. There are currently ten agencies participating in the program.

The financial institution data match process, which matches a taxpayer's financial account information for possible levy sources, was responsible for \$13.5 million in delinquent debt collection, an increase of \$2.9 million over the previous fiscal year.

Enhancements to the Delinquent Property Tax (DPT) system have been completed. These enhancements provide DOR staff the ability to add, change or delete taxing units and distribution entities, thereby eliminating the need for technical support. In addition, counties may enter delinquent property tax debt directly into the system, making those debts eligible for both state and federal offsets immediately. Court personnel may now perform real-time inquiries to obtain property tax balances due. Allen County agreed to act as the pilot county for this enhancement and in FY11 collected approximately \$141,000, which is a 53 percent increase in collections over the previous fiscal year.

Division of Operations

The following represents the number of returns, for various type taxes, electronically filed in fiscal year 2011:

- o 1,356,602 Individual Income Tax returns, representing 75 percent of the total number of current year returns filed, an increase of 12.6 percent from the previous year. In addition 145,201 2D barcode returns and 301,464 paper returns were filed.
- o 102,843 Sales and Use tax returns, an increase of approximately 20 percent from the previous fiscal year.
- o 17,686 Utility Gross Receipts License (UGRL) tax, an increase of approximately 2.0 percent over the previous fiscal year.
- o 12,563 Motor Fuels tax returns.
- o 3,521 Telecom tax returns.

There were 990,782 electronically filed returns requesting refunds. Direct deposit requests from the taxpayer totaled 676,467, which is approximately 68 percent of the total refunds requested.

The Division of Operations processed over 65,000 prior year/amended individual income tax returns during FY11.

The Division of Operations and the Commonwealth Office of Technology are working to update the electronic filing system, adapting to the changes made by the Internal Revenue Service. This new system was implemented in August 2011 and allows the DOR to incorporate other types of individual returns not in the current system, including nonresident and part-year resident returns as well as amended and prior-year returns. These changes, along with the

Accomplishments

practitioner mandate passed in this last legislative session, will result in approximately 80 percent of all individual returns being electronically filed within the next few years.

Division of Registration and Data Integrity

- o Answered 34,838 taxpayer assistance calls relating to registration inquiries and made 27,351 telephone calls requesting additional account information. This is an overall increase of approximately 6,700 telephone calls from the previous fiscal year.
- o Received 26,871 Kentucky tax registration applications and 5,000 pieces of taxpayer correspondence related to business tax registration.
- o Completed 60,838 business tax account maintenances, an increase of approximately 14,200 from the previous fiscal year.
- o Compliance review was completed for approximately 51,000 possible noncompliant businesses. Of those reviewed, 23,000 were determined to be unregistered and were contacted for registration. Approximately 6,800 of the total noncompliant possibilities did not respond and were administratively registered. Registrations from compliance efforts resulted in approximately \$93 million in business tax revenues.
- o The Data Quality Branch performed random desk audits of Federal Schedule C income tax filers, which resulted in the registration of approximately 724 previously unidentified businesses and the billing of approximately \$6.1 million in delinquent business tax accounts receivable.

Protest Resolution Branch:

- o Approximately \$88 million in accounts receivable were settled in FY11, an increase of approximately \$14 million from the previous fiscal year.
- o Various efficiency improvements have been implemented in FY11 including separating the audit review and billing functions from the protest function and implementing specific and consistent protest procedures for all taxing areas. These improvements will shorten settlement times, decrease the number of outstanding cases and collect tax dollars faster.

Office of Sales and Excise Taxes

- o The Revenue Enhancement Initiative and Tobacco Compliance employees yielded compliance activities of \$5,434,669 in the fiscal year.
- o Training Branch conducted four courses for Office and Department staff.
- o Maintained participation in the national Streamlined Sales and Use Tax Agreement (SSUTA), which continues to yield benefits. For FY11, there were over 600 registered SST filers who remitted to Kentucky. The total paid by all SST filers for the fiscal year was over \$16.1 million.

- o Received and processed 102,843 electronically filed sales and use tax returns, approximately a 20 percent increase over FY10.
- o Received and processed 15,065 electronically filed returns for utility gross receipts license (UGRL) tax.
- o Received and processed 11,627 electronically filed motor fuels tax returns.
- o Received and processed 3,521 electronically filed Telecom tax returns.

Division of Sales & Use Taxes

- o Answered 74,854 phone calls and 12,916 emails relating to sales and use tax inquiries.
- o Participated in training at the county clerks' annual conference.
- o Made 12 distributions of the telecommunications tax totaling \$36,407,986 to over 1,300 local political subdivisions.
- o Verified and transferred \$11,754,638 to the Kentucky Horse Racing Authority from the sales tax on equine breeding fees.
- o Transferred \$11,129,546 to the Road Fund from motor vehicle supplementary schedules.
- o Collected \$2,502,749 in county clerk's use tax transfers, including compliance of affidavits forwarded by the clerks.
- o Verified and issued 26 refunds totaling \$12,411,712 in response to requests relating to completed Kentucky Enterprise Initiative Act (KEIA) projects.
- o Verified and issued 11 approved tourism project refunds totaling \$5,618,247.
- o Prepared and mailed two *Kentucky Sales Tax Facts* newsletters during the year with sales and use tax returns. Information included legislative updates, updates on business-specific issues and filing tips. The newsletters are also archived on the DOR website for future reference.
- o Hosted and attended the Sales Tax Break-out Session of the annual SEATA conference held in Louisville in June 2011. Staff also prepared and made two sales and use tax presentations.

Division of Miscellaneous Tax

- o Administered the utility gross receipts license (UGRL) tax and distributed \$220,602,618 to 157 local school districts throughout the Commonwealth. This represents a 2.5 percent increase over the previous fiscal year.
- o Answered 36,539 phone calls relating to miscellaneous tax inquiries.
- o Performed 137 retail cigarette inspections for compliance with the Master Settlement Agreement.
- o Hosted and assisted with the 2010 Federation of Tax

Accomplishments

Administrators National Tobacco Tax Section Annual Conference in Louisville in September 2010. The conference was attended by 157 people from 37 states.

Office of Income Taxation

Division of Individual Income Tax

- o Responded to 2,143 Live Chat conversations and 6,439 Webmaster inquiries from individuals requesting individual income tax or withholding tax assistance.
- o Received 152,439 telephone inquiries for individual income tax and 49,343 telephone inquiries for withholding tax for a total of 201,782 telephone inquiries received by the Division of Individual Income Tax.
- o Compliance initiatives had total collections of \$51,599,933 for the Division of Individual Income Tax.

Division of Corporation Tax

- o Completed the implementation of electronic capture of all filed 2009 corporation income tax returns for the purpose of compliance and taxpayer assistance programs.
- o Completed the review of 6,583 requests for letters of good standing submitted by entities needing reinstatement with the Secretary of State.
- o The Division of Corporation Tax received 31,570 telephone inquiries.
- o Due to technological advances in electronic processing and data capture of corporate return information, the Division of Corporation Taxation billed \$ 61.6 million in compliance initiatives.

Communications and Training Branch

- o Conducted 34 training classes for DOR employees and 21 external training classes for Kentucky tax practitioners, CPAs, attorneys, insurance adjusters, realtors and other interested parties.
- o Continued the partnership with the University of Kentucky and the IRS; and the University of Louisville's Louis A. Grief Tax Institute in presenting up-to-date income tax information for Kentucky tax practitioners, CPAs, attorneys, insurance adjusters, realtors and other interested parties.

Office of Property Valuation

Local Valuation Branch

- o As part of its statutory obligation to provide assistance to property valuation administrators (PVAs), the Department of Revenue increased Internet speeds in over 30 PVA offices to a minimum of 384 Kbps. The Department also sponsored and/or taught 31 classes in FY11, open to PVA offices and DOR employees, covering numerous assessment practices and procedures as well as current mapping technology.

State Valuation Branch

- o Locally assessed tangible personal property assessments for calendar year 2010 totaled \$58.011 billion. These assessments yielded an estimated \$86.3 million in state taxes.
- o Omitted personal property tax assessments for FY11 totaled \$6.7 billion and approximately \$25.6 million in state and local property taxes were collected on these omitted assessments.
- o State and local motor vehicle property tax collections for FY11 were approximately \$106 million and 198 million, respectively.
- o Public Service company assessments for 2010 were set at \$28.1 billion and were expected to yield approximately \$64.9 million in state tax revenues and approximately \$ 130 million in local tax revenues.
- o In FY2011, the Freddie Freeroader Program, targeting Kentucky residents with out-of-state license plates, brought in state and local property taxes totaling \$ 378,000 and proper registration of hundreds of vehicles.
- o Combined state and local motor vehicle property tax collections for FY11 were \$110.5 million and 206.6 million, respectively.
- o Public Service company assessments for 2010 were set at \$28.1 billion and yielded approximately \$64.9 million in state tax revenues.
- o Freddie Freeroader Program
On Jan. 1, 2010 the Motor Vehicle Tax Section (MOTAX) had an offer from the University of Kentucky Transportation Center (UKTC) to participate in a grant concerning the Freeroader Program. This program has been active since 1997; however it had not been given full attention or updates since. In the grant, MOTAX received new updated materials, including posters, tri-fold brochures and small flyers issued for three Northern Kentucky counties (Kenton, Boone and Campbell). The section delivered these materials to the County Clerk and PVA offices the middle of January to be distributed to the taxpayers. As of July 1, 2010, MOTAX had received approximately 1,500 inquiries versus approximately 300 inquiries in 2009. The inquiries generated assessments of \$697,211, (State revenues of \$41, 836) from these counties. MOTAX has also worked with KYTC and recorded a public service announcement using a state trooper, county police officer and sheriff to promote the Freddie Freeroader program. One of the most important aspects of this project is that the MOTAX Section has gained contacts and resources with Northern Kentucky police officers and all are working together to enforce proper registration of Kentucky vehicles with out of state plates that were given citations. MOTAX has proved to UK that the revitalization of this program can generate a great deal of revenue.

