

2018 - 19 ANNUAL REPORT



KENTUCKY DEPARTMENT OF REVENUE

Thomas B. Miller
Commissioner



Andy Beshear, Governor
Commonwealth of Kentucky

Holly M. Johnson, Secretary
Finance and Administration Cabinet

KENTUCKY DEPARTMENT OF REVENUE

Putting People **FIRST**

Fairness

We are committed to the unbiased administration of tax laws.

Integrity

We conduct ourselves in a manner that promotes public confidence and safeguards taxpayer information.

Respect

Our goal is to treat every taxpayer interaction with the highest regard for civility.

Service

Serving taxpayers with expertise, pride, professionalism, and enthusiasm is our highest priority.

Teamwork

We pledge to work hand in hand with taxpayers and community partners. We are “One Department, One Team.”

Mission Statement

The Kentucky Department of Revenue serves the citizens of our Commonwealth through the fair administration of tax laws; adherence to the Taxpayer Bill of Rights; and collection of revenues used to fund public services, programs, and the protection of natural resources. We perform our duties in a manner that is professional, efficient, and merits the utmost in public confidence while demonstrating the highest level of integrity.



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December 10, 2019

The Honorable Andy Beshear
Commonwealth of Kentucky
The State Capitol
Frankfort, KY 40601

Dear Governor Beshear:

We are proud to serve alongside the employees of the Kentucky Department of Revenue (DOR) and are pleased to present the annual report for the fiscal year July 1, 2018 through June 30, 2019. DOR administers Kentucky's tax laws consistently and objectively while providing quality customer service to taxpayers and tax professionals living and working in Kentucky. We balance our resources efficiently and thoroughly to complete this undertaking.

This report reflects the hard work and dedication of the many professionals who work for the department. While the report goes into more detail, following are a few highlights for DOR in Fiscal Year 2018-19:

- Collected more than \$11.1 billion of taxes and related payments into the General Fund
- Collected over \$1.18 billion of taxes and related payments into the Road Fund
- Received and responded to more than 834,000 phone calls, over 63,000 letters, and more than 36,000 electronic communications from taxpayers and tax professionals
- Stopped more than \$25 million of fraudulent tax refund requests (calendar year 2019)
- Repealed 28 administrative regulations and amended 44 additional regulations
- Assisted in securing a technology partner to implement a new integrated tax system for consolidating DOR's many outdated tax systems into one efficient, integrated solution

We know the information in this annual report is helpful to you and legislators as you guide the Commonwealth forward to advance change. Thank you for your continued support of DOR's important mission. We are honored to serve the Commonwealth.

With kind regards,

Thomas B. Miller
Commissioner



KENTUCKY DEPARTMENT OF REVENUE



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Division of Application Development and Support
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EXECUTIVE SUMMARY

Office of Processing and Enforcement

- Deposited receipts in excess of \$8.1 billion electronically
- Processed more than 2 million individual income tax returns in calendar year 2019
- Processed over \$519.1 million of individual income tax refunds to taxpayers in calendar year 2019
- Processed more than 49,200 business tax registration applications
- Collected in excess of \$200 million of unpaid tax obligations
- Collected more than \$27.5 million of debt on behalf of enterprise agencies
- Assisted in securing a technology partner to implement a new integrated tax system

Office of Property Valuation

- Collected over \$552 million in property tax receipts on behalf of the Commonwealth via sheriffs' offices
- Assisted local jurisdictions in all counties with the receipt of more than \$2.76 billion in property tax revenue
- Collected in excess of \$140 million of motor vehicle property taxes
- Determined assessment values of over \$39.8 billion related to public service and centrally assessed companies
- Assessed tangible, omitted tangible, and compliance tangible personal property values and collected over \$98.7 million in related taxes
- Collected in excess of \$128.1 million in severance tax receipts
- Assessed more than \$1.234 billion of unmined mineral property taxes

Office of Sales and Excise Taxes

- Collected in excess of \$56.8 million through tax compliance programs and refund request reductions
- Collected more than \$50.3 million in sales and use tax through the national Streamlined Sales Tax Registration System
- Collected and distributed over \$225.2 million of Utility Gross Receipts License Tax (UGRLT)
- Conducted 221 retail cigarette inspections

Office of Income Taxation

- Assessed over \$53.6 million of individual income tax through compliance measures
- Assessed more than \$71 million of corporate income tax through compliance measures
- 90% of individual income tax returns electronically filed in calendar year 2019
- 42.7% of corporate income tax returns electronically filed in calendar year 2019

Office of Field Operations

- Assessed more than \$56.79 million of tax due as a result of the 893 audits conducted
- Assessed over \$7.43 million of tax due as a result of compliance measures
- Collected in excess of \$17.9 million in payments through taxpayer assistance programs
- Received and responded to over 31,000 in-person inquiries from taxpayers who visited Taxpayer Service Centers
- Prepared approximately 2,200 individual income tax returns for qualified taxpayers

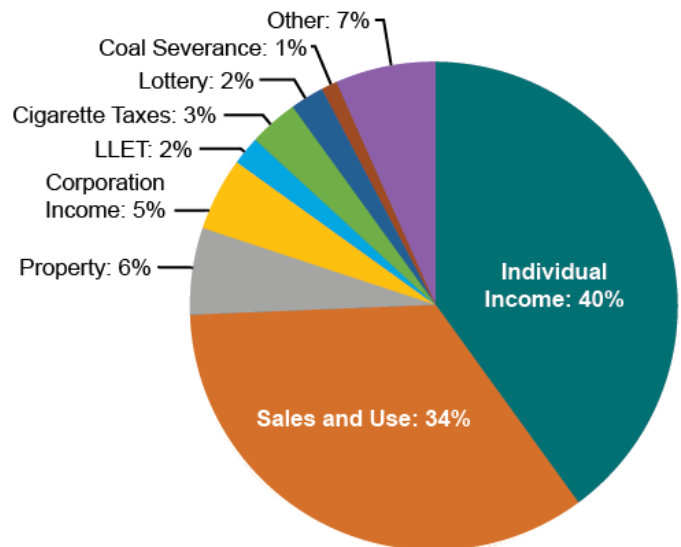


REVENUE RECEIPTS

General Fund

General Fund Revenue Compared To Last Year (\$ Millions)

