

Kentucky Tax Alert

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Kentucky Department of Revenue, IRS Sponsor Electronic Filing Seminars



The Kentucky Department of Revenue (DOR) and the Internal Revenue Service (IRS) will sponsor two in-state seminars on electronic filing of individual income tax returns this year. Each seminar runs from 9:00 a.m. to 1:00 p.m. local time, with registration beginning at 8:30 a.m. Topics covered by the IRS and DOR will benefit new e-filers as well as those who have previously participated. These seminars qualify for four hours of CPE credits. If you need a CPE certificate, please contact Geinine Lyles at sbse.sl.tn@irs.gov.

Registration is necessary as space is limited. Registration forms are being mailed to Kentucky electronic return originators (EROs) by the IRS in early September. If you do not receive this form, please contact Judy Ritchie at the Kentucky DOR at (502) 564-5370 for a registration form.

Seminars will be held at the following locations in Kentucky:

Tuesday, Oct. 18, Louisville

9:00 a.m.–1:00 p.m.

Jefferson Community College
SW Campus Auditorium
1000 Community College Dr
Louisville, KY 40272

Thursday, Oct. 20, Lexington

9:00 a.m.–1:00 p.m.

Lexington Public Library
Theater-First Floor
140 East Main St
Lexington, KY 40507

In addition to the Kentucky seminars, the DOR will be presenting information on Kentucky returns at the Evansville, Indiana, seminar. Please note that the Indiana seminar is to be held in the afternoon.

You may register for the Evansville, Indiana, seminar by using one of these methods: (1) e-mail your request to IndianaTec@irs.gov; (2) fax to (317) 685-7765; or (3) telephone (317) 685-7544. Please include your name, business name, mailing address and EFIN.

Wednesday, Dec. 7, Evansville Indiana

12:30 p.m.–5:00 p.m.

Ivy Tech State College
3501 First Ave, Rm 107
Evansville, IN

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Court Case Updates

Corporation License Tax—At issue in ***Rudolph v. Citizens National Corporation***, 2004-CA-001606 was the validity under Ky. Const. §88 of former Gov. Patton's partial veto of legislation (2003 Ky. Acts, ch. 194, §§15, 18 and 19 (House Bill 390)) enacted in response to the Franklin Circuit Court's earlier ***Illinois Tool Works*** decision ruling that the corporation license tax statute KRS 136.071 was unconstitutional under the U.S. Constitution's Commerce Clause.

The Franklin Circuit Court held in ***Citizens National*** in a July 8, 2004 opinion and order that former Gov. Patton's partial veto was invalid and the DOR appealed this decision to the Court of Appeals. Subsequent legislation restored the corporation license tax treatment afforded by the vetoed provisions, (2004 Ky. Acts, ch. 142, §§4 and 7; 2005 Ky. Acts, ch. 168, §§2 and 160), however, rendering this appeal moot or no longer an actual or justiciable controversy.

On Sept. 1, 2005, the Court of Appeals entered an order granting the DOR's motion for reconsideration of an earlier order dismissing its appeal as moot. Instead of only dismissing this appeal, this Sept. 1, 2005 order vacates the Franklin Circuit Court's July 8, 2004 opinion and order and remands the case to the circuit court with directions to dismiss the action without prejudice as moot.

Sales and Use Tax—On Sept. 2, 2005, the Kentucky Court of Appeals rendered a decision in ***King Drugs, Inc. v. Revenue Cabinet***, 2004-CA-002019 construing the exemption provided for in KRS

139.472 for prosthetic devices and physical aids that was in effect before July 1, 2004. 2003 Ky. Acts, 124, §§21 and 46. The taxpayer contended that the exemption applied to any artificial device prescribed by a licensed physician.



The Court of Appeals' Sept. 2, 2005 opinion rejects the taxpayer's interpretation. Considering the history of KRS 139.472's the court concludes that the addition of the words "prescribed by a licensed physician" by the Kentucky General Assembly in 1986 "evidence[d] a legislative intent to exempt the types of devices enumerated in the

original version ('artificial devices... for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual' and 'artificial limbs, artificial eyes, hearing aids... for the use of a particular disabled person'), whether such devices were prescribed, or, without a prescription, if individually designed, constructed, or altered." The court accordingly rules that for the exemption claimed by the taxpayer to apply, an artificial device prescribed by a licensed physician must be "for the use of a crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual."