Accomplishments

Minerals Taxation and GIS Services Section

Cartography/GIS Section

The Cartography Section helps counties that do not have GIS software update their parcel file with new changes counties have made on their paper maps, print new maps for the office and store their digital parcel files on our server for future use. This section also prints PVA maps for sale from scans, prints PVA maps from digital parcel files and prints large posters for all of the Department of Revenue as needed.

MAP SALES: Sale of PVA maps to the public and governmental agencies

Generates approximately \$5,000 to \$12,000 annually

80 percent of money received returns to county PVA

Assist PVA offices with data sales when needed—All monies go to PVA office

Total maps sale receipts for tax year 2010 = \$7,257

The Cartography/GIS Section personnel continued their training efforts with PVA offices in four mapping classes and one administrative class: ArcGIS 10, Ky 60 Mapping (15 hrs), IAAO 600 Mapping (30hrs), IAAO 400 Assessment Administration (30 hrs) and IAAO 601 Advanced Mapping (30 hrs).

Minerals Severance Section

Severance tax receipts for FY7/10 - 6/11 totaled \$343,154,566. One half of these receipts are distributed back to counties with mining activity.

Coal:	295,933,529
Gas:	25,880,792
Oil:	7,997,435
Minerals:	13,342,810

The Coal Severance Tax system went live August 21, 2009.

The Coal Severance Tax Section was able to see the ETM Web Self Service portal go live within the Comprehensive Tax System project. This portal allows coal severance taxpayers to file their monthly returns and make payments over the Internet. Taxpayers were able to start using the online filing/payment portal as of September 2010. There are several companies using it, and more improvements are being made to the system to expand its use to more taxpayers.

Minerals Resource Valuation Branch

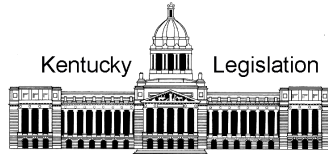
Total unmined minerals 2011 tax receipts (2010 tax year):

Total:	\$34,757,737
Gas:	12,258,932
Oil:	2,367,659
Limestone:	477,470
Clay:	4,371
Coal:	19,649,305

Office of Field Operations

- o During FY11, the Central Taxpayer Service Center was on site every day of the historic World Equestrian Games. The approximately \$1.1 million in sales tax collected were the direct results of sales at or in the vicinity of the games.
- o During FY11, in-state audits were performed with net assessments of \$44,564,241 and out-of-state audits were performed with net assessments of \$41,833,537.
- o During FY11, Compliance Officers assisted approximately 150,000 taxpayers through walk-in services and telephone calls alone. Collections totaled over \$22 million through various tax compliance.
- o Also, during this fiscal year, Field Operations is currently establishing resources to implement the capability to review and bill all field audits. This capability will establish a standard procedure consistent throughout the Department of Revenue.

2011 General Assembly



A Review of Tax Law Changes Enacted by the 2011 General Assembly

2011 Legislation Affecting Kentucky Department of Revenue



NOTE: This 2011 legislative summary presents only general information concerning tax provisions enacted by the General Assembly during the 2011 Regular Session and does not represent a complete analysis of the law changes. The 2011 Regular Session did not result in any major tax law changes, but some changes were made and will be effective during 2011. Full text of the enacted bills is available on the legislative home page at www.lrc.ky.gov

SALES TAX

Streamlined Sales Tax Conformity

HB 429 adopts conforming language to the most recent amendments of the national Streamlined Sales and Use Tax Agreement (SSUTA). This legislation does not change the taxability of any products or services, but provides greater clarity and additional administrative ease for both in-state and out-of-state sellers alike. These changes also ensure that Kentucky continues to receive voluntary payments from Streamlined Sales Tax filers making sales to Kentucky customers and position the state to benefit from efficiencies in collections that will result from enactment of the Main Street Fairness Act in Congress.

The changes listed in summary below are effective July 1, 2011.

- Updates direct mail definitions and sourcing provisions (KRS 139.010 and 139.777).
- Clarifies general sourcing rules for digital property and florist sales (KRS 139.105).
- Extends seller burden of proof relief to transactions with no documentation of exemption if sellers provide fully completed exemption certificates within 120 days of the department's request. This burden of proof relief for untaxed sales with no previous exemption documentation applies only if the exemption claimed 1) was in effect the date the transaction occurred; 2) could be applicable to the item purchased; and 3) is reasonable for the purchaser's type of business (KRS 139.270).
- Provides limited seller protection from underpayment of tax due to a tax rate change with less than a 30-day public notice (KRS 139.795).

ONE-STOP BUSINESS PORTAL

Advisory Committee Established

SB 8 established an Advisory Committee to provide recommendations by Dec. 31, 2011 for the creation and operation of a one-stop electronic business portal. The Cabinet for Economic Development, Finance and Administration Cabinet, and the Commonwealth Office of Technology will be the state agencies responsible for establishing the portal. The vision for the portal is to create the ability for individuals and businesses to do business with the Commonwealth through one electronic portal, including registering a new business, registering for tax identification numbers and applying for state-administered licenses. The one-stop business portal concept has the potential to greatly assist the general public and businesses in particular. Further legislative action will be needed to fund implementation of the Advisory Committee's recommendations.

INCOME TAX

New Law Passed on Adult Children Health Insurance Premiums

The Kentucky General Assembly passed HB 255 in the 2011 Regular Session and Gov. Beshear signed this bill into law on Mar. 16, 2011. This means that Kentucky has expanded the health insurance deduction to include any person authorized to be provided excludable coverage pursuant to the federal Patient Protection and Affordable Care Act of 2010, P.L. 111-148, or the Health Care and Education Reconciliation Act of 2010 P.L. 111-152 for tax years beginning on or after Jan. 1, 2011.

Several questions were received by the DOR concerning whether Kentucky adopted the federal income tax treatment of the extended health care insurance coverage for adult children under age 27. Due

2011 General Assembly

to HB 255 becoming law, employees with adult children who now qualify for health insurance under the new federal law will receive the same income tax treatment for Kentucky tax purposes.

If you have any questions regarding the Kentucky income tax treatment, please feel free to contact the Withholding Tax Branch at (502) 564-7287.

PROPERTY TAX

Changes to the Homestead Exemption for Disabled Veterans

HB 244 provided service-connected totally disabled veterans or totally and permanently disabled individuals, who apply for the homestead exemption under a disability provision, will no longer be required to file annual applications. Proper documentation of the total disability needs to be filed with the local property valuation administrator (PVA) only at the time of the initial application. After that, the property owner will be responsible for reporting any change in disability status to the local PVA. This change is effective Jan. 1, 2012.

MOTOR VEHICLE USAGE TAX

Exemption Created for Vehicle Transfers Involving Certain Trusts



HB 245 extended the family exemptions currently available for the Motor Vehicle Usage Tax to trusts established by individuals. This change is effective Aug. 1, 2011.

TAX INCREMENT FINANCING

Tax Increment Financing Program Expanded

HB 310 expanded the application of the tax increment financing provisions to mixed-use development projects located in a research park owned by a public university and to projects that are within three miles of a military base. Some of the provisions of this legislation are retroactive. Anyone with questions regarding the eligibility requirements for this expanded incentive program may review the information provided by the Cabinet for Economic Development at: <http://www.thinkkentucky.com/KYEDC/kybizincc.aspx>.

INSURANCE TAXES

Provisions of the Surplus Lines Insurance Multi-State Compliance Compact Adopted

HB 167 changes how the DOR applies the insurance premium surcharge to multi-state surplus lines insurance. The bill addresses federal mandates from the Non-Admitted and Reinsurance Reform Act of 2010. It creates a national compact for the central collection

of multi-state premium taxes by a national clearinghouse with distribution to the Department of Insurance (DOI) and further allocation down to the DOR and local municipalities. No immediate impact is anticipated for the current tax rate of \$1.80 per \$100 of premiums since changes in tax application with the clearinghouse do not begin until Jan. 1 or July 1 following the first anniversary of the Commission effective date. The Commission only becomes effective when there are 10 Compacting and Contracting States representing 40 percent of the Surplus Lines Insurance premium volume. The DOI is taking the lead for Kentucky's participation and implementation of this provision.



Legal Issues

Office of Legal Services for Revenue

The Office of Legal Services for Revenue (“OLS”) represents the DOR in judicial actions and in administrative proceedings before such tribunals as the Kentucky Board of Tax Appeals (KBTA) and Board of Claims. Its representation of the DOR extends to all levels of the state and federal court systems.

