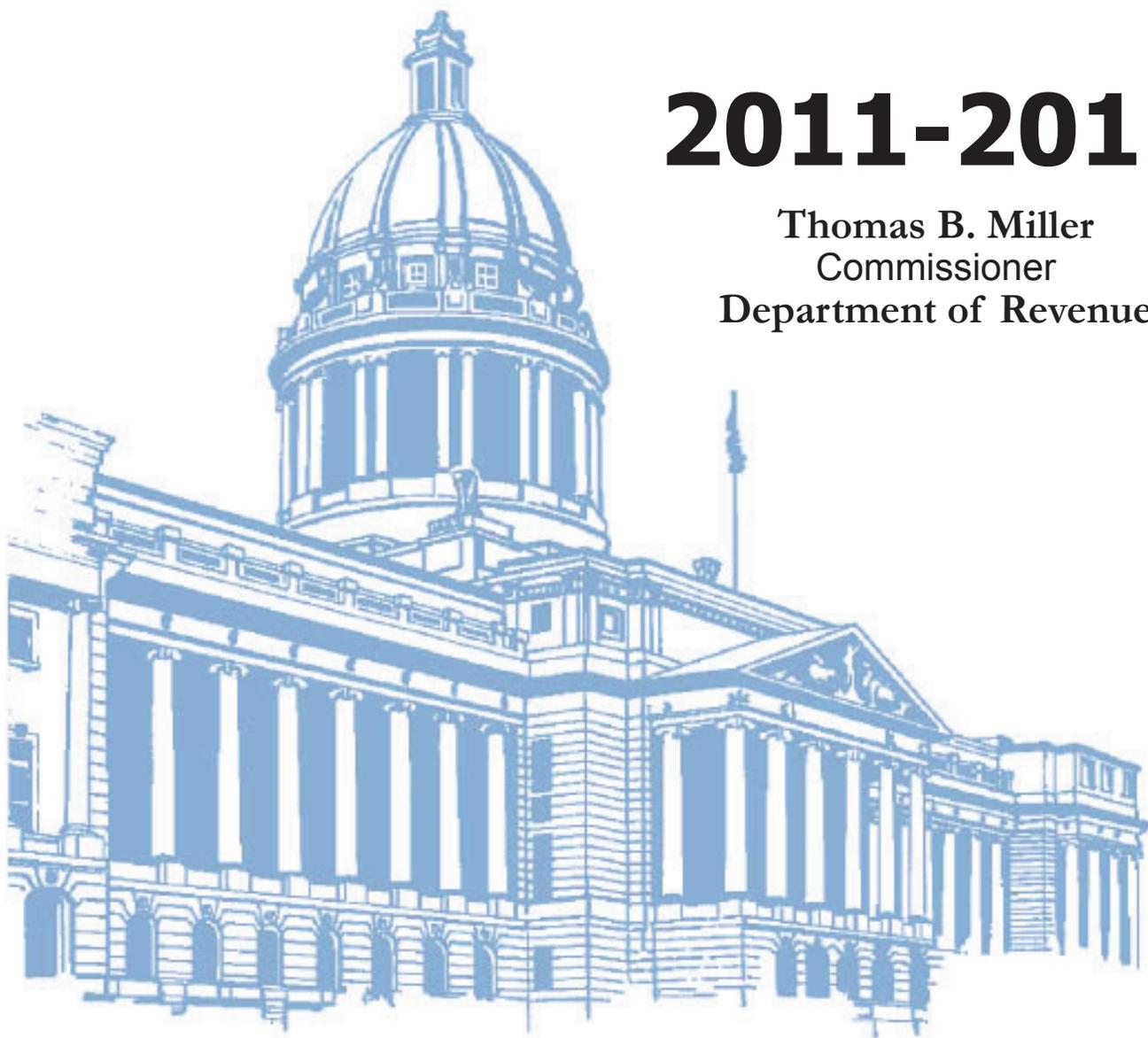


# Annual Report

## 2011-2012

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, age, religion, disability, sexual orientation, gender identity, veteran status, genetic information or ancestry in employment or the provision of services.*



**Steven L. Beshear**  
Governor

**FINANCE AND ADMINISTRATION CABINET  
DEPARTMENT OF REVENUE**

**Lori Hudson Flanery**  
Secretary

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**Thomas B. Miller**  
Commissioner

December 1, 2012

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, 2012. This report reflects the dedicated work of the many fine professionals who comprise the Department of Revenue workforce.

The Kentucky Tax Amnesty Program was passed by the 2012 Regular Session of the Kentucky General Assembly. KRS 131.400(4)(b) provides that a tax amnesty program shall be conducted by the Department during the fiscal year ending June 30, 2013, for a period of not less than 60 days nor more than 120 days. The program shall be available to all taxpayers owing taxes, penalties, fees, or interest subject to the administrative jurisdiction of the Kentucky Department of Revenue, with the exception of: (i) ad valorem taxes levied on real property pursuant to KRS Chapter 132; (ii) ad valorem taxes on motor vehicles and motorboats collected by the county clerks; and (iii) ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials; and (iv) any penalties imposed under KRS 131.630 or 138.205.

The Department also placed a greater emphasis on training its employees during the FYE June 30, 2012. The training emphasis was greatly needed to ensure the most productive return on the investment the Commonwealth made in granting additional compliance positions to the Department.

Electronic filing continued to grow during FYE June 30, 2012. Over 80 percent of individual income tax returns were electronically filed. There were 1,420,733 electronically filed individual income tax returns, an increase of 4.5 percent for the year.

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

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*Reprinted from the Governor's Office for Economic Analysis*

## Quarterly Economic & Revenue Report Fourth Quarter 2012 Fourth Quarter, FY2012

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### General Fund

General Fund receipts increased 2.3 percent, or \$56.6 million, to \$2,489.5 million, in the fourth quarter of FY12.

Among the major accounts, individual income, sales and use, and corporation income taxes posted the largest increases. On the other hand, the largest shortfalls occurred in the coal severance and property taxes, which were \$15.3 million and \$10.0 million below FY11 levels, respectively.

Individual income tax receipts posted an increase of 3.5 percent during the fourth quarter of FY12. Receipts totaled \$1,086.5 million and were \$36.3 million more than collected in the previous fourth quarter.

Strong growth in withholding and net returns offset decreases in fiduciary and declaration collections. Sales tax receipts rose 6.0 percent in the fourth quarter of FY12, or \$44.6 million, as consumer spending increased.

Total property taxes decreased 20.7 percent during the fourth quarter of the fiscal year as distributions to local governments affected net collections. Receipts totaled \$38.0 million and compare to \$48.0 million collected in the fourth quarter of FY11.

Corporation income tax collections rose 3.6 percent in the fourth quarter of FY12 compared to collections in the fourth quarter of FY11. Receipts of \$154.6 million were \$5.4 million more than was collected in the fourth quarter of the previous fiscal year.

Coal severance taxes decreased 19.0 percent in the fourth quarter of FY12 as severed tons declined 10.4 percent and prices continued to decline. Total collections for the quarter were \$15.3 million less than FY11 fourth quarter receipts.

Cigarette taxes increased 0.6 percent in the final three months of FY12. Receipts of \$69.4 million compare to \$69.0 million in the fourth quarter of FY11. The quarterly increase is partially attributable to the per-pack tax increase recently enacted in Illinois.

The LLET tax had collections of \$77.1 million in the fourth quarter of the fiscal year, an increase of 1.5 percent.

Lottery receipts fell by 3.8 percent, or \$2.2 million, from the previous year. Receipts of \$54.8 million compare to \$57.0 million remitted to the state in the fourth quarter of FY11.

The "Other" category finished the fourth quarter down 2.3 percent. Receipts of \$158.6 million compare to \$162.4 million collected in the fourth quarter of FY11.

