

2019 - 20 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**

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.

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.

TEAM 
KENTUCKY

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Holly M. Johnson
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Thomas B. Miller
Commissioner

January 15, 2021

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, 2019 through June 30, 2020. 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 2019-20:

- Collected more than \$11.2 billion of taxes and related payments into the General Fund
- Collected over \$1.14 billion of taxes and related payments into the Road Fund
- Successfully transitioned the majority of the DOR workforce to telecommuting while maintaining effective productivity levels in response to the unprecedented COVID-19 emergency
- Stopped more than \$24 million of fraudulent tax refund requests (calendar year 2020)
- Recommended repeal of 15 administrative regulations and amended 86 additional regulations
- Began work on the implementation of 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 Minerals Taxation and GIS Services
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Executive Staff as of December 30, 2020

EXECUTIVE SUMMARY

The body of this Annual Report reflects the structure of DOR prior to the reorganization in December 2020.

Office of Processing and Enforcement

- Deposited receipts in excess of \$9.6 billion electronically
- Processed more than 2 million individual income tax returns in calendar year 2020
- Processed over \$427.4 million of individual income tax refunds to taxpayers in calendar year 2020
- Processed more than 64,900 business tax registration applications
- Collected in excess of \$179.6 million of unpaid tax obligations
- Collected more than \$24.2 million of debt on behalf of enterprise agencies
- Began work implementing a new integrated tax system to consolidate outdated legacy systems; completed confirmation of requirements and planning stages; and began project execution

Office of Property Valuation

- Collected in excess of \$130 million of motor vehicle property taxes
- Determined assessment values of over \$41.7 billion related to public service and centrally assessed companies
- Assessed tangible, omitted tangible, and compliance tangible personal property values and collected over \$101.1 million in related taxes
- Collected in excess of \$88.7 million in severance tax receipts
- Assessed more than \$1.03 billion of unmined mineral property

Office of Sales and Excise Taxes

- Collected in excess of \$67.9 million through tax compliance programs and refund request reductions
- Collected more than \$64.9 million in sales and use tax through the national Streamlined Sales Tax Registration System
- Collected and distributed over \$221.3 million of Utility Gross Receipts License Tax
- Conducted 234 retail cigarette inspections

Office of Income Taxation

- Assessed over \$66 million of individual income tax through compliance measures
- Assessed more than \$98.4 million of corporate income tax through compliance measures
- 91% of individual income tax returns electronically filed in calendar year 2020
- 57% of corporate income tax returns electronically filed in calendar year 2020

Office of Field Operations

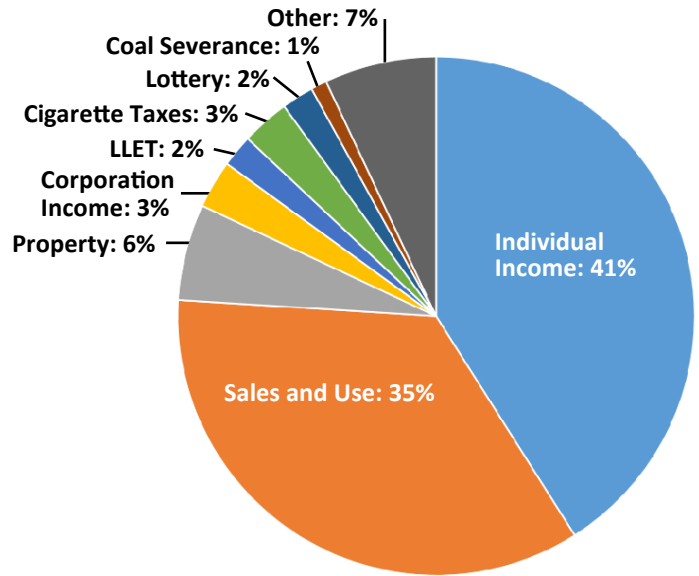
- Assessed more than \$76 million of tax due as a result of the 721 audits conducted
- Assessed over \$2.3 million of tax due as a result of compliance measures
- Collected in excess of \$13.7 million in payments through taxpayer assistance programs
- Received and responded to over 20,600 in-person inquiries from taxpayers who visited Taxpayer Service Centers
- Prepared approximately 1,800 individual income tax returns for qualified taxpayers

