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**Kentucky Technical Advice Memorandum
KY-TAM-19-02**

SUBJECT: Requirement to Pay Estimated Tax Installments

EFFECTIVE DATE: Applies to taxable years beginning on or after January 1, 2019.

SUPERSEDES: N/A

REFERENCE: [KRS 131.175](#)
[KRS 131.180](#)
[KRS 141.044](#)
[KRS 141.206](#)
[KRS 141.207](#)
[KRS 141.305](#)
[KRS 141.990](#)

AUTHORITY: [KRS Chapter 13A](#)
[KRS 131.130\(8\)](#)

SCOPE: The purpose of a Technical Advice Memorandum ("TAM") is to provide direction to the public and to Department personnel. It is issued to apply principles of law to a set of facts or general category of taxpayers. The Kentucky Department of Revenue ("KDOR"), in its discretion, may retroactively withdraw, revoke, or modify any TAM including, but not limited to, if there was a change in the applicable statute(s), regulation(s), case law or other DOR guidance; or if the TAM was issued in error. A TAM does not constitute a final ruling, order or determination of the KDOR and cannot be appealed.

I. Issue/Question(s)

What changes have been made to the requirement for corporations, pass-through entities, and individuals to pay estimated tax installments? What changes have been made to the penalties for underpayment?

II. Law

KRS 131.180, KRS 141.990

Recent amendments to these statutes repeal the declaration penalty for taxpayers who are required to pay estimated tax installments for income tax.

KRS 141.044, KRS 141.305

Recent amendments to these statutes generally require corporations, limited-liability pass-through entities, and individuals to make estimated tax payments in the same manner and same time as estimated tax payments for federal income tax purposes under 26 U.S.C. §6654 (for individuals) and 26 U.S.C §6655 (for corporations and limited liability pass-through entities). However, there are exceptions set forth in the recent amendments to KRS 141.305 and KRS 141.044 to account for federal and Kentucky differences. Furthermore, the “addition to tax” identified by 26 U.S.C. §6654(a) and 26 U.S.C. §6655(a) is considered a penalty for Kentucky purposes.

KRS 141.206, KRS 141.207

Recent amendments to these statutes repealed the requirement for pass-through entities to file a declaration of estimated payments, but maintained the requirement for the pass-through entity to pay estimated tax in installments for nonresident individual partners and for corporate partners doing business in Kentucky only through their ownership interest in the pass-through entity.

III. Discussion/Conclusion

Corporations and Pass-Through Entities

Kentucky law requires corporations and limited-liability pass-through entities to pay estimated tax installments if their income tax and/or limited liability entity tax (LLET) liability for the tax year can reasonably be estimated to exceed \$5,000. Kentucky law also requires pass-through entities to make estimated payments if the estimated tax liability of nonresident individual members, partners, or shareholders can be reasonably estimated to exceed \$500 and/or if the estimated tax liability of corporate partners or members, which are doing business in Kentucky only through their ownership interest in the pass-through entity, can be reasonably estimated to exceed \$5,000.

For tax years beginning on or after January 1, 2019, the estimated payments are made in the same manner and time as estimated tax payments for Federal income tax purposes under 26 U.S.C. §6655, except as required by differences between federal income tax law and Kentucky income tax law. Corporations and limited liability pass-through entities should use Form 720ES “Corporation Income/Limited Liability Entity Tax Estimated Voucher” and its instructions to calculate the amount of estimated payment due for each installment.

For corporations and limited-liability pass-through entities filing on a calendar-year basis, the due dates and the percentages of the total annual estimated payment due are as follows:

1 st installment	25% of estimated tax due	April 15
2 nd installment	25% of estimated tax due	June 15
3 rd installment	25% of estimated tax due	September 15
4 th installment	25% of estimated tax due	December 15

Fiscal-year filers should substitute the corresponding months based on their tax period, paying the first installment by the 15th day of the fourth month of the tax year.

NOTE: If a payment date falls on a holiday or weekend, the applicable payment date is the next working day.

If taxpayers receive income unevenly throughout the year, or if they are a “large corporation” as defined by 26 U.S.C. §6655(g), they may annualize their income to avoid or reduce underpayment penalties. Taxpayers may use the annualized income installment method and/or the seasonal installment method if they do so for federal purposes.