The OLS performs a wide range of other services and functions, which include: rendering oral and written legal advice and opinions to DOR personnel and other government personnel and officials; reviewing and drafting proposed statutes and regulations; interpreting and analyzing the Commonwealth’s tax laws and assisting with their implementation and administration; assisting with the preparation of DOR informational publications; providing advice and assistance on open records and disclosure matters; and providing advice and assistance in connection with audits, protest conferences, and other stages of the enforcement and administration of the tax laws. The OLS is not responsible for personnel, bankruptcy, collection and criminal matters, which are handled elsewhere in the DOR or the Finance and Administration Cabinet.

During this past year, the OLS has continued to handle a substantial caseload presenting a variety of legal issues affecting the DOR and requiring work at all levels of the court system and administrative appeals process. The cases that the OLS handles frequently have a substantial fiscal impact or significant precedential value.

Office of Legal Services for Revenue **Legal Developments and Court Decisions**

The OLS represents the DOR in all cases and appeals other than personnel, bankruptcy, collection, and criminal cases. In fulfilling this role, the Division’s attorneys appear on behalf of the DOR before the Kentucky Board of Tax Appeals (KBTA) and Board of Claims and at all levels of the state and federal court systems. This representation of the DOR embraces the handling of all phases of the litigation process, including discovery, trials, oral argument, motion practice, briefing, hearings, and appeals.

During this past year, the OLS again handled a number of cases having a significant fiscal impact or precedential value. These cases presented a wide range of issues and involved a number of the taxes administered by the DOR. The OLS continues to experience an increase in both the complexity of the issues and amounts of money at stake in the cases it handles.

The cases handled by the OLS address issues, or have resulted in precedents, of significant importance and interest to taxpayers and the Commonwealth. A number of these cases are discussed below.

Revenue Cabinet v. Asworth Corporation, 2007-CA-002549 and 2008-CA-00023-MR (Ky. App. November 20, 2009), disc. rev.den, 2009-SC-00816 (Ky. Sup. Ct. August 18, 2010), cert den., No. 10-662 (U.S. Sup. Ct. January 24, 2011), reh. den., (May 21, 2011).

This case involved corporation income tax statutory provisions in effect prior to the “tax modernization” legislation enacted in 2005. The corporations in question (collectively referred to herein as “Asworth”) had no property or payroll in Kentucky during the years in question but owned interests in partnerships that did do business in Kentucky during those years.

At issue was whether Asworth’s distributive shares of the income from these partnerships were subject to Kentucky income tax under KRS 141.206 and if so, whether this taxation violated various provisions of the United States Constitution. On Nov. 20, 2009, the Kentucky Court of Appeals ruled in the Department’s favor. The Court rejected Asworth’s argument that the imposition of Kentucky’s income tax ran afoul of the United States Constitution’s Due Process and Commerce Clause because Asworth itself did not have a physical presence in Kentucky or a sufficient nexus or connection with this state. It further rejected Asworth’s claim that KRS 141.206 was void for vagueness. The Court also held that the apportionment of the income was governed by KRS 141.206 and not KRS 141.120, as Asworth had contended, and that the application of this formula to Asworth was constitutional. Finally, the Court ruled that House Bill 704 (2008) and House Bill 216 (2009)(which delayed the accrual of interest on tax refunds) and set the rate of interest on those refunds at “prime minus 2 percent”, were constitutional and did not violate the Due Process, Equal Protection, and Takings Clauses of the United States Constitution and §§ 51 and 59 of the Kentucky Constitution.

The Kentucky Supreme Court denied Asworth’s motion for discretionary review of the Court of Appeals’ decision on Aug. 18, 2010. Asworth subsequently filed a petition for a writ of certiorari with the United States Supreme Court. This petition was denied by the Supreme Court on Jan. 24, 2011. Asworth filed a petition for rehearing seeking reconsideration of this denial, which the Supreme Court denied on March 21, 2011.

Connie Hancock, Floyd County Property Valuation Administrator v. Prestonsburg Industrial Corp., 2010-SC-00 376 (Ky. Sup. Ct.)

At issue in this ad valorem or property tax case is whether Prestonsburg Industrial Corporation (“PIC”), a nonprofit corporation that acquires, develops and markets properties primarily to commercial and industrial enterprises, sometimes pursuant to contracts with local governments, is exempt from taxation on the basis that it is an institution of purely public charity. On May 7, 2010, the Court of Appeals ruled that PIC was such an institution; that court rejected PIC’s claim that its property constituted public property used for public purposes, which is also exempt from ad valorem taxation

Legal Issues

under Section 170 of the Kentucky Constitution. This exemption did not apply, the Court of Appeals held, because the property was not owned by the public, but by a private corporation.

On March 16, 2011, the Kentucky Supreme Court granted the motion filed by the DOR and the Floyd County Property Valuation Administrator for discretionary review of the Court of Appeals' holding that PIC was an institution of purely public charity. PIC did not file a motion for discretionary review of the Court of Appeals' ruling that PIC's property was public property used for public purposes. Briefs have been filed and oral argument before the Supreme Court is scheduled for Oct. 20, 2011.

Department of Revenue v. Cox Interior, Inc., 2010-SC-00794 (Ky. Sup. Ct.).

In this case, Cox Interior, Inc. was issued tangible personal property ad valorem tax assessments following an audit. Cox did not protest these assessments in accordance with KRS 131.110 and instead paid them. It later filed a refund claim seeking the recovery of a portion of the assessments it had previously paid and not protested. The DOR denied this refund claim based upon the language of KRS 134.590 that states that a taxpayer must have followed available administrative remedy procedures, including the protest provisions of KRS 131.110, before it can obtain a property or ad valorem tax refund.

The Kentucky Court of Appeals on Nov. 5, 2010 held that the Cox could seek a refund notwithstanding its failure to protest its assessment. The DOR's motion for discretionary review is currently pending before the Kentucky Supreme Court.

Computer Services, Inc. v. Department of Revenue, 2009-CA-002012, 2011 WL 43296 (Ky. Ct. App. 2011)

At issue in this case was a sales and use tax refund claim in the amount of \$219,823.02 relating purchases of prewritten computer software purchased in 2002. The taxpayer, Computer Services, Inc. ("CSP"), contended that these transactions were not purchases of tangible personal property subject to sales and use tax. CSI argued that the software was instead intangible property whose acquisition was nontaxable.

Both the KBTA and the Franklin Circuit Court rejected CSI's claim. In an opinion rendered on Jan. 7, 2011, the Kentucky Court of Appeals agreed. The software in question was delivered on a physical, tangible medium, such as a disk or hard drive. Moreover, CSI was not purchasing some intangible right separate from the right to use or possess this software. The statutory definition in effect at the time of the purchase in question was broad enough to encompass the transactions in question and CSI failed to establish the contrary, as it was bound to do by KRS 139.260. The Department's interpretation finding these transactions to be purchases of tangible personal property was entitled to deference and well within the legislative authority bestowed upon it. The Court of Appeals noted

that KRS 139.160 had been amended in 2004 to address specifically the taxation of computer software; however, the court found that this legislation did not mean that computer software was not taxable before that legislation's effective date, but instead clarified that all pre-written computer software was taxable regardless of the method of delivery, whether in tangible form or downloaded directly from the Internet.

CSI did not seek discretionary review of the Court of Appeals' opinion.

Department of Revenue v. AT&T Corporation and Subsidiaries, 2008-CA-001888 (Ky. Ct. App.).

At issue in this corporation income tax case is the application and validity of KRS 141.200(1) to (7), which permit corporations making up an affiliated group as defined in Section 1504(a) of the IRC to elect to file a consolidated tax return, computing their income tax liability in accordance with that return, instead of filing separate returns. This election once made was binding on both the corporate taxpayers in question and the DOR for the ensuing 96 months.

AT&T Corporation took advantage of these statutory provisions, electing to file a consolidated return with those subsidiaries with which it formed such an affiliated group. It later filed refund claims totaling in excess of \$6.5 million based upon its contention that only corporations having a nexus with, or property or payroll in, Kentucky could be part of the affiliated group. AT&T also argued that the inclusion in the affiliated group of subsidiaries lacking such a nexus would violate the Commerce and Due Process Clauses of the United States Constitution.

The KBTA ruled in the DOR's favor. The Jefferson Circuit Court reversed the KBTA's decision, holding that the subsidiaries in question should be removed from the affiliated group based upon its interpretation of the effect of KRS 141.040(1)(i), which during the period in question exempted from the corporation income tax "[c]orporations having no individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, and whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced."

The DOR appealed the circuit court's decision to the Kentucky Court of Appeals. Briefs have been filed in this appeal and oral argument was held on Aug. 5, 2009.

Department of Revenue v. Lexington-Fayette Urban County Government, 2010 SC-00732 (Ky. Sup. Ct.)

In 2005, the General Assembly enacted "tax modernization" legislation that included the imposition of new gross revenues and

Legal Issues

excise taxes on multichannel video programming and communications services. These taxes' purpose was to replace revenue from franchise fees and taxes formerly imposed or received by political subdivisions, school districts and special districts, including ad valorem taxes on the franchise portion of public service corporations' operating property assessed by the DOR pursuant to KRS 136.115 to 136.180. Under this new scheme, receipts from the new taxes were placed in a fund called the gross revenues and excise tax fund from which distributions were to be made by the DOR in accordance with a procedure set forth in KRS 136.650.

