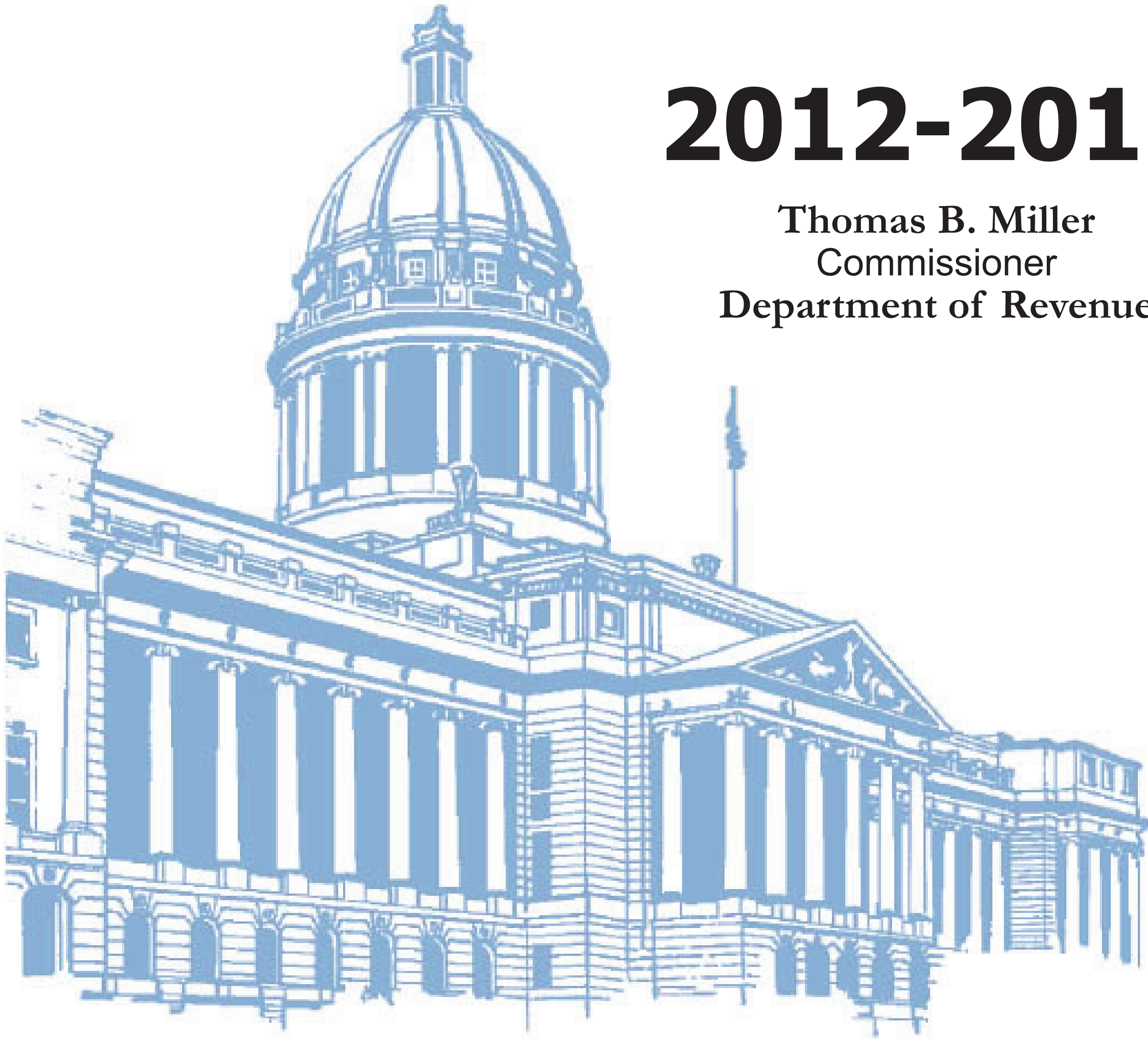
# Annual Report

# 2012-2013

**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.*

The cost of printing this report was paid by the Kentucky Department of Revenue.

Steven L. Beshear
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

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Lori Hudson Flanery
Secretary

Thomas B. Miller
Commissioner

December 1, 2013

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, 2013. This report reflects the dedicated work of the many fine professionals who comprise the Department of Revenue workforce.

The Department of Revenue was privileged to participate in your 2012 Blue Ribbon Commission on Tax Reform. We had employees providing assistance at all 15 public meetings and several of the Department's suggestions for tax reform were among the 54 recommendations in the Commission's final report. Eleven of our proposals for tax reform were enacted in HB 440 of the 2013 Regular Session of the General Assembly. We look forward to providing technical expertise and support to any future tax reform efforts.

The Kentucky Tax Amnesty Program passed by the 2012 Regular Session of the Kentucky General Assembly netted $59.5 million which was $2.8 million over the budgeted amount of $56.7 million. It began October 1, 2012, and ended November 30, 2012. The program was 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, 2013. 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, 2013, at nearly 80 percent of individual income tax returns being electronically filed. There were 1,460,842 electronically filed individual income tax returns, an increase of 4.5 percent over the previous year.

Thank you for your support of the Department of Revenue and its employees.

Very truly yours,

Thomas B. Miller
Commissioner

# Contents

# Revenue Receipts

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

**Quarterly Economic & Revenue Report**
**Fourth Quarter 2013**
**Fourth Quarter, FY2013**

### General Fund

General Fund receipts increased 3.4 percent, or $83.5 million, to $2,573.0 million, in the fourth quarter of FY13.

The fourth quarter of FY13 can be summarized in a similar manner to the first three quarters: taxes based on income or broad economic aggregates fared relatively better than consumption taxes. Specifically, the income and limited liability entity tax (LLET) taxes performed much better than the sales tax or the severance taxes.

Individual income tax receipts posted an increase of 6.7 percent during the fourth quarter of FY13. Receipts totaled $1,159.8 million and were $73.3 million more than collected in the previous fourth quarter. All of the subcomponents of the individual income tax moved favorably in the fourth quarter, especially in the areas of net payments with returns and estimated payments.

Sales tax receipts decreased 1.5 percent in the fourth quarter of FY13, an $11.7 million loss in nominal collections. Reasons for the decline include slow growth in disposable income and increases in the consumption (and price) of non-taxed services and goods, a relatively narrow base for the Kentucky sales tax.

Total property taxes decreased 5.6 percent during the fourth quarter of the fiscal year as distributions to local governments affected net collections. Receipts totaled $35.9 million and compare to $38.0 million collected in the fourth quarter of FY12.

Corporation income tax collections decreased 1.1 percent in the fourth quarter of FY13 compared to collections in the fourth quarter of FY12. Receipts of $153.0 million were $1.7 million less than were collected in the fourth quarter of the previous fiscal year.

Coal severance taxes decreased 15.1 percent in the fourth quarter of FY13 as the demand for coal and the value of severed tons showed continued weakness. Total collections for the quarter were $9.9 million less than FY12 fourth quarter receipts.

Cigarette taxes decreased 8.9 percent in the final three months of FY13. Receipts of $63.3 million compare to $69.4 million in the fourth quarter of FY12.

The LLET tax had collections of $88.0 million in the fourth quarter of the fiscal year, an increase of 14.0 percent. When taken in conjunction with the corporation income tax, "businesses taxes" helped contribute to the strong fourth quarter of General Fund receipts.

Lottery receipts increased 9.4 percent, or $5.2 million, from the previous year. Receipts of $60.0 million compare to $54.8 million remitted to the state in the fourth quarter of FY12.

Seventy-five percent of General Fund revenues were in the areas of the individual income tax and the sales tax. The next largest sources of revenue were the "Other" category at 7.0 percent. The largest components in the "Other" category include the insurance premium tax, bank franchise tax, and telecommunications tax. Corporation income taxes accounted for 6.0 percent. The LLET followed by cigarette tax accounted for 4.0 and 3.0 percent respectively. Lottery and coal severance receipts each made up 2.0 percent of the General Fund. Property tax accounted for 1.0 percent of total General Fund receipts.

### Road Fund

Total Road Fund receipts grew 5.4 percent during the fourth quarter of FY13 due primarily to large increases in motor fuels and motor vehicle license taxes. Total receipts of $409.5 million compare to $388.7 million collected during the fourth quarter of FY12.

Strong growth in the fourth quarter helped the Road Fund end the year on a high note. Motor fuels taxes and the motor vehicle usage tax both ended the fiscal year solidly. These two revenue sources average nearly 84 percent of all Road Fund revenues so their performance is especially critical to monitor.

Motor fuels collections grew 10.3 percent in the fourth quarter of FY13, primarily due to the motor fuels tax rate remaining at the maximum. Collections of $221.2 million were $20.7 million more than received in the fourth quarter of FY12.

Motor vehicle usage tax receipts of $121.9 million represent an increase of 3.1 percent compared to the $118.2 million collected in the fourth quarter FY12.

Motor vehicle license tax receipts increased 18.9 percent with receipts of $38.4 million compared to $32.3 million collected in the fourth quarter of FY12.

Motor vehicle operators' collections grew 2.2 percent with collections of $4.1 million. Collections in the fourth quarter of FY 12 were $4.0 million.