Individuals, Estates, and Trusts

Kentucky law requires individuals to pay estimated tax installments if gross income from sources other than wages on which Kentucky income will be withheld can reasonably be expected to exceed \$5,000 for the tax year. Estimated tax payments are not required if the estimated tax liability can reasonably be expected to be \$500 or less.

For tax years beginning on or after January 1, 2019, the estimated payments are made in the same manner and at the same time as estimated tax payments for federal income tax purposes under 26 U.S.C. §6654, except as required by differences between federal income tax law and Kentucky income tax law. . Individuals should use Form 740-ES “Estimated Tax Voucher” and its instructions to calculate the amount of estimated payment due for each installment.

For individuals, the due dates and the percentages of the total annual estimated payment due are as follows:

1 st installment	25% of estimated tax due	April 15
2 nd installment	25% of estimated tax due	June 15
3 rd installment	25% of estimated tax due	September 15
4 th installment	25% of estimated tax due	January 15 of following year

NOTE: If a payment date falls on a holiday or weekend, the applicable payment date is the next working day.

Penalties

To avoid underpayment penalties, individuals should pay 90% of their current-year estimated Kentucky income tax, or 100% of their prior-year Kentucky tax. Per 26 U.S.C. §6654, high-income individuals whose prior-year adjusted gross income exceeded \$150,000 (\$75,000 if married filing separately) must pay at least 110% of their previous year's income tax to avoid underpayment penalties. Married couples in Kentucky that file separately on a combined form should add their incomes together to determine if they meet the 110% threshold.

Kentucky law imposes penalties if a taxpayer fails to pay estimated tax installments or underpays required installments. The penalty is calculated in the same manner as the "addition to tax" specified by 26 U.S.C §6654(a) and 6655(a), except that:

- The penalty is based on the amount of estimated tax calculated for Kentucky; and
- The tax interest rate determined under KRS 131.183 is used to determine the amount of penalty, not the Federal rate determined under 26 U.S.C. §6621.

The Commissioner has the authority to waive penalties assessed for failure to pay or for underpayment of estimated taxes under KRS 131.175. Waivers of penalty must be based on reasonable cause per KRS 131.010(9). Administrative regulation 103 KAR 1:040 establishes the criteria used to determine if a taxpayer has demonstrated reasonable cause to justify waiver of penalties.

If a taxpayer discovers that its tax liability will be more or less than the original estimate, the installation amounts may need to be re-calculated. If the amount is more than the original estimate, a payment should be made immediately to reduce the amount of any penalty resulting from underpayment of its earlier installments.

NOTE: Forms 720ES and 740-ES and instructions can be found at www.revenue.ky.gov.

Filing Methods

Payments made by check should be made out to the Kentucky State Treasurer, included with a completed estimated payment voucher, and mailed to:

Form 740-ES - Individuals:

Kentucky Department of Revenue
Frankfort, KY 40620-0009

Form 720ES - Corporations and Pass-through Entities:

Kentucky Department of Revenue
Frankfort, KY 40620-0021

Form 740NP-WH-ES, Pass-through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Estimated Vouchers:

Kentucky Department of Revenue
Frankfort, KY 40619-0006

Estimated payments can be made online through the following:

Individuals:

Form 8879-K. You may authorize the Kentucky Department of Revenue to debit all four of your installments on the dates due. This option must be initiated at the time of the filing.

Pay by ACH debit. You may access the Department of Revenue's secure website www.revenue.ky.gov.

Corporations and Pass-Through Entities:

Enterprise Electronic Payment System (EEPS) - Corporation Income Tax and Limited Liability Entity Tax (LLET) payments for estimates can be made using EEPS. To use EEPS, go to www.revenue.ky.gov and click on the E-File and Payments tile. From the selections of tax types available, click "Corporation Income Tax" or "LLET" and select the Electronic Payment link. To make payments, the FEIN is required along with the Kentucky Corporation/LLET 6-digit account number.

Electronic Funds Transfer (EFT) - Kentucky estimated payments may be made by EFT for corporation income tax and LLET. For questions concerning EFT, contact the Department of Revenue at 1-800-839-4137 or (502) 564-6020.

IV. Questions

For questions concerning this TAM, contact Policy at DOR taxpolicy@ky.gov.

KENTUCKY DEPARTMENT OF REVENUE



Daniel P. Bork, Commissioner

Date: 4-3-2019