REVENUE RECEIPTS AND GROWTH RATES

General Fund

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

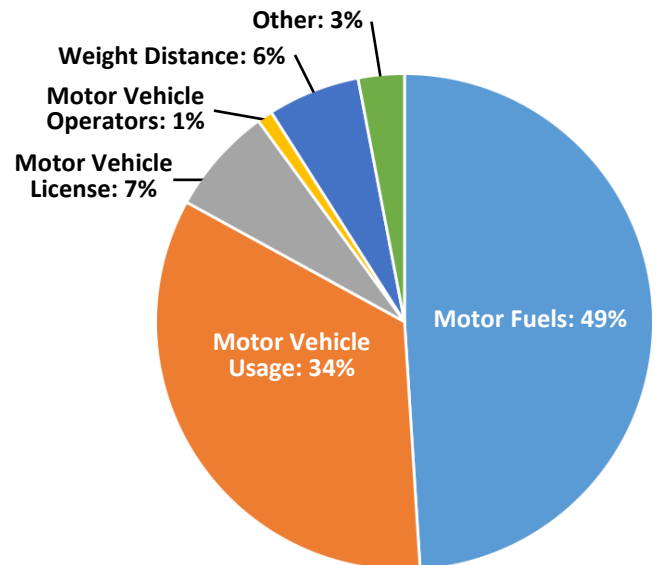
	Full Year		Growth Rate
	FY 20	FY 19	FY 20
Individual Income	4,765.2	4,544.7	4.9
Sales and Use	4,070.9	3,937.6	3.4
Property	643.0	647.0	-0.6
Corporation Income	346.4	556.0	-37.7
LLET	292.8	206.7	41.6
Cigarette Taxes	355.0	353.5	0.4
Lottery	271.4	263.9	2.8
Coal Severance	58.8	92.9	-36.7
Other	763.2	790.4	-3.4
Total	11,566.6	11,392.7	1.5



Road Fund

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

	Full Year		Growth Rate
	FY 20	FY 19	FY 20
Motor Fuels	741.6	773.2	-4.1
Motor Vehicle Usage	499.3	514.5	-3.0
Motor Vehicle License	108.6	120.9	-10.1
Motor Vehicle Operators	12.9	16.6	-22.3
Weight Distance	83.4	83.7	-0.4
Other	45.7	57.1	-20.0
Total	1,491.5	1,566.1	-4.8



*includes revenue collected and deposited by DOR and other agencies

EMPLOYEE RELATIONS, TRAINING, AND COMMUNICATIONS

Public Outreach and Communications

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 formed a communications team to design a comprehensive plan to foster better communications between DOR and taxpayers. This team also designs, maintains, and updates all DOR internal and external websites and handles DOR's social media platforms. Public communications projects undertaken by DOR during the year included:

- Reviewed and revised over 300 letters on complex tax topics to improve clarity and plain-language readability for taxpayers for DOR's new integrated tax system project
- Revamped DOR written communications to create a standardized letter template for DOR's new integrated tax system project to provide consistency in DOR communications and improve clarity for taxpayers
- Provided regular, informative updates to the public regarding the impact of the COVID-19 emergency on tax filing and payment deadlines, collection efforts, availability of in-person services, and other tax matters

Staff Development

DOR operates training efforts from a centralized unit in order to provide training consistently for all of our staff. The team focuses on skill sets that are universal to all staff and coordinates tax specific classes across DOR. This team also serves as the MyPurpose learning management system administrators for DOR. Representative DOR training highlights for the year included:

- Re-configured in-person training courses to the virtual classroom style model utilizing web conferencing software, offering employees new distance learning options in response to the COVID-19 emergency
- Coordinated 609 DOR employees' completion of ODET Anti-Harassment Awareness training
- Planned and executed a January 2020 information fair attended by over 450 DOR employees and other cabinet agencies to kick off the implementation of DOR's new integrated tax system
- Created decision-making courses for DOR subject matter experts working on the new integrated tax system project, and culled data from all DOR divisions regarding workday duties of employees to aid in the programming of design needs and security measures for the new integrated tax system
- Coordinated video, online, and in-person training and education courses for DOR employees
- Implemented the DOR Leadership Learning Path for staff interested in professional growth as a leader
- Coordinated DOR presentations for multiple events, including the annual University of Kentucky Income Tax Seminar Program, successfully held virtually for the first time in its 54-year history in 2020

