

KENTUCKY SALES TAX FACTS

A REVENUE PUBLICATION FOR THE BUSINESS OWNER

JUNE 2008

FILING TIPS FOR ONLINE RETURNS

You may choose to electronically file your sales and use tax return. The electronic option via KY E-Tax is fast, free, accurate, convenient and reduces postage expense. You may go to the KY E-Tax logo on the DOR Web site at www.revenue.ky.gov to learn more about the electronic filing of sales and use tax returns. The following tips specifically pertain to electronic filers:

- Line 1 begins with Total Receipts, but does not include sales tax collected.
- Passwords are case sensitive and must be 9-12 characters, containing at least one uppercase letter, one lowercase letter, one number and one special character.
- Amended returns may not be electronically filed but can be submitted via fax to (502) 564-2041.
- Designate a preparer once an administrator of the account is named. Change the administrator when the administrator leaves the employment of the company.
- When paying by check for an electronically filed return, include in the memo portion of the check the following information: filed by "E-Tax", Sales and Use account number and filing period. Also, please do not include the check stub when remitting payment by check.

CLOSING A SALES AND USE TAX ACCOUNT

When canceling a sales tax account number or requesting a change to your mailing address, a written request confirming this action is required. The account maintenance form, 51A205, is mailed with every sales and use tax return and may be used for this purpose. You may also write a letter including the sales tax account number and the requested changes. Mail the completed account maintenance form or correspondence to the Kentucky Department of Revenue, Division of Sales and Use Tax, 501 High Street, P.O. Box 181, Frankfort, KY 40620-0181, or you may fax to (502) 564-2041.

DROP SHIPMENT

Drop shipment, otherwise known as a *third party sale*, is a shipment of tangible personal property from a seller directly to the purchaser's customer, at the direction of the purchaser. Generally, a retailer accepts an order from its customer, places a request to fill an order with a third party, usually a manufacturer or wholesale distributor, and directs the third party to ship the goods directly to the end consumer. Drop shipments are treated as two transactions (1) the sale from the seller (manufacturer/

wholesaler) to the purchaser (retailer), and (2) the sale from the purchaser (retailer) to the end customer. When all parties are located in Kentucky, the retailer furnishes a resale certificate to the seller (manufacturer/wholesaler). The retailer collects sales tax on the final sale to the end consumer. In cases where the purchaser (retailer) is not located or registered with Kentucky, the nonresident retailer should issue a Kentucky resale certificate, but make a notation on the form that it is a nonresident purchaser not required to register in Kentucky. When a Kentucky customer purchases tangible personal property through a nonresident retailer that does not collect Kentucky tax, the customer is then subject to the use tax in accordance with KRS 139.310 and 139.330.

STREAMLINED SALES TAX UPDATE

The Streamlined Sales Tax Agreement (SSTA) is a nationwide effort by 43 states, various local governments and members of the business community to develop measures to design, test and implement a system that radically simplifies sales and use tax collection and administration by retailers and states. The agreement became effective on Oct. 1, 2005 and currently consists of 22 conforming states and over 1,100 registered participating businesses.

Kentucky retailers that make sales in other states are encouraged to review more information on registering with the SSTA at <http://www.streamlinedsalestax.org/> to take advantage of the simplified registration, collection and filing system established by the project for retailers involved in cross-border sales. Registration for sales and use tax collection through the national SSTA site will automatically register a vendor for tax collection in all member states.

Taxpayers who voluntarily register through the Streamlined Sales Tax Web site to remit sales and use tax in Kentucky and other member states are able to electronically file their simplified electronic returns and information returns. There is no further sales tax registration process other than the initial registration with the Streamlined Sales Tax site. Also, for more information on Streamlined Sales Tax, please see the article in Legislative Updates in regard to HB 629.

2008 LEGISLATIVE UPDATES

HB 609—Vendors doing business with the Commonwealth
KRS Chapter 45A was amended to create a new statute that requires vendors doing business with the commonwealth, and affiliates of those vendors, to register with the Department of Revenue to collect and remit sales and use tax imposed by KRS Chapter 139.

HB 538—Over-the-counter Drugs and Vendor Compensation

Effective Aug. 1, 2008, KRS 139.472 is amended to exempt over-the-counter drugs purchased for treatment of a human for which a prescription is issued. The statute also defines *over-the-counter drug* as a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66. The label must include the *Drug Facts* panel or statement of the active ingredients and a list of those ingredients. Over-the-counter drugs do not include grooming and hygiene products, including soaps, cleaning solutions, shampoo, toothpaste, mouthwash, anti-perspirants and sun tan lotion.

Also, this bill contains a provision relating to vendor's compensation. Effective July 1, 2008, KRS 139.570 will be amended to maintain the current limit on reimbursement allowed for each seller in any reporting period to \$1,500.

HB 704—Charitable Auctions and Interest Revisions

Effective Aug. 1, 2008, KRS 139.110 is amended to exclude from the definition of a retailer, persons making sales at a charitable auction for a church, school, civic and other resident nonprofit organizations. In order for the auctioneer to be excluded from being the retailer, the exempt organization must sponsor the auction, receive payments directly from the purchaser and be responsible for collecting, controlling and disbursing all auction proceeds. The exempt organization sponsoring the auction becomes the retailer for purposes of the sales made at the auction under these conditions.

Effective May 1, 2008, KRS 131.183 is amended to adjust the tax interest rate. Taxes payable to the commonwealth shall accrue interest at the annual set rate plus 2 percent. Interest paid on an overpayment shall accrue interest at the annual set rate minus 2 percent. In addition, interest begins to accrue at the latest of the due date of the return, the date the return was filed, the date the tax was paid, the last day prescribed by law for filing the return or the date an amended return is filed. Please refer to the department Web site, <http://revenue.ky.gov/> for further explanations of how the new rates will apply across tax types.

HB 629—Streamlined Sales Tax Conforming Changes

- Revises KRS Chapter 139 to incorporate SST changes and definitions that need to be in place by Jan. 2009 to maintain conformity with the SST agreement.
- Amends KRS 139.795 to provide additional sales and use tax liability relief to purchasers if there was reliance upon erroneous data provided by the department in the form of rates, boundaries, taxing jurisdiction assignments or taxability matrix rules. Effective Aug. 1, 2008.
- Creates a general definitional section for KRS Chapter 139 for ease of reference and simpler updates in the future.

HB 611—Increment Financing (TIF)—Signature Project Tax Revisions

- Amends KRS 139.515 to clarify sales and use tax refunds of construction costs based upon the percentage of privately funded expenditure costs.
- Establishes specific timeframes when refunds must be requested and the penalty for failure to file within the 60-day time limit.
- Eliminates the requirement for incremental revenues to be held in a non-interest bearing escrow account.
- Transfers the state portion of the TIF program from the Department of Revenue to the Kentucky Economic Development Finance Authority (KEDFA).

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

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

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

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