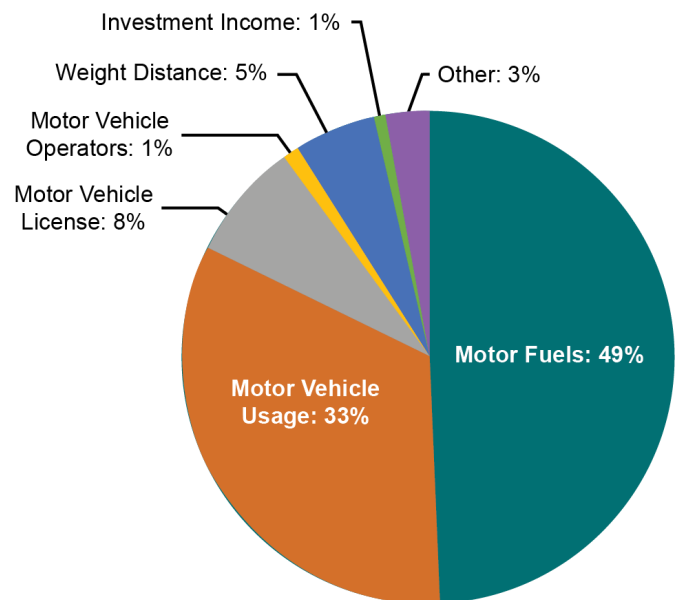
	Full Year		Growth Rate
	FY 19	FY 18	FY 19
Individual Income	4,544.7	4,603.6	-1.3
Sales and Use	3,937.6	3,605.7	9.2
Property	647.0	621.3	4.1
Corporation Income	556.0	511.4	8.7
LLET	206.7	238.1	-13.2
Cigarette Taxes	374.7	211.8	76.9
Lottery	263.9	253.0	4.3
Coal Severance	92.9	89.6	3.6
Other	769.1	703.7	9.3
Total	11,392.7	10,838.2	5.1



Road Fund

Road Fund Revenue* Compared To Last Year (\$ Millions)

	Full Year		Growth Rate
	FY 19	FY 18	FY 19
Motor Fuels	773.2	764.9	1.1
Motor Vehicle Usage	514.5	493.1	4.3
Motor Vehicle License	120.9	112.9	7.1
Motor Vehicle Operators	16.6	16.8	-1.0
Weight Distance	83.7	81.7	2.5
Investment Income	11.9	2.8	320.2
Other	45.1	38.7	16.5
Total	1,566.1	1,511.0	3.6



*includes revenue collected and deposited by DOR and other agencies



PUBLIC OUTREACH AND STAFF DEVELOPMENT

Public Outreach

The Kentucky Department of Revenue is committed to using multiple communications platforms to better inform and educate taxpayers. The goal is to make it easier to do business with the Commonwealth of Kentucky and we use a variety of methods to achieve this goal. DOR personnel, along with staff from the Finance and Administration Cabinet, formed a communications team to design a cohesive and comprehensive plan to foster better communications between staff and taxpayers. This team also designed, maintained, and updated all DOR internal and external websites and handled DOR's social media platforms.

Additionally, DOR participated in many public outreach appearances, including:

- Co-produced a live call-in show on KET
- Staffed a booth at the Kentucky State Fair
- Conducted multiple radio, television, and print media interviews

Staff Development

DOR operates training efforts from a centralized unit in order to provide training consistently for all of our staff. The training team focuses on trainings that are universal to all staff and coordinates tax specific trainings across DOR.

- 810 DOR employees completed ODET Embracing Diversity in the Workplace training
- One DOR employee graduated from the Governor's Minority Management Training Program
- Coordinated video, online, and in-person training and education courses for DOR employees
- Created a new DOR Leadership Learning Path for staff interested in professional growth as a leader
- Coordinated, planned, and executed 5th Annual Leadership Conference for 182 DOR leaders
- Coordinated DOR presentations for many events, including the annual University of Kentucky Income Tax Seminar Program, the KyCPA Kentucky State Tax Conference, and the Kentucky Digital Government Summit





TAXPAYER SERVICE CENTERS

The Department of Revenue supports 10 Taxpayer Service Centers (TSCs) throughout the Commonwealth. DOR employees at these TSCs assist taxpayers with a range of tax matters involving all tax types.