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, Suite 190
Florence, KY 41042
(859) 371-9049

8 Corbin Taxpayer Service Center

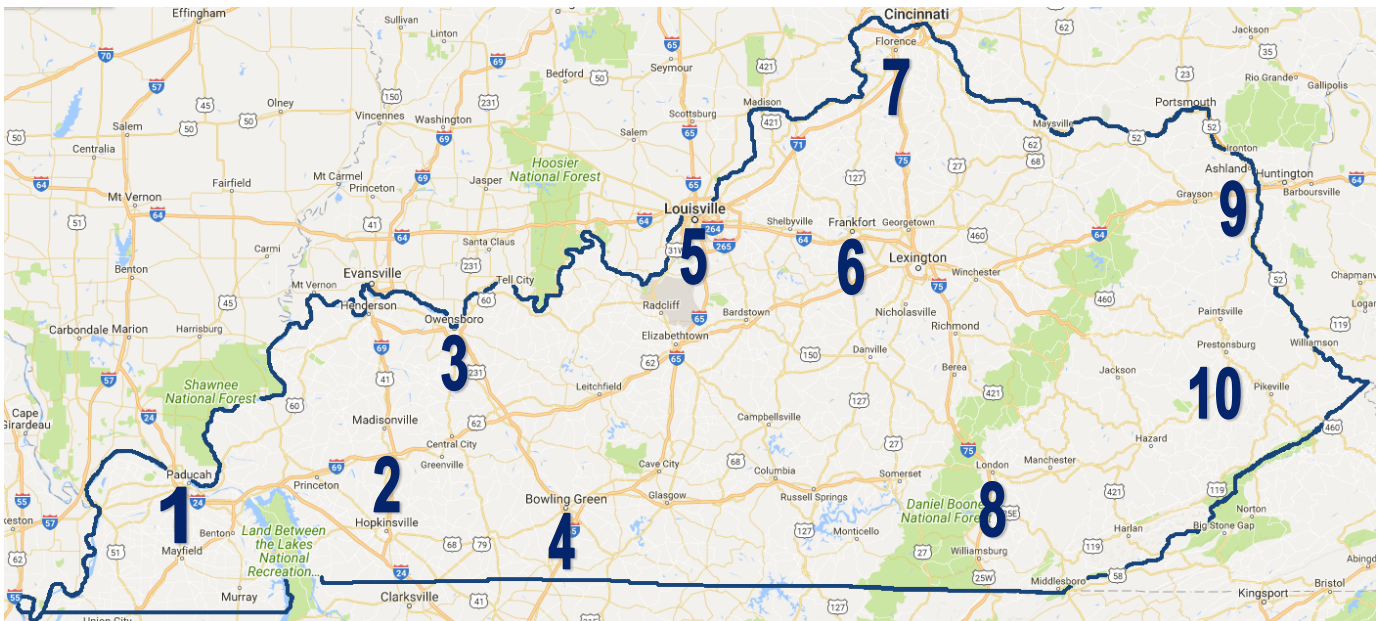
15100 North US 25E, Suite 2
Corbin, KY 40701
(606) 528-3322

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, farm, and commercial 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 338 new tax protest cases
- Resolved 247 tax protest cases and collected in excess of \$14.5 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 2,987 total telephone inquiries received by the Taxpayer Ombudsman
- Responded to approximately 600 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. This includes managing security and confidentiality within the integrated tax system and corresponding taxpayer portal currently in development. 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 \$71 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 12.5 days in calendar year 2020
- Processed more than 2 million individual income tax returns in calendar year 2020
- Processed over \$427.4 million of individual income tax refunds to taxpayers in calendar year 2020 (*the average refund amount was \$375 per taxpayer*)
- Deposited receipts in excess of \$9.6 billion electronically
- Prevented the processing of more than \$24 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 40,000 tax registration applications and reviewed over 24,900 tax registrations completed through Kentucky Business One Stop
- Administratively registered over 19,400 noncompliant businesses
- Compliance efforts resulted in \$282 million (*15.1% increase over prior fiscal year*)
- Answered more than 67,400 calls from taxpayers and preparers and made over 16,400 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 \$203.8 million
 - Collected more than \$24.2 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 over 120 DOR applications
- Began work implementing a new integrated tax system to consolidate DOR's outdated legacy systems; completed confirmation of requirements and planning stages; and began project execution with DOR's implementation vendor
- Updated DOR's Miscellaneous Tax System to a more secure and supported platform

OFFICE OF PROPERTY VALUATION

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

The Office of Property Valuation (OPV) 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.