Weight distance tax revenues fell 0.7 percent with receipts of $18.6 million compared to $18.7 million collected in the fourth quarter of FY12.

The remainder of the accounts in the Road Fund combined for a decrease of 30.0 percent.

Receipts for the "Other" category totaled $8.8 million during the fourth quarter, compared to $12.5 million in the fourth quarter of FY12.

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 9.0 percent, followed by weight distance taxes with 5.0 percent. The "Other" category accounted for 2.0 percent while motor vehicle operators accounted for 1.0 percent.

## ANNUAL TOTALS, FY13

### General Fund

General Fund collections grew 2.8 percent, or $257.4 million, in FY13. Revenue collections showed positive growth in each of the four quarters of the fiscal year, varying between weak to moderate growth. Growth rates for the four quarters were 2.1, 5.4, 0.2 and 3.4 percent respectively. Six of the nine major accounts showed growth while only three: sales and use, coal severance and cigarette taxes, posted declines.

There has been a shift in the make-up of the General Fund by economic activity and transaction type. That is, income-related taxes increased in their share of the General Fund, while the sales tax and other transactional excise taxes have decreased in share.

Receipts totaled $9,348.3 million compared to $9,091.0 million for the previous year.

Sales tax receipts fell 1.0 percent in FY13, or $30.4 million. Receipts of $3,021.8 million compared to prior year receipts of $3,052.2 million.

Individual income tax receipts increased 6.0 percent over FY12 totals. All four components of the individual income tax improved in FY13. Net returns, declarations, and fiduciary receipts all improved strongly, while withholding grew slowly for the first time in three years.

Receipts totaled $3,723.0 million and compare to $3,512.1 million collected last year. Nominal receipts in the individual income tax increased by $210.9 million. Disaggregating the major components of growth, estimated payments grew $84.5 million, withholding grew $58.7 million, and net returns were $63.9 million more favorable than FY12.

Corporation income tax collections grew $26.4 million in FY13. Receipts for the year totaled $400.8 million and compare to $374.4 million collected in FY12. While estimated payments fell in FY13, payments with returns increased by $61.5 million. Growth in this area was partially aided by the tax amnesty period and enhanced collection efforts.

In addition to a strong year for the corporation income tax, the LLET increased 22.6 percent compared to the prior year with receipts of $246.1 million in FY13.

Coal severance taxes decreased 22.7 percent in FY13. Severed tons have also declined steadily as the demand for coal wanes. Total collections for the fiscal year were $230.5 million or $67.8 million less than FY12 receipts.

Total property taxes rose 5.4 percent during the fiscal year, the highest rate of growth since FY06. Receipts totaled $558.4 million compared to $529.6 million collected in FY12.

Lottery receipts increased 2.1 percent, or $4.5 million, from the previous year. Receipts of $215.3 million compare to $210.8 million remitted to the Commonwealth in FY12.

The "Other" category finished the year up 8.5 percent. Receipts of $713.8 million compare to $658.0 million collected in FY12.

Seventy two percent of General Fund revenues were in the areas of the individual income tax and the sales tax. The next largest source of revenue was the "Other" category with 8.0 percent. Property taxes made up 6.0 percent of the General Fund and corporation income accounted for 4.0 percent. Cigarette tax and LLET each accounted for 3.0 percent. Coal severance and lottery taxes each accounted for 2.0 percent of General Fund revenues.

Total Road Fund receipts grew 3.3 percent to $1,491.6 million during FY13.

Motor vehicle usage tax receipts of $426.8 million represent an increase of 2.4 percent over FY12 totals.

Motor vehicle license tax receipts were down 5.2 percent with collections of $102.3 million compared to $107.8 million collected in FY12.

Motor vehicle operators tax receipts were up 2.0 percent with collections of $16.0 million compared to $15.7 million collected in FY12.

Weight distance tax revenues decreased 0.2 percent with receipts of $74.9 million compared to $75.1 million collected in FY12.

The "Other" category decreased 3.8 percent from FY12. Total receipts in this category were $33.6 million, compared to $34.9 million collected in FY12.

# Revenue Receipts

Road Fund collections for FY13 were below the official revenue estimate by $8.0 million, or 0.5 percent. The largest increases over the official estimates occurred in the motor vehicle usage and motor vehicle license taxes.

All other accounts, taken together, were within $27.0 million of the forecasted levels.

Eighty five percent of the Road Fund comes from motor vehicle usage and motor fuels taxes. Following these, the motor vehicle license tax accounted for 7.0 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.

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# Revenue Receipts

**GENERAL FUND TOTAL RECEIPTS**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $9,343,326,006 | 2.8 |
| 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 |

**ALCOHOLIC BEVERAGE TAXES—Distilled Spirits**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $43,874,351 | 9.4 |
| 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 |

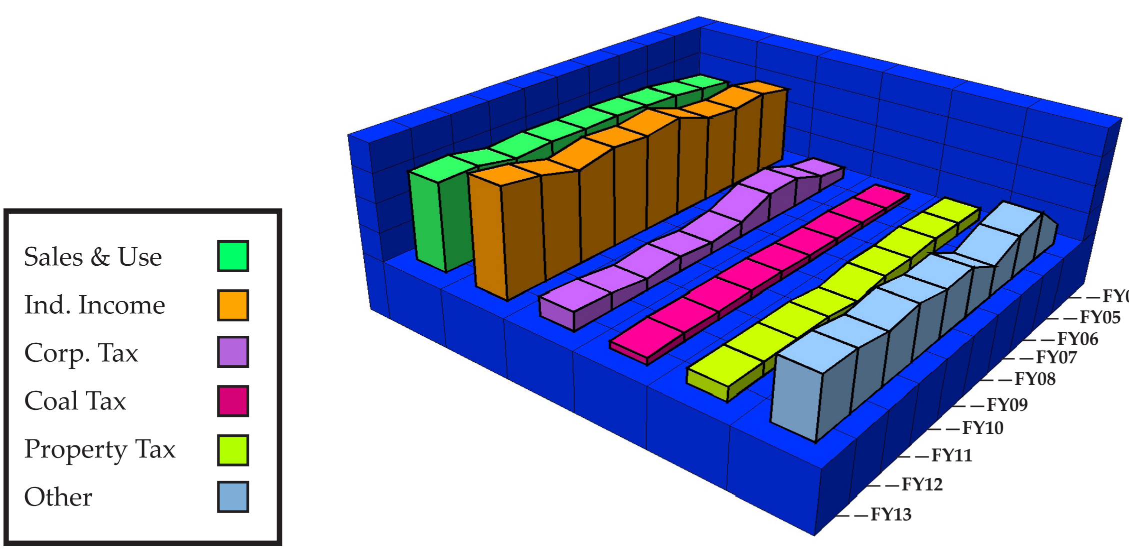
**ALCOHOLIC BEVERAGE TAXES—Malt Beverage**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $59,940,130 | -0.7 |
| 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 |

**ALCOHOLIC BEVERAGE TAXES—Wine**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $17,815,623 | 9.5 |
| 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 |

**General Fund Receipts by Major Sources**
**Millions of Dollars**



# Revenue Receipts

## CIGARETTE TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $238,669,895 | -6.3 |
| 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[1] | 589.2 |
| 2004-05 | 24,966,880 | 45.7 |
| 2003-04 | 17,136,198 | 4.7 |

[1] *Rate increase $0.27 surtax.*

## COAL SEVERANCE TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $230,540,150 | -22.7 |
| 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 |

## CORPORATION INCOME TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $400,752,175 | 7.0 |
| 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 |

## CORPORATION LICENSE TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | ($294,874) | - - |
| 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 |

## INDIVIDUAL INCOME TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $3,722,963,791 | 6.0 |
| 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 |

## LIMITED LIABILITY ENTITY TAX (LLET)

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $246,123,181 | 22.6 |
| 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 |
|---|---|---|
| 2012-13 | $41,326,220 | 0.0 |
| 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 |

## LOTTERY RECEIPTS

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $215,266,568 | 2.1 |
| 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 |

## MINERALS AND NATURAL GAS TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $27,972,010 | -7.8 |
| 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 |

## OIL PRODUCTION TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $10,974,127 | -8.2 |
| 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 |

## PARI-MUTUEL TAX

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $4,842,847 | 34.5 |
| 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 |

## PROPERTY TAXES—REAL ESTATE

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $257,970,441 | 2.7 |
| 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 |

# Revenue Receipts

**PROPERTY TAXES—TANGIBLE**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $216,942,082 | 4.4 |
| 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 |

**PROPERTY TAXES—INTANGIBLE**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | ----- | ----- |
| 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 |

**SALES AND USE TAX**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $3,021,794,387 | -1.0 |
| 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 |

**BANK FRANCHISE TAX**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $98,991,258 | 5.1 |
| 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 |

**ROAD FUND TOTAL RECEIPTS**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $1,491,623,669 | 3.3 |
| 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 |

**MOTOR FUELS TAXES—Motor Fuels Normal**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $838,344,373 | 6.1 |
| 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 [2] | 2.4 |
| 2007-08 | 571,983,920 [1, 2] | 6.1 |
| 2006-07 | 539,147,756 [1, 2] | 7.3 |
| 2005-06 | 502,494,550 [1, 2] | 7.0 |
| 2004-05 | 469,621,779 [1, 2] | 6.4 |
| 2003-04 | 441,382,996 | 0.6 |