Individual income tax and the sales tax accounted for 75 percent of the General Fund revenues. The next-largest sources of revenue were the "Other" and corporation income tax categories at 6.0 percent. The largest components in the "Other" category include the insurance premium tax, telecommunications tax, beer wholesale sales tax, inheritance tax, and distilled spirits wholesale tax. LLET, cigarette and coal severance taxes each made up 3.0 percent of the General Fund. Property taxes and lottery receipts each accounted for 2.0 percent of total General Fund receipts.

### Road Fund

Total Road Fund receipts grew 9.3 percent during the fourth quarter of FY12 due primarily to large increases in motor fuels and motor vehicle usage taxes. Total receipts of \$388.7 million compare to \$355.8 million collected during the fourth quarter of FY11.

Motor fuels collections grew 8.1 percent in the fourth quarter of FY12 as the statutorily defined motor fuels tax rate remained at its maximum. Collections of \$200.4 million were \$15.1 million more than received in the fourth quarter of FY11.

Motor vehicle usage tax receipts of \$118.2 million represent an increase of 16.2 percent compared to the \$101.8 million collected in the fourth quarter FY11. Pent-up demand continued to drive consumers to increase purchases of motor vehicles.

Motor vehicle license tax receipts fell 8.1 percent with receipts of \$32.3 million compared to \$35.1 million collected in the fourth quarter of FY11.

Motor vehicle operators' collections grew 5.6 percent with collections of \$4.0 million compared to \$3.8 million collected in the fourth quarter of FY11.

Weight distance tax revenues increased 3.1 percent with receipts of \$18.7 million compared to \$18.2 million collected in the fourth quarter of FY11.

Investment income increased \$1.6 million. Receipts totaled \$2.5 million, compared to \$0.9 million in the fourth quarter of FY11.

The remainder of the accounts in the Road Fund combined for an increase of 17.6 percent. Receipts for the "Other" category totaled \$12.5 million during the fourth quarter, compared to \$10.7 million in the fourth quarter of FY11.

# Revenue Receipts

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Motor fuels taxes and motor vehicle usage taxes comprised 82.0 percent of Road Fund revenues in the fourth quarter. The next largest source of revenue was motor vehicle license collections with 8.0 percent, followed by weight distance taxes with 5.0 percent. The “Other” category accounted for 3.0 percent while investment income and motor vehicle operators both accounted for 1.0 percent.

## ANNUAL TOTALS

### General Fund FY12

General Fund collections grew 3.8 percent, or \$331.5 million, in FY12. Revenue collections showed positive growth in each of the four quarters of the fiscal year, alternating between moderate-to-strong and weak growth. Growth rates for the four quarters were 4.9, 1.4, 7.2 and 2.3 percent. Seven of the nine major accounts showed growth while only two: cigarette and LLET taxes, posted declines.

For the fiscal year, General Fund receipts exceeded the official estimate by \$83.3 million, or 0.9 percent. Estimates for corporation income, LLET and coal severance taxes all were off by at least 5.0 percent; however, the remaining major accounts were within 2.1 percent of their estimates.

Receipts totaled \$9,091 million compared to \$8,759.4 million for the previous year.

Sales tax receipts grew 5.4 percent in FY12, or \$156.0 million, as the recovery from the national recession increased consumers’ ability to make taxable purchases. Receipts of \$3,052.2 million compare to prior year receipts of \$2,896.3 million, marking the first time sales tax receipts have crossed the \$3 million threshold.

Individual income tax receipts increased 2.8 percent over FY11 totals. Strong growth in withholding, 5.3 percent was able to outpace declines in the remaining components. Receipts totaled \$3,512.1 million and compare to \$3,417.8 million collected last year.

Corporation income tax collections grew \$73.6 million in FY12 as both declarations and net returns posted increases. Receipts for the year totaled \$374.4 million and compare to \$300.8 million collected in FY11.

The LLET decreased 7.0 percent compared to the prior year with receipts of \$200.7 million in FY12.

Coal severance taxes increased 0.8 percent in FY12. Severed tons decreased by 9.6 percent in FY12. Long-term contract prices for the first three quarters of FY12 were slightly higher than those same contracts in FY11. The combination of prices and severed tons resulted in the small increase in coal receipts in FY12. Spot market prices for coal have been declining steadily since September

2011. Contract prices in the fourth quarter of FY12 were lower than those same contract prices in the fourth quarter of FY11. Total collections for the fiscal year were \$298.3 million or \$2.5 million more than FY11 receipts.

Total property taxes rose 2.9 percent during the fiscal year, the highest rate of growth since FY06. Receipts totaled \$529.6 million compared to \$514.8 million collected in FY11.

Tangible property receipts provided most of the increase while real property showed signs of revival with growth of 1.7 percent.

Lottery receipts increased 5.1 percent, or \$10.3 million, from the previous year. Receipts of \$210.8 million compare to \$200.5 million remitted to the Commonwealth in FY11.

The “Other” category finished the year up 0.4 percent. Receipts of \$658.0 million compare to \$655.5 million collected in FY11.

### Road Fund FY12

Total Road Fund receipts grew 7.8 percent to \$1,443.8 million during FY12. Collections grew moderately in the first quarter before peaking in the second quarter at 10.4 percent. Receipts remained strong, increasing 7.1 percent and 9.1 percent in the final two quarters.

Motor fuels taxes increased 7.8 percent with receipts of \$790.2 million, compared to \$732.8 million collected during the previous fiscal year. 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 tax receipts of \$416.9 million represent an increase of 9.2 percent over FY11 totals. Collections in this account are at their highest level since FY04. Motor vehicle license tax receipts were up 10.2 percent with collections of \$107.8 million compared to \$97.8 million collected in FY11.

Weight distance tax revenues increased 1.5 percent with receipts of \$75.1 million compared to \$74.0 million collected in FY11.

Investment income increased 54.3 percent as Road Fund balances increased over the previous fiscal year. Receipts totaled \$3.1 million, compared to \$2.0 million in FY11.

The “Other” category increased 0.7 percent from FY11. Total receipts in this category were \$34.9 million, compared to \$34.7 million collected in FY11.

Road Fund collections for FY12 exceeded the official revenue estimate by \$31.3 million, or 2.2 percent. The largest increases over the official estimates occurred in the motor vehicle usage and motor fuels taxes. All other accounts, taken together, were within \$6.4 million of the forecasted levels.

# Revenue Receipts

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Motor vehicle usage and motor fuels taxes comprised 84 percent of the Road Fund. Total Road Fund receipts grew 7.8 percent to \$1,443.8 million during FY12. Collections grew moderately in the first quarter before peaking in the second quarter at 10.4 percent. Receipts remained strong, increasing 7.1 percent and 9.1 percent in the final two quarters

Motor fuels taxes increased 7.8 percent with receipts of \$790.2 million, compared to \$732.8 million collected during the previous fiscal year. 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 tax receipts of \$416.9 million represent an increase of 9.2 percent over FY11 totals. Collections in this account are at the highest level since FY04.

Motor vehicle license tax receipts were up 10.2 percent with collections of \$107.8 million compared to \$97.8 million collected in FY11. The motor vehicle license tax accounted for 8.0 percent and the weight distance tax accounted for 5.0 percent. "Other" taxes combined to account for 2.0 percent.

Motor vehicle operators' revenue accounted for 1.0 percent while investment income contributed less than 1.0 percent.