1 Paducah Taxpayer Service Center
Clark Business Complex, Suite G
2928 Park Avenue
Paducah, KY 42001
(270) 575-7148

2 Hopkinsville Taxpayer Service Center
181 Hammond Drive
Hopkinsville, KY 42240
(270) 889-6521

3 Owensboro Taxpayer Service Center
401 Frederica St, Bldg C, Suite 201
Owensboro, KY 42301
(270) 687-7301

4 Bowling Green Taxpayer Service Center
201 West Professional Park Court
Bowling Green, KY 42104
(270) 746-7470

5 Louisville Taxpayer Service Center
600 West Cedar Street
2nd Floor West
Louisville, KY 40202
(502) 595-4512

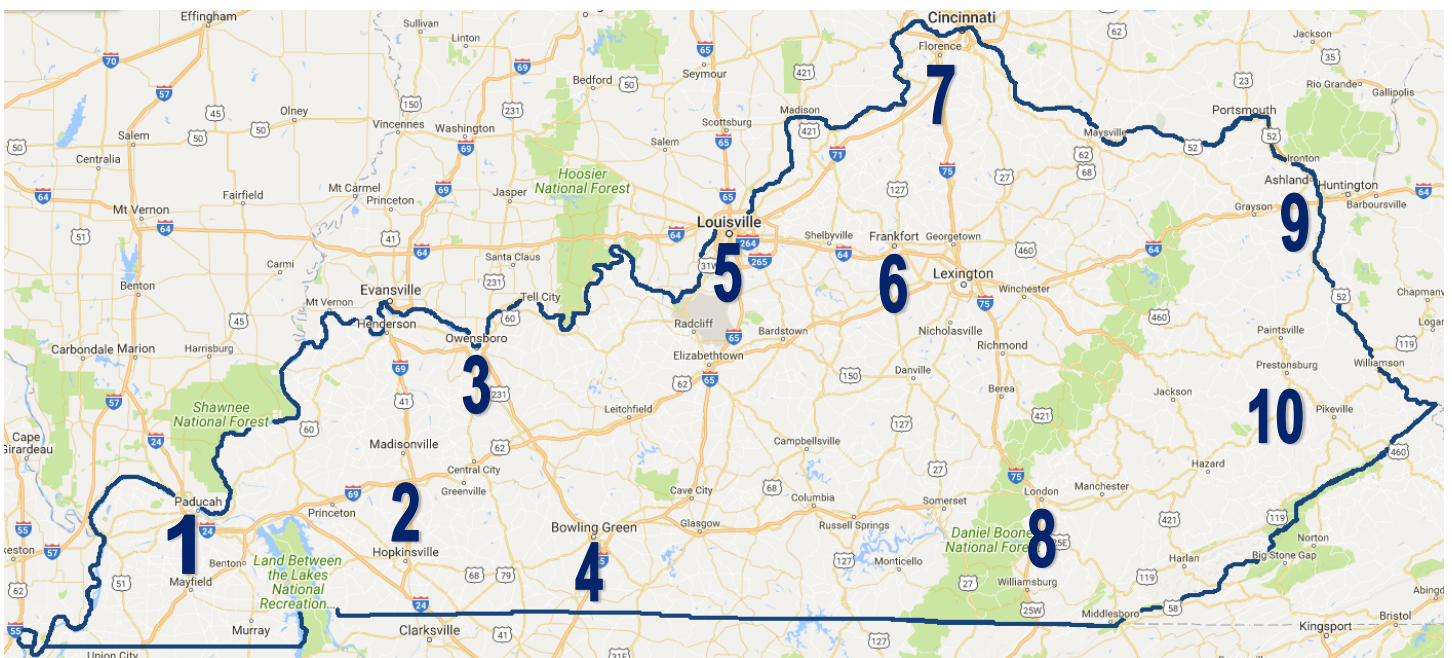
6 Frankfort Taxpayer Service Center
501 High Street
Station 38
Frankfort, KY 40601
(502) 564-5930

7 Northern Kentucky Taxpayer Service Center
7310 Turfway Rd, Ste 190
Florence, KY 41042
(859) 371-9049

8 Corbin Taxpayer Service Center
15100 North US 25E, Ste 2
Corbin, KY 40701
(606) 528-3322

9 Ashland Taxpayer Service Center
1539 Greenup Avenue
Ashland, KY 41101
(606) 920-2037

10 Pikeville Taxpayer Service Center
Uniplex Center
126 Trivette Drive, Suite 203
Pikeville, KY 41501
(606) 433-7675





OFFICE OF THE COMMISSIONER

DIVISION OF PROTEST RESOLUTION DIVISION OF THE TAXPAYER OMBUDSMAN DISCLOSURE AND SECURITY BRANCH

The Office of the Commissioner of the Kentucky Department of Revenue includes Commissioner Thomas B. Miller, the Deputy Commissioner, the Division of Protest Resolution, the Division of the Taxpayer Ombudsman, the Disclosure and Security Branch, and employee relations and communications personnel. The Office of the Commissioner is responsible for the overall management of DOR.

The **Division of Protest Resolution** is responsible for managing all formal protests filed with DOR (except residential real estate protests). The Division of Protest Resolution independently reviews each case before attempting to resolve the matter directly with the taxpayer. Protests can encompass all tax types and typically involve a taxpayer disagreement regarding a legal interpretation and/or action taken by DOR. Tax protests relate to assessments and denials of full or partial tax refund requests.

- Received 326 new tax protest cases
- Resolved 416 tax protest cases and collected in excess of \$14.3 million as a result

The **Division of the Taxpayer Ombudsman** receives thousands of telephone, written, and electronic inquiries from taxpayers, tax practitioners, and other government agencies, including the legislative constituent office. The Division of the Taxpayer Ombudsman also maintains the Practitioner Hotline which provides an avenue of communication between tax practitioners and DOR. The Division of the Taxpayer Ombudsman responds to inquiries encompassing all tax types and acts as a liaison between taxpayers and DOR to ensure protection of taxpayer rights. The Taxpayer Ombudsman provides essential services to citizens of the Commonwealth who need assistance with issues that are not resolved through regular channels.

- Responded to 3,051 total telephone inquiries received by the Taxpayer Ombudsman
- Responded to more than 500 telephone inquiries received by the Practitioner Hotline

The **Disclosure and Security Branch** coordinates DOR's physical and electronic security internally and with other agencies and third parties. The Disclosure and Security Branch is responsible for DOR confidentiality requirements. The Disclosure and Security Branch also oversees exchange of information agreements and coordinates the flow of data between the Kentucky Department of Revenue and the Internal Revenue Service (IRS) as well as between DOR and other government agencies.

- Collected over \$86.4 million through exchange of information agreements with the IRS





OFFICE OF PROCESSING AND ENFORCEMENT

DIVISION OF OPERATIONS
DIVISION OF REGISTRATION AND DATA INTEGRITY
DIVISION OF COLLECTIONS
DIVISION OF APPLICATION DEVELOPMENT AND SUPPORT

The Office of Processing and Enforcement is comprised of four divisions: (1) Operations, (2) Registration and Data Integrity, (3) Collections, and (4) Application Development and Support. The four divisions work closely with all DOR offices and tax types in addition to external agencies.