Under this procedure, each affected political subdivision and local government would first certify pursuant to KRS 136.650(1) the amounts of franchise fees and taxes it received or collected between or during July 1, 2004 and June 30, 2005. In accordance with KRS 132.650(2), the political subdivision, school district or special district would then be assigned a "local historical percentage" based upon the amount of its collections of franchise fees and taxes certified under KRS 136.650(1) as a ratio of the total certified amount of such collections of all parties participating in the fund. This "local historical percentage" was multiplied by the "monthly hold-harmless amount," which was fixed by KRS 136.650(2)(c) at \$3,034,000, to arrive at each political subdivision's, school district's and special's district's distribution from this fund.

The Lexington-Fayette Urban County Government ("LFUCG") was not satisfied with its distribution from the fund and requested pursuant to KRS 136.650(3) that this distribution be re-determined by the DOR. This provision permits such a re-determination where "during the period between June 30, 2005 and Dec. 31, 2005 [a] political subdivision had a substantial change in its base revenue by enacting or modifying the rate of a local franchise fee prior to June 30, 2005." LFUCG claimed that this "substantial change" occurred when it increased from 3 percent to 5 percent the franchise fee it exacted from cable television providers. This contention was based upon LFUCG's interpretation of "base revenue" in KRS 136.650(3) as referring only to revenue from franchise fees and not revenue from both those fees and the public service corporation ad valorem taxes on the franchises of public service corporations formerly levied upon providers of multi-channel video programming and communications services, or any other revenue. The DOR's position was that "base revenue" referred to revenue from all sources, both the franchise fees and ad valorem taxes.

On Oct. 8, 2010, the Kentucky Court of Appeals ruled in favor of LFUCG. It held that "base revenue" in KRS 136.650(3) "is revenue resulting from the franchise fee, and from no other source[.]" rather than its total tax base. The court held that this was "the only reasonable interpretation of the term in question" and represented the statutory provision's plain and unambiguous meaning. Under this reading of KRS 136.650(3), there had been a substantial change in the base revenue, thereby entitling LFUCG to relief and thus a larger share of the "monthly hold harmless amount."

The DOR has filed a motion for discretionary review of the Court of Appeals' opinion with the Kentucky Supreme Court.

Department of Revenue v. Wyrick, 323 S.W.3d 710 (Ky. 2010)

In this case, an attorney representing a taxpayer in an appeal before the KBTA submitted open records requests for documents that she had been unable to obtain through discovery in that appeal. The DOR denied these requests, asserting pursuant to KRS 61.878(1) that they sought documents pertaining to civil litigation beyond that allowed under the rules governing pre-trial discovery in litigation between the same parties.

In an opinion rendered on Oct. 21, 2010, the Kentucky Supreme Court held that this civil litigation limitation did not create or constitute an exception to a state government agency's duty to disclose or provide access to public records or documents that are not exempt under the Kentucky Open Records Act. Instead, it serves as an explanation of a court's authority to order inspection of documents or records that are covered by the exemptions from disclosure under the Act set forth in KRS 61.878(1)(a)-(n).

DOR Administration

DOR Offices, Divisions and Their Duties

Office of the Commissioner

The Office of the Commissioner is responsible for the overall management of the Department of Revenue including administering the Taxpayer Bill of Rights, the Department's budget and legislative initiatives. The Office of the Commissioner consists of a Commissioner, Deputy Commissioner and support staff. This Office also has a **Division of Special Investigations** that is responsible for investigating alleged violations of the tax laws and recommending criminal prosecution of the laws as warranted. The Office of the Commissioner also has a **Security and Disclosure Branch** responsible for oversight of the Department's physical security, data security, and exchange of information agreements.

Office of Processing & Enforcement

The Office of Processing and Enforcement is responsible for promoting the enterprise services available to the Commonwealth related to document processing, depositing of funds and collecting debt. Additionally, the office is responsible for coordinating, planning and implementing a data integrity strategy. The office consists of the following three divisions:

The **Division of Operations** is responsible for opening all incoming tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts and maintaining the tax data. Additionally, the division assists other agencies with similar operational aspects as negotiated with that agency.

The **Division of Collections** is responsible for enforced collection activities related to tax and other debts owed to the Commonwealth. The division collects delinquent child support referred by the Cabinet for Families and Children. The division also contains the Protest Resolution Branch that is responsible for arbitrating protested cases where the taxpayer has protested an action of the department, including assessments, refund denials and exemption denials.

The **Division of Registration and Data Integrity** is responsible for registering taxpayers and ensuring that the data entered into the tax systems is accurate and complete. The Registration Branch processes all business tax applications and assists registrants as needed. This branch also ensures that all taxpayers, who may have overlooked their tax registration obligations, are contacted and brought into compliance. The Data Quality / Program Improvement and Analysis Branch is responsible for maintaining data integrity for DOR processes and prepares requested reports and statistics for both DOR personnel, cabinet personnel and any legislative inquiries. Both branches assist the taxing areas in proper procedures to make sure that data remains accurate over time.

The Office of Property Valuation

The Office of Property Valuation supervises and assists Kentucky's 120 Property Valuation Administrators in the valuation of real and personal property throughout the Commonwealth, values the property of public service companies, values unmined coal and other mineral resources, values motor vehicles and supervises the collection of delinquent taxes. It consists of four branches:

1. **Local Valuation Branch**, which oversees the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office.
2. **State Valuation Branch**, which administers all state-assessed taxes, including public service property tax, motor vehicle property tax and the tangible and intangible tax program;
3. **Minerals Taxation and GIS Services Branch**, which is responsible for administering the taxes related to severance tax and the unmined minerals property tax. It also coordinates the DOR's GIS mapping efforts. It contains three sections: Mineral Resource Valuation; Minerals Severance Tax; and Cartography/GIS; and
4. **PVA Administrative Support Branch**, which oversees budget, fiscal, personnel, payroll, and KHRIS timekeeping administration for PVAs in all 120 counties and more than 600 deputies throughout the Commonwealth. It also coordinates open enrollments for Health and Life insurance plans. The branch teaches property tax educational courses and conducts workshops and roundtable discussions during summer and fall assessment conferences. It provides and receives administered services to and from the Division of Local Government Services, Governor's Office of Local Development and the Auditor's of Public Accounts.

Office of Sales and Excise Taxes

The Office of Sales and Excise Taxes is responsible for administering all matters related to sales and use tax and the miscellaneous excise taxes. This includes technical tax research, compliance, taxpayer assistance, tax specific training, public announcements, publications, forms and any other matter related to those taxes. It includes the Division of Sales and Use Tax, Division of Miscellaneous Taxes and the office of the executive director.

- The **Division of Sales and Use Tax** is responsible for administering the sales and use tax and telecommunications excise and gross revenue taxes. It has two branches: Program Compliance and Taxpayer Assistance. The branches are

DOR Administration

responsible for conducting office audits, administering various exemption and refund incentive programs, initiating compliance activities, assisting taxpayers, verifying and preparing refunds and discovery of nonfiler populations.

- The **Division of Miscellaneous Taxes** is responsible for administering the following taxes: affordable housing trust fund fee; alcoholic beverage taxes; cigarette enforcement fee; cigarette papers tax, license, excise tax and surtax; other tobacco products and snuff taxes; gasoline tax; liquefied petroleum gas; special fuels taxes; petroleum storage tank environmental assurance fee; health care provider tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; bank franchise tax; legal process; marijuana and controlled substance; motor vehicle tire fee; motor vehicle usage taxes; loaner–rental program; PSC annual assessment; pari–mutuel excise, racing license and admissions taxes; RECC and RTCC; transient room tax; and utility gross receipts license tax. It consists of two branches: Road Fund Branch and Miscellaneous Tax Branch.

Office of Income Taxation

The Office of Income Taxation was established pursuant to KRS 131.020(1)(f). The Office is responsible for administering all matters related to the individual income, withholding, corporation income, corporation license and limited liability entity taxes. Those responsibilities include but are not limited to: technical tax research, compliance, taxpayer assistance, tax specific training, public announcements, publications, creating and updating forms, analyzing legislation and drafting legislation and regulations. The Office is comprised of the Division of Individual Income Tax, the Division of Corporation Tax and the office of the executive director.

- The **Division of Individual Income Tax** is comprised of the individual income tax branch, withholding tax branch, and the director’s office. The division has the primary responsibility of providing taxpayer assistance for individual income and individual income withholding taxes, including handling taxpayer inquiries received over the phone, by written correspondence, via e–mail and via live chat. The Division is also responsible for compliance programs for individual income and individual withholding taxes and

assisting the Office of Processing and Enforcement in the processing of returns.

- The **Division of Corporation Tax** is responsible for the administration of corporation income and license taxes, limited liability entity tax, pass-through entity withholding, economic development income tax credits and other types of income tax incentives. The Division is divided into two branches: the Corporate Income and License Tax Branch and the Pass-through Entity Branch. The two branches perform the same basic functions for taxpayer assistance and compliance but for different types of corporation and pass-through entity tax returns.

Office of Field Operations .

“Service is our Role, Compliance is our Goal”

The mission of the Office of Field Operations is to support the Department of Revenue (DOR) in administering tax laws, collecting revenue and providing services in a fair, courteous and efficient manner for the benefit of the Commonwealth and its citizens.