[1] *Figures reflect annual rate increase capped at 10% of average wholesale prices.*
[2] *Reflects correction in reporting method.*

# Revenue Receipts

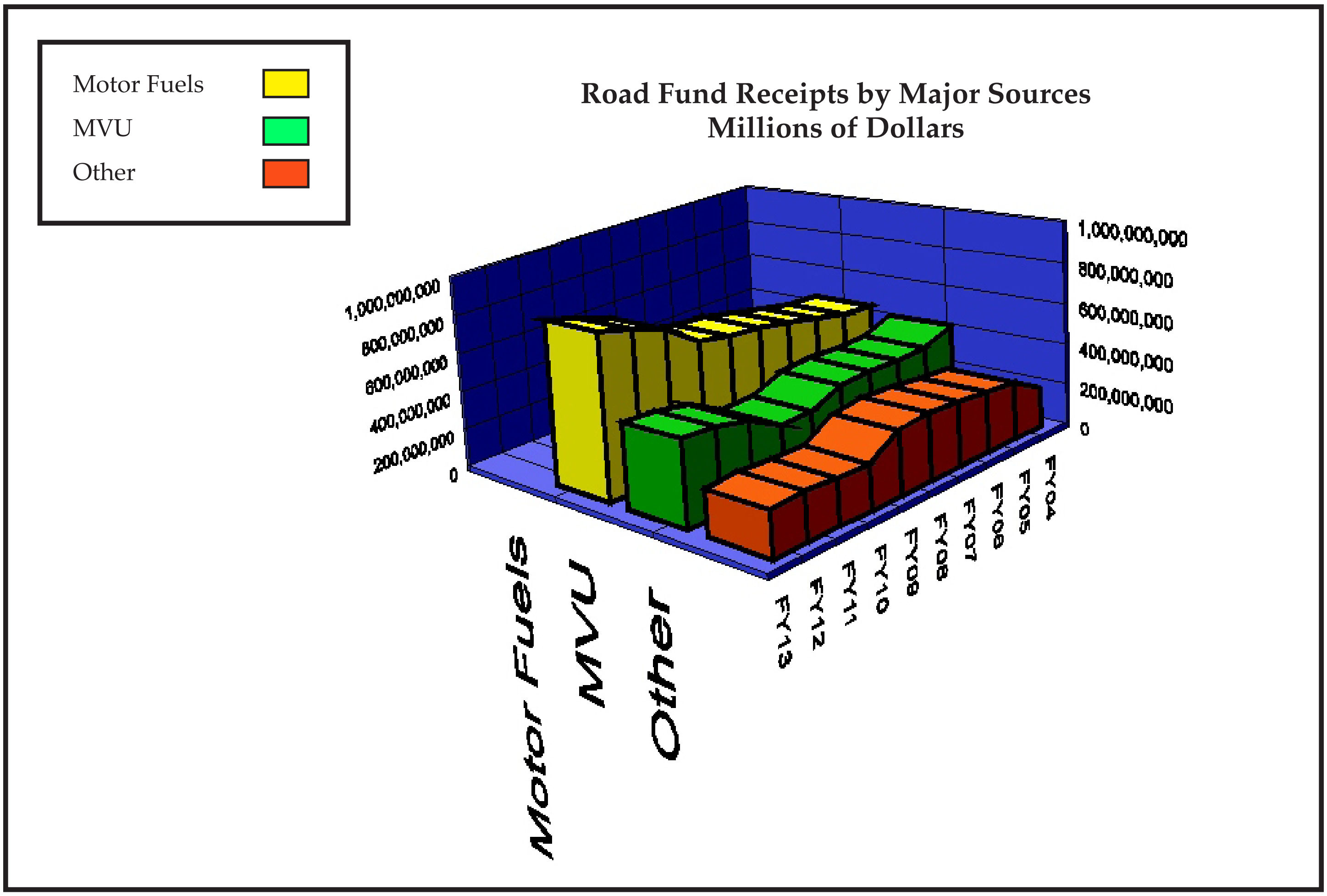
**MOTOR VEHICLE OPERATOR'S LICENSE FEE**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $16,049,755 | 2.0 |
| 2011-12 | 15,737,651 | 0.0 |
| 2010-11 | 15,736,805 | -1.3 |
| 2009-10 | 15,941,488 | 2.7 |
| 2008-09 | 15,521,191 | 1.0 |
| 2007-08 | 15,372,618 | -2.8 |
| 2006-07 | 15,811,880 | 8.6 |
| 2005-06 | 14,553,623 | 146.7 |
| 2004-05 | 5,899,247 | 4.9 |
| 2003-04 | 5,623,874 | 0.2 |

**MOTOR VEHICLE USAGE TAX**

| Fiscal Year | Receipts | Percent Change |
|---|---|---|
| 2012-13 | $426,830,826 | 2.4 |
| 2011-12 | 416,852,951 | 9.2 |
| 2010-11 | 381,767,869 | 14.7 |
| 2009-10 | 295,190,610 | -1.0 |
| 2008-09 | 296,062,866[1] | -18.2 |
| 2007-08 | 361,723,956[1] | -2.5 |
| 2006-07 | 370,943,429[1] | 1.9 |
| 2005-06 | 363,976,577[1] | -2.4 |
| 2004-05 | 373,034,898[1] | -4.6 |
| 2003-04 | 390,976,367 | 0.5 |

[1] *Reflects correction in reporting method.*



## MAJOR ACCOMPLISHMENTS IN FISCAL YEAR 2012-2013

### 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).

The Department of Revenue offered Tax Amnesty between October 1 and November 30, 2012. All taxes administered by the Department were eligible for periods December 1, 2001 through October 1, 2011. A full media campaign was employed, utilizing television, newsprint, trade publications, radio, billboards and Internet social media advertisements. Tax Amnesty netted $59.5 million, which was $2.8 million over the budgeted amount of $56.7 million.

### OFFICE OF PROCESSING AND ENFORCEMENT

**Division of Collections**

Delinquent tax collections for FY 2013 totaled approximately $162 million. Total collections for the Division of Collections were $202 million.

Under authority created by KRS 131.130(11), the Division of Collections collects delinquent child support obligations for the Cabinet for Health and Family Services. For fiscal year 2013 collections totaled $22.7 million. Since January 2003, collections for child support totaled $149 million.

As mandated by KRS 45.237 et.seq, the Division of Collections collects debt due other state agencies. The Enterprise Collections System allows agencies referring their debt to submit either electronically or online. Participating agencies at this time include the following:

- Board of Nursing
- Crime Victims Compensation Board
- Department of Financial Institutions
- Department of Insurance
- Department of Parks
- KCTCS
- Kentucky Labor Cabinet
- Kentucky Lottery Corporation
- Kentucky Motor Vehicle Commission
- KHEAA (Kentucky Higher Education Assistance Authority)
- Medicaid Services
- Morehead State University
- Northern Kentucky University
- University of Kentucky Healthcare
- Western Kentucky University

For FY13, collections total $17 million. Since May 2007, collections total $48.3 million. Of this total, $37.7 million has been distributed back to participating agencies.

**Protest Resolution Branch**

During fiscal year 2013, the Protest Resolution Branch resolved over 900 cases, resulting in the collection of approximately $80 million in outstanding assessments.

**Division of Operations**

The following represents the number of returns, for various type taxes, electronically filed in FY13:

The Division of Operations processed 1,460,842 individual income tax returns, representing 79.6 percent of the total number of current year returns filed, an increase of 2.8 percent from the previous year. In addition, 66,655 2D barcode returns and 375,103 paper returns were filed. There were 1,083,172 electronically filed returns requesting refunds. Direct deposit requests from the taxpayer totaled 779,269, which is approximately 72 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 modernized electronic filing system (MeF), adapting to the tax changes made by the Internal Revenue Service and Kentucky Legislature. Nonresident and part-year resident individual income tax returns were added to MeF in July 2013. MeF will be enhanced to accept electronic estimate tax payments at the time the taxpayer electronically files their individual income tax return beginning in January 2014. Up to four scheduled estimate tax payments will be accepted. Development of electronic processing of corporate income tax (Form 720 series) is underway and is expected to be ready for the 2013 tax year.

**Division of Registration and Data Integrity**

The Division of Registration and Data Integrity answered 34,175 taxpayer assistance calls relating to registration inquiries and made 21,388 telephone calls requesting additional information in FY13.

The division received and processed 29,224 Kentucky tax registration applications. The Kentucky Business One-Stop portal received 26 percent of the applications submitted. There were 4,240 update/cancellation forms received and processed and 4,278 additional pieces of taxpayer correspondence related to business registration and data cleansing. The division completed 77,465 business tax account maintenances.

The Division of Registration and Data Integrity completed a review of over 58,000 possible noncompliant businesses; 18,961 were determined to be unregistered and were contacted for registration. Approximately 4,800 of the total noncompliant possibilities did not respond and were administratively registered. Registrations from compliance efforts resulted in approximately $105.1 million in business tax revenues.

