

KENTUCKY SALES TAX FACTS

A REVENUE PUBLICATION FOR THE BUSINESS OWNER

DECEMBER 2012

FILING TIPS FOR PAPER RETURNS

- Use the form mailed by the Department of Revenue (DOR) or a pre-approved form. If you are not sure whether your form has been pre-approved by the DOR, please contact Revenue Operations at (502) 564-9329.
- Use the envelope provided by the DOR.
- Make sure numerals are complete, legible and entered in the appropriate boxes. Failure to input legible numbers may result in the issuance of a tax notice.
- Do not put slashes through 7s or 0s and do not write a blank line (—) through a total. If blank, leave blank or enter a zero.
- Double check for transposition errors when bringing your figures over to the return from the worksheet.
- Itemize deductions on lines 2 through 19 (codes 020 through 190). Total deductions on line 20 may not exceed total receipts on line 1. Don't forget an explanation of other deductions on lines 17, 18 and 19.
- Credits on line 28 may only be used if pre-approved by the DOR.
- Report total purchases and inventory withdrawals subject to sales and use tax on line 23(a).
- When submitting payment by check, **do not send the stub** with the check. Also, **do not include paper clips, staples, tape or any other securing device.**
- Write zero (0) on lines 1, 20 and 23(a) and sign the signature block to file a no activity return.
- Complete and return the account maintenance form (Form 51A205 or Form 10A104) to make a change to account information, such as a cancellation or change of address.
- Use **only** black or blue ink.

POST AMNESTY NON-COMPLIANCE

Failure to take advantage of the Tax Amnesty Program will result in increased fees and interest on outstanding liabilities and future liabilities. Tax Amnesty expired November 30, 2012 for eligible periods on or after December 1, 2001 through September 30, 2011. The post-amnesty charges include the following:

- A 25% cost of collection fee will be assessed on all taxes which are or become due and owing for any reporting period, regardless of when due.
- Taxes which are assessed and collected after the amnesty period for taxable periods ending, or transactions occurring prior to October 1, 2011, shall be charged an assessment fee of 25% at the time of assessment.
- All non-filed returns eligible for Amnesty will be assessed 50% cost of collection penalty on any tax deficiency assessed after the amnesty period.
- Interest will be increased by an additional 2% on all Tax Amnesty-eligible bills not paid during Amnesty.

- Amnesty filed by a taxpayer under the Tax Amnesty Program will be invalidated if the taxpayer fails to timely file any return or timely pay any tax or interest due for any period ending on or after December 1, 2001 and prior to October 1, 2011.
- Amnesty will also be invalidated if a taxpayer fails to timely file any return or timely pay any tax for any period beginning October 1, 2011 and ending within three (3) years of the date Amnesty was granted to the taxpayer.
- According to KRS 131.445(2), "...any taxpayer who willfully fails to make a return, or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or the amount collected, or any part thereof, shall be guilty of a Class D felony."

PROPER USE OF CERTIFICATES

KRS 139.270 addresses vendor liability relief in regard to certificates. It is available at the following link:

<http://www.lrc.ky.gov/KRS/139-00/270.PDF>

- Resale, Streamlined Sales Tax, and Multi-Jurisdiction Certificates can be single use or blanket. Businesses or individuals with a consumer's use tax number (900,000 series) are not permitted to issue these certificates. The vendor is relieved from liability if the purchaser issues a fully completed certificate within 90 days of the transaction. If a certificate is issued timely and then later the purchaser uses the property in some other manner or for another purpose, the purchaser is liable for the tax.
- New & Expanded Industry Certificate: This certificate is project specific and not blanket. A new certificate should be given by the purchaser for each machinery purchase for each project. The New & Expanded Industry Certificate does not apply to repair parts.
- Purchase Exemption Certificate: Only Kentucky resident 501(c)(3) nonprofit charitable, educational and religious organizations can issue the purchase exemption certificate (Form 51A126). Purchases must be made directly by the exempt entity and not an employee or member of the exempt organization using personal funds for later reimbursement.
- Agricultural Certificates: The farm exemption certificate (Form 51A158) is only for purchases that are exclusively and directly used in the business of farming pursuant to exemptions in KRS 139.480. An individual farmer, or business in the occupation of farming, may issue this certificate. The on-farm facilities certificate of exemption for materials, machinery and equipment (Form 51A159) is only for those purchases of tangible personal property incorporated into the construction, repair or renovation of on-farm facilities exempt under the provisions of KRS 139.480. A farmer and contractor may jointly issue this certificate.
- Each certificate should be filled out completely including a date and signature. Electronic certificates are acceptable provided that all the data elements on the certificate are captured electronically.
- Depending on the facts and circumstances of each vendor, it is normally recommended that certificates be updated about every four years.

USE TAX

As you may have concluded your holiday shopping, please be aware that many purchases via the Internet are subject to Kentucky use tax. Online sales continue to show increases, especially during the holiday season. The 6% use tax, pursuant to Kentucky Revised Statute (KRS) 139.310, is imposed on tangible personal property and digital property that is stored, used, or consumed in the state of Kentucky. The purchaser is directly liable for this tax if the tax was not collected by the seller at the time of purchase. Purchases subject to Kentucky use tax include clothing, jewelry, computers, prewritten computer software, downloaded music, books (paper and electronic), furniture and magazine subscriptions, to name a few.

Purchases made over the Internet and other retail transactions with out-of-state vendors are examples of transactions subject to use tax. To report use tax, retail businesses should use line 23(a) of their sales and use tax return. Form 51A113 is applicable to consumer's use tax accounts (900,000 series) and Form 51A113(O) is available for nonregistered accounts either individuals or businesses. Individuals may also report use tax on their individual income tax return. These forms are readily available at www.revenue.ky.gov.

Kentucky also provides a use tax table with the individual income tax instructions to calculate an estimated amount of use tax due according to a person's Kentucky adjusted gross income for the calendar year. The table is designed for individual purchases of less than \$1,000. Purchases of \$1,000 or greater must be accounted for individually. If further assistance is required in regard to use tax and how to report, contact the Division of Sales and Use Tax at (502) 564-5170.

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Also, see December 2010 and December 2007 issues of *Kentucky Sales Tax Facts* for an additional index of prior topics and articles on sales and use tax issues.

This newsletter is intended to provide practical information to assist persons in fulfilling their sales and use tax obligations to the Commonwealth.

This newsletter is archived on the Department of Revenue website at www.revenue.ky.gov and future editions may be accessed at the website.

To submit additional questions or suggestions for future topics, please write to:

Kentucky Sales Tax Facts, Division of Sales and Use Tax, Station 53,
 P.O. Box 181, Frankfort, KY 40602-0181
 or call (502) 564-5170, Fax (502) 564-2041,
 website www.revenue.ky.gov

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