The **Division of Operations** is responsible for receiving documents (including tax returns), capturing and storing relevant data, receiving and depositing payments, and initial processing of tax returns for all tax types.

- Average processing time for individual income tax returns was 6.3 days in calendar year 2019
- Processed more than 2 million individual income tax returns in calendar year 2019
- Processed over \$519.1 million of individual income tax refunds to taxpayers in calendar year 2019 (*the average refund amount was \$400 per taxpayer*)
- Deposited receipts in excess of \$8.1 billion electronically
- Prevented the processing of more than \$25 million in fraudulent individual income tax refund requests

The **Division of Registration and Data Integrity** receives and processes all business tax applications, both those received on paper as well as those submitted electronically through Kentucky Business One Stop. The division also identifies businesses that need to register for business taxes through compliance programs.

- Processed more than 16,100 tax registration applications received on paper and reviewed over 33,100 tax registrations completed through Kentucky Business One Stop
- Administratively registered over 13,300 noncompliant businesses
- Compliance efforts resulted in \$245 million (*45.8% increase over prior fiscal year*)
- Answered more than 85,400 calls from taxpayers and preparers (*approximately 11% increase in calls answered*) and made over 23,000 outgoing calls regarding business tax registration

The **Division of Collections** works with taxpayers to resolve their tax liabilities and debts. The division implements all administrative and legal actions available to enforce the collection of unpaid tax obligations owed to the Commonwealth. Additionally, the Division of Collections engages in collection efforts for external enterprise agencies as contractually agreed upon.

- Collected a total of over \$228.4 million
 - Collected more than \$27.5 million of debt on behalf of external enterprise agencies

The **Division of Application Development and Support** is tasked with providing project management, planning, analysis, application development, implementation, security, support, and maintenance for new and legacy systems of DOR. The division focuses on modernizing DOR's technology portfolio, supporting operational stability, and ensuring taxpayer data security.

- Supports 116 DOR applications
- Assisted in securing a technology partner to implement a new integrated tax system that will consolidate DOR's many outdated systems into one integrated solution, increasing efficiency and reducing overall ongoing technology expenses



OFFICE OF PROPERTY VALUATION

DIVISION OF LOCAL SUPPORT DIVISION OF MINERALS TAXATION AND GIS SERVICES DIVISION OF STATE VALUATION

The Office of Property Valuation is comprised of three divisions: (1) Local Support, (2) Minerals Taxation and GIS Services, and (3) State Valuation. All three divisions oversee and address different aspects of state and local property valuation and property tax matters.

The **Division of Local Support** supervises and assists the property valuation administrators (PVAs), sheriffs, and county clerks in all 120 Kentucky counties with property tax assessment and collection duties. Further, the Division of Local Support provides guidance and establishes policies for all PVA offices involving budgets, payroll, accounting, and administrative support.

- Collected in excess of \$552 million in property tax receipts on behalf of the Commonwealth through sheriffs' offices (*2.8% increase compared to prior fiscal year*)
- Assisted county fiscal courts with the receipt of more than \$337.2 million in property tax revenue (*3.2% increase compared to prior fiscal year*)
- Assisted school districts across the state with the receipt of over \$1.81 billion of property tax revenue
- Assisted local jurisdictions in all counties with the receipt of more than \$2.76 billion in property tax revenue (*6.6% increase compared to prior fiscal year*)
- Presented property tax training sessions for PVAs, county attorneys, sheriffs, and county clerks across the state

The **Division of Minerals Taxation and GIS Services** is responsible for administering the mineral severance taxes and the unmined minerals property taxes. The division also coordinates mapping project requirements utilizing geographical information systems ("GIS") mapping efforts.

- Collected in excess of \$128.1 million in severance tax receipts from mining and extraction companies, which includes over:
 - \$10 million of natural gas tax
 - \$93.3 million of coal severance tax
 - \$18.9 million of solid minerals severance tax
 - \$5.9 million of oil production tax
- Assessed more than \$1.234 billion of unmined mineral property taxes for property owners, which includes over:
 - \$379.9 million of unmined coal assessments
 - \$187.1 million of oil assessments
 - \$609.6 million of natural gas assessments
 - \$57.7 million of limestone assessments
 - \$492,500 of clay assessments



OFFICE OF PROPERTY VALUATION

The **Division of State Valuation** administers all state-assessed property taxes, including public service property tax and motor vehicle property tax, as well as tangible and intangible tax programs. The Division of State Valuation also plays a critical role in the valuation of property of public service companies, valuation of motor vehicle property tax, and the valuation of tangible and intangible property.

- Determined assessment values of over \$39.8 billion related to public service and centrally assessed companies and collected more than \$85.6 million in associated taxes, which includes:
 - \$65.1 million collected from public service companies
 - \$14.4 million collected from telecommunications and video providers
 - \$1.3 million collected from distilled spirit companies
 - \$4.8 million from commercial watercraft companies
- Determined assessment values of \$70 billion related to bank deposit and savings and loan companies and collected more than \$2.97 million in associated taxes
- Assessed domestic life insurance company capital and reserve values in excess of \$633 million
- Assessed tangible, omitted tangible, and compliance tangible personal property values and collected over \$98.7 million in related taxes, which includes:
 - \$89.1 million of tangible personal property tax
 - \$5.3 million of omitted tangible personal property tax
 - \$4.3 million of compliance tangible personal property tax
- Collected payments related to \$10.7 million of TVA in Lieu of Tax distributions
- Determined assessment values of over \$33.87 billion related to motor vehicles and boats and collected more than \$148.7 million in associated taxes, which includes:
 - \$140 million of motor vehicle property tax
 - \$3.7 million of motor boat property tax
 - \$5 million of apportioned vehicle tax
- “Freddie Freeroader Program” collected over \$8,600 of tax owed by residents fraudulently using out of state license plates on their vehicles





