

Kentucky Tax Alert

SUPREME COURT RULING ON SAME-SEX COUPLES

In accordance with the United States Supreme Court's decision in the case styled as *Obergefell vs. Hodges*, -- S.Ct. --, 576 U.S. -- (June 25, 2015), Kentucky will now license a marriage between two people of the same sex, and will recognize a marriage between two people of the same sex when their out-of-state marriage was lawfully licensed and performed. The court decision affords new filing-status options to married same-sex couples when filing their Kentucky income tax returns, and classifies each as a "surviving spouse" for purposes of both Kentucky's income and inheritance taxes. The guidance provided below supersedes that found in the *Kentucky Tax Alert*, Nov. 2013, Vol. 32, No. 6.

Income Taxes: When filing income tax returns, married same-sex couples may elect, for any year, to file a joint return or a combined return, rather than filing separate returns, if they are married at the close of the taxable year. A surviving spouse of a married same-sex couple may also elect to file a joint return or a combined return if the spouse died during the taxable year.

Inheritance Taxes: The survivor of a married same-sex couple will be recognized as a Class A beneficiary for inheritance tax purposes. The exemption from inheritance tax authorized for the total inheritable interest passing to a surviving spouse now extends to married same-sex couples.

Claims for Refund: A married same-sex couple whose marriage was lawfully performed out-of-state may apply for a refund of any overpaid taxes by submitting an amended return within two (2) years from the date the tax was paid, as provided in Ky. Rev. Stat. §134.590(1) and (2).

Questions: Questions concerning the effect of the court decision on Kentucky income or inheritance taxes may be directed to the following at the Kentucky Department of Revenue (DOR):

Sarah Watts (502) 564-7658 (income tax)

Jim Orr (502) 564-9306 (inheritance tax)

CORRECT KENTUCKY CORPORATION/LLET ACCOUNT NUMBER REQUIRED FOR ELECTRONIC FILING

In addition to Forms 720 and 720S being electronically accepted in January for corporations and limited liability entities, Kentucky began accepting the Form 765, Kentucky Partnership Income and LLET Return, through the Fed/State electronic filing program on April 22, 2015. Taxpayers and preparers may have noticed returns rejected due to incorrect information being submitted. Instances of the following are the most frequent reasons for return rejections:

- 1) The LLET account number is checked against DOR's taxpayer registration database. The assigned number must agree to the taxpayer's name on the electronically filed return and the corresponding LLET account number. If there is a mismatch in the data, the return will be rejected.
- 2) If the LLET account number matches, the return goes through a second validation verifying that the FEIN corresponds with the above criteria. If it does not agree, the return will be rejected.
- 3) If a parent company filing a return with subsidiaries does not supply the proper LLET number and FEIN (where required), the return will be rejected.

The taxpayer/preparer should call the DOR's Division of Taxpayer Registration at (502)564-3306 for assistance with the Kentucky Corporation/LLET account number. If a preparer needs a Kentucky Corporation/LLET Account Number from a pass-through entity in order to electronically file a return for an individual or C corporation who had nonresident withholding, they will need to get the number from the pass-through entity. DOR cannot provide the number to someone who is not an authorized representative of the pass-through entity.

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KENTUCKY ONE STOP BUSINESS PORTAL FEATURES

Effective May 1, the Kentucky One Stop Business Portal was upgraded with a new online registration system. Currently, this system allows registration of entirely new businesses that need to register with both the Secretary of State and DOR or with DOR only.

The new system is an improvement over the previous system as it now allows:

- Assignment of the tax account numbers online;
- The user to print the Sales and Use Tax Permit themselves; and
- A business to assign security roles for employees at their business or tax preparer's office to view or update tax account registration information.

A future release, slated for later this year, will allow all businesses already registered with the Secretary of State's Office and/or the DOR the ability to manage their existing accounts online. Manage functions for DOR will include:

- The ability to complete the DOR registration online, even if the Secretary of State registration had been applied for using the previous system or even by paper;
- Apply for additional tax accounts as needed;
- Cancel and reinstate tax accounts;
- Change the demographic information, such as business name, mailing addresses, telephone numbers, etc;
- Add new responsible parties; and
- Maintain various other pieces of business information.

NOTE: Attorneys and accountants who register a business through the One Stop Business Portal should appoint someone from the business as the "Business Administrator". Without Business Administrator security role access, the business will be unable to grant the needed security roles to complete the registration or maintain their information online.

OPEN RECORDS REQUESTS

As a reminder, please use the following email address to submit an Open Records Request to the DOR: orr.revenue@ky.gov. For more information about Open Records procedures, visit our webpage <http://revenue.ky.gov/openrecords.htm>

STATE PROPERTY TAX RATE UNCHANGED FOR 2015

Rate is 12.2 cents per \$100 assessed value; same since 2008

The DOR has set the 2015 State Real Property Tax Rate at 12.2 cents per \$100 of assessed value. Kentucky Revised Statute 132.020 requires the DOR to set the real property rate no later than July 1 of each year.

This rate is based on the revenue generated from the increase in taxable real property assessments from 2014 to 2015. If the revenue increase is more than 4 percent after the exclusion of new property added to the tax roll during 2015, then the prior year rate must be reduced. Because the assessment increase for 2015 is estimated at 2.78 percent, the state rate will remain the same as the 2014 rate, 12.2 cents per \$100 of assessed value.

All of the revenue generated from the state property tax rate will go into the state's General Fund.

Kentucky Tax Alert comments and suggestions should be addressed to the Office of Income Taxation/Training Branch, Finance Cabinet, Department of Revenue, Frankfort, Kentucky, (502) 564-0937.

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