**OFFICE OF SALES AND EXCISE TAXES**

The Revenue Enhancement Initiative and Tobacco Compliance employees yielded compliance revenues of $23,482,594 in the fiscal year.

Training Branch conducted three courses for Office and Department staff.

Maintained participation in the national Streamlined Sales and Use Tax Agreement (SSUTA), which continues to yield benefits. For FY13, there were over 1,000 registered SST filers who remitted tax to Kentucky. The total paid by all SST filers for the fiscal year was over $20.7 million; more than a 15 percent increase.

Received 141,510 electronically filed sales and use tax returns, approximately a 16 percent increase over FY12.

Received 20,633 electronically filed returns for utility gross receipts license (UGRL) tax.

Received 11,688 electronically filed motor fuels tax returns.

Received 3,725 electronically filed telecom tax returns.

**Division of Sales & Use Taxes**

Answered 78,000 phone calls 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 $36,407,793 to over 1,300 local political subdivisions.

Verified and transferred $12,169,653 to the Kentucky Horse Racing Authority from the sales tax on equine breeding fees.

Transferred $11,364,978 to the Road Fund from motor vehicle supplementary schedules.

Collected $2,954,022 in county clerk's use tax transfers, including compliance of affidavits forwarded by the clerks.

Verified and issued 15 refunds totaling $2,941,828 in response to requests relating to completed Kentucky Enterprise Initiative Act (KEIA) projects.

Verified and issued 12 approved tourism project refunds totaling $7,627,983.

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 five TIF refunds totaling $6,560,420.

Received 112 applications for the Disaster Relief Sales and Use Tax Refund program, totaling $237,547.93. Of those applications received, 90 were approved by the end of the fiscal year for a total refund amount of $206,895.57.

**Division of Miscellaneous Tax**

Administered the utility gross receipts license (UGRL) tax and distributed $223,738,425 to 158 local school districts throughout the Commonwealth; a 4 percent increase over the previous fiscal year.

Answered 36,845 phone calls relating to miscellaneous tax inquiries.

Performed 41 retail cigarette inspections for compliance with the Master Settlement Agreement.

Participated in development of tobacco excise audit training program with the Federation of Tax Administrators (FTA).

**OFFICE OF INCOME TAXATION**

**Division of Individual Income Tax**

Answered 169,737 telephone inquiries for individual income tax and 58,870 telephone inquiries for withholding tax for a total of

226,607 telephone inquiries received by the Division of Individual Income Tax.

Responded to 1,254 Live Chat conversations and 6,407 webmaster inquiries from individuals requesting individual income tax or withholding tax assistance.

Completed the Department of Revenue Compliance System program to improve efficiency of staff members.

Collected a total of $63,497,235 through compliance initiatives for the division.

**Division of Corporation Tax**

Completed the implementation of electronic capture of all filed 2012 corporation income tax returns for the purpose of compliance and taxpayer assistance programs.

Completed the review of 6,478 requests for letters of good standing submitted by entities needing reinstatement with the Secretary of State.

The Division of Corporation Tax received 23,687 telephone inquiries.

Due to technological advances in electronic processing and data capture of corporate return information, the Division of Corporation Taxation billed $88.8 million in compliance initiatives.

Responded to 343 web inquiries for corporation income and pass-through entities.

**Communications and Training Branch**

Conducted 26 training classes for DOR employees and 22 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 the ongoing effort to improve the sale of certificates of delinquency to third party purchasers, an installment payment plan regulation was implemented to guide third party purchasers in this new statutory requirement. Additionally, an installment payment calculator that applies payments in accordance with the regulation was developed and posted to the Department of Revenue's website to assist third party purchasers.

**State Valuation Branch**

Locally assessed tangible personal property assessments for calendar year 2012 totaled $63.546 billion. These assessments yielded an estimated $88.5 million in state taxes.
Omitted personal property tax assessments for FY13 totaled $8.1 billion and approximately $55.4 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 $115.8 million and $214.1 million, respectively.

Public Service company assessments (Public Service companies, Telecoms, Railroad Car Lines, Commercial Watercraft and Distilled Spirits in Bonded Warehouses) for tax year 2012 were set at $32.3 billion and were expected to yield approximately $79.3 million in state tax revenues and approximately $158 million in local tax revenues.

In FY13, the Freddie Freeroader Program, targeting Kentucky residents with out-of-state license plates, with an assessment totaling, $208,624 along with proper registration of hundreds of vehicles.

Combined state and local motor vehicle property tax collections for FY13 were $120.7 million and $226.3 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 2012 = $2,435

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 FY13 totaled $270,417,155. One half of these receipts are distributed back to counties with mining activity.

| | |
|---|---|
| Coal: | 231,545,428 |
| Gas: | 14,632,930 |
| Oil: | 10,966,281 |
| Minerals: | 13,272,516 |

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 2013 tax receipts (2012 tax year):

| | |
|---|---|
| Total: | $41,167,962 |
| Gas: | 12,070,117 |
| Oil: | 3,749,211 |
| Limestone: | 452,738 |
| Clay: | 4,836 |
| Coal: | 24,891,060 |

**OFFICE OF FIELD OPERATIONS**

During FY13, in-state audits were performed with net assessments of $46,716,182 and out-of-state audits generated net assessments of $29,638,990.

During FY13, Compliance Officers assisted approximately 130,000 taxpayers through walk-in services and telephone calls. Collections totaled over $25.1 million through various tax compliance programs.

During FY 13, Field Operations in partnership with COT implemented a new assignment tracking system. This system will enable the office to capture, analyze and report on all data within Field Operations.

# 2013 General Assembly

Kentucky Legislation

**A Review of Tax Law Changes**
Enacted by the 2013 General Assembly

## 2013 Legislation Affecting Kentucky Department of Revenue


*NOTE: This 2013 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*

**A REVIEW OF TAX LAW CHANGES**
Enacted by the 2013 Regular Session of the General Assembly.

**ADMINISTRATIVE**

**Debts Owed to Local Governments**–Effective June 24, 2013, HB 232 amended KRS 131.030 to grant the DOR all the powers and duties necessary to collect any debts owed to any local government of the Commonwealth; and amended KRS 131.565 to allow for the offset of individual income tax refunds if the claimant is indebted to a local government. Various sections of KRS Chapter 44 and KRS 131.570 were amended to conform. “Local government” means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth.

**Installment Payment Agreements**–Effective July 1, 2013, HB 440 amended KRS 131.081 to provide that the DOR may modify or terminate an installment payment agreement and may pursue statutory remedies against a taxpayer if the taxpayer has not complied with the terms of the agreement, including minimum payment requirements established by the agreement. This is in addition to the installment payment agreement requirements provided by KRS 131.081 prior to this amendment.

**Revocation or Denial of Professional License, Driver’s License or Motor Vehicle Registration**–Effective July 1, 2013, HB 440 amended KRS 131.1817, 131.190, and 186.570 and created a new section of KRS Chapter 186A to allow the revocation or denial of a professional license, driver’s license and vehicle registration of a taxpayer if: (i) the taxpayer has an overdue state tax liability, that is not covered by a current installment payment agreement, for which all protest and appeal rights under the law have expired, and the taxpayer has been contacted by the department about the overdue liability; or (ii) the taxpayer has not filed a required tax return within 90 days following the due date of the return or if the due date was extended, within 90 days following the extended due date of the return, and the taxpayer has been contacted by the DOR about the delinquent return. A license that has been denied or revoked shall not be reissued or renewed, and a motor vehicle registration that has been denied shall not be permitted until tax clearance has been received by the licensing agency or the Transportation Cabinet from the DOR. A delinquent taxpayer who has had a license denied or revoked, or who has been denied the ability to register a motor vehicle shall have the right to appeal to the licensing agency or the Transportation Cabinet as authorized by law.

**CORPORATION INCOME TAX**

**Business Identification Numbers**–HB 343 created a new section of KRS Chapter 141 as part of the ongoing establishment of a one-stop electronic business portal, to require that the Secretary of State, the Finance and Administration Cabinet, the Cabinet for Economic Development, the Education and Workforce Development Cabinet, and the Commonwealth Office of Technology shall jointly establish a unique Commonwealth business identification number which can be used in filings and services provided by the business portal.

By Dec. 31, 2013, the agencies identified above shall: (i) recommend a timeline for implementing the new business identification numbering system for new business filings; and (ii) establish a five-year timeline for all state agencies to utilize the Commonwealth business identification number to facilitate data sharing and continued growth of services provided by the business portal.

**Management Fees**–HB 440 amended KRS 141.205 to provide that for taxable years beginning on or after Jan. 1, 2014, an entity subject to the tax imposed by KRS Chapter 141 shall not be allowed to deduct management fees paid to a related member unless the entity makes a disclosure, and establishes by a preponderance of the evidence that the payment made to the recipient was subject to, in its state or country of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income. If the recipient is a foreign corporation, the foreign nation shall have in force a comprehensive income tax treaty with the United States. This requirement is in addition to the requirements provided by KRS 141.205 prior to this amendment.

