

# Kentucky Tax Alert

A REVENUE PUBLICATION FOR THE TAX PROFESSIONAL

January 2008, Vol. 27, No. 1

## K-4E SPECIAL WITHHOLDING EXEMPTION CERTIFICATE

**Employers:** The Kentucky Department of Revenue (DOR) strongly encourages all employers to utilize Form K-4E, Special Withholding Exemption Certificate, when applicable.

This certificate should be completed by employees that anticipate no Kentucky Income Tax liability. If the employee is eligible to claim this exemption, the employer will **not** withhold Kentucky income tax from wages. This certificate may be used instead of Form K-4 by those employees qualified to claim the exemption.

To download the form along with instructions go to DOR's Web site at [www.revenue.ky.gov](http://www.revenue.ky.gov) and click on Forms/Current Year/Withholding Tax Forms.

## LLET SUBJECT TO ESTIMATED TAX PAYMENTS

According to KRS 141.042(1), every entity subject to the corporation income tax and/or the limited liability entity tax is required to make a declaration of estimated tax and must pay estimated tax installments if the taxes imposed by KRS 141.040 (corporation income tax) and/or KRS 141.0401 (limited liability entity tax) for the taxable year can reasonably be expected to exceed \$5,000.

The estimated tax payments are made on Form 720-ES. For calendar year taxpayers, the first estimate (50 percent of the estimate) is due June 16, 2008. The other estimates (25 percent of the estimate) are due Sept. 15, 2008 and Dec. 15, 2008. The Form 720-ES may be located on the Web site [www.revenue.ky.gov](http://www.revenue.ky.gov) under Forms/Current Year Forms/Corporation Income Tax Forms. Any questions concerning limited liability entity tax issues may be directed to the Division of Corporation Tax at (502) 564-8139.

## USE TAX REMINDER

The Department would like to remind tax professionals and their clients of the use tax responsibilities. KRS 139.310 and 139.330 impose use tax on those out-of-state purchases for storage, use or other consumption in Kentucky. Purchases of items such as aircraft, boats, artwork, jewelry, furniture, clothing, software, sporting goods, electronics, computers, books and magazines are examples of personal items bought out-of-state that may be subject to Kentucky use tax.



Use tax purchases may be reported by individuals on the Kentucky individual income tax return (line 27, 740 and 740NP; line 9, 740EZ). Use tax may also be reported and paid on Form 51A113(O), available on the Web at [www.revenue.ky.gov](http://www.revenue.ky.gov). Businesses and entities registered for sales tax must report their use tax on line 23(a) of the Kentucky sales and use tax return. If you have any questions about use tax, please call the Division of Sales and Use Tax at (502) 564-5170.

## GASOLINE EXCISE TAX RATE

Under KRS 138.210 and KRS 138.220, the Department of Revenue (DOR) is responsible for establishing the average wholesale price (AWP) of gasoline for the purposes of calculating the gasoline excise tax rate. The current price calculation is based upon sales data accumulated for the month of October 2007 and a grade and formulation weighted average reflecting gasoline consumption patterns. For the quarter commencing Jan. 1, 2008, the DOR has determined the AWP of gasoline remains at \$1.624. Therefore, the rate remains 21.0 cents per gallon for gasoline and 18.0 cents per gallon for special fuels and is inclusive of the 1.4 cents Petroleum Storage Tank Environmental Assurance Fee. Additionally, the rate for liquefied petroleum remains at 19.6 cents per gallon.

## 2007 KENTUCKY INDIVIDUAL INCOME TAX UPDATES AND TIPS

**Last Minute FEDERAL Legislation:** The Mortgage Forgiveness Debt Relief Act of 2007 has been enacted to provide relief to those families who have been adversely affected by problems in the subprime mortgage market. Under current law, debt forgiven following mortgage foreclosure or renegotiation is considered income for tax purposes. This act will provide relief to those families by permanently excluding debt forgiven under these circumstances for tax liability for federal purposes.