The Office of Field Operations consists of approximately 200 employees located at ten Taxpayer Service Centers across the Commonwealth. These service centers are a link between taxpayers and the DOR employees located in Frankfort. Multiple issues involving various taxes can be resolved in these service centers. In essence, these service centers are mini-DORs that provide one-stop tax resolutions for taxpayers.

The Field Compliance duties are aimed at assistance and taxpayer education. Services include: filing individual income tax returns for taxpayers; contacting new sales tax permit holders to improve education in sales and use tax law and filing procedures; and issuing temporary permits for transient vendors selling in the Commonwealth of Kentucky.

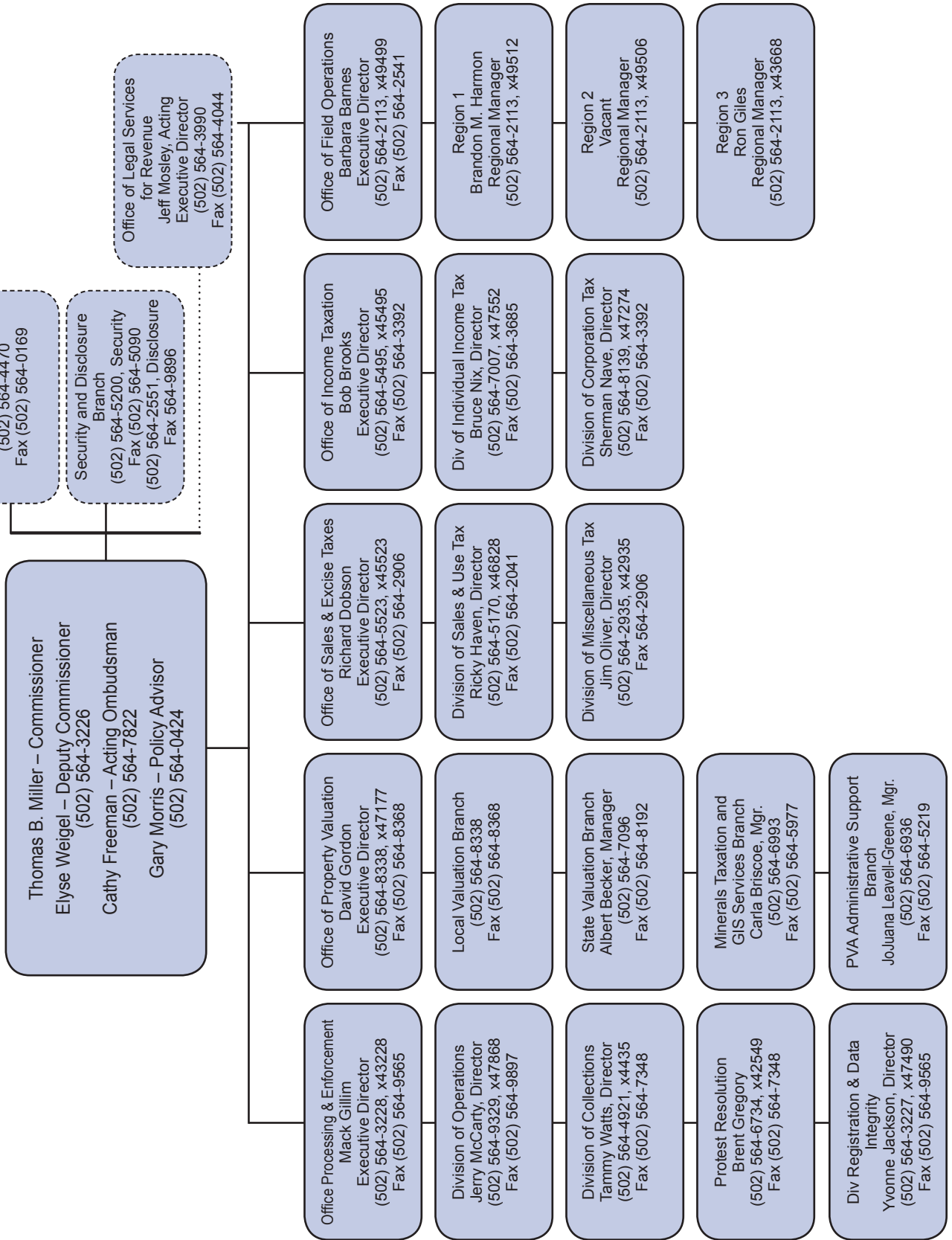
The Audit Program is an essential part of the DOR’s compliance efforts. This program ensures fair and equitable tax treatment to all businesses operating in the Commonwealth. Audits are performed in the areas of sales and use tax, corporation income and license tax and property tax, to name a few. Audits are conducted in all 120 counties of Kentucky and across the United States from California to Rhode Island as appropriate.

DOR Administration

Department of Revenue						
Expenditures for FY2011 - All Funds						
(Excluding PVAs)						
Expenditure Category	General Fund	Road Fund	Agency Fund	Federal Fund	Tobacco Settlement Fund	Total
Regular Salaries & Wages	31,698,307.12	1,644,353.19	2,778,149.03			36,120,809.34
Other Salaries & Wages	403,231.35	9.37	49.76			403,290.48
Employer FICA	2,315,055.95	69,291.58	193,009.85			2,577,357.38
Employer Retirement	5,455,559.80	151,562.28	469,822.06			6,076,944.14
Health Insurance	5,917,134.59	171,791.26	543,139.10			6,632,064.95
Life Insurance	12,406.96	375.04	1,144.34			13,926.34
<i>Subtotal Salaries & Fringe</i>	<i>45,801,695.77</i>	<i>2,037,382.72</i>	<i>3,985,314.14</i>	-	-	<i>51,824,392.63</i>
Worker's Compensation	170,229.35					170,229.35
Other Personnel Costs	3,746,073.97	32,325.48	327,876.75			4,106,276.20
Other Professional Services Contracts	232,731.34	-	1,345.62			234,076.96
Transfer to General Fund			91,700.00			91,700.00
Total Personnel Costs	49,950,730.43	2,069,708.20	4,406,236.51	-	-	56,426,675.14
Utilities & Heating Fuels	942,100.47		5,296.13			947,396.60
Facilities and Support Services Charges	2,193,259.38					2,193,259.38
Other Rentals	836,274.01	16,977.92	65,070.95			918,322.88
Maintenance and Repairs	2,070,769.62		86,243.19			2,157,012.81
Postage & Related Services	3,255,559.89		42,624.19			3,298,184.08
Miscellaneous Services	1,402,264.95		136,724.03		246,616.59	1,785,605.57
Telecommunications	93,475.09	4,316.29	36,390.18			134,181.56
Computer Services	11,916,059.43	226,927.64	213,242.58			12,356,229.65
Supplies	168,896.51		34,523.74			203,420.25
Commodities	1,215,481.25		425,668.20			1,641,149.45
Travel	391,244.59	7,069.95	74,779.28	4,398.00		477,491.82
Total Operating Expenses	24,485,385.19	255,291.80	1,120,562.47	4,398.00	246,616.59	26,112,254.05
Server Hardware			7,684.60			7,684.60
Total Capital Outlay	-	-	7,684.60	-	-	7,684.60
Total Expenditures	74,436,115.62	2,325,000.00	5,534,483.58	4,398.00	246,616.59	82,546,613.79



FINANCE & ADMINISTRATION CABINET KENTUCKY DEPARTMENT OF REVENUE Organization Chart



Taxes Administered

Affordable Housing Trust Fund Fee (KRS 64.012) (Effective Aug. 1, 2006)—Collected by agreement between DOR and the Kentucky Housing Corporation, \$6 of each \$12 fee imposed on the recording with the county clerk of a 1) Deed of trust or assignment for the benefit of creditors; 2) Deed; 3) Real estate mortgage; 4) Deed of assignment; 5) Real estate option; 6) Power of attorney; 7) Revocation of power of attorney; 8) Lease which is recordable by law; 9) Deed of release of a mortgage or lien under KRS 382.360; 10) United States lien; 11) Release of a United States lien; 12) Release of any recorded encumbrance other than state liens; 13) Lis pendens notice concerning proceedings in bankruptcy; 14) Lis pendens notice; 15) Mechanic's and artisan's lien under KRS Changer 376; 16) Assumed name; 17) Notice of lien issued by the IRS; 18) Notice of lien discharge issued by the IRS; 19) Original, assignment, amendment, or continuation financing statement; 20) Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident; 21) Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city; 22) Recording with statutory authority for which no specific fee is set, except a military discharge; and 23) Filing with statutory authority for which no specific fee is set shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk.

Agricultural Products

- In Hands of Producer or Agent (**KRS 132.020(1)(e), 132.200(6)**)—1.5 cents (per \$100 of assessment). State rate only.
- Tobacco Not at Manufacturer's Plant (Storage)—(**KRS 132.020(1)(d), 132.200(6)**)—1.5 cents (per \$100 of assessment). Also subject to county and city rates.
- Other Agricultural Products Not at Manufacturer's Plant (Storage) (**KRS 132.020(1)(e), 132.200(6)**)—1.5 cents (per \$100 of assessment). Also subject to county and city rates.

Aircraft

- Not used in the Business of Transporting Person or Property for Compensation or Hire (**KRS 132.020(1)(p), 132.200(18)**)—1.5 cents (per \$100 of assessment). Local option.
- For Hire Nonpublic Service Company (**KRS 132.020(1)(r)**)—45 cents (per \$100 of assessment). Subject to full local rates.
- Public Service Company Aircraft (**KRS 136.120, KRS 136.180(3)**)—Subject to annual adjustment. Multiplier applied to local rates and subject to annual adjustment. 4-R Rates apply.