# Revenue Receipts

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# Revenue Receipts

## GENERAL FUND TOTAL RECEIPTS

Fiscal Year	Receipts	Percent Change
2011-12	\$9,090,954,645	3.8
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

## ALCOHOLIC BEVERAGE TAXES—Distilled Spirits

Fiscal Year	Receipts	Percent Change
2011-12	\$41,050,705	9.5
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

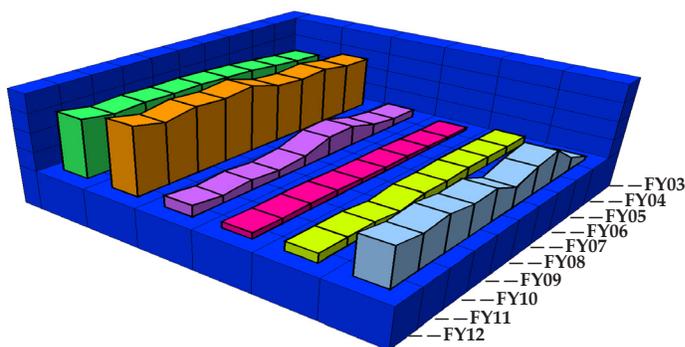
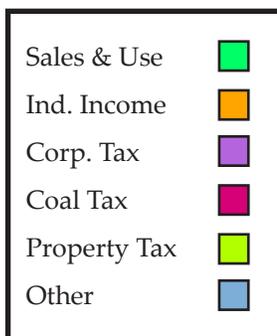
## ALCOHOLIC BEVERAGE TAXES—Malt Beverage

Fiscal Year	Receipts	Percent Change
2011-12	\$60,265,153	9.7
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

## ALCOHOLIC BEVERAGE TAXES—Wine

Fiscal Year	Receipts	Percent Change
2011-12	\$16,819,928	9.8
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

General Fund Receipts by Major Sources  
Millions of Dollars



# Revenue Receipts

## CIGARETTE TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$254,798,018	-2.8
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 <sup>1</sup>	589.2
2004-05	24,966,880	45.7
2003-04	17,136,198	4.7
2002-03	16,367,947	17.4

<sup>1</sup> Rate increase \$0.27 surtax.

## CORPORATION LICENSE TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$5,330,573	-50.0
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

## COAL SEVERANCE TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$298,263,637	0.8
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

## INDIVIDUAL INCOME TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$3,512,075,128	2.8
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

## CORPORATION INCOME TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$374,423,779	24.5
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

## LIMITED LIABILITY ENTITY TAX (LLET)

Fiscal Year	Receipts	Percent Change
2011-12	\$200,740,356	-7.0
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
2011-12	\$41,312,904	-0.1
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

## OIL PRODUCTION TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$11,955,961	44.3
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

## LOTTERY RECEIPTS

Fiscal Year	Receipts	Percent Change
2011-12	\$210,800,122	5.1
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

## PARI-MUTUEL TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$3,600,911	-21.8
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

## MINERALS AND NATURAL GAS TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$35,830,626	-9.4
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

## PROPERTY TAXES—REAL ESTATE

Fiscal Year	Receipts	Percent Change
2011-12	\$251,285,063	1.7
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

# Revenue Receipts

## PROPERTY TAXES—TANGIBLE

Fiscal Year	Receipts	Percent Change
2011-12	\$207,739,436	11.3
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

## SALES AND USE TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$3,052,236,048	5.4
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

## PROPERTY TAXES—INTANGIBLE

Fiscal Year	Receipts	Percent Change
2011-12	----	----
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

## BANK FRANCHISE TAX

Fiscal Year	Receipts	Percent Change
2011-12	\$94,158,966	6.5
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

## ROAD FUND TOTAL RECEIPTS

Fiscal Year	Receipts	Percent Change
2011-12	\$1,443,773,845	7.8
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

## MOTOR FUELS TAXES—Motor Fuels Normal

Fiscal Year	Receipts	Percent Change
2011-12	\$790,229,379	7.8
2010-11	732,826,112	11.8
2009-10	616,967,780	5.3
2008-09	585,871,307 <sup>2</sup>	2.4
2007-08	571,983,920 <sup>1,2</sup>	6.1
2006-07	539,147,756 <sup>1,2</sup>	7.3
2005-06	502,494,550 <sup>1,2</sup>	7.0
2004-05	469,621,779 <sup>1,2</sup>	6.4
2003-04	441,382,996	0.6
2002-03	438,564,438	2.0

<sup>1</sup> Figures reflect annual rate increase capped at 10% of average wholesale prices.

<sup>2</sup> Reflects correction in reporting method.

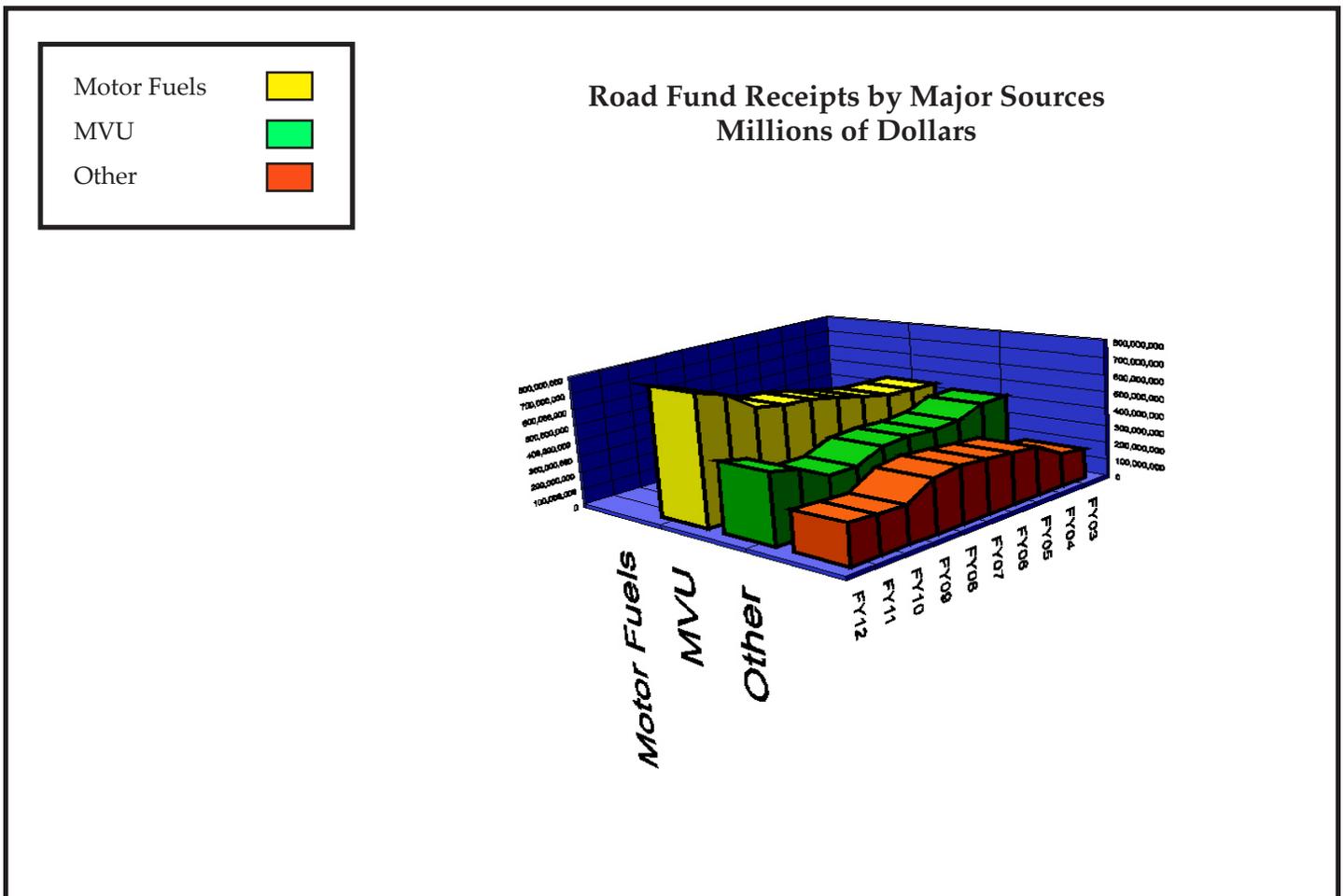
# Revenue Receipts

## MOTOR VEHICLE OPERATOR'S LICENSE FEE

## MOTOR VEHICLE USAGE TAX

Fiscal Year	Receipts	Percent Change	Fiscal Year	Receipts	Percent Change
2011-12	\$15,737,651	0.0	2011-12	\$416,852,951	9.2
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 <sup>1</sup>	-18.2
2007-08	15,372,618	-2.8	2007-08	361,723,956 <sup>1</sup>	-2.5
2006-07	15,811,880	8.6	2006-07	370,943,429 <sup>1</sup>	1.9
2005-06	14,553,623	146.7	2005-06	363,976,577 <sup>1</sup>	-2.4
2004-05	5,899,247	4.9	2004-05	373,034,898 <sup>1</sup>	-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

<sup>1</sup> Reflects correction in reporting method.