However, because Kentucky has not adopted this legislation, any mortgage debt forgiveness will still be considered income for Kentucky purposes and subject to tax. Therefore a Schedule M adjustment must be made on Part 1, Additions to Federal Adjusted Gross Income, line 5 to report this income.

### WHAT'S NEW FOR KENTUCKY

**Internal Revenue Code Reference Date**—KRS 141.010(3) was amended by HB 258 of the 2007 Regular Session of the General Assembly to update the Internal Revenue Code (IRC) reference date for state individual and corporation income tax purposes to Dec. 31, 2006. This change applies to taxable years beginning on or after Jan. 1, 2007. Depreciation and Section 179 expense deductions for property placed in service after Sept. 10, 2001 will still be computed under the IRC in effect on Dec. 31, 2001.

**Standard Deduction**—The standard deduction has increased to \$2,050 for 2007.

**Family Size Tax Credit**—The Family Size Tax Credit is based on modified gross income (MGI) and the size of the family. For 2007, modified gross income is the greater of federal adjusted gross income or Kentucky adjusted gross income with adjustments for municipal bond interest and lump-sum distributions. The Family

Size Tax Credit threshold amounts for 2007 are \$10,210 for a family size of one; \$13,690 for a family size of two; \$17,170 for a family size of three; and \$20,650 for a family of four or more.

**Ohio Residents**—Effective for calendar years beginning on or after Jan. 1, 2007, the reciprocity agreement with Ohio shall not apply with respect to wages that an S corporation pays to a shareholder-employee if the shareholder-employee is a “twenty (20) percent or greater” direct or indirect equity investor in the S corporation. Those wages referenced will be taxable to Kentucky and not eligible to be exempted under the reciprocal agreement.

**Limited Liability Entity Tax (LLET) Credit**—For taxable years beginning on or after Jan. 1, 2007 an individual that is a partner, member or shareholder of a limited liability pass-through entity is allowed a limited liability entity tax (LLET) credit against the individual income tax imposed by KRS 141.020 equal to the individual's proportionate share of LLET after the tax is reduced by the minimum tax of \$175 and by other tax credits for which the limited liability entity may be allowed. See the instructions for Kentucky Forms 740 and 740-NP for additional information regarding this credit.

### ADDITIONAL ISSUE

**Income Exclusion for Military Personnel Killed in the Line of Duty**—All income earned by soldiers killed in the line of duty is exempt from Kentucky tax for the



year during which the death occurred and the year prior to the year during which the death occurred.

The changes are applicable for tax years beginning after Dec. 31, 2001. The income exclusion applies to all income from all sources of the decedent, not just military income. The exclusion includes all federal and state death benefits payable to the estate or any beneficiaries.

Amended returns may be filed for the year the soldier was killed in the line of duty and the year prior to the year of death. The amended returns must be filed within the statute of limitations period.

If a combined return was filed, the exclusion would apply to the income reported in Column A or Column B of the Kentucky return attributable to the military member. If a joint return was filed, the income must be separated accordingly.

**FILING TIPS**

**File Electronically**—Filing electronically is the fastest way to receive your refund. Electronically filed returns generally process within 7–21 days. And it’s the only way to have your refund check direct deposited into your bank account.

**Direct Deposit**—If you are filing electronically and request that your refund be direct deposited, be sure to verify that all account and routing numbers are current.

**Payments**—When submitting payments for electronically filed returns, **do not** send a duplicate paper copy of your return. Use Form 740-V to remit your payment. Include your Social Security Number and tax year on the check.

**Wage and Tax Statements**—Be sure that all necessary statements are attached to support the *Kentucky* withholding claimed on the return.

**Social Security Numbers**—The numbers are *not* on the pre-printed labels. Please enter them legibly and in the appropriate boxes on the return.

**Addresses**—If your address is correct use the pre-printed labels furnished with your booklet. Otherwise, make sure the address entered on the return is the correct address. If you move after you have submitted your return, please contact the Department of Revenue to update your address.

**Form 2210-K**—When applicable, use Form 2210-K to calculate any underpayment tax penalties or to claim an exception to the penalty. Check the appropriate box on Form 740 and attach Form 2210-K.