OFFICE OF SALES AND EXCISE TAXES

DIVISION OF SALES AND USE TAX DIVISION OF MISCELLANEOUS TAXES

The Office of Sales and Excise Taxes (OSET) is comprised of two divisions: (1) Sales and Use Tax and (2) Miscellaneous Taxes. Both divisions carefully review tax returns; implement compliance measures; assist taxpayers and tax preparers with general and specific issues; coordinate efforts with other DOR offices and outside agencies; and develop sales, use, and miscellaneous tax publications. OSET participates in workgroups and related initiatives sponsored through the national Streamlined Sales Tax Governing Board and the Federation of Tax Administrators.

The **Division of Sales and Use Tax** is responsible for administering the sales and use tax, the telecommunications excise and gross revenues taxes, a number of economic development incentive programs involving tax exemptions and tax refunds, and the CMRS 911 fee. The Division of Sales and Use Tax implements compliance measures, including office or “desk” audits; administers a number of tax exemption and authorization programs; receives and responds to taxpayer inquiries; and reviews and processes requests for tax refunds.

The **Division of Miscellaneous Taxes** administers over 40 taxes, conducts systematic audits, receives and responds to taxpayer inquiries, reviews and processes tax refund requests, and implements compliance measures. The Division of Miscellaneous Taxes administers both General Fund and Road Fund taxes, including:

- Affordable housing trust fund fee
- Alcoholic beverage taxes
- Cigarette enforcement fee
- Chewing tobacco tax
- Other tobacco products and snuff taxes
- Gasoline tax
- Liquefied petroleum gas tax
- Special fuels taxes
- Petroleum storage tank environmental assurance fee
- Health care provider tax
- Inheritance tax
- Insurance premiums and insurance surcharge taxes
- Bank franchise tax
- Legal process tax
- Marijuana and controlled substance tax
- Motor vehicle tire fee
- Motor vehicle usage tax
- Loaner-rental program tax
- Public Service Commission annual assessment
- Pari-mutuel excise tax
- Racing license and admissions tax
- Advanced deposit wagering tax
- Rural Electric Cooperative Corporation tax annual assessment
- Rural Telephone Cooperative Corporation tax annual assessment
- Transient room tax
- Utility gross receipts license tax (UGRLT)
- Spouse abuse shelter fund



OFFICE OF SALES AND EXCISE TAXES

- Collected in excess of \$56.8 million through tax compliance programs and refund request reductions
- Distributed over \$9.1 million to the Kentucky 911 Services Board
- Collected more than \$50.3 million in sales and use tax through the national Streamlined Sales Tax Registration System (*37.8% increase compared to prior fiscal year*)
 - Over \$33 million collected from newly registered voluntary sellers
- Distributed over \$14.1 million of transient room taxes to the Tourism, Arts, and Heritage Cabinet
- Increased voluntary electronic filing for sales tax to 60.6%
- Distributed more than \$36.4 million of telecommunications payments to over 1,300 local jurisdictions across the Commonwealth
- Distributed more than \$5.7 million from tire tax fees to the Energy and Environment Cabinet
- Verified and issued 10 sales tax TIF refunds totaling over \$17.8 million
- Verified and issued 18 tourism attraction project tax refunds totaling more than \$6.2 million
- Verified and issued 25 KEIA refunds totaling over \$5 million
- Received and responded to more than 104,400 phone calls and over 24,800 electronic inquiries from taxpayers and tax professionals
- Distributed in excess of \$19.6 million from Public Service Commission assessments to the Public Service Commission
- Conducted 221 retail cigarette inspections to ensure compliance with the Tobacco Master Settlement Agreement
- Collected and distributed more than \$225.2 million of UGRLT payments to school districts across the Commonwealth
- Distributed over \$724,000 from legal process fees to the Kentucky Department for Libraries and Archives
- Collected \$21.19 million in one-time floor stock cigarette tax through staff-assisted development of an electronic cigarette floor stock return and payment module in E-Tax with only a 30-day legislative notice provided





OFFICE OF INCOME TAXATION

DIVISION OF INDIVIDUAL TAX DIVISION OF CORPORATION TAX

After DOR receives tax returns and inputs the information and images into its databases, the Office of Income Taxation assumes responsibility for the continued processing and careful review of individual, corporate, and withholding tax returns. In calendar year 2019, DOR received more than:

- 1.99 million individual income tax returns
- 215,000 corporate income and limited liability entity tax returns
- 656,000 withholding tax returns

The Office of Income Taxation is comprised of two divisions: (1) the Division of Individual Tax and (2) the Division of Corporation Tax. Although one is focused on individuals and the other on businesses, both divisions carefully review tax returns, implement compliance measures, assist thousands of taxpayers and preparers with general and specific issues, coordinate efforts with other DOR offices and government agencies, administer millions of dollars of tax credits, implement federal and state government cooperative compliance programs, and develop income and withholding tax forms and instruction booklets, among a number of other operational tasks.

Compliance Initiatives

- Assessed over \$53.6 million of individual income tax due and refund request reductions through compliance measures
- Assessed more than \$71 million of corporate income tax due and refund request reductions through compliance measures
- Assessed over \$44 million of withholding tax due through compliance measures

Taxpayer and Preparer Assistance

- Received and responded to approximately 11,400 webmaster inquiries from taxpayers
- Received and responded to over 63,700 other correspondence inquiries from taxpayers
- Received and responded to more than 191,400 phone calls involving individual and withholding tax inquiries from taxpayers and preparers in calendar year 2019
 - Two-minute average hold time for calls
 - More than 19,000 callers utilized the call-back assist feature
- Received and responded to approximately 25,400 calls involving corporate tax inquiries from taxpayers and preparers
- Processed over 5,600 corporate “Letter of Good Standing” requests

Electronic Filing of Income Tax Returns

- 90% of individual income tax returns were filed electronically in calendar year 2019
- 42.7% of corporate income tax returns were filed electronically in calendar year 2019



OFFICE OF INCOME TAXATION

Tax Credits

The Division of Corporation Tax administers many incentive tax credits for the Commonwealth. Some examples and the tax credit amounts claimed in Fiscal Year 2018-19 are listed below.