# Accomplishments

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## MAJOR ACCOMPLISHMENTS IN FISCAL YEAR 2011-2012

### OFFICE OF THE COMMISSIONER

The Commissioner's Office participated in the review and approval of 126 formal protest settlements that resulted in \$31,873,000 in additional revenues being collected.

The Division of Special Investigations had 29 indictments resolved by guilty plea, guilty verdict or other means involving 88 felony charges and 12 misdemeanor charges. The Division had 22 new cases indicted during the year involving 82 felony charges. The Division brought in \$862,956 in restitution paid to the Department, saved another \$689,406 by identifying and stopping 619 fraudulent income tax refunds, and receiving \$70,693 in payments to bills, for a total of \$1,623,055. This amount is 26 percent more than that of the prior fiscal year. During the fiscal year the courts ordered defendants to pay \$993,121 in restitution to the Department over time.

The Commissioner's Office provided new employee orientation and computer security set-up for 118 new employees. The Security Office successfully added physical security for the Barrett Warehouse Building to the Velocity server so that building access for Central Files can be controlled from the State Office Building. The Security Office assisted with the deployment of the New Modernized Electronic Filing (MEF).

### OFFICE OF PROCESSING AND ENFORCEMENT

#### Division of Collections

Delinquent debt collection FY12 totaled approximately \$208 million.

The Federal Vendor Offset Program, authorized under KRS 44.065(1), facilitates offsetting federal nontax payments to both tax and nontax debt owed to the Commonwealth. For FY12 there were 4,907 offsets, representing \$13.6 million in collections.

The Division of Collections collects delinquent child support for the Cabinet for Health and Family Services. Delinquent child support collections for FY12 totaled \$23.9 million.

The Enterprise Collection Program collects delinquent debt on behalf of other state government agencies, under KRS 45.237(4) and KRS 45.241(6). Collections for FY12 total \$13.8 million. The program distributed \$10.6 million back to referring agencies. There are currently 12 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 \$14 million in delinquent debt collection.

### Protest Resolution Branch

During the FY2012 the Protest Resolution Branch collected approximately \$74,500,000 in outstanding protested tax dollars.

In addition, improved operational efficiencies and emphasis on settling older cases resulted in a net reduction of over 200 cases in outstanding protest inventory.

### Division of Operations

The following represents the number of returns, for various type taxes, electronically filed in FY12:

Processed 1,420,733 individual income tax returns, representing 80 percent of the total number of current year returns filed, an increase of 4.5 percent from the previous year. In addition, 99,241 2D barcode returns and 301,751 paper returns were filed.

There were 1,049,301 electronically filed returns requesting refunds. Direct deposit requests from the taxpayer totaled 727,372, which is approximately 69 percent of the total refunds requested.

The Division of Operations processed over 65,000 prior year/amended individual income tax returns during FY12.

The Division of Operations and the Commonwealth Office of Technology are continuing to update the electronic filing system, adapting to the changes made by the Internal Revenue Service. This new system was used in conjunction with the legacy electronic filing system. Adaptations to this new system are still under construction so that it will allow 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.

### Division of Registration and Data Integrity

Answered 37,125 taxpayer assistance calls relating to registration inquiries and made 25,798 telephone calls requesting additional account information.

Received and processed 30,113 Kentucky tax registration applications. Twenty-four (24) percent of the applications were submitted through the Kentucky Business One Stop Portal. Received and processed 2,669 Update/Cancellation Forms and 4,083 additional pieces of taxpayer correspondence related to business registration and data cleansing. Completed 81,990 business tax account maintenances, an increase of approximately 21,000 from the previous fiscal year.

Completed review of approximately 51,000 possible noncompliant businesses; 22,367 were determined to be unregistered and were contacted for registration. Approximately 5,300 of the total noncompliant possibilities did not respond and were administratively

# Accomplishments

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registered. Registrations from compliance efforts resulted in approximately \$101.8 million in business tax revenues.

## OFFICE OF SALES AND EXCISE TAXES

The Revenue Enhancement Initiative and Tobacco Compliance employees yielded compliance activities of \$7,848,255 in the fiscal year.

Training Branch conducted four courses for Office and Department staff.

Maintained participation in the national Streamlined Sales and Use Tax Agreement (SSUTA), which continues to yield benefits. For FY12, there were over 800 registered SST filers who remitted tax to Kentucky. The total paid by all SST filers for the fiscal year was over \$17.9 million.

Received and processed 122,113 electronically filed sales and use tax returns, approximately a 20 percent increase over FY11.

Received and processed 14,460 electronically filed returns for utility gross receipts license (UGRL) tax.

Received and processed 11,430 electronically filed motor fuels tax returns.

Received and processed 3,160 electronically filed Telecom tax returns.

### Division of Sales & Use Taxes

Answered 80,161 phone calls and completed 27,987 pieces of correspondence relating to sales and use tax inquiries.

Presented a sales and use tax overview for auctioneers at three of their continuing education seminars.

Made 12 distributions of the telecommunications tax totaling \$36,407,835 to over 1,300 local political subdivisions.

Verified and transferred \$12,140,578 to the Kentucky Horse Racing Authority from the sales tax on equine breeding fees.

Transferred \$10,086,371 to the Road Fund from motor vehicle supplementary schedules.

Collected \$2,926,615 in county clerk's use tax transfers, including compliance of affidavits forwarded by the clerks.

Verified and issued 13 refunds totaling \$2,368,237 in response to requests relating to completed Kentucky Enterprise Initiative Act (KEIA) projects.

Verified and issued 12 approved tourism project refunds totaling \$5,573,623.

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.

Verified and issued three TIF refunds totaling \$3,000,038.

### Division of Miscellaneous Tax

Administered the utility gross receipts license (UGRL) tax and distributed \$213,733,601 to 158 local school districts throughout the Commonwealth; a 3.1 percent decrease over the previous fiscal year.

Answered 35,115 phone calls relating to miscellaneous tax inquiries.

Performed 355 retail cigarette inspections for compliance with the Master Settlement Agreement.

## OFFICE OF INCOME TAXATION

### Division of Individual Income Tax

Answered 157,116 telephone inquiries for individual income tax and 51,062 telephone inquiries for withholding tax for a total of 208,178 telephone inquiries received by the Division of Individual Income Tax.

Responded to 1,738 Live Chat conversations and 6,253 Webmaster inquiries from individuals requesting individual income tax or withholding tax assistance.

Reduced the IIT forms costs to just over \$56,000 for a savings of more than \$206,000 from the previous year.

Compliance initiatives had total collections of \$51,487,840 for the Division.

### Division of Corporation Tax

Completed the implementation of electronic capture of all filed 2010 corporation income tax returns for the purpose of compliance and taxpayer assistance programs.

Completed the review of 8,316 requests for letters of good standing submitted by entities needing reinstatement with the Secretary of State.

The Division of Corporation Tax received 24,031 telephone inquiries.

Due to technological advances in electronic processing and data

# Accomplishments

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capture of corporate return information, the Division of Corporation Taxation billed \$74.5 million in compliance initiatives.

Responded to 317 web inquiries for corporation income and pass-through entities.

## Communications and Training Branch

Conducted 49 training classes for DOR employees and 18 external training classes for Kentucky tax practitioners, CPAs, attorneys, insurance adjusters, realtors and other interested parties.