**2D Barcode Returns**—Even though some W-2 information is included, wage statements need to be attached for verification of withholding claimed.

**Credit for Tax Paid to Another State**—Paper returns *must* include copies of other state(s) returns if claiming a credit. Electronically filed returns must have the Credit for Tax Paid to Another State worksheet completed and submitted with the electronic submission for proper processing.

**Amended Returns**—Use the proper form for the year you are amending and include a complete explanation of the changes.

**Attach Supporting Schedules**—Make sure all appropriate schedules and worksheets are attached to the return (i.e., K-1’s, 8863-K, etc.)

*Kentucky Tax Alert* comments and suggestions should be addressed to the Office of Public Information, Finance Secretary’s Office, Frankfort, Kentucky, (502) 564-9165, ext. 4500.

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The Department of Revenue can be found at [www.revenue.ky.gov](http://www.revenue.ky.gov).

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NOTE: If a return due date falls on a scheduled holiday or weekend, returns will be due the next working day.

<b>January</b>	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 7/31)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 1/31)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 4/30)
	15	Estimated Tax/Individuals/One Fourth Est.
	22	Coal Severance Tax Returns (December Payment)
	22	Oil Production Tax Returns (December Payment)
	22	Monthly Sales Tax Returns (December Payment)
	22	Quarterly Sales Tax Returns
	22	Annual Sales Tax Returns
	22	Health Care Provider Tax Returns (December Payment)
	25	Monthly Motor Fuels Tax Returns (December Payment)
	25	Monthly Sales Tax Returns (Accelerated Payment)
	30	Income Tax Withholding Returns/Electronic Funds Transfer (EFT) Filers/Annual Reconciliation
	30	Monthly Income Tax Withholding Returns (December Payment and K-2s)
	30	Quarterly Income Tax Withholding Returns (Quarterly Payment and K-2s)
	30	Annual Income Tax Withholding Returns (Annual Payment and K-2s)
<b>February</b>	1	Minerals and Gas Severance Tax Returns (December Payment)
	1	Annual Report of Distilled Spirits in Bonded Warehouses (as of 1/1/07)
	11	Twice-Monthly Income Tax Withholding Returns (January 1 - January 31 Payment/EFT Payment)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 8/31)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 2/29)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 5/31)
	15	Monthly Income Tax Withholding Returns (January Payment)
	20	Coal Severance Tax Returns (January Payment)
	20	Oil Production Tax Returns (January Payment)
	20	Monthly Sales Tax Returns (January Payment)
	20	Health Care Provider Tax Returns (January Payment)
	25	Twice-Monthly Income Tax Withholding Returns (February 1 - February 15 Payment/EFT Payment)
	25	Monthly Motor Fuels Tax Returns (January Payment)
	25	Monthly Sales Tax Returns (Accelerated Payment)
<b>March</b>	3	Minerals and Gas Severance Tax Returns (January Payment)
	3	Watercraft Property Tax Return (as of 1/1/07)
	10	Twice-Monthly Income Tax Withholding Returns (February 16 - February 28 Payment/EFT Payment)
	17	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 9/30)
	17	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 3/31)
	17	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 6/30)
	17	Monthly Income Tax Withholding Returns (February Payment)
	17	Bank Franchise Tax Returns
	20	Coal Severance Tax Returns (February Payment)
	20	Oil Production Tax Returns (February Payment)
	20	Monthly Sales Tax Returns (February Payment)
	20	Health Care Provider Tax Returns (February Payment)
	25	Twice-Monthly Income Tax Withholding Returns (March 1 - March 15 Payment/EFT Payment)
	25	Monthly Motor Fuels Tax Returns (February Payment)
	25	Monthly Sales Tax Returns (Accelerated Payment)
<b>April</b>	1	Minerals and Gas Severance Tax Returns (February Payment)
	1	Electric Plant Board Property Tax Returns (as of 1/1/07)
	10	Twice-Monthly Income Tax Withholding Returns (March 16 - March 31 Payment/EFT Payment)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 10/31)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 4/30)
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 7/31)
	15	Monthly Income Tax Withholding Returns (March Payment)
	15	Quarterly Estimated Tax Returns/Individuals (One Fourth Payment)
	15	Annual Individual Income Tax Returns
	21	Monthly Sales Tax Returns (March Payment)
	21	Quarterly Sales Tax Returns
	21	Coal Severance Tax Returns (March Payment)
	21	Oil Production Tax Returns (March Payment)
	21	Health Care Provider Tax Returns (March Payment)
	25	Twice-Monthly Income Tax Withholding Returns (April 1 - April 15 Payment/EFT Payment)
	25	Monthly Motor Fuels Tax Returns (March Payment)
	25	Monthly Sales Tax Returns (Accelerated Payment)