This decision is not yet final. The taxpayer still has time to petition the Court of Appeals for rehearing or seek discretionary review by the Kentucky Supreme Court.

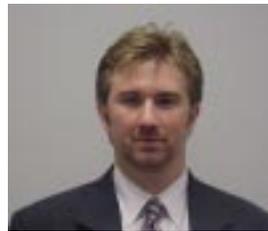


New Appointments Within the Office of Property Valuation

Phil Yancey has been named acting director of Local Valuation effective Sept. 1. Phil began his career in state government in 1982 working as a mapping supervisor in both the Jessamine and Woodford County Mapping Projects. He then worked in the TRIM Branch of Property Valuation providing support for the TRIM program for the PVAs and the SACS program for the sheriffs from 1987 until 2004. Phil has been serving as a program coordinator overseeing sheriff's collection efforts and the sheriff's annual settlements of property tax collections from 2004 until the present.

Tom Crawford has been appointed assistant director of Local Valuation. **Greg Bell** has been appointed deputy executive director.

Kenny Gilbert has been appointed information systems manager of the TRIM branch within the Office of Property Valuation. Gilbert is a 16-year veteran employee with the DOR. The majority of his career has been spent working with property taxation.



Shea McWherter has joined the Western Branch field staff. He has been a deputy in the Calloway County PVA Office since 2000.

PVA Exam Scheduled for November 1

The Office of Property Valuation will administer the qualifying examination for candidates seeking the office of PVA on Tuesday, Nov. 1, 2005. In accordance with Kentucky Revised Statute 132.380, the exam will be offered in each of Kentucky's seven Supreme Court Districts.

The locations are as follows:

1st District

Lake Barkley State Park
Cadiz, Kentucky

2nd District

Executive Inn Rivermont
Owensboro, Kentucky

3rd District

Lake Cumberland State Park
Jamestown, Kentucky

4th District

Executive West Hotel
830 Phillips Lane
Louisville, Kentucky

5th District

Kentucky Department of Revenue
200 Fair Oaks Lane
Frankfort, Kentucky

6th District

Drawbridge Inn
2272 Royal Drive
Ft. Mitchell, Kentucky

7th District

Jenny Wiley State Park
Prestonsburg, Kentucky



A second examination will be held Nov. 29 for those counties in which there is only one qualified candidate. More information will be posted on the DOR's Web site as it becomes available.

Governor Appoints New PVA in Garrard County

Gov. Ernie Fletcher has appointed David Land as PVA in Garrard County. Land replaces Marsha McQueary, who left in June to accept the position of Executive Director of the Office of Property Valuation. Land is a residential real estate appraiser for Blake and Associates in Richmond and also owns his own business, David Land Tax Service. His appointment was effective Aug. 1, 2005. He will serve the remainder of McQueary's term, which expires at the end of 2006.



Tax Modernization Seminars

The DOR will be presenting seminars to inform tax professionals of the impacts of the tax modernization changes. The seminars, conducted jointly with the Kentucky Society of Certified Public Accountants, will be held throughout the state in October, November and December. The two-day seminars will explore tax modernization changes to corporation income, individual income, sales and excise taxes.

Registration begins at 8:30 a.m. and the programs are from 9 a.m. to 5 p.m. Below is a listing of the seminar dates:

- October 17-18*
Frankfort Convention Center
- November 7-8*
Lexington Convention Center
- November 15-16*
Louisville International Convention Center
- November 21-22*
Lake Barkley State Resort Park
- November 28-29*
Jenny Wiley State Resort Park
- December 5-6*
Lake Cumberland State Resort Park
- December 19-20*
General Butler State Resort Park

For more information, visit the Kentucky Society of Certified Public Accountants' Web site at www.kycpa.org/ or call (502) 266-5272 or (800) 292-1754 (KY). Registration forms can be downloaded at <http://revenue.ky.gov/TaxModernization/>.

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Finance and Administration Cabinet**

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The Department of Revenue's Web site is www.revenue.ky.gov.