Due to the COVID-19 emergency, property tax calendar deadlines for 2020 were delayed 60 days. This was necessary since PVA offices had to adjust to having their offices closed and their need to shift employees to working from home. This emergency also necessitated changes in the way fieldwork was conducted and generated great uncertainty about the possible impact on real estate values.

Despite the delay, property tax bills for the 2020 assessment year went out in the vast majority of counties by either October 1 or November 1, 2020, a tremendous accomplishment achieved through the combined efforts of the PVAs and all OPV staff members involved in the property tax roll certification process.

In-person property tax training courses were canceled due to the COVID-19 emergency; however, the approval of additional online training allowed PVAs to meet their annual educational requirements. The annual PVA summer conference and the annual OPV Conference on Assessment Administration were both held virtually in calendar year 2020.

Three special PVA qualifying examinations were conducted to fill vacancies in PVA offices this fiscal year.

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 \$88.7 million in severance tax receipts from mining and extraction companies, which includes over:
 - \$4.6 million of natural gas tax
 - \$60.1 million of coal severance tax
 - \$19.4 million of solid minerals severance tax
 - \$4.6 million of oil production tax
- Assessed more than \$1.03 billion of unmined mineral property, which includes:
 - \$297.9 million of unmined coal assessments
 - \$283.7 million of oil assessments
 - \$92.8 million of natural gas assessments
 - \$355.4 million of limestone assessments
 - \$515,000 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 \$41.7 billion related to public service and centrally assessed companies and collected more than \$88.3 million in associated taxes, which includes:
 - \$68.8 million collected from public service companies
 - \$13 million collected from telecommunications and video providers
 - \$1.5 million collected from distilled spirit companies
 - \$5 million from commercial watercraft companies
- Determined assessment values of \$68.4 billion related to bank deposit and savings and loan companies, and collected more than \$2.3 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 \$101.1 million in related taxes, which includes:
 - \$95.1 million of tangible personal property tax
 - \$4.3 million of omitted tangible personal property tax
 - \$1.7 million of compliance tangible personal property tax
- Collected payments related to \$11.5 million of TVA in Lieu of Tax distributions
- Determined assessment values of over \$34.5 billion related to motor vehicles and boats and collected more than \$139.5 million in associated taxes, which includes:
 - \$130 million of motor vehicle property tax
 - \$4 million of motor boat property tax
 - \$5.5 million of apportioned vehicle tax

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 Commercial Mobile Radio Service 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, adjusts, 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, adjusts, 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
- Other tobacco products
- 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 \$67.9 million through tax compliance programs and refund request reductions
- Distributed over \$9.5 million to the Kentucky 911 Services Board
- Continued registration of out-of-state retailers and collected \$164.6 million from remote retailers, comprised of \$110 million from third party marketplace sales and \$54.6 million from remote retailer sales
- Implemented mandatory electronic filing requirements for tobacco taxes and conducted 19 training webinars for approximately 100 participating companies to educate them on the new filing requirements
- Collected \$29.5 million in telecommunications tax and UGRLT imposed on streaming services
- Collected more than \$64.9 million in sales and use tax through the national Streamlined Sales Tax Registration System (*29% increase compared to prior fiscal year*)
 - Over \$47.8 million collected from newly registered voluntary sellers
- Distributed over \$12 million of transient room taxes to the Tourism, Arts, and Heritage Cabinet
- Increased voluntary electronic filing for sales tax to 67%
- Distributed more than \$36.4 million of telecommunications payments to over 1,300 local jurisdictions across the Commonwealth
- Distributed more than \$6 million from tire tax fees to the Energy and Environment Cabinet
- Verified and issued 17 sales tax TIF refunds totaling over \$22.2 million
- Verified and issued 17 tourism attraction project tax refunds totaling more than \$6.2 million
- Verified and issued 30 Kentucky Enterprise Initiative Act refunds totaling over \$5.4 million
- Received and responded to more than 89,100 phone calls and over 23,900 electronic inquiries from taxpayers and tax professionals
- Distributed in excess of \$14.9 million from Public Service Commission assessments to the Public Service Commission
- Conducted 234 retail cigarette inspections to ensure compliance with the Tobacco Master Settlement Agreement
- Collected and distributed more than \$221.3 million of UGRLT payments to school districts across the Commonwealth
- Distributed over \$902,000 from legal process fees to the Kentucky Department for Libraries and Archives