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

As part of its statutory obligation to provide assistance to property valuation administrators (PVAs), the Office of Property Valuation acquired an assessment administration program to make available to any county that wishes to use it. Approximately 40 counties will be using the program by 2013 to assist them with maintaining their assessment information and property tax roll and reporting of assessment information to the DOR.

### State Valuation Branch

Locally assessed tangible personal property assessments for calendar year 2011 totaled \$59.770 billion. These assessments yielded an estimated \$84.0 million in state taxes.

Omitted personal property tax assessments for FY12 totaled \$6.4 billion and approximately \$22.2 million in state and local property taxes were collected on these omitted assessments.

State and local motor vehicle property tax collections for FY12 were approximately \$110.5 million and \$206.6 million, respectively.

Public Service company assessments for 2012 were set at \$28.8 billion and were expected to yield approximately \$65.7 million in state tax revenues and approximately \$131 million in local tax revenues.

In FY2012, the Freddie Freeroader Program, targeting Kentucky residents with out-of-state license plates, brought in state and local property taxes totaling \$ 307,800 and proper registration of hundreds of vehicles.

Combined state and local motor vehicle property tax collections for FY12 were \$115.8 million and \$214.1 million, respectively.

## 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 \$2,000 to \$5,000 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 2011 = \$2,505

The Cartography/GIS Section personnel continued their training efforts with PVA offices in five mapping classes and one administrative class.

### Minerals Severance Section

Severance tax receipts for FY12 totaled \$346,841,525. One half of these receipts are distributed back to counties with mining activity.

Coal: 298,460,068

Gas: 25,905,200

Oil: 12,214,114

Minerals: 13,661,743

# Accomplishments

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The Coal Severance Tax system allows coal severance taxpayers to file their monthly returns and make payments over the Internet. There are several companies using the program and more improvements are being made to the system to expand its use to more taxpayers.

## Minerals Resource Valuation Branch

Total unmined minerals 2012 tax receipts (2011 tax year):

Total:	\$41,883,230
Gas:	13,380,600
Oil:	3,029,000
Limestone:	464,600
Clay:	5,000
Coal:	25,004,200

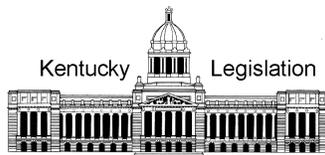
## OFFICE OF FIELD OPERATIONS

During FY12, in-state audits were performed with net assessments of \$48,214,343 and out-of-state audits generated net assessments of \$34,416,342.

During FY12, Compliance Officers assisted approximately 151,000 taxpayers through walk-in services and telephone calls. Collections totaled over \$23.6 million through various tax compliance programs.

Field Operations implemented the capability to review and bill all field audits. This improvement provided the opportunity to streamline and standardize the process.

# 2012 General Assembly



## A Review of Tax Law Changes Enacted by the 2012 General Assembly

### 2012 Legislation Affecting Kentucky Department of Revenue



*NOTE: This 2012 legislative summary presents only general information concerning the major tax provisions the General Assembly has enacted and does not represent a complete analysis or specific interpretations of the law changes. The Department of Revenue (DOR) will provide more specific information as it implements these changes. Full text of enacted bills is available on the legislative home page, [www.lrc.ky.gov](http://www.lrc.ky.gov)*

#### A REVIEW OF TAX LAW CHANGES

Enacted by the 2012 Regular Session of the General Assembly.

##### ADMINISTRATIVE

**An Act Relating to Administrative Regulations**—Effective July 12, 2012, KRS Chapter 13A is amended to update the procedures the Department must follow when filing administrative regulations. This bill was primarily an update to the current 13A language to greater define terms and requirements of the Administrative Regulation Review Subcommittee. (SB 157)

**Tax Amnesty Program**—Amended KRS 131.140 to 131.445 which shall be known as and may be cited as the Kentucky Tax Amnesty Act. KRS 131.400(4)(b) provides that a tax amnesty program shall be conducted by the department during the fiscal year ending June 30, 2013, for a period of not less than 60 days nor more than 120 days. The program shall be available to all taxpayers owing taxes, penalties, fees, or interest subject to the administrative jurisdiction of the Kentucky Department of Revenue, with the exception of: (i) ad valorem taxes levied on real property pursuant to KRS Chapter 132; (ii) ad valorem taxes on motor vehicles and motorboats collected by the county clerks; and (iii) ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials; and (iv) any penalties imposed under KRS 131.630 or 138.205.

The tax amnesty program shall apply to tax liabilities for taxable periods ending or transactions occurring after Dec. 1, 2001, and prior to Oct. 1, 2011. Amnesty tax forms and submissions shall be in a form prescribed by the department. (HB 499)

**Taxpayer Ombudsman**—Effective July 12, 2012, a new section of KRS Chapter 131 was created requiring the department to provide the services of a taxpayer ombudsman to carry out the

spirit and specific purposes of KRS 131.041 to 131.081. The taxpayer ombudsman shall: (i) coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or the taxpayer's representatives; (ii) provide recommendations to the department for new or revised informational publications and recommend taxpayer and department employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance; and (iii) provide recommendations to the department for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to promote better understanding and voluntary compliance by taxpayers. (HB 276)

##### CORPORATION INCOME TAX

**Qualified Air Freight Forwarders**—KRS 141.121 was amended effective for taxable years beginning on or after Jan. 1, 2010, to provide that a qualified air freight forwarder's corporation income tax apportionment factor shall be determined as follows: (i) the property factor shall be determined as provided in KRS 141.120(8)(a); (ii) the payroll factor shall be determined as provided in KRS 141.120(8)(b); and (iii) the sales factor shall be determined as provided in KRS 141.120(8)(c), except freight forwarding revenues shall be included in the numerator of the sales factor by multiplying the freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline of the qualified air freight forwarder and the denominator of which is the total miles operated by the affiliated airline of the qualified air freight forwarder. (HB 444)

##### ECONOMIC DEVELOPMENT PROGRAMS

**Kentucky Business Investment Programs**—Effective July 12, 2012, KRS 154.32-090 was amended to allow a local jurisdiction that imposes a local occupational license fee to request from the Kentucky Economic Development Finance Authority a waiver of the local occupational license fee requirements, if the local

# 2012 General Assembly

jurisdiction offers alternative inducements of similar value that are satisfactory to the Kentucky Economic Development Finance Authority. (HB 56)

**Metropolitan College Tax Credit**—Effective July 12, 2012, KRS 141.381 was amended to extend the expiration date of the Metropolitan College tax credit from April 15, 2013 to April 15, 2017. (HB 246)

**Kentucky Job Retention Agreements**—Effective July 12, 2012, KRS 154.25-010 was amended to expand eligible companies to include North American Industry Classification Codes: 325211, 325510, 326199, 327211, 327212, 327215, 331111, 331221, 331521, 332312, 332813, 33299, 335110, 335911, 335912, 423510, 493110, 541614, 551114, and 561439. An eligible company must: (i) employ a minimum of one-thousand (1,000) full-time persons engaged in automobile or automobile parts or supplies manufacturing; (ii) have been operating within the Commonwealth on a continuous basis for at least five years preceding the request for approval by the Kentucky Economic Development Finance Authority of the project which meets the standards set forth in KRS 154.25-020; and (iii) have been previously approved for economic development incentives by the Commonwealth related to one or more of its facilities. (HB 400)

**Kentucky Industrial Revitalization Act**—Effective July 12, 2012, KRS 154.26-010 was amended to allow a supplemental project during the term of a previously approved Kentucky Industrial Revitalization Act project. A supplemental project eligible company means an approved company that: (i) has expended approved costs of at least \$50 million on an existing approved Kentucky Industrial Revitalization Act project; and (ii) employs a minimum of 750 employees at the site of the Kentucky Industrial Revitalization Act project.

