

REVENUE CIRCULAR 62C112

PROPERTY TAX

November 15, 2010

TO PROPERTY VALUATION ADMINISTRATORS,
COUNTY CLERKS AND SHERIFFS:

Duties in Taxing Omitted Real Property

This circular replaces Circular 62C112 dated November 13, 2009.

This circular sets out the responsibilities of each county official in the assessment, preparation of tax bills and the collection of omitted property taxes.

Any real property which has not been listed for taxation, for any year in which it is taxable, by the time the Board of Assessment Appeals completes its work for that year shall be deemed omitted property.

Responsibilities of Property Valuation Administrator

Real Property:

KRS 132.310 reads in part:

“(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Department of Revenue, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Department of Revenue shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

“(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4).”

Tangible and Intangible Personal Property:

The property valuation administrator is *not* authorized to assess omitted tangible or intangible property (KRS 132.320). He must forward to the Office of Property Valuation a list of any omitted tangible or intangible property discovered by him or voluntarily listed by a taxpayer. The office will assess the property and bill the taxpayer direct. Omitted tangible or intangible assessments are *not* certified to the clerk by the property valuation administrator.

Responsibilities of the County Clerk

The county clerk is the only county official who can legally prepare a property tax bill and then only upon proper certification. Regular tax bills shall be prepared only after certification by the Office of Property Valuation or as directed by Order Correcting Erroneous Assessment, Revenue Form 62A366, signed by the property valuation administrator. Omitted real property tax bills may be prepared only on receipt of Listing of Omitted Property, Revenue Form 62A379, from the property valuation administrator. Tax bills following litigation shall be prepared on the basis of orders from the Kentucky Board of Tax Appeals or court orders from the circuit court or the Court of Appeals.

Additional property tax bills or supplemental bills directed to be prepared on the basis of orders from the Kentucky Board of Tax Appeals or court orders from the circuit court or the Court of Appeals shall be listed on the reverse side of Authorization for Preparing Additional/Supplemental Property Tax Bills, Revenue Form 62A367. The clerk shall complete the face of this receipt for the total of taxes due each taxing district and give the bills to the sheriff for collection after the sheriff signs the three copies of the receipt.

The form for listing omitted property provides space for indicating whether the property is voluntarily or involuntarily listed. The clerk shall add a 10 percent penalty if voluntarily listed or a 20 percent penalty for omission if the property has been involuntarily listed by the property valuation administrator. In addition to the penalty, the clerk shall add interest accruing from the date the tax would have become delinquent (if the property had been listed as required by law) to the date the tax bill is collected. Interest rates which are set for each year beginning January 1, are based on the prime interest rate for the preceding October. If the prime interest rate varies as much as one percentage point from the existing tax interest rate, then the tax interest rate is adjusted accordingly.

The interest rate for 2007 (for assessments of property owned on January 1, 2006) is 8 percent. The interest is figured as follows:

$$8\% \div 365 \text{ days} = .02191781\% \text{ per day}$$

The interest rate for 2008 (for assessments of property owned on January 1, 2007) is 8 percent. However, the 2008 General Assembly amended KRS 131.183 to require interest to accrue at the tax interest rate plus 2 percent. This provision is effective beginning on May 1, 2008. This means that an omitted 2007 property tax bill will have interest added to the total due at the rate of 8 percent from January 1, 2008 to April 30, 2008. From May 1, 2008 through December 31, 2008, interest will be added at the rate of 10 percent. The interest is figured as follows:

$$8\% \div 366 \text{ days} = .02185792\% \text{ per day (for January 1-April 30, 2008)}$$

$$10\% \div 366 \text{ days} = .02732240\% \text{ per day (for May 1-December 31, 2008)}$$

The interest rate for 2009 (for assessments of property owned on January 1, 2008) is 5 percent. This means that the interest rate that will be applied to omitted 2008 property tax bills will be 7 percent (the tax interest rate plus 2 percent). The interest is figured as follows:

$$7\% \div 365 \text{ days} = .01917808\% \text{ per day}$$

The interest rate for 2010 and 2011 (for assessments of property owned on January 1, 2009 and January 1, 2010) is 3 percent. This means that the interest rate that will be applied to omitted 2009 and 2010 property tax bills will be 5 percent (the tax interest rate plus 2 percent). The interest is figured as follows:

$$5\% \div 365 \text{ days} = .01369863\% \text{ per day}$$

The following example will demonstrate how to calculate the state's portion of an omitted tax bill issued June 1, 2011. The interest will be calculated through June 30, 2011 in accordance with the legislative change made by the 2002 General Assembly on omitted tax bill procedures. Assume the assessment was omitted beginning with the 2006 tax year and the assessed value each year is \$10,000.