Alcoholic Beverage Wholesale Sales Tax (KRS 243.884)—11 percent of wholesale sales of distilled spirits, wine and malt beverages. A wholesale sales tax on alcoholic beverage wholesalers/distributors to be reported monthly. There are statutory exemptions.

Bank Franchise Tax (KRS 136.500 et seq.)—1.1 percent of net capital. Minimum tax is \$300 per year. Tax is imposed on every financial institution regularly engaged in business in Kentucky at any time during the calendar year. A financial institution is presumed to be regularly engaged 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. Tax is in lieu of all city, county and local taxes except for the real estate transfer taxes, real property and tangible personal property taxes upon users of utility services and the local deposit franchise tax.

Beer Consumer Tax (KRS 243.720 et seq.)—\$2.50 per barrel of 31 gallons. An excise tax imposed on distributors or retailers of malt beverages who purchase malt beverages directly from a brewer. There are statutory exemptions and credits. There is a 50 percent discount for domestic brewers up to 300,000 barrels per annum.

Cigarette Enforcement and Administration Fee (KRS 365.390)—0.001 cent per pack (rate subject to change annually). Fee paid by cigarette wholesalers to provide for the expenses of the DOR in administering the cigarette tax law.

Cigarette Excise Tax (KRS 138.130 et seq.)—3 cents per 20 cigarettes, proportioned for other quantities. An excise tax on cigarettes paid by resident and nonresident wholesalers and unclassified acquirers. The tax is paid by purchasing stamps within 48 hours after cigarettes are received by a resident wholesaler. The unclassified acquirer pays the tax by purchasing and affixing stamps within 24 hours of receipt of the cigarettes. A nonresident wholesaler must affix the tax stamps prior to importing them into Kentucky.

Cigarette Inventory Floor Stocks Tax (KRS 138.143)—\$0.30 per 20 cigarettes. A one-time surtax on cigarette inventory on hand at 11:59 p.m. on March 31, 2009.

Cigarette Licenses (KRS 138.195)—Resident wholesaler—\$500; Nonresident wholesaler—\$500; Subjobber—\$500; Vending machine operator—\$25; Transporter—\$50; Unclassified acquirer—\$50. Annual license fee imposed upon various dealers and handlers of cigarettes. More than one license may be required by the DOR for any dealer or handler depending upon the diversity of his business and the number of established places of business.

Cigarette Surtax (KRS 138.140)—\$0.57 per 20 cigarettes, proportioned for other quantities. A surtax on cigarettes paid concurrently with the cigarette excise tax at the time of stamp purchases. A portion is allocated to cancer research.

Taxes Administered

Coal Severance Tax (KRS 143.010, 143.020 et seq.)—50 cents per ton minimum or 4.5 percent of gross value. (the minimum tax shall not apply to a taxpayer who only processes coal.) Tax is based on the gross value of coal severed and/or processed in Kentucky. Partial exemptions from the tax may apply to newly permitted production from thin seam.

Corporation Tax/Limited Liability Entity Tax (KRS 141.010 et seq.)—An annual limited liability entity tax (LLET) as provided by KRS 141.0401(2) shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits. The LLET is the greater of \$175 or the lesser of \$0.095 per \$100 of a corporation's or limited liability pass-through entity's Kentucky gross receipts or \$0.75 per \$100 of a corporation's or limited liability pass-through entity's Kentucky gross profits.

A small business exclusion from the LLET is provided to a corporation or a limited liability pass-through entity, if gross receipts or gross profits from all sources are \$3 million or less. Also, marginal LLET relief is provided to a corporation or a limited liability pass-through entity, if gross receipts or gross profits from all sources are in excess of \$3 million but less than \$6 million. The small business exclusion cannot reduce the LLET below the \$175 minimum.

A corporation is also subject to corporation income tax provided by KRS 141.040. Corporate income tax rates: first \$50,000 of net income – 4 percent; next \$50,000 – 5 percent; and all over \$100,000 – 6 percent. A corporation is allowed a tax credit against its corporation income tax equal to its LLET liability reduced by \$175. A corporation that is a partner or member of a limited liability pass-through entity is allowed a tax credit against its corporation income tax equal to its proportionate share of the LLET of the limited liability pass-through entity after the subtraction of any credits identified in KRS 141.0205 and the minimum tax of \$175; however, the tax credit cannot exceed the corporation income tax assessed on the corporation's share of distributive income from the limited liability pass-through entity, and any remaining tax credit shall be disallowed.

An individual that is a partner, member or shareholder of a limited liability pass-through entity is allowed a tax credit against the individual's income tax provided by KRS 141.020 equal to the individual's proportionate share of the LLET of the limited liability pass-through entity after the subtraction of any credits identified in KRS 141.0205 and the minimum tax of \$175; however, the tax credit cannot exceed the income tax assessed on the individual's share of distributive income from the limited liability pass-through entity, and any remaining tax credit shall be disallowed.

Every pass-through entity, except publicly traded partnerships as defined in KRS 141.0401(6)(r), is required to withhold Kentucky income tax at the maximum rate provided in KRS 141.020 or KRS 141.040 on the distributive income, of each: (i) nonresident individual

partner, member or shareholder; and (ii) corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity. Effective for taxable years beginning on or after Jan. 1, 2012, every pass-through entity required to withhold Kentucky income tax on partners, members or shareholders shall make a declaration and payment of estimated tax for the taxable year if: (i) for an individual partner, member or shareholder, the estimated tax liability can reasonably be expected to exceed \$500; or (ii) for a corporate partner or member, the estimated tax liability can reasonably be expected to exceed \$5,000.

Distilled Spirits and Wine Consumer Taxes (KRS 243.720 et seq.)—Distilled spirits containing over 6 percent alcohol by volume: per gallon—\$1.92; per liter—0.5069; distilled spirits containing 6 percent or less alcohol by volume: per gallon—\$0.25; per liter—0.0660; wine—per gallon—\$0.50; per liter—0.1320.

(Proportionate amount charged on smaller quantities, but not less than 4 cents on any retail container of wine.)

Excise tax imposed upon the use, sale or distribution by sale or gift of distilled spirits and wine. There are statutory exemptions.

Distilled Spirits Case Sales Tax (KRS 243.710)—5 cents per case. Excise tax on distilled spirits sold by wholesalers to retailers in Kentucky.

Distilled Spirits in Bonded Warehouses (KRS 132.020(1)(n), 132.097, 132.099 132.180 and 132.200(4))—Except for inventories qualifying for goods in transit to an out-of-state destination within six months and certain products in course of manufacture, subject to 5 cents (per \$100 of assessments) state rate and full local rates.

Farm Machinery Used in Farming (KRS 132.020(1)(f))— .1 cent (per \$100 of assessment). State rate only.

Goods Held for Sale in the Regular Course of Business (KRS 132.020(1)(n))—5 cents (per \$100 of assessment). Subject to local rates.

Goods in Transit—Out-of-state destination within six months. (KRS 132.097, 132.099)—Exempt from state, county, school and city tax. Special taxing districts only may levy a rate.

Health Care Provider Tax (KRS 142.301 to 142.359) (Effective July 1, 2006)—2.5 percent of gross receipts for hospital services for facilities not in operation during FY06. For facilities in operation during FY06, the monthly tax is one-twelfth of the total paid during FY06; 2 percent of gross receipts for home health agency services; 5.5 percent of gross receipts for Medicaid managed care services, ICF/MR services, and support for community living services; \$1.50-\$10.60 per nonMedicare patient bed day for nursing facilities services.

Taxes Administered

Effective July 1, 1993, a provider tax is imposed on providers of taxable medical services. Registration is required prior to the beginning of operations.

Individual Income Tax (KRS 141.010 et seq.)—First \$3,000—2 percent; Next \$1,000—3 percent; Next \$1,000—4 percent; Next \$3,000—5 percent; next \$67,000—5.8 percent. In excess of \$75,000—6 percent.

Graduated tax upon an individual's taxable income. Residents must pay on their entire taxable income. Nonresidents must pay on that portion of their income attributable to Kentucky sources. Fiduciaries must pay on that portion of income of an estate or trust not distributed or distributable to beneficiaries.

Tax base is the federal adjusted gross income adjusted for differences in Kentucky and federal laws, including U.S. government bond interest, limited pension/retirement income exclusion, Social Security benefits and Railroad Retirement Board benefits and deductions for long-term care and health insurance premiums. Taxable income is computed by using the standard deduction or Kentucky itemized deductions. Tax credits include personal credits of \$20, child and dependent care, family size and various business credits. Standard deduction: 2009—\$2,190 and 2010—\$2,210.

Inheritance and Estate Taxes (KRS 140.010 et seq.)—

Inheritance tax—4–16 percent; The Kentucky inheritance tax is a tax on the right to receive property upon the death of another person. The rate of tax and the exemptions allowed depend on the legal relationship of the beneficiary to the decedent. If the date of death is after June 30, 1998, the following list of beneficiaries are exempt from paying inheritance tax: (1) Surviving spouse, parent; (2) Child (adult or infant)—child by blood, stepchild, child adopted during infancy, or a child adopted during adulthood who was reared by the decedent during infancy; (3) Grandchild—issue of child by blood, stepchild, child adopted during infancy, or of a child adopted during adulthood who was reared by decedent during infancy; (4) Brother, sister (whole or half).