Examples of Economic Development Tax Credits Managed by DOR (FY 2018-19)

Kentucky Business Investment	\$30,015,872
Kentucky Industrial Development Act	\$4,888,079
Kentucky Industrial Revitalization Act	\$2,347,744
Kentucky Jobs Development Act	\$2,807,215
Kentucky Jobs Retention Act	\$59,134,819
Kentucky Reinvestment Act	\$1,189,640
Kentucky Rural Economic Development Act	\$25,431,786

Examples of Additional Tax Credits Managed by DOR (FY 2018-19)

Angel Investor	\$1,180,293
Distilled Spirits Ad Valorem	\$4,919,545
Film	\$12,571,498
Skills Training Investment	\$12,010,336



OFFICE OF TAX POLICY AND REGULATION

DOR's Office of Tax Policy and Regulation develops and implements tax policies and programs. It also reviews and provides guidance regarding proposed policies, regulations, legislation, and determinations. The Office of Tax Policy and Regulation also provides economic and policy analysis for tax policy decisions and acts as a liaison between DOR, the Finance and Administration Cabinet, and other agencies, especially the Kentucky Legislative Research Commission.

- Assisted the Commissioner and other DOR offices with the implementation of House Bills 354 and 458 and Senate Bill 246 (HB 354, HB 458, and SB 246), which made multiple changes to several taxes
- Repealed 28 administrative regulations, amended an additional 44 regulations, reviewed and submitted 25 no-change letters, and promulgated one new regulation during the fiscal year
- Reviewed and provided analysis on 462 pieces of proposed legislation

SUMMARY OF TAX LAW CHANGES ENACTED BY THE 2019 GENERAL ASSEMBLY

The General Assembly passed HB 354, HB 458, and SB 246 to make the following changes to Kentucky tax law:

Continued Tax Reform Changes

- Repeals the bank franchise tax effective January 1, 2021, and replaces it with the corporation income tax and limited liability entity tax
- Extends sales tax collection responsibilities to "marketplace providers"
- Creates a de minimis tangible personal property tax return filing threshold for micro-businesses
- Aligns Kentucky income tax estimated tax payment rules with federal rules
- Taxes heavy equipment rentals as inventory for tangible personal property tax
- Increases §179 asset purchase deduction to \$100,000 from \$25,000 effective January 1, 2019
- Enhances the recycling tax credit for major projects investing more than \$500 million in Kentucky
- Establishes an income tax return checkoff box to donate to the YMCA Youth Assembly
- Creates a deferred tax deduction to help publicly traded companies transition
- Expands the Small Business Tax Credit to small farmers

Modifications to 2018 House Bill 487

- Restores investment interest and gambling loss itemized deductions
- Enhances the family-sized tax credit due to the adoption of a 5% flat income tax rate in 2018
- Clarifies "tolling" operation definitions for energy direct pay taxpayers
- Reassigns administration of TVA payments from the Department of Local Government
- Exempts fishing tournaments and telecommunications warranty contracts from sales tax
- Corrects sunset provisions for certain incentive tax credits
- Clarifies unitary business combined filing requirements
- Exempts commercial veterinary services for poultry from sales tax
- Exempts nonprofit admissions and fundraising from sales tax
- Reduces the election period for same-as-federal consolidated returns from eight years to four years



2019 GENERAL ASSEMBLY

- Allows resale certificates for services newly taxed in 2018
- Allows large taxpayers the ability to direct pay for services
- Creates a de minimis \$6,000 threshold for certain services newly taxed in 2018

Administrative Efficiency Changes

- Updates the Kentucky Internal Revenue Code conformity date to December 31, 2018
- Treats training pay the same as active duty pay for service members
- Clarifies the deductibility of the recycling tax credit in year one and thereafter

- Clarifies the applicability of the minimum \$175 limited liability entity tax
- Fixes a property tax protest period to 60 days like all other protest periods
- Allows an extension of the statute of limitations for certain limited liability entity tax credits
- Allows corporations an additional 30-day extension to file
- Protects DOR staff from penalties for disclosing taxpayer information under a court order
- Corrects an anomaly to tax small farm wineries after the first 50,000 gallons produced
- Treats multichannel video programming the same across delivery platforms



This summary is intended to provide a general overview of important tax matters addressed during the 2019 legislative session. It does not represent a full and complete list, nor does it provide a complete and thorough analysis of all tax matters addressed during the 2019 legislative session. Additional information, including proposed legislation and full text of enacted bills is available at www.legislature.ky.gov.



OFFICE OF FIELD OPERATIONS

4 REGIONAL DIVISIONS
10 TAXPAYER SERVICE CENTERS

The Office of Field Operations (OFO) consists of 10 Taxpayer Service Centers (TSCs) strategically located throughout the Commonwealth of Kentucky. Through its TSCs, OFO serves two critical functions: (1) to provide direct assistance to taxpayers in close physical proximity to the localities where they live and work and (2) to implement DOR compliance measures, primarily in the form of field audits.

Services available to taxpayers at the TSCs include: receiving assistance to help understand and resolve tax bills or outstanding collection matters, receiving answers related to filing or amending returns, registering a tax account for a new business, receiving temporary permits for transient vendors engaging in sales within the Commonwealth, and having a local DOR liaison with the Central Office on other tax matters. Also, OFO partners with the Internal Revenue Service (IRS) and each TSC serves as a Volunteer Income Tax Assistance (VITA) site that provides tax return preparation and filing assistance to eligible low-income individuals and families as well as employees of the Commonwealth.

