

103 KAR 1:060. Electronic fund transfer.

RELATES TO: KRS 131.155, 131.180, 131.183, 131.990

STATUTORY AUTHORITY: KRS 131.130(1), 131.155(2), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Revenue Cabinet to promulgate administrative regulations for the administration and enforcement of all tax laws of this state. KRS 131.155(3) requires the Revenue Cabinet to promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes and fees administered by the cabinet. KRS 131.155(2) authorizes the Revenue Cabinet to prescribe means of electronic fund transfer of taxes and fees. This administrative regulation establishes requirements relating to the remittance of funds to the Revenue Cabinet via electronic fund transfer.

Section 1. Definitions. (1) "Debit method" means the method of payment where the taxpayer or his authorized agent authorizes the Revenue Cabinet or its authorized agent to initiate the transfer of a set amount of funds on a set date from a taxpayer or agent-controlled account in a financial institution to satisfy taxes or fees due based on required information transmitted to the cabinet prior to the cabinet effecting the transfer.

(2) "Credit method" means the method of payment where the taxpayer or his authorized agent initiates the transfer of funds from the taxpayer or agent controlled account in a financial institution to the designated Commonwealth bank account to satisfy taxes or fees due.

(3) "Lookback period" means the twelve (12) month period ending on September 30 of the year immediately preceding the current calendar year. For example, the lookback period for calendar year 2001 is the period beginning on October 1, 1999 and ending on September 30, 2000.

Section 2. Reporting and Payment Requirements. (1) Any taxpayer whose average payment per reporting period during the lookback period for the sales and use tax required to be collected or paid under KRS Chapter 139 exceeds \$25,000 or any employer whose average payment per reporting period during the lookback period for the income tax required to be withheld under KRS 141.310 exceeds \$25,000 shall submit to the cabinet a properly executed Revenue Form 10A070 "Authorization Agreement for Electronic Funds Transfer" stating the method requested to be used and upon written approval of the method by the cabinet shall pay the tax by electronic fund transfer using the debit method or other method approved by the cabinet, including the credit method, provided the method complies with the guidelines set out in subsection (3) of this section.

(2) Persons required by KRS 131.155(2) to remit funds by electronic fund transfer on behalf of other taxpayers shall conform to the provisions of subsection (1) of this section. In addition, such persons shall, for each taxpayer represented and for each payment period, provide the information necessary to properly credit the account as required in subsection (3) of this section.

(3) Execution of any electronic fund transfer transaction shall conform to the guidelines and procedures of each participating financial institution. Any electronic transfer of funds must provide information necessary to properly credit the taxpayer account, including:

(a) Taxpayer account number;

(b) Type tax code;

(c) Tax period end date;

(d) Amount of transfer;

(e) Date of payment transfer; and

(f) Any other information deemed necessary by the cabinet to properly credit the account.

(4) The cabinet may withdraw approval to utilize the credit method or any method employed other than the debit method if the taxpayer or his authorized agent fails to provide required information necessary to effect the transfer and credit funds to the proper taxpayer account.

(5) Any taxpayer or employer may volunteer to pay the tax by electronic fund transfer by making a written request to the cabinet and, if approved by the cabinet, shall be subject to the same requirements as any taxpayer or employer required to electronically transfer the tax. The taxpayer or employer shall comply with the electronic transfer fund requirements until a written request to change methods is filed and approved by the cabinet.

Section 3. Alternative Payment Method. (1) A taxpayer or authorized agent for a taxpayer or taxpayers shall make a request to remit funds by electronic means other than the previously-approved method. This request may be either written or oral.

(2) Approval of such method shall be at the discretion of the cabinet and limited to demonstration of extreme circumstances.

(3) The following information shall be provided with the request or upon approval of the request:

- (a) Reason for requesting alternate remittance method; and
- (b) Method of remittance proposed.

Section 4. Procedures. (1) Due date of electronic fund transfer.

(a) The due date of any electronic fund transfer for any tax shall be governed by the applicable law and regulations pertaining to that tax.

(b) The initiation date recorded in the automated clearing house system by the originating financial depository institution for any electronic fund transfer shall be the payment date.

(2) Manner of electronic fund transfer. Separate electronic fund transfers shall be made for each type tax account number designated as an electronic fund transfer account under the provisions of KRS Chapter 131.

(3) Overpayment or underpayment of tax. Any overpayment of tax may be applied toward the amount due for the next tax period or may be refunded upon request by the taxpayer or employer. If the amount of tax liability for a taxable period exceeds the total amount electronically transferred for the same period, the taxpayer or employer shall pay the additional tax due.

Section 5. Change in Reporting and Payment Requirements for Electronic Fund Transfer. After the cabinet makes a determination regarding a taxpayer's or employer's reporting and payment requirements for electronic fund transfer, the taxpayer or employer shall comply with the requirements until a written request to change is filed with and approved by the cabinet.

Section 6. Penalties and Interest. Any taxpayer or employer who fails to comply with the provisions of this administrative regulation shall be subject to penalties as provided in KRS 131.180 and 131.990 and interest as provided in KRS 131.183.

Section 7. This administrative regulation shall apply to any taxable or payroll period beginning after December 31, 2000.

Section 8. Incorporation by Reference. (1) Revenue Form 10A070 "Authorization Agreement for EFT", January 2001, is incorporated by reference.

(2) This form may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m. (21 Ky.R. 143; Am. 911; eff. 9-12-94; Recodified as 103 KAR 1:060, 8-14-2000; Am. 27 Ky.R. 2552; 3072; eff. 5-14-2001.)