Estate tax—Beginning in 2005, the state death tax credit was replaced by a deduction for state death taxes paid and this change is set to expire on December 31, 2013. Therefore, the Kentucky estate tax is effectively repealed for the estates of decedents who die after Dec. 31, 2004.

Insurance Premium Surcharge (KRS 136.392)—1.5 percent of premiums, prior to April 1, 2010. Since April 1, 2010 the rate is 1.8 percent of premiums. An insurance premium surcharge on insured Kentucky risks. There are statutory exemptions.

Insurance Premium Taxes (KRS 136.320, 136.330 to 136.390, 299.530, 304.3-270, 304.4-030, 304.11-050, 304.49220)—All

domestic and foreign life companies 1.5 percent tax rate. Annuities are exempt from tax. All other insurance companies 2 percent tax rate. Fire insurance*—0.75 percent.

*Represents additional tax on applicable premiums.

Annual tax imposed on insurance companies and risk retention groups based upon premium receipts on business done. There are statutory exemptions.

Leasehold Interest (KRS 132.020(1)(b), 132.200(2))—Privately owned leasehold interest in industrial buildings. 1.5 cents (per \$100 of assessment). State rate only.

Livestock and Poultry (KRS 132.020(1)(g))—1 cent (per \$100 of assessment). State rate only.

Legal Process Taxes (KRS 142.010 et seq.)(Effective Jan. 1, 2007)—Conveyances of real property (deeds) - \$4; mortgages, financial statements and security agreements - \$4; marriage licenses* - \$4.50; powers of attorney to convey real or personal property - \$4; lien or conveyance of coal, oil, gas or other mineral right or privilege - \$4. Taxes imposed on the filing of an instrument subject to tax or the issuance of a marriage license. Collected by county clerk.

* A \$10 Spouse Abuse Shelter Fund fee levied on marriage licenses by KRS 209.160 is, by agreement between the DOR and the Cabinet for Health and Family Services, also reported and paid to the DOR by county clerks as part of the monthly report of legal process taxes due.

Loaner-Rental Tax (KRS 138.460 & KRS 138.4605)—Loaner-Rental tax is paid by a dealer who is regularly engaged in the servicing or repair of motor vehicles and loans or rents a motor vehicle to a retail customer while the customer's motor vehicle is at the dealership for repair or service. Dealers must make application to be in the program. Upon acceptance into the program, the dealer will be required to file a monthly return and remit \$25 per vehicle for as long as the vehicle is used as a Loaner-Rental. A vehicle log must be maintained by the dealer; loan/rental dates, mileage in and out, customer names and description of repairs completed for the customer.

Manufacturing Machinery (KRS 132.020(1)(i), 132.200(4))—15 cents (per \$100 of assessment). State rate only.

Marijuana and Controlled Substance Tax (KRS 138.870 et seq.)—\$3.50 per gram on marijuana, loose. \$1,000 per marijuana plant. \$200 per gram controlled substance by weight. \$2,000 per 50 dosage units of controlled substance. Growers, sellers, dealers, buyers and manufacturers must obtain a tax stamp to affix to the product.

Commonwealth's or county attorneys who obtain a conviction of,

Taxes Administered

or guilty or Alford plea from an offender must notify the DOR if the product that was the subject of the conviction or plea does not bear the tax stamp.

Motor Fuels Tax—Gasoline (KRS 138.210 et seq.)— 9 percent of average wholesale price of gasoline, but not less than 16.0 cents per gallon. Rate is determined quarterly. A 5 cent per gallon Supplemental Highway User Motor Fuel Tax also applies. It is an excise tax paid by licensed dealers on all gasoline received in this state. There are statutory provisions for tax credits and partial or full tax refunds for designated users.

Motor Fuels Tax—Liquefied Petroleum Gas (KRS 234.310 to 234.440)—Variable rate same as gasoline. The 5 cent per gallon supplemental tax also applies to liquefied petroleum gas. An excise tax paid by licensed dealers on all liquefied petroleum motor fuel withdrawn to propel motor vehicles on the public highways, unless the carburetion system has been approved by the Environmental and Public Protection Cabinet.

Motor Fuels Tax—Petroleum Storage Tank Environmental Assurance Fee (KRS 224.60-145)—1.4 cents per gallon. A petroleum storage tank environmental assurance fee is levied on all taxable gasoline and special fuel reported in this state by licensed dealers. There are provisions for exemptions or refunds for qualifying gasoline or special fuels not to be used on the public highways.

Motor Fuels Tax—Special Fuels (KRS 138.210 et seq.)—Variable rate same as gasoline. A 2-cent per gallon Supplemental Highway User Motor Fuel Tax also applies. An excise tax is levied on all special fuels received in this state by licensed dealers. There are statutory provisions for tax credits and partial or full tax refunds for designated users.

Motor Vehicle Tire Fee (KRS 224.50-868)—\$1 per tire sold at retail. Applies to the retail sale of new motor vehicle tires sold in Kentucky. Does not apply to new cars brought into the state for sale or use. Sales of recapped tires are exempt from the fee.

Motor Vehicle Usage Tax (KRS 138.450 et seq.)—6 percent of the consideration given or retail value as defined in KRS 138.450. Value is dependent on the type of transaction. Optional tax payment method available for U-Drive-It operators based on 6 percent of the gross rental or lease charges. Tax imposed on new and used motor vehicles when registered for the first time in this state and when ownership is transferred. There are statutory exemptions and credits. Regular usage tax payments are made to the county clerk and forwarded to the DOR. U-Drive-It usage tax payments are made directly to the Transportation Cabinet on a monthly basis.

Other Tobacco Products Tax (KRS 138.140(4))(Effective April 1, 2009)—15 percent of the gross receipts from the wholesale sale of other tobacco products.

Pollution Control Facilities (KRS 132.020(1)(k), 132.200(8)—15 cents (per \$100 of assessment). State rate only.

Public Service Commission Assessment (KRS 278.130 et seq.)— 1.583 mills (subject to change annually up to 2 mills). Maximum assessment—2 mills; Minimum assessment—\$50. Assessment imposed annually on utility companies under the jurisdiction of the Public Service Commission based on proportionate share of gross intrastate revenues by each company.

Public Warehouses—Goods held for sale except goods in transit. **(KRS 132.020(1)(n))**—5 cents (per \$100 of assessment). Subject to local rates.

Racing Taxes

Average Daily Mutuel Handle (for preceding year)	Tax Rate Per Day
\$ 0 — \$ 25,000	\$ 0
25,001 — 250,000	175
250,001 — 450,000	500
450,001 — 700,000	1,000
700,001 — 800,000	1,500
800,001 — 900,000	2,000
900,001 and above	2,500

Race Track License Tax (KRS 137.170 et seq.)—License tax imposed upon the operation of a track at which horse races are run under the jurisdiction of the Kentucky Horse Racing Authority. Reported and paid within 30 days of end of each race meeting. An annual recapitulation report is due on or before December 31 each year for the race year ended November 30.

Admission Tax (KRS 138.480 et seq., 139.100(2)(c))—Tracks under jurisdiction of the Kentucky Horse Racing Authority (KHRA)—15 cents/person. Excise tax on each paid admission to race track. There are statutory exemptions. Reported and paid within 30 days of end of each race meeting. Race track admission tax is in lieu of sales tax.

Pari-Mutuel Tax (KRS 138.510 et seq.)—3.5 percent of total wagered at all thoroughbred tracks under KHRA jurisdiction with average daily handle of \$1.2 million or more; 1.5 percent if average daily handle is less than \$1.2 million.

3.75 percent of total wagered at all standardbred tracks under KHRA jurisdiction with average daily handle of \$1.2 million or more; 1.75 percent if average daily handle is less than \$1.2 million.

3 percent of telephone account wagering and the total wagered at receiving tracks.

Taxes Administered

Excise tax is imposed on every person, corporation or association that operates a horse race track at which betting is conducted.

Excise tax is also imposed on receiving tracks participating in intertrack wagering on simulcast races.

Average daily handle is computed from the amount wagered at the host track, excluding money wagered at receiving tracks and all telephone account wagering.

A portion of the pari-mutuel tax is allocated to the following:

- Equine Drug Research;
- Equine Industry Program;
- Higher Education Equine Trust and Revolving Fund;
- Thoroughbred Development Fund; and
- Standardbred, Quarterhorse, Appaloosa and Arabian Development Fund.

Reported and paid weekly.

Radio, Television and Telephonic Equipment (KRS 132.020(1)(j), 132.200(5))—15 cents (per \$100 of assessment). State rate only.

Railroads—Interstate (KRS 136.120, 136.180(4))—Subject to annual adjustment. Multiplier applied to local rates and subject to annual adjustment. 4-R Rates apply.

Railroads—Intrastate (KRS 136.120, 136.180(4), 132.020(1)(o))—10 cents (per \$100 of assessment). Multipliers applied to local rates and subject to annual adjustment. 4-R Rates apply.

Raw Materials and Products in Course of Manufacture (KRS 132.020(1)(n), 132.200(4))—5 cents (per \$100 of assessment). State rate only.