The Office of Field Operations serves an essential role in DOR compliance initiatives and has developed audit and compliance functions that ensure fair and equitable tax treatment for taxpayers. OFO selects and conducts field audits in all 120 counties throughout Kentucky as well as in many other states.

- Assessed more than \$56.79 million of tax due as a result of the 893 audits conducted
- Assessed over \$7.43 million of tax due as a result of other compliance measures
- Collected in excess of \$1.45 million from approximately 7,000 out of state or unregistered transient vendors identified by OFO staff at over 700 local events across the Commonwealth
- Collected \$17.9 million in payments through taxpayer assistance programs
- Received and responded to more than 56,000 phone calls from taxpayers and tax professionals
- Received and responded to over 31,000 in-person inquiries from taxpayers who visited TSCs
- Prepared approximately 2,200 individual income tax returns through OFO VITA sites

VITA
Volunteer Income Tax Assistance





FAC DIVISION OF SPECIAL INVESTIGATIONS

The **Division of Special Investigations**, organized through the Finance and Administration Cabinet's Office of the Inspector General, investigates allegations of tax law violations (particularly tax evasion, tax preparer fraud, and tendering of cold checks for tax payment), recommends criminal prosecution when warranted, and works with prosecutors around the Commonwealth to take legal action against tax law violators. The Division of Special Investigations represents the legal interests of DOR in criminal tax cases and coordinates its efforts with law enforcement agencies and Commonwealth Attorneys to prosecute criminal activity around the state.

The Division of Special Investigations directly assisted with the receipt of 11 indictments of tax law violations, including 121 felony and 30 misdemeanor charges that were found and presented by Kentucky grand juries in Fiscal Year 2018-19. The division opened 41 new cases and investigated 583 tips received by mail, telephone tip line, and the Department of Revenue's website. In Fiscal Year 2018-19 the Division of Special Investigations collected more than \$526,000, including restitution directly paid to DOR, income tax refund request denials associated with fraudulent income tax refund requests, and collections from assessments and bills generated.

In Fiscal Year 2018-19 the Division of Special Investigations was involved with many criminal tax cases including:

- A case involving a business owner indicted in Franklin Circuit Court on 40 Class D felony counts of theft by failure to make required disposition, related to sales and withholding taxes that were collected on behalf of the business.
- A case involving a Lexington taxpayer indicted by a Franklin County grand jury on four Class D felony counts of theft by failure to make required disposition of property, related to withholding tax returns filed for a Fayette County business without remittance of the withheld taxes to DOR. An additional indictment was presented on one Class C felony count related to theft by deception as a result of a check issued to DOR that was returned due to insufficient funds. This taxpayer was previously indicted three years ago for theft of withholding taxes.
- A Franklin County grand jury indictment of a Frankfort resident and business owner on three counts of willfully failing to file Kentucky individual tax returns for tax years 2013, 2014, and 2015.
- An Oxford, Ohio resident pleaded guilty to four Class D felony counts of theft by failure to make required disposition. These counts were related to sales tax that was collected on behalf of a Fayette County business but not remitted to DOR.
- A Shelbyville resident was sentenced to nine years incarceration in accordance with the jury's recommendation as a result of a guilty verdict on Class D felonies for willfully failing to file or pay Kentucky individual income taxes for tax years 2008 to 2014. The trial revealed that the taxpayer's personal study of the law led them to believe that they did not owe income tax or need to file returns, despite earning more than \$1 million in income.





FAC OFFICE OF LEGAL SERVICES FOR REVENUE

The Office of Legal Services for Revenue (OLS), is organized through the Finance and Administration Cabinet General Counsel's Office and provides direct litigation and transactional legal representation to DOR. OLS represents DOR in administrative proceedings before the Kentucky Claims Commission (f/k/a Kentucky Board of Tax Appeals) and judicial actions at all levels of the state and federal court systems.

OLS also works closely with the DOR Division of Protest Resolution to assist in the resolution of pending tax protests including identifying and quantifying potential hazards of litigation. When DOR agrees to settle a tax protest with a taxpayer, OLS attorneys prepare settlement agreements to memorialize the agreement. When DOR (or the taxpayer) determines a tax protest cannot be resolved in the DOR Protest Division, OLS prepares Final Rulings for issuance to the taxpayer(s). Further, OLS provides legal review and analysis of tax information and guidance proposed to be issued by DOR in the form of Technical Advice Memorandums (TAMs), Private Letter Rulings (PLRs), General Information Letters (GILs), etc. OLS performs a wide variety of legal services upon request of DOR including, but not limited to: preparation and issuance of legal opinions to and on behalf of DOR; conducting thorough review, analysis, and preparation of language for policies, legislation, statutes, and regulations; and providing advice and assistance in connection with open records requests and other disclosure matters that involve DOR.

Department of Revenue, Finance and Administration Cabinet v. Sommer, et al., 2017-SC-00007-DG.

In this Open Records Act case, taxpayer plaintiffs sought copies of final rulings that had been issued by the Department of Revenue (DOR) pursuant to KRS 131.110. Specifically at issue were final rulings issued, but not appealed, to the Kentucky Board of Tax Appeals (now the Kentucky Claims Commission) pursuant to KRS 131.340 (now numbered KRS 49.220).

DOR took the position that these unappealed final rulings constituted confidential information that DOR was forbidden from disclosing by KRS 131.190(1) (a). See also KRS 131.081(15); 131.990(2); 61.878(1)(k) and (l); *Maysville Transit Co. v. Ort*, 296 Ky. 524, 177 S.W.2d 369 (1943). The law provides exceptions to this prohibition and final rulings *that are appealed* are made matters of public record by law. KRS 131.355(1) (now numbered KRS 49.230(1)). Thus, some final rulings would fall within an exception to this prohibition. However, final rulings that are not appealed would not fall within this exception and would remain confidential and not subject to disclosure. KRS 131.190(1).