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 2020, DOR received more than:

- 2.07 million individual income tax returns
- 209,000 corporate income and limited liability entity tax returns
- 658,000 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 \$66 million of individual income tax due and refund request reductions through compliance measures
- Assessed more than \$98.4 million of corporate income tax due and refund request reductions through compliance measures
- Assessed over \$39 million of withholding tax due through compliance measures

Taxpayer and Preparer Assistance

- Received and responded to approximately 10,700 online inquiries from taxpayers
- Received and responded to over 61,300 other correspondence inquiries from taxpayers
- Received and responded to more than 158,500 phone calls involving individual and withholding tax inquiries from taxpayers and preparers
 - One-minute average hold time for calls
 - More than 6,000 callers utilized the call-back assist feature
- Received and responded to approximately 14,500 calls involving corporate tax inquiries from taxpayers and preparers
- Processed over 4,200 corporate “Letter of Good Standing” requests

Electronic Filing of Income Tax Returns

- 91% of individual income tax returns were filed electronically in calendar year 2020
- 57% of corporate income tax returns were filed electronically in calendar year 2020

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 2019-20 are listed below.

Examples of Economic Development Tax Credits Managed by DOR (FY 2019-20)

Kentucky Business Investment	\$26,635,684
Kentucky Industrial Development Act	\$2,169,821
Kentucky Industrial Revitalization Act	\$4,443,162
Kentucky Jobs Development Act	\$994,598
Kentucky Jobs Retention Act	\$24,464,904
Kentucky Reinvestment Act	\$4,512,929
Kentucky Rural Economic Development Act	\$21,451,489

Examples of Additional Tax Credits Managed by DOR (FY 2019-20)

Distilled Spirits Ad Valorem	\$727,608
Film	\$5,469,456
Skills Training Investment	\$633,299

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 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 Finance and Administration Cabinet's Office of the Secretary in the development and implementation of COVID-19 related tax relief, including extensions to file and pay income taxes
- Assisted the Commissioner and other DOR offices with the implementation of House Bills 155, 351, and 415 and Senate Bill 5, 148, and 150, which made multiple changes to several taxes
- Filed 86 amended administrative regulations with the General Assembly, recommended the repeal of 15 administrative regulations, and filed 37 recertification letters for administrative regulations
- Reviewed and provided analysis on 106 bills and related amendments introduced in the 2020 session
- Issued administrative guidance outside of the regulation process to help further explain law changes enacted by the 2018 through 2020 sessions of the General Assembly
- Reviewed over 200 proposed letters on complex tax topics for DOR's new integrated tax system project
- Continued to lead DOR's role in the administration of 24 Tax Increment Financing projects, including frequently working with the Cabinet for Economic Development and local jurisdictions

SUMMARY OF TAX LAW CHANGES ENACTED BY THE 2020 GENERAL ASSEMBLY

The General Assembly passed several bills to make the following changes to Kentucky tax law:

Significant Tax Changes

- Established a tax on vapor products beginning August 1, 2020 – tax rate on closed vaping systems is \$1.50 per cartridge and the tax rate on open vaping systems is 15% of the actual price the distributor charges for the product
- Established a ground ambulance provider assessment (fee) to be paid quarterly
- Established adoption of federal partnership audit rules
- Modified selling farmer income tax credit by adding definitions and requirements
- Established a renewable chemical production income tax credit
- Certain sales tax manufacturing exemptions amended to include manufacturers of distilled spirits, wine, or malt beverages
- Established a provision to allow producers licensed by the ABC Board to sell and ship alcoholic beverages direct to Kentucky consumers and to report the applicable taxes to DOR

- Sales tax marketplace provider definition clarified
- Certain filing and payment due dates between April 15, 2020, and before July 15, 2020, extended to July 15, 2020, without interest and penalty

Administrative Efficiency Changes

- Admissions to golf courses (for-profit or non-for-profit) treated the same under the sales tax
- Requirements for DOR to register and issue sales tax farm exemption numbers to farmers and to create a searchable database on the DOR website for farm exemption numbers
- Requirements established for certain information related to property tax to be reported on a public website
- Reinstated language related to interest paid on refunds of estimated tax payments for income tax

This summary is intended to provide a general overview of important tax matters addressed during the 2020 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 2020 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 OFFICES
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 free 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 throughout all 120 Kentucky counties, as well as many of the contiguous United States.