Real Estate Not elsewhere Specified (KRS 132.020(1)(a))—Adjusted annually (by July 1) per KRS 132.020(4). The state real estate rate was 12.8 cents (per \$100 assessment) for 2006, 12.4 cents for 2007, 12.2 cents for 2008, 2009 and 2010. Full local rates.

Recreational Vehicles (KRS 132.485(1)(b), 132.730, 132.751)—Classification depends on permanency of location. 45 cents (per \$100 of assessment). Full local rates.

Recycling Machinery (KRS 132.020(1)(r), 132.200(15))—45 cents (per \$100 of assessment). State rate only.

Rural Cooperative Annual Tax (KRS 279.200, 279.530)—\$10. Annual payment by corporations (RECCs and RTCCs) formed under KRS Chapter 279 in lieu of certain taxes.

Sales and Use Taxes (KRS 139.010 et seq.)—Sales tax—6 percent; Use tax—6 percent. Sales tax is imposed on the retailer for the privilege of making retail sales of tangible personal property, digital property or taxable services within Kentucky. (KRS 139.200)

Use tax is imposed on the use, storage or other consumption in the state of tangible personal property or digital property purchased for use, storage or other consumption in this state. (KRS 139.310)

Vendor's compensation is allowed up to \$1,500 per timely filed and paid return. Deduct 1.75 percent of the first \$1,000 and 1 percent of the amount in excess of \$1,000.

There are statutory exemptions.

Snuff Tax—(KRS 138.140(5))—Effective April 1, 2009, \$0.19 per unit of snuff sold. A unit is defined as a hard container containing no more than 1 1/2 ounce of snuff. This tax is paid by the wholesaler.

Tangible Property Not Elsewhere Specified (KRS 132.020(1)(t))—45 cents (per \$100 of assessment). Full local rates.

Telecommunications Tax (KRS 136.600–136.600)—The telecommunications excise and gross revenues tax became effective Jan. 1, 2006. The telecommunications excise tax is imposed at the rate of 3 percent on the retail purchase of multi-channel video programming services. The telecommunications gross revenues tax is imposed at the rate of 2.4 percent of gross revenues received for the provision of multi-channel video programming services and at the rate of 1.3 percent of gross revenues received for the provision of communications services. The rates and tax computations are reported on one return that is due by the 20th day of the month following the end of the reporting period.

Vendor's compensation is allowed up to \$1,500 per timely filed and paid return for the excise tax portion of the telecommunications tax return. Deduct 1.75 percent of the first \$1,000 and 1 percent of the amount in excess of \$1,000.

Transient Room Tax (KRS 142.400 et seq.)—1 percent of rent. A tax on every occupancy of any suite, room, rooms or cabins charged by all persons, companies, corporations, groups or organizations doing business as motor courts, motels, hotels, inns, tourist camps or like or similar accommodations businesses. The receipts from this tax are used for the tourism, meeting and convention marketing fund.

Trucks and Tractors-Interstate (KRS 136.188, 132.487, 132.760)—Subject to annual ad valorem fee as of Jan. 1, 2007. Fee subject to annual adjustment. State and local fees are collected by Department of Transportation and distributed by DOR. Buses and nonapportioned Kentucky registered vehicles are subject to KRS 132.487. Semi-trailers of interstate motor carriers are exempt.

Taxes Administered

Unmined Coal, Oil and Gas Reserves and Other Mineral or Energy Resources held separately from Surface Real Property (KRS 132.820)—Same tax rates as shown for real estate.

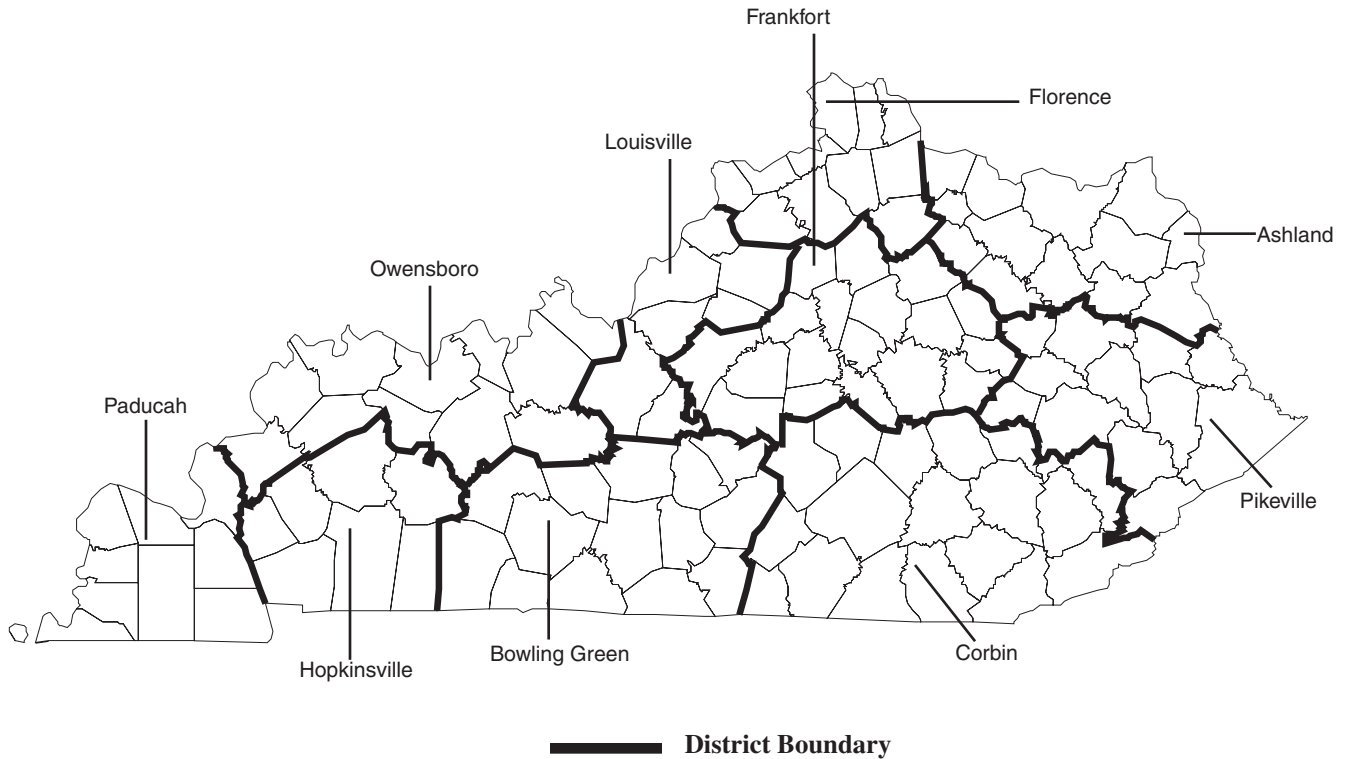
Utility Gross Receipts License Tax—(KRS 160.613, 160.6131, 160.614, 160.6145, 160.615, 160.6151, 160.6152, 160.6153, 160.6154, 160.6155, 160.6156, 160.6157, 160.6158, 160.617)—The rate is determined by each school district, but cannot exceed 3 percent. Utility gross receipts license tax for schools is assessed on gross receipts derived from the furnishing of utility services and/or cable and direct broadcast satellite services within a school district. The service provider collects the tax based on the rate established by the local authority. The service provider or Energy Direct Pay holder submits payment to the DOR with a breakdown of the tax collected

by school district. The DOR captures the district information and the corresponding tax collections and distributes the amount to the appropriate school district.

Watercraft

- Commercial (KRS 138.1801–136.1806)—45 cents (per \$100 of assessment). Full local rates.
- Individual (KRS 132.020(1)(r), 132.488)—45 cents (per \$100 of assessment). Full local rates.
- Federally Documented (KRS 132.020(1)(q), 132.200(19))—1.5 cents (per \$100 of assessment). Local option.

KENTUCKY TAXPAYER SERVICE CENTERS



Ashland, 41101-7670

134 Sixteenth Street
Telephone: (606) 920-2037
Fax: (606) 920-2039

Bowling Green, 42104-3278

201 West Professional Park Court
Telephone: (270) 746-7470
Fax: (270) 746-7847

Central Kentucky

501 High Street, Tenth Floor
Frankfort, 40601
Telephone: (502) 564-5930
Fax: (502) 564-8946

Corbin, 40701-6188

15100 North US25E, Suite 2
Telephone: (606) 528-3322
Fax: (606) 523-1972

Hopkinsville, 42240-7926

181 Hammond Drive
Telephone: (270) 889-6521
Fax: (270) 889-6563

Louisville, 40202-2310

600 West Cedar Street
2nd Floor WEST
Telephone: (502) 595-4512
Fax: (502) 595-4205

Northern Kentucky

Turfway Ridge Office Park
7310 Turfway Rd., Suite 190
Florence, 41042-4871
Telephone: (859) 371-9049
Fax: (859) 371-9154

Owensboro, 42301-6295

Corporate Center
401 Frederica Street
Building C, Suite 201
Telephone: (270) 687-7301
Fax: (270) 687-7244

Paducah, 42001-4024

2928 Park Avenue
Clark Business Complex, Suite G
Telephone: (270) 575-7148
Fax: (270) 575-7027

Pikeville, 41501-1275

126 Trivette Drive
Uniplex Center, Suite 203
Telephone: (606) 433-7675
Fax: (606) 433-7679