In an opinion designated "To Be Published," the Court of Appeals ruled that the final rulings should nevertheless be divulged by DOR, provided that suitable redactions are made. One judge of the three-judge panel dissented from this decision.

DOR filed a motion for discretionary review of the Court of Appeals' opinion with the Kentucky Supreme Court on February 13, 2017, which was granted. The case was briefed and a hearing before the Kentucky Supreme Court was held on March 15, 2018. During the interim between the Court of Appeals' decision being issued and discretionary review being granted by the Kentucky Supreme Court, the judge who dissented from the Court of Appeals decision won election to the Kentucky Supreme Court. Because of his involvement at the Court of Appeals in this case, he recused himself from considering the matter at the Kentucky Supreme Court level.

The Kentucky Supreme Court issued its Order on November 2, 2018. The vote of the remaining six court members was divided equally, allowing the Court of Appeals decision to stand affirmed. However, because the Kentucky Supreme Court granted discretionary review and its Order Affirming did not also order the case to be published, the Court of Appeals' decision was depublished pursuant to Kentucky Rules of Civil Procedure (CR) 76.28(4).

Carriage Ford v. Department of Revenue, KCC K18-R-03; Franklin Circuit Court 19-CI-00655.

This case concerns whether the Commonwealth of Kentucky should refund Carriage Ford an amount of



FAC OFFICE OF LEGAL SERVICES FOR REVENUE

tax *not paid* by Carriage Ford to Kentucky under KRS 134.580, by the use of a Kentucky citizen's credit for any sales tax paid to Indiana. (KRS 138.480). The facts of this case as revealed at the Kentucky Claims Commission (KCC) showed that Carriage Ford told its customers that they could save 1% tax by having the car that was purchased by the customer delivered to the customer's home address. In this way, instead of paying 7% sales tax to Indiana, the customer would only be liable for the Kentucky 6% use tax. Upon the conclusion of an audit by the Indiana Department of Revenue, it was determined that the vehicles at issue were never "delivered" to the customers in Kentucky, but were instead picked up in Indiana by the customers. The Indiana Department of Revenue determined that sales tax was due on the vehicle sales. Carriage Ford then paid the Indiana sales tax to settle the audit and asked the Commonwealth of Kentucky to refund it the amount it paid to Indiana. It claimed that because the law allows a citizen of Kentucky a credit for any amount of tax paid to another jurisdiction to be applied to its use tax obligation, Carriage Ford should be refunded the sales tax it paid Indiana. The KCC found for the Kentucky Department of Revenue and denied the refund. An appeal was filed by Carriage Ford to Franklin Circuit Court. Joint briefing has been completed. A hearing is not yet scheduled by the court.

Northern Kentucky Water District and Sanitation District No. 1, KCC K17-R-02. Not appealed.

This case involves whether exemptions from sales tax provided in KRS 139.470(8) for residential heating, water, and sewer services apply to commercial enterprises, wherein a landlord pays the utilities for a lessee. Residential use of these services are tax-exempt, whereas commercial use of these services are taxable. The Kentucky Claims Commission (KCC) determined that because "residents were using the services," they were exempt from tax, despite the fact that the utilities were being paid for by a commercial enterprise. The Department of Revenue did not prevail in this case and the case was not appealed.

Stephen Ridge and Brigette Ridge v. Commonwealth of Kentucky, Finance and Administration Cabinet, Department of Revenue, 2019-SC-000561-D.

This matter involves assessment of income taxes in

Kentucky on nonresident income. Mr. Ridge was an employee of Fruit of the Loom, Inc., located in Bowling Green, Kentucky. In 2015, Ridge's position with the company was eliminated, and his final day of employment with Fruit of the Loom was December 31, 2015. Mr. Ridge received \$84,919 in severance pay in tax year 2016 as a result of a written severance agreement between himself and Fruit of the Loom. At all times during his employment with the company and following his termination, when he received the severance pay, Mr. Ridge was a resident of Cottontown, Tennessee.

Mr. Ridge filed a request seeking a full refund of the income tax withheld by Fruit of the Loom and remitted to the Department of Revenue (DOR) on the \$84,919 in severance pay. Mr. Ridge's argument was, because he performed no actual labor in Kentucky during the year 2016, the severance pay was not taxable as nonresident income by Kentucky.

Mr. Ridge's refund request was denied by DOR on the grounds that the tax was properly withheld and remitted because the severance pay constituted nonresident income under KRS 141.020(4), which states, inter alia: "[a] nonresident individual shall be . . . taxable . . . upon the amount of income received by the individual from . . . business done . . . in this state." KRS 141.010(f) further states that "[d]oing business in this state' includes . . . deriving income from . . . sources within this state []."

Mr. Ridge protested the DOR decision to DOR's Division of Protest Resolution, and DOR upheld its decision in a Final Ruling dated August 28, 2017. An appeal to the Kentucky Claims Commission (KCC) followed. The appeal resulted in the KCC upholding DOR's Final Ruling and issuing Final Order No. K-25786.

Mr. Ridge filed a Petition for Review with the Franklin Circuit Court and DOR filed its Response. The Circuit Court's Opinion and Order again upheld DOR's position and affirmed the KCC Final Order.

Mr. Ridge appealed the Circuit Court's Opinion and Order to the Court of Appeals, and both parties briefed the matter. The Court of Appeals' Opinion again upheld the decisions of DOR, the KCC, and the Circuit Court. Mr. Ridge then filed a Motion for Discretionary Review with the Supreme Court of Kentucky and DOR filed its Response. A ruling on that motion is forthcoming.



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