- Assessed more than \$76 million of tax due as a result of the 721 audits conducted
- Assessed over \$2.3 million of tax due as a result of other compliance measures
- Collected in excess of \$1.19 million from approximately 6,000 out-of-state or unregistered transient vendors identified by OFO staff at over 700 local events across the Commonwealth
- Collected \$13.7 million in payments through taxpayer assistance programs
- Received and responded to more than 46,300 phone calls from taxpayers and tax professionals
- Received and responded to over 20,600 in-person inquiries from taxpayers who visited TSCs
- Prepared approximately 1,800 individual income tax returns through OFO VITA sites

DIVISION OF SPECIAL INVESTIGATIONS

The **Division of Special Investigations** investigates allegations of tax law violations (particularly tax evasion, tax preparer fraud, theft of trust taxes, 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 12 indictments of tax law violations, including 46 felony charges that were found and presented by Kentucky grand juries in Fiscal Year 2019-20. These indictments resulted in total liabilities of over \$1,089,300. The division opened 50 new cases and investigated 426 tips received by mail, telephone tip line, and the Department of Revenue's website. In Fiscal Year 2019-20, the Division of Special Investigations collected more than \$502,800, including restitution directly paid to DOR and collections from assessments and bills generated.

In Fiscal Year 2019-20, the Division of Special Investigations dealt with the closure of the Circuit Court system for more than 4 months due to the COVID-19 emergency. Despite the inability to obtain indictments during the period the courts were closed, the division ultimately obtained indictments of 12 individuals across the Commonwealth. The following is a representation of those criminal tax cases:

- A Pulaski County business owner was indicted by a Franklin County grand jury on three Class C and four Class D felony counts of theft by failure to make required disposition of property. These counts were related to sales and withholding taxes that were collected on behalf of the Pulaski County business but not remitted to DOR. The amount of the theft was more than \$54,700, and the total tax liability, including interest and penalties, is in excess of \$114,700.
- A Franklin County employee was indicted by a Franklin County grand jury on nine Class D felony counts of willfully filing or making false tax returns or failure to pay tax for tax years 2010 through 2018. The amount of tax due for those years is more than \$81,700, and the total tax liability, including interest and penalties, is in excess of \$140,700.
- A Jefferson County business owner was indicted by a Franklin County grand jury on one Class C and two Class D felony counts of theft by failure to make required disposition of property. These counts were related to sales tax that was collected on behalf of the Jefferson County business but not remitted to DOR. The amount of the theft was more than \$29,700, and the total tax liability, including interest, penalties, and fees, is in excess of \$60,700.
- A Floyd County business owner was indicted on six Class C and one Class D felony counts of theft by failure to make required disposition of property. These counts were related to sales tax that was collected on behalf of the Floyd County business but not remitted to DOR. The amount of the theft was more than \$219,300, and the total tax liability, including interest and penalties, is in excess of \$625,200.

FAC OFFICE OF LEGAL SERVICES FOR REVENUE

The Office of Legal Services for Revenue (OLS), which is part of the Finance and Administration Cabinet's Office of General Counsel, represents the Department of Revenue (DOR) in administrative and court proceedings involving tax matters and controversies. OLS renders legal advice on a wide range of matters involving the administration of taxes on behalf of the Commonwealth, including the promulgation of regulations and other guidance to assist taxpayers in the understanding of, and compliance with, Kentucky's tax laws.

OLS assists in the resolution of tax cases, representing DOR in all administrative and court proceedings. Recent legal cases addressing state tax issues that are of significant importance and interest to taxpayers and the Commonwealth are highlighted below.