The agreement for a Kentucky Industrial Revitalization Act project shall not be longer than the earlier of: (i) the date on which the approved company has received inducements or withheld assessments equal to the amount that the company may recover; or (ii) 10 years from the date of the execution of the agreement or any longer term negotiated as part of an amended agreement not to exceed an additional 10 years, for a maximum of 20 years if a supplemental project is approved. (HB 539)

## INDIVIDUAL INCOME TAX

**Checkoff for Local Food Banks**—Effective for taxable years beginning on or after Jan. 1, 2013, KRS Chapter 141 was amended to create a new section to allow any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund to contribute an amount, not to exceed the amount of the refund, to the farms to food banks trust fund. Moneys received in the farms to food banks trust fund shall be used only for awarding grants to eligible nonprofit organizations pursuant to KRS 247.980 to 247.986. (HB 419)

## INSURANCE PREMIUM SURCHARGE RATE

**Six-month notification**—Effective July 12, 2012, KRS 136.392 was amended to provide that the insurance premium surcharge rate calculated by the commissioner of revenue and communicated to the commissioner of insurance for the purpose of informing the affected insurers shall take effect no earlier than six months from the date that the commissioner of insurance notifies the affected insurers. This amendment provides the industry with a minimum six-month notice to prepare for and enact any future rate changes. (HB 338)

## LIMITED LIABILITY PASS-THROUGH ENTITIES

**Statutory Trusts**—Effective July 12, 2012, KRS Chapter 386A was created, which allows an entity to organize as a statutory trust or a series statutory trust. Section 5 of HB 341 provides that for purposes of KRS 141.0401, each statutory trust and foreign statutory trust and each series of a series statutory trust or a foreign series statutory trust shall be treated as a limited liability pass-through entity. A statutory trust has perpetual existence and affords its beneficial owner and trustee protection from general liability. A statutory trust may have one or more series and each series shall be separate for all purposes including general liability.

Section 18 of HB 341 provides that a statutory trust may be organized for any lawful purpose, except a statutory trust may not: (i) have a predominantly donative purpose; or (ii) be organized for the purpose of rendering a professional service. (HB 341)

**Limited Cooperative Associations**—Effective July 12, 2012, KRS Chapter 272A was created, which allows an entity to organize as a limited cooperative association. Section 8 of HB 441 provides that for purposes of KRS 141.0401, each limited cooperative association with investor members shall be treated as a limited liability pass-through entity, except to the extent of patronage activities or dividends. A limited cooperative association shall have perpetual existence unless the articles of association state a term for the limited cooperative association's existence, and affords its members protection from general liability. Section 5 of HB 441 provides that a limited cooperative association may be organized for any lawful purpose, whether or not for profit.

A “member” means a person that is admitted as a patron member or investor member, or both, in a limited cooperative association. An “investor member” means a member that has made a contribution to a limited cooperative association and: (i) is not required by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest; or (ii) is not permitted by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest. A “patron member” means a member that has made a contribution to a limited cooperative association and: (i) is required by the organic

# 2012 General Assembly

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rules to conduct patronage with the association in the member's capacity as a patron member in order to receive the member's interest; or (ii) is permitted by the organic rules to conduct patronage with the association in the member's capacity as a patron member in order to receive the member's interest. (HB 441)

## PROPERTY TAX

**Assessment of residential properties**—Effective July 12, 2012, the General Assembly recognized the “subdivision development” approach to value, along with the cost, sales, and income approaches, while also recognizing real property is required to be assessed at 100 percent of its fair cash value. (HB 398)

**Taxation as a public service company**—Effective April 11, 2012, KRS 136.120 was amended to clarify that a qualified air freight forwarder is not subject to taxation as a public service company, and defines it as “a person that is engaged primarily in the facilitation of the transportation of property by air; does not itself operate aircraft; and is in the same affiliated group as an affiliated airline. (HB 444)

**Sale of delinquent property tax bills**—Effective April 23, 2012, KRS Chapter 134 was revised to achieve consistency in providing notice of delinquent property tax bills to the public. (HB 545)

## SALES AND USE TAX

**Disaster Relief Refund of Sales And Use Tax**—(retroactive to provide tax relief for property owners in the 23 disaster counties affected by the storms in late February and early March of 2012.) Provides a refund of the 6 percent Kentucky sales and use tax paid by legal owners of a building on the purchase of building materials permanently installed in the repair or replacement of buildings damaged by a disaster in counties covered under a federal disaster relief declaration. In this context, “building materials” means tangible personal property that becomes a permanent part of a building. Claims for refunds must be filed within three years from the date of the disaster area declaration for building materials purchased on or after that date. The relief is limited to the lesser of (1) \$6,000 for each building without regard to the number of legal owners, or (2) 100 percent of the sales tax actually paid, reduced by the vendor compensation permitted to sellers under the law. Purchases of building materials must be made by the legal owner of a building or by a contractor under contract with the legal owner. The repair and replacement must be in counties where the losses occurred and receipts must be presented showing sales tax paid along with proof of losses from the insurance company or the Federal Emergency Management Agency. More details on this measure are available at <http://www.revenue.ky.gov/business/salesanduse.htm> (HB 255)

# Legal Issues

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## 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 advice and written legal opinions to DOR personnel and other government personnel and officials as well as taxpayers; 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 assistance and advice 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.

## 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 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.

### **Connie Hancock, Floyd County Property Valuation Administrator v. Prestonsburg Industrial Corp., 365 S.W.3d 199 (Ky. 2012)**

At issue in this ad valorem or property tax case was 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 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 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.

On April 26, 2012, the Kentucky Supreme Court rendered an opinion reversing the Court of Appeals and holding that PIC was not an institution of purely public charity. The Court stated in its opinion that "[w]e are being asked to consider a non-traditional definition of 'institutions of purely public charity,' namely, whether economic development for job creation can qualify a private, nonprofit corporation as an institution of purely public charity."

The Court noted that the word "purely" in this exemption had been interpreted in prior court decisions as modifying "charity." This interpretation "limited the tax exemption to organizations that are 'wholly altruistic in the end to be attained, and that no private or selfish interest should be fostered under the guise of charity.'"

The Court rejected PIC's argument that it should qualify for the exemption "because of expected indirect effects on the local economy and tax base in the form of job creation and commercial development." PIC had cited no Kentucky court decision that supported such an argument. Instead, the earlier Kentucky decisions had "determined that an institution fail[ed] to qualify as a 'purely public charity' for the purpose of tax exemption when the charitable outcome is merely incidental and the organization's principal activities center around promoting the interests and gratifying the wishes of its own membership."

In this case, "PIC's actual activities involve developing and marketing commercial property, activities which primarily serve and benefit the buyers or customers of PIC." No evidence had been presented that these buyers or customers "would qualify as persons or organizations in need of charity or general public assistance." Moreover, PIC was not "claiming to actually create jobs, but rather it claims only the incidental benefit of bringing in new businesses, which may potentially create jobs." The Court further observed that "the members of PIC consist of local members of the business community, whose own interests would arguably be served by an increase in commercial and economic development in the area."

# Legal Issues

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The Court accordingly concluded that “it is clear by the evidence of record that PIC’s activities are inconsistent with a ‘purely public charity’ as its activities are not... ‘wholly altruistic in the end to be attained... [so] that no private or selfish interest should be fostered under the guise of charity’” and that “[s]imply stated, commercial and economic development are the promotion of business interests and not, therefore, indicative of actions of a purely public charity.”

The Supreme Court’s decision in this case is final, as no petition for rehearing was filed.

## **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 it. It later filed a refund claim seeking the recovery of a portion of these assessments that it had not protested and instead paid. The DOR denied this refund claim based upon the language of KRS 134.590 that states that a taxpayer must have followed applicable administrative remedy procedures, such as the protest provisions of KRS 131.110 before it can obtain an ad valorem tax refund.