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<b>May</b>	1	Income Tax Withholding Returns/Electronic Funds Transfer (EFT) Filers/First Quarter Reconciliation	
	1	Quarterly Income Tax Withholding Returns	
	1	Minerals and Gas Severance Tax Returns (March Payment)	
	1	Public Service Company Property Tax Returns (as of 12/31/06)	
	1	Railroad Car Line Property Tax Returns (as of 12/31/06)	
	12	Twice-Monthly Income Tax Withholding Returns (April 16 - April 30 Payment/EFT Payment)	
	15	Intangible Personal Property Tax Return (Taxpayer will be billed later)	
	15	Tangible Personal Property Tax Return (Taxpayer will be billed later)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 11/30)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 5/31)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 8/31)	
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	20	Monthly Sales Tax Returns (April Payment)	
	20	Coal Severance Tax Returns (April Payment)	
	20	Oil Production Tax Returns (April Payment)	
	20	Health Care Provider Tax Returns (April Payment)	
	27	Twice-Monthly Income Tax Withholding Returns (May 1 - May 15 Payment/EFT Payment)	
	27	Monthly Motor Fuels Tax Returns (April Payment)	
	27	Monthly Sales Tax Returns (Accelerated Payment)	
	<b>June</b>	2	Minerals and Gas Severance Tax Returns (April Payment)
		10	Twice-Monthly Income Tax Withholding Returns (May 16 - May 31 Payment/EFT Payment)
		16	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 12/31)
		16	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 6/30)
		16	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 9/30)
		16	Estimated Tax/Individuals/One Fourth Est.
		16	Monthly Income Tax Withholding Returns (May Payment)
		20	Monthly Sales Tax Returns (May Payment)
		20	Coal Severance Tax Returns (May Payment)
		20	Oil Production Tax Returns (May Payment)
		20	Health Care Provider Tax Returns (May Payment)
		25	Twice-Monthly Income Tax Withholding Returns (June 1 - June 15 Payment/EFT Payment)
		25	Monthly Motor Fuels Tax Returns (May Payment)
		25	Monthly Sales Tax Returns (Accelerated Payment)
	<b>July</b>	1	Minerals and Gas Severance Tax Returns (May Payment)
		1	Cigarette License Annual Renewal Applications and License Fee
		10	Twice-Monthly Income Tax Withholding Returns (June 16 - June 30 Payment/EFT Payment)
15		Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 1/31)	
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21		Coal Severance Tax Returns (June Payment)	
21		Oil Production Tax Returns (June Payment)	
21		Monthly Sales Tax Returns (June Payment)	
21		Quarterly Sales Tax Returns	
21		Health Care Provider Tax Returns (June Payment)	
25		Twice-Monthly Income Tax Withholding Returns (July 1 - July 15 Payment/EFT Payment)	
25		Monthly Motor Fuels Tax Returns (June Payment)	
25		Monthly Sales Tax Returns (Accelerated Payment)	
30	Income Tax Withholding Returns/Electronic Funds Transfer (EFT) Filers/Second Quarter Reconciliation		
30	Quarterly Income Tax Withholding Returns		
<b>August</b>	1	Minerals and Gas Severance Tax Returns (June Payment)	
	11	Twice-Monthly Income Tax Withholding Returns (July 16 - July 31 Payment/EFT Payment)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 2/29)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 8/31)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 11/30)	
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	20	Oil Production Tax Returns (July Payment)	
	20	Monthly Sales Tax Returns (July Payment)	
	20	Health Care Provider Tax Returns (July Payment)	
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	25	Monthly Motor Fuels Tax Returns (July Payment)	
25	Monthly Sales Tax Returns (Accelerated Payment)		