## ECONOMIC DEVELOPMENT

**Tax Increment Financing**–Effective June 24, 2013, HB 260 amended KRS 154.30-050 to provide that the Kentucky Economic Development Finance Authority may approve a reduction in the required minimum capital investment to an amount not less than $150 million, subject to a corresponding adjustment of the maximum incremental revenue available as appropriate, based upon the recommendation of the consultant who prepared the report pursuant to KRS 154.30-030(6), upon application of an agency that: (i) was approved to proceed with a project after Jan. 1, 2008, but before Jan. 1, 2013, that, at the time of approval pledged to make the $200 million investment requirement, and (ii) had a consultant report prepared pursuant to KRS 154.30-030(6).

HB 431 amended KRS 65.7043 and 65.7049 to provide that cities and counties can establish a development area to include a mixed-use development project which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof.

## INDIVIDUAL INCOME TAX

**Food Donation Tax Credit**–SB 1 created a new section of KRS Chapter 141 to provide that for taxable years beginning on or after Jan. 1, 2014, but before Jan. 1, 2018, a qualified taxpayer shall be allowed a nonrefundable credit against the tax imposed by KRS 141.020, or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205, in an amount equal to 10 percent of the value of donated edible agriculture products to a nonprofit organization operating a food program in Kentucky that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

A qualified taxpayer means a person responsible for and deriving income from: (i) growing fruits, vegetable, or other edible agriculture products; or (ii) raising beef, poultry, pork, fish, or other edible agriculture products. Edible agriculture products means fruits, vegetables, beef, poultry, pork, fish, or any other edible product raised or grown in Kentucky that is intended for and fit for human consumption.

**Personal Tax Credits**–HB 440 amended KRS 141.020 to provide that for taxable years beginning on or after Jan. 1, 2014, the individual personal tax credits as provided by KRS 141.020(3) shall be reduced as follows: (i) from $20 to $10 for an unmarried individual; (ii) from $20 to $10 for a married individual filing a separate return, from $20 to $10 for the spouse of the taxpayer filing a separate return, and from $40 to $20 for married persons filing a joint return; (iii) from $20 to $10 for each dependent; and (iv) from $20 to $10 for an estate. This amendment did not affect the individual personal tax credits for the elderly, blind, National Guard, or trusts.

## MOTOR VEHICLE USAGE TAX

**Trade-In Allowance for New Car Purchases**–Effective July 1, 2014, HB 313 amends KRS 138.4602 and creates 138.4603 to calculate the motor vehicle usage tax after allowance of the trade-in credit on new vehicle purchases in similar fashion as currently allowed with the sale of used vehicles. For sales of motor vehicles subject to sales and use tax under KRS 139.470(21) a trade-in credit for like kind property already applies (sales to residents of Indiana and seven other states with no drive out exemption provisions-see *Sales of Motor Vehicles*, June 2007 ***Sales Tax Facts***).

## OTHER TOBACCO PRODUCTS AND SNUFF

**Wholesale Tobacco Excise Tax Legislation with Retail Impact**–Effective July 1, 2013, HB 361 establishes monthly reporting requirements for both in-state and out-of-state manufacturers of tobacco products to file information with the DOR regarding tobacco products shipped into Kentucky by type of product and brand.

Effective July 1, 2013, HB 361 requires wholesalers to itemize the applicable excise tax on invoices which both wholesalers and retailers must maintain at each licensed place of business for a minimum of four years.

Effective Aug. 1, 2013, HB 361 creates a new tobacco product category that includes chewing tobacco with a graduated tax rate starting at $0.19 per single unit (less than 4 ounces), $0.40 per half-pound unit and $0.65 per pound unit. This change is in addition to the $0.19 per unit of snuff and the 15 percent of sales price applied to Other Tobacco Products (OTP).

Effective Aug. 1, 2013, HB 361 prohibits a retailer from purchasing tobacco products from a non-licensed distributor unless the retailer is a licensed retail distributor who pays the applicable tax rates on the purchase price of tobacco products.

Effective Aug. 1, 2013, HB 361 allows for distributor compensation of 1 percent of tax due for both wholesalers and retailers on timely filed and paid returns.

Effective Aug. 1, 2013, HB 361 creates new license classifications and rates to comply with other changes.

Effective Jan. 1, 2014, HB 361 establishes contraband provisions for tobacco products similar to what is currently in place for cigarettes.

## PROPERTY TAX

**Definition of "broadcast" defined in the tangible personal property tax statutes**–Effective Jan. 1, 2014, HB 440 amended KRS132.010 to define the term "broadcast" to clarify that its meaning is limited to the transmission of signals over the airwaves to the public in general and does not extend to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee. It also amends KRS 132.020(1)(j) and 132.200(5) to delete the word "telephonic." These amendments thus limit or restrict the lower state tax rate and exemption from local taxation set forth in KRS 132.020(1)(j) and 132.200(5) for certain commercial radio and television equipment.

**Tangible personal property clearly identified as taxable for a state rate only for pollution control facilities**–Effective Jan. 1, 2014, HB 440 amended KRS 132.020 and 132.200 to clarify that only tangible personal property is subject to the lower state tax rate and exemption from local taxation for pollution control facilities.

**New companies listed as public service companies for taxation**–Effective Jan. 1, 2014, HB 440 amended KRS 136.120 to include wind and solar energy providers operating within Kentucky as an electric power company subject to public service company property tax. Industry deregulation and technological advances have spawned new types of companies that should be recognized as public service companies.

**Motor vehicles in the possession of motor vehicle dealers subject to an ad valorem state tax only**–Effective Jan. 1, 2014, HB 440 amended KRS 132.020, 132.028, and 132.200 to state that motor vehicles in the possession of motor vehicle dealers, including motor vehicle auction dealers, are subject to a state tax only for ad valorem taxes, even though ownership of the vehicles has not transferred to the dealer.

## SALES AND USE TAX

**Sales and Use Tax Vendor's Compensation Calculation and Cap Adjustment**–Effective July 1, 2013, HB 440 will change the calculation and cap for vendor's compensation and will first apply to the July period returns due in August. The new calculation will be as follows: 1.75 percent of the first $1,000 and 1.5 percent of any amount over $1,000. The vendor's compensation cap has been reduced from $1,500 to $50 per reporting period.

Sales and use tax return examples:

1) Tax Due on Line 25 = $15,000
   0.0175 x $1,000 = $17.50
   0.015 x $14,000 = $210.00
   Total Amount of Comp = $227.50

**Total Amount allowed on Line 26 = $50.00**

2) Tax Due on Line 25 = $1,300
   0.0175 x $1,000 = $17.50
   0.015 x $300 = $4.50
   Total Amount of Comp = $22.00

**Total Amount allowed on Line 26 = $22.00**

Paper returns will be updated with this revision effective with the July 2013 period returns. Electronic returns likewise will be updated effective with the July 2013 period returns. Form providers must ensure their returns reflect the revisions for the July 2013 returns forward.

**Use Tax Notification**–Effective July 1, 2013, out-of-state retailers with no legal requirement to collect tax in this state, must notify their Kentucky customers that use tax must be reported and paid to the DOR on applicable purchases in accordance with KRS 139.330. This reminder will also contain guidance on how a Kentucky resident may pay the use tax obligation on the purchases being shipped into Kentucky. These notifications must be posted on the retailer's website page, on any electronic confirmation order and on other applicable invoicing documents or the notification can be provided as a supplemental page or by electronic link. A sample of information required on the notification is below:

(a) The retailer is not required to and does not collect Kentucky sales or use tax;

(b) The purchase may be subject to Kentucky use tax unless the purchase is exempt from taxation in Kentucky;

(c) The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means.

The Commonwealth continues to implement strategies to educate the public and make the collection and remission of use tax as simple and efficient as possible. In addition to various forms made available by the DOR, titling and registration requirements at local county clerk offices throughout the state, and the use tax estimation table on the Kentucky Income Tax Return, remote vendors selling into Kentucky must now notify their customers of their respective use tax obligations.

**Combine Header Trailer Exemption**–Effective July 1, 2013, HB 440 will amend KRS 139.480(11), Exempt Farm Machinery, to clarify that a combine header trailer may qualify as exempt. The term "farm machinery" in this subsection refers to machinery, attachments, replacements thereof, and repair parts used "exclusively and directly" in an exempt farming operation. The amendment contains an exception to the trailer exclusion to allow combine header trailers to be purchased without the payment of Kentucky sales and use tax if used according to the provisions outlined in KRS 139.480.

**Repeal of the school tax rate exclusion on "residential telecommunications service" found in KRS 139.470(9)–** Effective July 1, 2013 the partial exemption in KRS 139.470(9) has been repealed in order to maintain uniformity in the application of sales tax on gross receipts from telecommunications service providers in accordance with the national Streamlined Sales and Use Tax Agreement (SSUTA). Kentucky law currently allows sales tax to be excluded from a portion of a residential land line if the provider passes its cost for the school tax on to the residential customer as a separate line item on the phone bill. The sales tax will still apply to the main charge for the residential phone line and will also then apply to any separately itemized charge for the school tax passed on to the customer by the provider.