The Kentucky Court of Appeals on November 5, 2010 held that the Cox could seek a refund notwithstanding its failure to have protested the assessments that had been issued to it. The DOR’s motion for discretionary review of the Court of Appeals’ November 5, 2010 opinion was granted by the Kentucky Supreme Court on November 16, 2011. Briefs have been filed by the parties and amici curiae Kentucky Chamber of Commerce, National Federation of Independent Businesses, and Bluegrass Institute for Public Policy Solutions, Inc. The Supreme Court has ordered that the case shall be submitted to it for decision without oral argument.

## **St. Joseph Healthcare Systems, Inc. v. Department of Revenue, 2012-SC-00133 (Kentucky Sup. Ct.).**

School districts are authorized by KRS 160.613(1) to impose a utility gross receipts license tax not to exceed 3 percent of the gross receipts derived from furnishing utility services within the district. “Utility services” are defined by KRS 160.6131(5) as “the furnishing of communications services, electric power, water, and natural, artificial and mixed gas.” While this tax is imposed by school districts, it is collected by the DOR. See KRS 160.6154. The issues in this case consisted of 1) whether a “natural gas marketing company,” not regulated by the Public Service Commission, is liable for this tax and 2) if that company is not liable for the tax, whether the purchaser of the gas in question was exempt from the tax under Ky. Const. §170 because it was an institution of purely public charity. The case was brought as an action for declaratory relief by purchaser of the gas, St. Joseph Health System, Inc., a nonprofit hospital, against the “natural gas marketing company,” Constellation New Energy-Gas Division, LLC, the Fayette County Board of Education, and the DOR.

The Court of Appeals rendered an opinion on October 7, 2011, holding that the tax was imposed upon the furnishing of utility services as specifically defined in KRS 160.6131(5), and not utilities regulated by the Public Service Commission. This statutory definition plainly applied in this case to the activities of the “natural gas marketing company” in this case, Constellation, which unquestionably consisted of the furnishing of natural gas. Accordingly, the Court concluded “that because Constellation furnishe[d] natural gas to Saint Joseph, Constellation [was] subject to imposition of the utility [gross receipts license] tax.” In light of this conclusion, the Court of Appeals did not need to decide whether St. Joseph was exempt from the tax under Ky. Const. §170.

St. Joseph petitioned the Court of Appeals for rehearing. Two other natural gas marketing companies filed amicus briefs in support of the petition for rehearing. This petition was denied on January 30, 2012. St. Joseph then filed motions for discretionary review with the Kentucky Supreme Court, which are still pending.

## **Dayton Power and Light Co. v. Department of Revenue, 2011-CA-001438 (Ky. Ct. App.).**

This case concerns the public service corporation ad valorem tax. Under KRS 136.115 to 136.180, the DOR assesses for ad valorem tax purposes the operating property of various types of entities called public service corporations - - railway companies, gas companies, water companies, etc. KRS 136.120(1)(a); 136.115(1). The operating property consists of the operating tangible property and the franchise. KRS 136.115(2). The franchise has been defined as the intangible value derived or created by the taxpayer’s operations as a public service corporation and is determined by subtracting the assessed value of the tangible operating property from the capital stock or the entire property of the taxpayer, its real and personal, tangible and intangible, property. *See, e.g., Revenue Cabinet v. Comcast Cablevision of the South, Inc.*, 147 S.W.3d 743, 752 (Ky. App. 2003).

The question presented by this case is whether the franchise should be “spread” to portions of the operating tangible property or taxed separately. If the franchise can be spread to the various classes of operating tangible property, then a portion of it qualifies for the lower state tax rates and exemptions from local ad valorem taxation applicable to such forms of property as machinery actually engaged in manufacturing and property certified as a pollution control facility. KRS 132.020(1)(i) and (k); 132.200(4) and (8). The DOR’s position in this case has been that a public service corporation’s franchise is an item of property separate and distinct from that corporation’s operating tangible personal property. The franchise is nowhere mentioned in the statutory provisions relied upon by the taxpayers that provide lower state tax rates and exemptions from local taxation for various classes of property. Thus, it is subject to the general or catch-all 45¢ state tax rate prescribed in KRS 132.020(1)(t) and not exempt from local taxation.

# Legal Issues

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The KBTA ruled in favor of the taxpayer in this case. The DOR appealed the KBTA's decision to the Franklin Circuit Court, which rendered an opinion and order reversing the KBTA.

The taxpayer appealed the circuit court's decision to the Kentucky Court of Appeals. That court rendered an opinion on August 10, 2012 affirming the circuit court's opinion and order. The Court of Appeals held that the applicable statutes were plain and unambiguous in not permitting the value of the taxpayer's franchise to be spread to other classes of property. The franchise was instead a separate and distinct item of the taxpayer's operating property and thus subject to the 45¢ state tax rate contained in KRS 132.020(1)(r) and not exempt from local ad valorem taxation.

# DOR Administration

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## 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 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 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 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 department, Cabinet and 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 (PVAs) 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
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, telecommunications excise, and gross revenue taxes. It has two branches: Program Compliance and Taxpayer Assistance. The branches are responsible for conducting office audits,

# DOR Administration

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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 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 telephone, by written correspondence, via email, 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 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.