Revenue v. Marathon Pipe Line, LLC, case no. 19-CI-00750, (Franklin Circ. Ct. 2019)

Tax type: ad valorem property tax case – public service corporation

This ad valorem tax case presents significant issues relating to the ad valorem taxation of public service corporations. DOR has appealed a June 2019 decision rendered by the Kentucky Claims Commission, Tax Appeals (the KCC) involving Marathon Pipe Line, LLC (MPL). The primary issues are: (a) the proper classification of MPL's 292-mile long, 24-inch, underground crude oil petroleum transmission pipeline, pursuant to KRS 136.010(1), KRS 132.010(3), and 103 KAR 8:090; and (b) the valuation of MPL's Kentucky property.

In its Final Order, the KCC ruled in favor of MPL on both the classification issue and the valuation of its property. DOR's position is that the KCC improperly classified MPL's underground crude oil petroleum transmission pipeline as *tangible personal property*.

DOR contends that the KCC's rejection of DOR's valuation of MPL's Kentucky property is not consistent with the evidence in the administrative record. Further, DOR believes the KCC misconstrued the precedent set in the case styled as *Revenue Cabinet, Commonwealth of Ky. v. Gillig*, 957 S.W.2d 206 (Ky. 1997), and incorrectly limited the scope of the evidence that may be

considered in cases where a mass appraisal approach was utilized to estimate the property's value initially.

A decision from the Franklin Circuit Court is expected in 2021.

Century Aluminum of Kentucky v. Revenue, 2020-CA-00301, (Ky. App. 2020)

Tax type: sales and use tax – tax exemption for manufacturing supplies

This case is an appeal of an opinion and order rendered by the Kentucky Court of Claims reversing DOR's denial of sales and use tax refund requests by the taxpayer, Century Aluminum of Kentucky. The case involves an exemption from sales and use taxes on the purchase or use of materials used in manufacturing authorized by KRS 139.470(9)(a). The issue in this case is whether the items for which a tax refund was sought are exempt from sales and use tax as "supplies" under KRS 139.470(9)(a)2.b. and/or "not reusable in the same manufacturing process" under KRS 139.470(9)(a)3.

On February 3, 2020, the Franklin Circuit Court rendered an opinion and order ruling that all of the items in question are subject to sales tax as repair, replacement, or spare parts. Century has appealed and a decision from the Court of Appeals is expected in 2021.

FAC OFFICE OF LEGAL SERVICES FOR REVENUE

Ashland Specialty, Inc. v. Dept. of Revenue, KBTA K19-R-05 Kentucky Board of Tax Appeals (KBTA) f/k/a The Kentucky Claims Commission (KCC) (2019)

Tax type: excise tax on Kentucky sales of tobacco, snuff, and other tobacco products

This is an appeal by Ashland Specialty, Inc. (ASCI) of a February 2019 Final Ruling determining that tobacco, snuff, and other tobacco products sold within the Commonwealth are subject to the excise taxes imposed pursuant to KRS 138.130 *et seq.* ASCI claims the sales were made to out-of-state purchasers, but failed to provide DOR with any supporting out-of-state sales, shipping, or delivery documentation as required.

A summary decision from the Kentucky Board of Tax Appeals on the merits of the case is expected in early 2021.

The Family Trust Foundation of Kentucky, Inc., D/B/A The Family Foundation v. The Ky. Horse Racing Comm., et al., 2018-SC-000630 (Ky. 2019).

Tax type: excise tax on historical horse race wagering

The primary issue remaining in this case is whether the Exacta System historical horse racing games approved by the Kentucky Horse Racing Commission and currently operating in facilities co-located at a number of thoroughbred and other horse racetracks around the Commonwealth are legally operating as pari-mutuel wagering. In a decision rendered September 24, 2020, the Kentucky Supreme Court ruled 7-0 that the Exacta System historical horse racing games approved by the Kentucky Horse Racing Commission do not operate in a manner consistent with pari-mutuel wagering as defined by the Horse Racing Commission's regulations, overruling the Franklin Circuit Court's October 2018 opinion and order. Petitions for Rehearing are currently pending before the Kentucky Supreme Court.

The sole tax issue was resolved by the Kentucky General Assembly in 2014, which amended the statutory framework to provide a legal mechanism for the excise tax imposed on all racetracks conducting pari-mutuel wagering to include the tax on money wagered on historical horse races at the tracks. DOR remains a party in the case for purposes of maintaining efficient tax administration following the resolution and outcome of the remaining pending issues.



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