**SEVERANCE TAX**

**Clarify the definition of "gross value" under severance tax—** KRS 143.010 and 143A.010 were amended to change the definition of "gross value" by deleting the reference in the statutes to Internal Revenue Code (IRC) section 613(c) because "gross value" is defined in IRC section 613(c) as "gross income from mining by an owner/ operator". The needed change will make it clear that the severance tax is imposed on coal or other natural resources that are processed as well as those that are severed. (HB 440, Sections 18 - 21 are effective 7/1/13)

# Legal Issues

**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.

During this past year, the OLS has continued to handle a substantial caseload presenting a variety of legal issues affecting the DOR and requiring work at all levels of the court system and administrative appeals process. The cases that the OLS handles frequently have a substantial fiscal impact or precedential value.

**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.

**Department of Revenue v. Cox Interior, Inc., 400 S.W.3d 240 (Ky. 2013).**

Following an audit, Cox Interior, Inc. ("Cox") was issued tangible personal property ad valorem tax assessments. Cox did not protest these assessments in accordance with KRS 131.110 and instead paid them. It later filed a refund claim seeking a recovery of a portion of these assessments. The DOR denied this refund claim based upon the language of the ad valorem tax refund state, KRS 134.590, and in particular the last sentence of subsection 2 of this statute, which states that a taxpayer must have followed the applicable administrative remedy procedures, such as the protest provisions of KRS 131.110, before it can obtain a refund.

Affirming earlier decisions of the KBTA and the Franklin Circuit Court, the Kentucky Court of Appeals held on November 5, 2010, that Cox could seek a refund of the tax it had paid notwithstanding its failure to protest the earlier assessment. The Court of Appeals relied heavily upon its prior decision, *Revenue Cabinet v. Castleton, Inc.,* 826 S.W.2d 334 (Ky. App. 1992), which involved the sales and use tax and another tax refund statute, KRS 134.580.

The Supreme Court granted the DOR's motion for discretionary review on November 16, 2011. On June 20, 2013, the Court rendered an opinion affirming the ruling of the Court of Appeals.

The Supreme Court focused upon the "long recognized…distinction between ad valorem tax protests challenging the assessor's valuation of the taxed property and refund claims challenging the legality of the assessed tax." The Court ruled that in the case of challenges to the valuation of the taxed property or challenges based upon clerical errors or the taxpayer's lack of ownership of the property, specific administrative remedy procedures were provided by statute and therefore, under the last sentence of KRS 134.590(2), had to be complied with before the taxpayer could seek a refund. See KRS 132.486; 133.110; 133.130. On the other hand, a taxpayer claiming a refund based upon the legality of the tax assessed would satisfy the requirement of the second sentence of KRS 134.590(2) simply by protesting the denial of its refund claim.

In this case, Cox's claim was based upon the legality of the tax and not the valuation of the taxed property, a clerical error, or a claim that it did not own the property. Specifically, it contended that "the DOR's audit improperly listed manufacturing machinery on the non-machinery schedule of the return." Accordingly, Cox's failure to protest the earlier assessment did not cause it to run afoul of the last sentence of KRS 134.590(2) and thus it was not barred from seeking a refund.

The Supreme Court's decision in this case is now final.

**Department of Revenue v. St. Joseph Healthcare Systems, Inc., 398 S.W.2d 446 (Ky. App. 2013).**

School districts are authorized by KRS 160.613(1) to impose a utility gross receipts license tax not to exceed 3% 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 and had previously been administered and collected by those districts, it is now administered and collected by the DOR.

The issues in this case consisted of 1) whether Constellation New Energy – Gas Division, LLC, ("Constellation") ,a "natural gas marketing company," not regulated by the Public Service Commission, was liable for the tax and 2) if Constellation was not liable for the tax, whether the purchaser of the gas in question, St. Joseph Healthcare Systems, Inc., ("St. Joseph"), which would be liable if Constellation was not, was exempt from the tax under Ky. Const. § 170 because it was an institution of purely public charity.

The Court of Appeals held that the tax was imposed upon the furnishing of utility services, a term specifically defined by KRS 160.6131(5), and the language of this statutory definition did not limit the scope of the tax to public utilities regulated by the Public Service Commission. That statutory definition plainly applied in this case to Constellation's activities, which unquestionably consisted of the furnishing of natural gas. The Court relied heavily upon the principle that in determining the legislative intent expressed by a statute, "we must examine the precise language used in the statute without reading into it words that are not there… or guessing what the General Assembly might have intended to say but did not."

In light of the Court's conclusion that Constellation was indeed liable for the tax, there was no need to address St. Joseph's contentions that it was exempt from the tax under Ky. Const. § 170. St. Joseph sought discretionary review of the Court of Appeals' opinion by the Kentucky Supreme Court. The Supreme Court denied St. Joseph's motion for discretionary review on October 17, 2012.

Following the Supreme Court's denial of St. Joseph's motion for discretionary review, various procedural motions were filed by St. Joseph and amici curiae. These were subsequently denied and the Court of Appeals' opinion was re-issued on January 18, 2013. This decision is now final.

**Dayton Power and Light Co. v. Department of Revenue, 2011-CA-001438 (Ky. Ct. App.) and 2012-SC-00794-D (Ky. Sup. Ct.).**

This case concerns the ad valorem tax assessment of public service corporations. Under KRS 136.115 to 136.180, the DOR assesses for ad valorem tax purposes the operating property of those entities defined as 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) (stating that "the value of the franchise is determined by subtracting the assessed value of the tangible operating property from the 'capital stock,' which is the 'entire property, real and personal, tangible and intangible, assets on hand, and its franchise as well'").

The question presented by this case was whether the value of the franchise should be allocated or spread to various items of operating tangible property or taxed separately. If it was spread to the various classes of operating tangible property, then a portion of that franchise would be subject to lower state tax rates and exempt from local taxation. See KRS 136.120(1)(a); 132.020(1); 132.200. The DOR's position was that franchise is a separate and distinct item of property under the applicable statutory provisions and is thus subject to the 45¢ state rate specified in KRS 132.020(1)(r) and not exemption from local taxation.

The KBTA disagreed with the DOR. The Franklin Circuit Court reversed the KBTA.

On August 10, 2012, the Kentucky Court of Appeals rendered an opinion affirming the circuit court's decision. It held that the franchise of a public service corporation is separate and distinct from its operating tangible property. This franchise is not to be spread to other types of assets that may in turn qualify for exemptions or lower tax rates. The Court further held that the applicable statutory provisions were unambiguous and thus the DOR's prior administrative practice was irrelevant to and could not be employed to alter the meaning and effect of these provisions.

On November 2, 2012, the Court of Appeals granted the DOR's motion for publication of its opinion in this case. By virtue of this action, this opinion can be cited or used as binding legal precedent in other cases.

On December 3, 2012, the taxpayer filed a motion for discretionary review with the Supreme Court. That motion was denied on August 21, 2013. The Court of Appeals' decision is therefore now final.

**Department of Revenue v. Bavarian Trucking Co., Inc., 2011-CA-002198 (Ky. Ct. App.) and 2013-SC-00406 (Ky. Sup. Ct.).**

The taxpayer in this case

> collect[ed] garbage and transport[ed] it to its landfill for disposal. Methane was produced by BTC's landfill operation because BTC maintains its landfill in a sealed

> condition, which force[d] organic material to decompose anaerobically and generate[d] large quantities of methane gas. This landfill methane gas [was] collected by BTC and transferred to an electrical plant operated by East Kentucky Power Cooperative where it [was] burned to generate electricity. BTC's landfill methane gas [was] the exclusive fuel used to generate electricity at that plant.

During the relevant time period, the taxpayer "made a number of equipment purchases and installations for use in its landfill operation." These items included:

> Curbside garbage trucks and trash containers (collection equipment); bulldozers, tractors, excavators and other equipment for use at its landfill (landfill equipment); piping for general landfill use and to collect and transport the methane; and a flare to burn off methane as needed.

The taxpayer claimed the income tax credit allowed under KRS 141.390 for recycling or composting equipment based upon its contention that these items "were necessary to begin and maintain its methane collection process."

The DOR denied the taxpayer's claim or application for the tax credit. The Kentucky Court of Appeals in an opinion rendered on May 24, 2013 upheld the DOR's denial of this credit.

The Court first noted that tax credits are to be strictly construed and that the taxpayer bears the burden of establishing its entitlement to the credit. To qualify for the credit in question, the taxpayer must have purchased recycling or composting equipment. On this point, the Court noted:

> Recycling equipment is defined as "any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials[.]" KRS 141.390(1)(b). Postconsumer waste is a "product… which has served its intended end use, and which has been separated from solid waste for purposes of collection, recycling, composting and disposition…[.]" KRS 141.390(1)(a).

The Court held that the taxpayer's "landfill equipment, piping and flare" could not qualify as "recycling equipment because [the taxpayer] cannot show that landfill methane gas is post consumer waste, removing methane gas qualifies as recycling or that its equipment is used exclusively to process post consumer waste." The "landfill methane gas" was not "post consumer waste" because it was "not a product that has served its intended end use." Furthermore, "[b]y its very nature," the methane gas "does not exist until generated in the landfill by anaerobic decomposition" and thus "cannot be separated from the solid waste stream before it enters the landfill."