	Del. Date	State Tax Rate	Tax	Penalty	Interest*	Total
2006	2007	12.8	12.80	1.28	4.08	18.16
2007	2008	12.4	12.40	1.24	2.96	16.60
2008	2009	12.2	12.20	1.22	1.76	15.18
2009	2010	12.2	12.20	1.22	.91	14.33
2010	2011	12.2	12.20	1.22	.30	13.72
TOTAL TAX BILLS			61.80 +	6.18 +	10.01 =	\$77.99

*Interest figured from the time the bill became delinquent as prescribed in KRS 132.290(4) as follows:

Interest Starts Jan. 1	Days	Interest Factor	Interest Percentage	Original Tax Amount	Total Interest
2006 Bill					
2007	365	x .02191781% =	8% x	12.80 =	1.02
2008	Jan. 1-April 30				
	121	x .02185792% =	2.64% x	12.80 =	.34
	May 1-December 31				
	245	x .02732240% =	6.69% x	12.80 =	.86
2009	365	x .01917808% =	7% x	12.80 =	.90
2010	365	x .01369863% =	5% x	12.80 =	.64
2011	181	x .01369863% =	2.48% x	12.80 =	<u>.32</u>
					\$4.08
2007 Bill					
2008	Jan. 1-April 30				
	121	x .02185792% =	2.64% x	12.40 =	.33
	May 1-December 31				
	245	x .02732240% =	6.69% x	12.40 =	.83
2009	365	x .01917808% =	7% x	12.40 =	.87
2010	365	x .01369863% =	5% x	12.40 =	.62
2011	181	x .01369863% =	2.48% x	12.40 =	<u>.31</u>
					\$2.96
2008 Bill					
2009	365	x .01917808% =	7% x	12.20 =	.85
2010	365	x .01369863% =	5% x	12.20 =	.61
2011	181	x .01369863% =	2.48% x	12.20 =	<u>.30</u>
					\$1.76
2009 Bill					
2010	365	x .01369863% =	5% x	12.20 =	\$.61
2011	181	x .01369863% =	2.48% x	12.20 =	<u>\$.30</u>
					\$.91
2010 Bill					
2011	181	x .01369863% =	2.48% x	12.20 =	\$.30

From the information contained on the Listing of Omitted Property, Revenue Form 62A379, the clerk prepares a separate Omitted Real Estate Tax Bill, Revenue Form 62A301-S, for each year that the property was omitted. He places the omitted tax bill number, the date issued and his signature in the spaces provided at the bottom of the Listing of Omitted Property. **He then prepares Sheriff's Official Receipt for Omitted Property Tax Bills on the reverse side of the listing form. The three copies of the receipt are presented to the sheriff with three copies of each omitted tax bill. The fourth copy, "Clerk's Copy," of the omitted bill remains in the book as a permanent record. If the sheriff accepts the omitted bills as prepared, he must acknowledge acceptance by signing the receipt. The clerk must acknowledge the sheriff's signature and complete the certification at the bottom of the receipt.**

The clerk then returns one copy of the Listing of Omitted Property with the completed receipt on the reverse side to the property valuation administrator, retains one copy for his permanent file and mails one copy to the Office of Property Valuation at the end of each month attached to his County Clerk's Monthly Report of Omitted Assessments, Revenue Form 62A364.

Responsibilities of Sheriff

Sheriffs must not accept any omitted tax bills which do not include penalty and interest computed according to law. The sheriff will be charged with all penalty and interest on his final settlement whether or not it was collected from the taxpayer.

The taxpayer has 30 days from the date of the bill to pay without additional penalty and interest. Any omitted tax bill not paid within this period is subject to additional interest based upon the tax amount, an additional 10 percent penalty on the tax, penalty and interest and an additional sheriff's fee of 10 percent based upon the tax and 10 percent penalties. A delinquent omitted tax bill must be transferred to the County Clerk's Office three months and fifteen days after the initial thirty day payment period.

The sheriff receives three copies of Omitted Real Estate Tax Bill, Revenue Form 62A301-S, from the county clerk. He immediately mails the third copy, "Taxpayer's Notice," to the taxpayer. The first copy, "Taxpayer's Receipt," of the receipted bill must be given to the taxpayer at the time the bill is paid. The second copy, "Sheriff's Copy," is retained for the permanent record of the sheriff. All collections of omitted real estate taxes must be reported monthly in the spaces provided on Sheriff's Monthly Report of Property Tax Collections, Revenue Form 62A394.

Office of Property Valuation
Department of Revenue