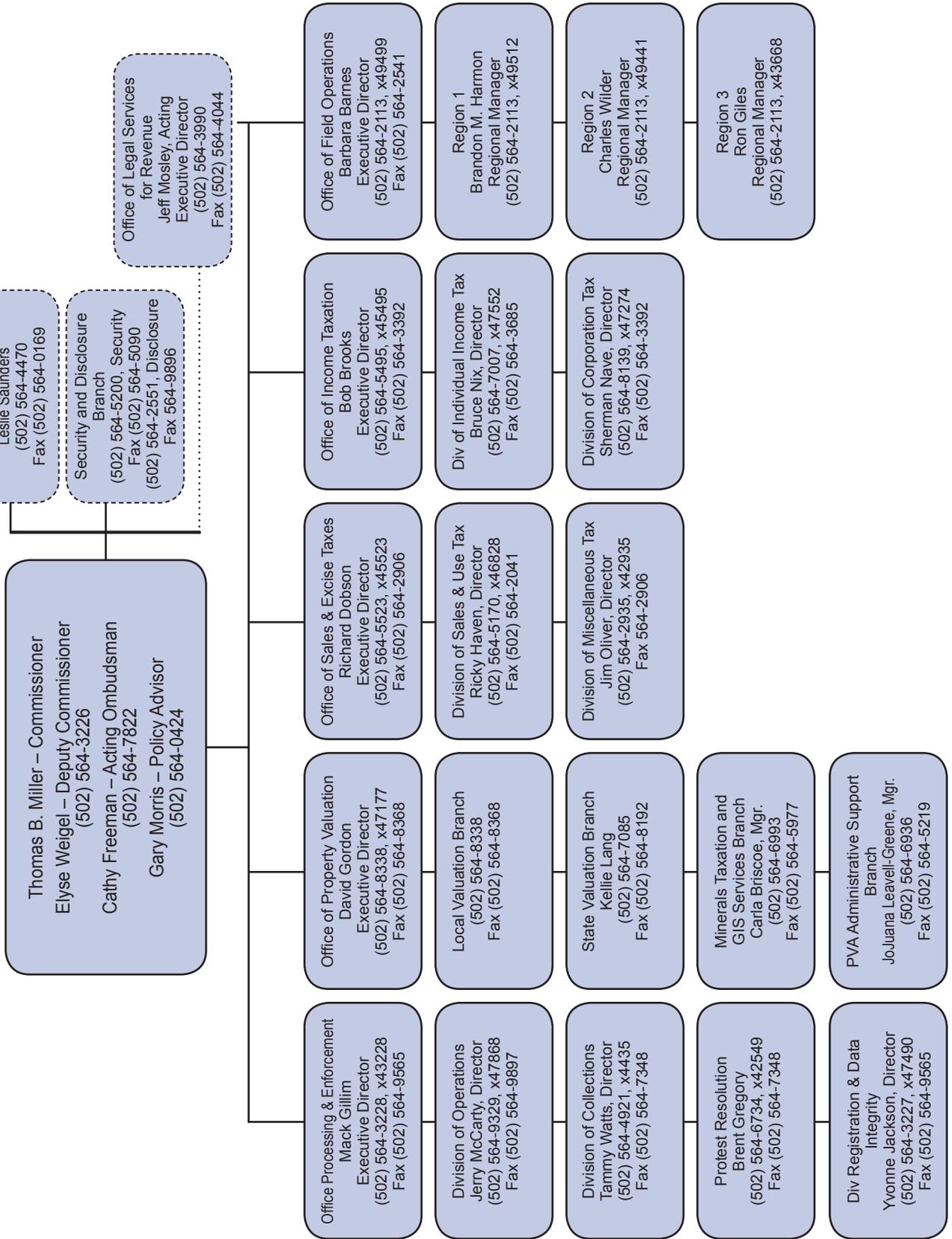
The Audit Program is an essential part of the DOR's compliance efforts. This program ensures fair and equitable tax treatment to all businesses operating in the Commonwealth. Audits are performed in the areas of sales and use tax, corporation income and license tax and property tax, to name a few. Audits 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 FY2012 - All Funds						
(Excluding PVAs)						
Expenditure Category	General Fund	Road Fund	Agency Fund	Federal Fund	Tobacco Settlement Fund	Total
Regular Salaries & Wages	29,767,598.42	1,493,638.99	3,660,325.26			34,921,562.67
Other Salaries & Wages	96,977.69	257.94	181.08			97,416.71
Employer FICA	2,151,305.51	99,142.38	202,936.22			2,453,384.11
Employer Retirement	6,094,899.65	276,237.35	568,217.20			6,939,354.20
Health Insurance	5,376,203.83	254,808.83	463,177.29			6,094,189.95
Life Insurance	11,623.83	420.72	1,102.92			13,147.47
<i>Subtotal Salaries &amp; Fringe</i>	<i>43,498,608.93</i>	<i>2,124,506.21</i>	<i>4,895,939.97</i>	-	-	<i>50,519,055.11</i>
Worker's Compensation	177,166.27					177,166.27
Other Personnel Costs	3,016,187.23	355,580.28	134,245.69			3,506,013.20
Other Professional Services Contracts	38,005.98	82.50				38,088.48
Transfer to General Fund						-
<b>Total Personnel Costs</b>	<b>46,729,968.41</b>	<b>2,480,168.99</b>	<b>5,030,185.66</b>	-	-	<b>54,240,323.06</b>
Utilities & Heating Fuels	1,073,334.32					1,073,334.32
Facilities and Support Services Charges	2,197,154.66					2,197,154.66
Other Rentals	685,944.96	14,508.22	75,828.30			776,281.48
Maintenance and Repairs	918,958.45		149,598.96			1,068,557.41
Postage & Related Services	3,746,962.40	29.60	300,402.35			4,047,394.35
Miscellaneous Services	1,482,445.17	2,760.52	392,971.92		272,518.26	2,150,695.87
Telecommunications	104,301.23	1,988.74	58,903.92			165,193.89
Computer Services	13,243,539.73	103,153.12	464,569.81			13,811,262.66
Supplies	147,366.96	11,876.43	29,343.05			188,586.44
Commodities	290,405.15	12,939.17	21,905.28			325,249.60
Travel	370,821.29	2,575.21	77,846.83	1,102.00		452,345.33
<b>Total Operating Expenses</b>	<b>24,261,234.32</b>	<b>149,831.01</b>	<b>1,571,370.42</b>	<b>1,102.00</b>	<b>272,518.26</b>	<b>26,256,056.01</b>
Capital Construction			117.25			117.25
<b>Total Capital Construction</b>	<b>-</b>	<b>-</b>	<b>117.25</b>	<b>-</b>	<b>-</b>	<b>117.25</b>
<b>Total Expenditures</b>	<b>70,991,202.73</b>	<b>2,630,000.00</b>	<b>6,601,673.33</b>	<b>1,102.00</b>	<b>272,518.26</b>	<b>80,496,496.32</b>



# 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.

The 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: 2010—\$2,210 and 2011—\$2,240.

## **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 Dec. 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 16.1 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 Dec. 31 each year for the race year ended Nov. 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; 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—6 percent; 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 the DOR. Buses and nonapportioned Kentucky registered vehicles are subject to KRS 132.487. Semi-trailers of interstate motor carriers are exempt.

# Taxes Administered

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**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

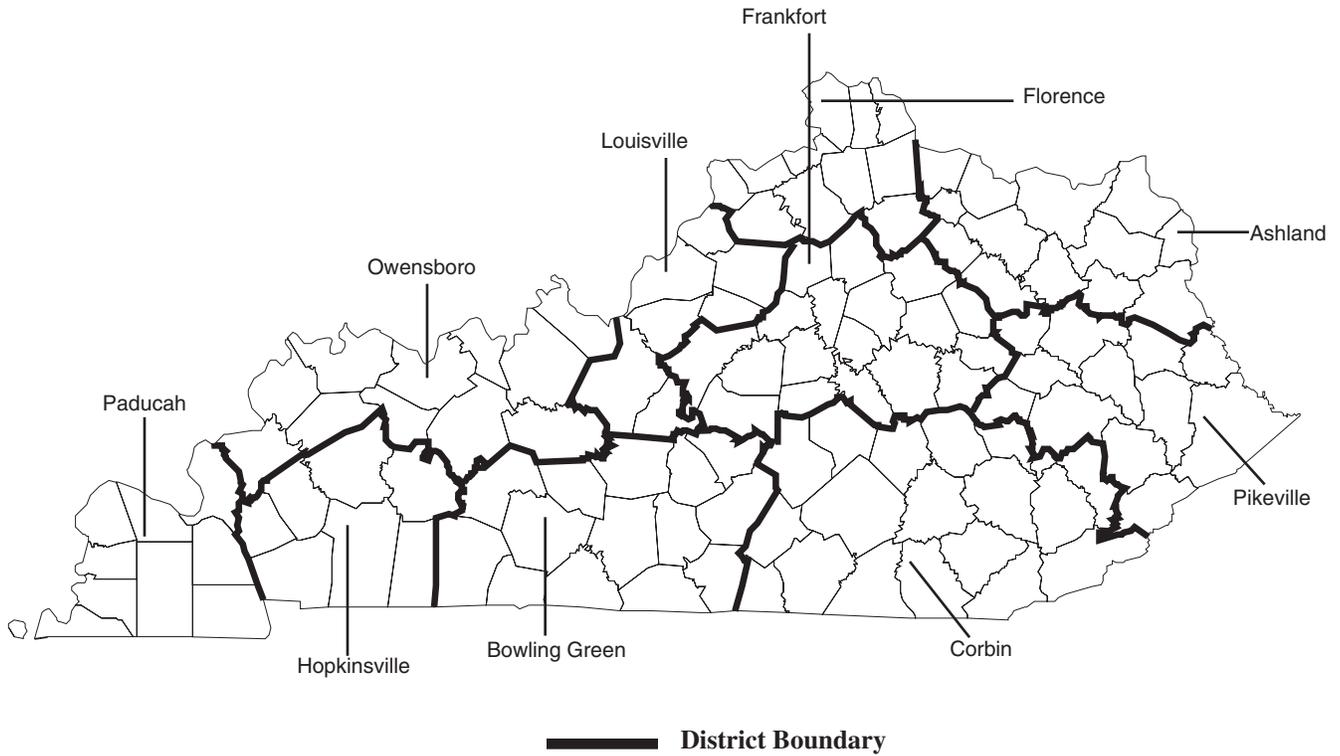
by school district. The DOR captures the district information and the corresponding tax collections and distributes the amount to the appropriate school district.

## 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.



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201 West Professional Park Court  
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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  
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Fax: (606) 523-1972

**Hopkinsville, 42240-7926**

181 Hammond Drive  
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**Louisville, 40202-2310**

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7310 Turfway Rd., Suite 190  
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