The Court further ruled that "collecting the methane gas for combustion purposes" is expressly excluded from the definition of "recycling" in KRS 224.01-010(22). That definition, which is contained in KRS 224.01-010(22), specifically states that "'Recycling…does not include the incineration or combustion of materials for the recovery of energy.'" Thus, the items for which the credit was sought could not be "recycling equipment."

Finally, the Court held that even if the methane could be considered post consumer waste, most of the landfill equipment would nevertheless not qualify for the credit because it was "used exclusively to process the methane." Only the piping and the flare would qualify if this was the case.

The Court also rejected the taxpayer's argument that its landfill equipment qualified for the credit as compost equipment. The methane was "not produced under controlled aerobic conditions through composting" and thus did not satisfy the relevant statutory definition. Methane also did constitute "compost" under the relevant definition.

The Court also found its ruling supported by 2007 legislation that provided tax credits for the development of renewable energy and construction of renewable energy facilities. The provisions of this law embraced landfill methane gas, thus "mak[ing] it appear that the General Assembly did not believe KRS 141.390 allows tax credits for the production of landfill methane gas for energy."

The Court of Appeals' decision is not yet final. The taxpayer has filed a motion for discretionary review with the Kentucky Supreme Court.

**Department of Revenue v. Commonwealth Agri-Energy, LLC, 2012-SC-00822-D (Ky. Sup. Ct.).**

At issue in this case is the application of a nonrefundable tax credit for the production of ethanol. The amount of the credit is $1.00 for each ethanol gallon produced, but there is a cap of $5,000,000 on the amount of credits that ethanol producers can claim in a given year. See generally KRS 141.4242(1); 141.422(3), (10) and (11).

The focus of this case is the procedure for claiming this credit set forth in KRS 141.4242(3), which states:

> Each ethanol produced eligible for the credit provided under subsection (1) of this section *shall file an ethanol tax credit claim for ethanol gallons produced in this state on forms prescribed by the department by January 15 following the close of the preceding calendar year.* The department shall determine the amount of the approved credit based on the amount of ethanol produced in this state during the preceding calendar year and shall issue a credit certificate to the

ethanol producer by April 15 following the close of the preceding calendar year.

(Emphasis in italics added).

The taxpayer did not file its application until February 4, 2009. The letter from its controller accompanying the application stated that "I knew there was a reporting requirement for the gallons produced; however, I did not realize it would be so soon after the calendar year end." The DOR denied the application as untimely under KRS 141.4242(3).

The taxpayer challenged the DOR's denial on the grounds that the application form was not promulgated via the administrative regulation process set forth in KRS Chapter 13A. The taxpayer did not dispute that an application form had in fact been created and available on the DOR's website or from the DOR upon request, beginning in October, 2008. The DOR did incorporate the form (Schedule ETH) in its forms regulation on January 15, 2009. See KRS 131.130(3); 103 KAR 3:040 § 1(13) and § 3(1)(a) 13.

The KBTA, Franklin Circuit Court, and Court of Appeals all agreed with the taxpayer's position. The DOR's motion for discretionary review of the Court of Appeals' opinion, which was rendered on November 16, 2012, was filed on December 17, 2012 and is still pending.

**Home Depot USA, Inc. v. Department of Revenue, KBTA Order No. K-22609 (File No. K10-R-25, October 17, 2012).**

At issue in this case was the sales and use tax law's bad debt deduction provided for in KRS 139.350, which stated in part:

(1) A retailer may deduct as a bad debt the amount found to be worthless and charged off for income tax purposes provided the retailer is reporting and remitting the tax on the accrual basis. The retailer may take the deduction on the return for the period during which the bad debt is written off as uncollectable in the retailer's books and records and is eligible to be charged off for income tax purposes. For purposes of this section, "charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectable, or declaring as uncollectable the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.

* * * * *

(4) A retailer may obtain a refund of tax on the amount of bad debt that exceeds the amount of taxable sales for the period during which the bad debt is written off. Notwithstanding KRS 131.183, the refund claim must be made within four (4) years from the due date of the return on which the bad debt could first be claimed.

(5) If any bad debt accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the return filed for the period in which the collection is made and the amount of the tax due shall be paid with the return.

In this case, the retailer had remitted sales tax on retail sales made on credit through the use of private label credit cards administered by a third party. The private label credit card company would pay the retailer an agreed upon amount that included the purchase price of the item in question and the applicable sales tax. The retailer would report the retail sale on its Kentucky sales tax return and remit the sales tax due with that return.

The private label credit card company would thereafter undertake the collection the amount due from the card holder. If these efforts were unsuccessful, that company would charge the account off as worthless and deduct it as a bad debt for federal income tax purposes.

In an order entered on October 27, 2012, the KBTA agreed with the DOR's position that the bad debt deduction was not available to the retailer. For the deductions to apply, the retailer itself must charge off the bad debt on its books and records and on its income tax returns. The KBTA noted that this particular retailer had litigated and lost the issue presented by this case in a number of states. *See, e.g., Home Depot USA, Inc. v. Levin,* 121 Ohio St. 3d 482, 905 N.E.2d 630 (2009)(also holding that the Equal Protection Clause was not violated "because vendors who extend credit themselves are not, with respect to bad debt, similarly situated to vendors like Home Depot, who hire financial institutions to extend credit").

The taxpayer did not appeal the KBTA's order.

## 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 has the responsibility of maintaining a professional and well-trained staff that can provide courteous, accurate and efficient services to taxpayers. The division's primary goal is to assist taxpayers in resolving their tax liability/debts in the most expeditious manner, while considering their ability to pay. However, in instances where taxpayers willfully attempt to evade their tax obligations, the Division of Collections has the responsibility to utilize all administrative and legal actions available to enforce in a fair and equitable manner, the collection of all taxes owed the Commonwealth. These enforcement actions may, but are not limited to, seizure of bank accounts, wages, accounts receivables, real property and personal property. The Protest Resolution Branch within the Division of Collections is responsible for arbitrating cases where the taxpayer has protested an action of the DOR, 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 Program Improvement/Data Quality 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, sheriff's and county clerk'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.

PVA Administrative Support Branch

The PVA Administrative Support Branch was transferred from the Division of Local Government, within the Office of the Controller by Executive Order #2008-506 on July 16, 2008 to the Department of Revenue, Office of Property Valuation. This branch handles personnel, payroll, budget and insurance matters for Kentucky's 120 PVA offices, composed of 637 state and approximately 100 locally-funded employees. The PVA Administrative Support Branch is charged with making sure PVA office budgets are completed timely. While PVA employees serve as nonmerit (non-P1) and unclassified state employees, the Branch has the responsibility to see that PVA employees are treated fairly within the grade classification system and must ensure the integrity of the classification system among PVA hiring, promotions, demotions and reclassifications.

## 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, 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; 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, non-resident withholding, 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 divided into two branches: the Corporate Income and License Tax Branch, and the Pass-through Entity Branch and director's office. The Division 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 Corporation Income and License Tax Branch and the Pass-through Entity Branch 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.

