



REVENUE

The Kentucky Department of Revenue presented the following information at a meeting of the Council on State Taxation (COST) on June 15, 2018. This meeting focused on recent tax law changes enacted during the 2018 General Assembly and provided links to additional information at a new website the Department of Revenue Developed to education taxpayers and professionals about the recent tax law changes.

The information in this presentation was prepared from information the Department of Revenue possessed and believed to be accurate and relevant on the date of the meeting. This information does not constitute a final ruling, order, or determination of the Department of Revenue and cannot be appealed.



# 2018 Kentucky Tax Changes

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[TaxAnswers.ky.gov](http://TaxAnswers.ky.gov)



# Office of Tax Policy and Regulation

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# Office of Income Taxation

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# LEGISLATIVE UPDATES

## Income Tax Changes

- ▶ Flat tax rate of 5% for individuals and corporations, beginning on and after 1/1/18
- ▶ Federal conformity provisions were updated to December 31, 2017. The update adopted many provisions in the Tax Cuts and Jobs Act on the effective dates specified in that Act.
- ▶ HB 487 did not amend the depreciation differences between Kentucky income tax law and federal income tax law.
- ▶ The Corporation Income Apportionment Factor was changed to Single Sales Factor with Market Based Sourcing, beginning on and after 1/1/18.
- ▶ Mandatory Unitary Combined or Elective Consolidated Group Filing is effective for tax years beginning on or after 1/1/19.



# LEGISLATIVE UPDATES

## Additional Corporation Income Tax Changes

- **Mandatory Nexus Consolidated** continues for tax years beginning before January 1, 2019
  - The 50% net operating loss (NOL) limitation is *eliminated* along with mandatory nexus consolidated filing for tax years beginning on or after January 1, 2019
  - Adopt the 80% federal NOL limitation under IRC Sec. 172(a) for NOL generated after January 1, 2018
  - Adopt federal unlimited carryforward of unused NOL
  - Kentucky does not allow a NOLD carryback for tax years beginning on or after January 1, 2005



# LEGISLATIVE UPDATES

## Inventory Tax Credit

- Nonrefundable and nontransferable credit against income and limited liability entity tax for ad valorem (property) tax **timely paid on inventory on or after January 1, 2018.**
- Phased in: 25% in 2018; 50% in 2019; 75% in 2020; and 100% in 2021 and thereafter.



# LEGISLATIVE UPDATES

## Tax Administrative Changes

- **KRS 131.110** was amended to increase the time to submit a protest to 60 days, applicable to notices of tax due [issued on or after July 1, 2018](#).
- **KRS 131.081** was amended to prohibit the Department from entering into a contingent fee contract for audits, collections or legal services if the service performed is contingent upon the amount of tax, interest, fee, or penalty assessed against or collected from the taxpayer.
- **KRS 49.250** was amended to eliminate the requirement that payment of the tax due or posting of a supersedeas bond be made to appeal an order sustaining a tax assessment.
- **KRS 141.210** was amended to increase the time frame for notifying Kentucky of a federal audit final determination from 30 to 180 days.



# Office of Sales and Excise Taxes

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Sales and Use Taxes	(502) 564-5170	Motor Fuels Tax	(502) 564-3853
Telecommunications Tax	(502) 564-5170	Motor Vehicle Usage Tax	(502) 564-4455
911 Prepaid Service Charge	(502) 564-5170	Excise Tax	(502) 564-6823
		Financial Tax	(502) 564-4810
		Tobacco Tax	(502) 564-6823





# LEGISLATIVE UPDATES

## Sales & Excise Taxes

Effective July 1, 2018

- **KRS 224.50-868** - Tire Fee increased to \$2, part of gross receipts subject to sales tax
- **KRS 138.140** - \$0.50 Cigarette tax increase
- **KRS 138.143** - Cigarette floor stocks of \$0.50 with 3 installments
  - July 10, Aug 10, Sep 10
- **KRS 139.340 - Nexus Expansion for Economic Presence** - Remote Retailer - \$100K/200 transactions threshold as in the Wayfair case
- **KRS 139.470** - Exemption for charges for repair or installation labor for taxable tangible personal property used directly within the manufacturing process
- **KRS 139.480** - Clarification regarding cost of production for partial energy exemption related to tolling operations.
  - Elimination of pollution control exemption for sales & use tax
- **KRS 139.538** - Suspension of motion picture rebate until July 1, 2022



# LEGISLATIVE UPDATES

## Sales & Excise Taxes

Effective July 1, 2018

- **KRS 139.010 - Amended Definitions for Sales Tax**
  - Participatory admissions, membership fees – Bowling centers; skating rinks; health spas; swimming pools; tennis courts; weight training facilities; fitness & recreational sports centers; golf courses, both public and private
  - Extended warranty services to repair, support, or maintain tangible personal property or digital property
  - Gross receipts subject to sales tax will include installation / repair labor associated with the sale of taxable tangible personal property, digital property, or services. This labor component becomes taxable if part of a taxable retail sale. This definition change applies sales tax only to the labor component of taxable sales of tangible personal property and digital property and otherwise taxable furnishing of services.
  - Charges for the installation of fixtures to real property or for labor to repair fixtures to real property are not part of gross receipts subject to sales tax. See 103 KAR 26:070 for more information on fixtures and building materials used in construction contracting.
  - This law change does not affect contractors involved in building construction or repairs to real property.
  - Industrial processing - consistent use of terminology for Machinery for New & Expanded Industry and Industrial tools/supplies
  - Prewritten computer software - no substantive change with cross reference to property tax to exempt custom software under KRS 132
  - Remote retailer - used in 139.340 and associated marketplace definition series



# LEGISLATIVE UPDATES

## Sales & Excise Taxes

Effective July 1, 2018

- **KRS 139.200 – Expanded Imposition Language**

- Transient Accommodations - Campsites, campgrounds, RV parks;
- Landscaping services (lawn care/maintenance, tree trimming, pruning or removal, landscape design and installation, landscape care/maintenance, snow plowing or removal services);
- Janitorial services - residential/commercial cleaning, carpet, upholstery, window cleaning;
- Small animal veterinary services, pet care (grooming, boarding, pet sitting, pet obedience training);
- Industrial laundry and linen supply services;
- Non-coin-operated laundry and dry cleaning services;
- Indoor tanning services;
- Non-medical diet and weight reducing services;
- Limousine services with a driver; and
- Extended warranty services sold on or after July 1, 2018 for tangible personal property or digital property that is taxable to the warranty holder.

Retailers that make sales of these services will now charge sales tax on the full sales price charged to their customers and may claim a resale exemption on their purchase of items provided to the customer as part of the service. This resale exemption is limited to tangible personal property or digital property sold to and received by the customers as part of the retail sale.

*Please note there is no resale exemption for the resale of services under the provisions of KRS 139.260.*