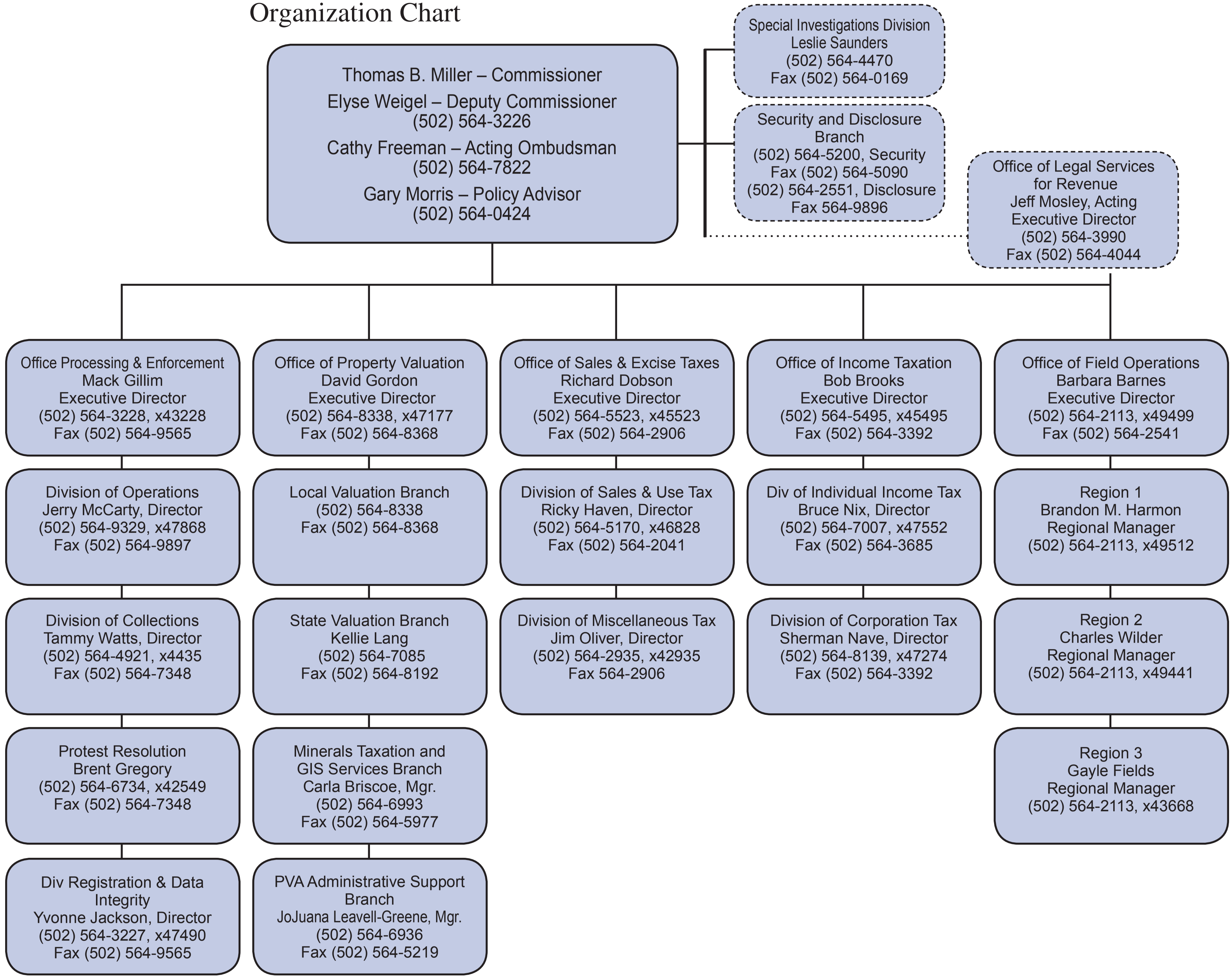
## Department of Revenue

## Expenditures for FY2013 - All Funds

(Excluding PVAs)

| Expenditure Category | General Fund | Road Fund | Agency Fund | Tobacco Settlement Fund | Total |
|---|---|---|---|---|---|
| Regular Salaries & Wages | 33,975,317.86 | 1,602,729.99 | 2,444,040.86 | 43,856.88 | 38,065,945.59 |
| Other Salaries & Wages | 62,019.76 | | | | 62,019.76 |
| Employer FICA | 2,338,324.28 | 96,200.54 | 224,348.72 | 277.00 | 2,659,150.54 |
| Employer Retirement | 7,809,551.37 | 270,388.41 | 765,660.91 | | 8,845,600.69 |
| Health Insurance | 6,107,656.54 | 220,079.15 | 562,567.03 | | 6,890,302.72 |
| Life Insurance | 13,661.18 | 273.36 | 1,500.80 | | 15,435.34 |
| Other Fringe Benefits | 21,194.18 | | | | 21,194.18 |
| *Subtotal Salaries & Fringe* | *50,327,725.17* | *2,189,671.45* | *3,998,118.32* | *44,133.88* | *56,559,648.82* |
| Worker's Compensation | 158,578.92 | | | | 158,578.92 |
| Other Personnel Costs | 67,526.94 | | 12,865.06 | | 80,392.00 |
| E141 Legal Services | 195,300.00 | | | | 195,300.00 |
| Other Professional Services Contracts | 4,953,822.86 | 208,501.28 | 64,869.99 | | 5,227,194.13 |
| Other | 46,195.00 | | | | 46,195.00 |
| Security Guard Services | 158,391.00 | | | | 158,391.00 |
| **Total Personnel Costs** | **55,907,539.89** | **2,398,172.73** | **4,075,853.37** | **44,133.88** | **62,425,699.87** |
| Utilities & Heating Fuels | 1,106,711.34 | | | | 1,106,711.34 |
| Facilities and Support Services Charges | 2,305,126.87 | | | | 2,305,126.87 |
| Other Rentals | 654,685.76 | 2,090.77 | 60,304.05 | | 717,080.58 |
| Maintenance and Repairs | 778,299.78 | | 179,961.47 | | 958,261.25 |
| Postage & Related Services | 4,936,019.30 | | 15,556.92 | | 4,951,576.22 |
| Miscellaneous Services | 1,182,977.30 | (18.50) | 89,069.60 | 202,465.50 | 1,474,493.90 |
| Telecommunications | 104,087.44 | | 88,838.47 | | 192,925.91 |
| Computer Services | 16,850,979.53 | | 66,007.24 | | 16,916,986.77 |
| Items For Resale | 4,720.00 | | | | 4,720.00 |
| Supplies | 159,499.83 | 396.32 | 35,369.59 | | 195,265.74 |
| Commodities | 757,604.55 | 352,351.60 | (200,042.50) | | 909,913.65 |
| Travel | 243,432.77 | 8,347.72 | 71,665.03 | | 323,445.52 |
| Miscellaneous Commodities | 411,497.29 | (40,940.64) | 699,426.86 | | 1,069,983.51 |
| **Total Operating Expenses** | **29,495,641.76** | **322,227.27** | **1,106,156.73** | **202,465.50** | **31,126,491.26** |
| Grants/Loans/Benefits | 47.45 | | | | 47.45 |
| **Total Grants/Loans/Benefits** | **47.45** | **-** | **-** | **-** | **47.45** |
| Capital Outlay | | | 38,160.00 | | 38,160.00 |
| **Total Capital Outlay** | **-** | **-** | **38,160.00** | **-** | **38,160.00** |
| **Total Expenditures** | **85,403,229.10** | **2,720,400.00** | **5,220,170.10** | **246,599.38** | **93,590,398.58** |

# FINANCE & ADMINISTRATION CABINET
# KENTUCKY DEPARTMENT OF REVENUE
## Organization Chart



**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)—**0.003 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.

**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.

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: 2012—$2,290 and 2013—$2,360.

**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, 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) on tangible personal property only. 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 and Television 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)(r))—**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.

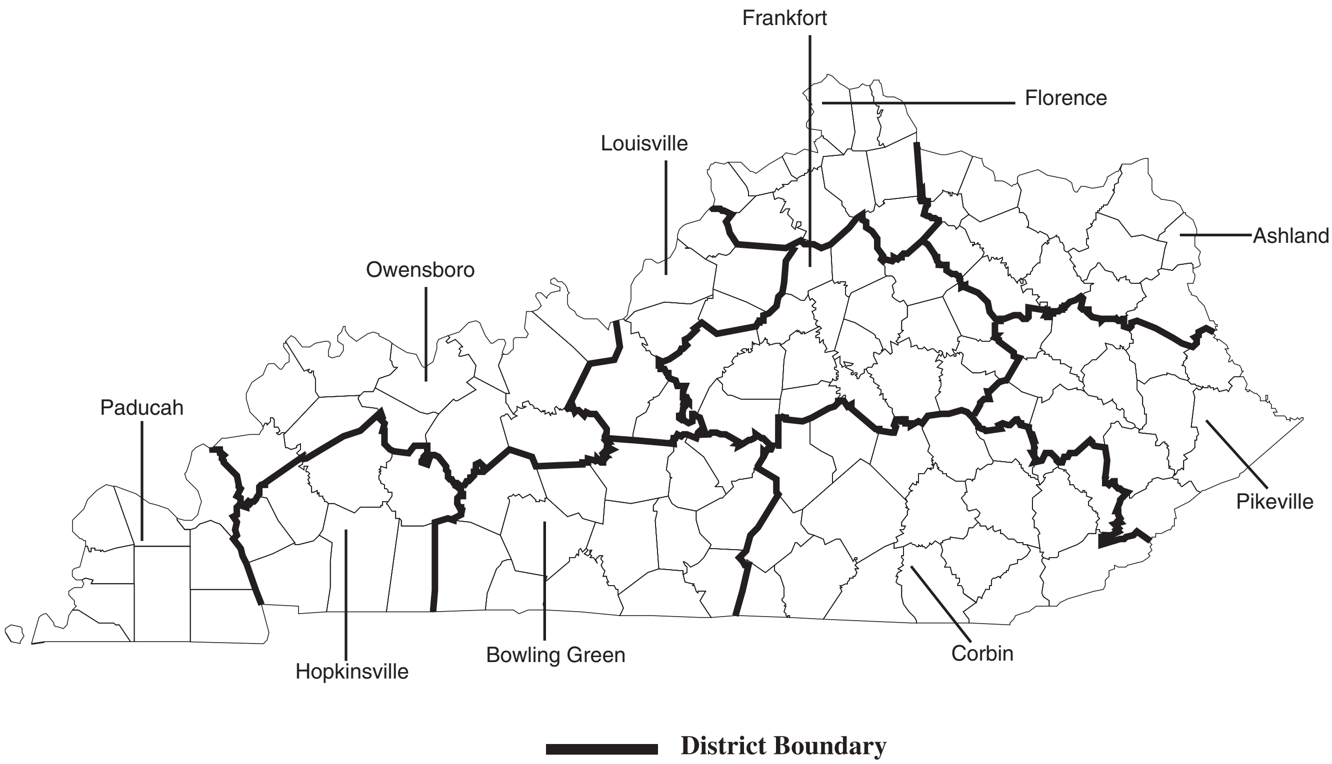
**Unmined Coal, Oil and Gas Reserves and Other Mineral or Energy Resources** held separately from Surface Real Property (KRS 132.820)—Same tax rates as shown for real estate.

**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.

# KENTUCKY TAXPAYER SERVICE CENTERS

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