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<b>September</b>	2	Minerals and Gas Severance Tax Returns (July Payment)	
	10	Twice-Monthly Income Tax Withholding Returns (August 16 - August 31 Payment/EFT Payment)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 3/31)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 9/30)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 12/31)	
	15	Estimated Tax/Individuals/One Fourth Est.	
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	25	Monthly Motor Fuels Tax Returns (August Payment)	
	25	Monthly Sales Tax Returns (Accelerated Payment)	
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		10	Twice-Monthly Income Tax Withholding Returns (September 16 - September 30 Payment/EFT Payment)
		15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 4/30)
		15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 1/31)
		15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 10/31)
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	30	Income Tax Withholding Returns/Electronic Funds Transfer (EFT) Filers/Third Quarter Reconciliation	
30	Quarterly Income Tax Withholding Returns		
<b>November</b>	3	Minerals and Gas Severance Tax Returns (September Payment)	
	10	Twice-Monthly Income Tax Withholding Returns (October 16 - October 31 Payment/EFT Payment)	
	17	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 5/31)	
	17	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 2/29)	
	17	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 11/30)	
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	20	Oil Production Tax Returns (October Payment)	
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	20	Health Care Provider Tax Returns (October Payment)	
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25	Monthly Motor Fuels Tax Returns (October Payment)		
25	Monthly Sales Tax Returns (Accelerated Payment)		
<b>December</b>	1	Minerals and Gas Severance Tax Returns (October Payment)	
	10	Twice-Monthly Income Tax Withholding Returns (November 15 - November 30 Payment/EFT Payment)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Half Est. (FY ending 6/30)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 3/31)	
	15	Estimated Corporation Income Tax/Limited Liability Entity Tax/One Fourth Est. (FY ending 12/31)	
	15	Monthly Income Tax Withholding Returns (November Payment)	
	22	Coal Severance Tax Returns (November Payment)	
	22	Oil Production Tax Returns (November Payment)	
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	22	Health Care Provider Tax Returns (November Payment)	
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**2007 FEDERAL/KENTUCKY INDIVIDUAL INCOME TAX DIFFERENCES**

Kentucky income tax law is based on the federal income tax law in effect on December 31, 2006. The Department of Revenue generally follows the administrative regulations and rulings of the Internal Revenue Service in those areas where no specific Kentucky law exists.

The chart below provides a quick reference guide to the major federal/Kentucky differences. It is not intended to be all inclusive. Items not listed may be referred to the Department of Revenue to determine Kentucky tax treatment.

PROVISION	FEDERAL TAX TREATMENT	KENTUCKY TAX TREATMENT
1. Interest from Federal Obligations	Taxable	Exempt
2. Retirement Income from: Commonwealth of Kentucky Retirement Systems Kentucky Local Government Retirement Systems Federal and Military Retirement Systems	Taxable Taxable Taxable	Partially exempt if retired after December 31, 1997; exempt if retired before January 1, 1998; Schedule P may be required
3. Pensions and Annuities Starting After 7/1/86 and Before 1/1/90	3-year recovery rule eliminated	3-year recovery rule retained
4. Other Pension and Annuity Income	Taxable	100% excludable up to \$41,110; Schedule P may be required
5. Benefits from U.S. Railroad Retirement Board	May be taxable	Exempt; Schedule P may be required
6. Social Security Benefits	May be taxable	Exempt
7. Capital Gains on Sale of Kentucky Turnpike Bonds	Taxable	Exempt
8. Other States' Municipal Bond Interest Income	Exempt	Taxable
9. Kentucky Local Government Lease Interest Payments	Taxable	Exempt
10. Long-Term Care Insurance Premiums Paid With After-Tax Dollars	Limited deduction as self-employed health insurance	100% adjustment to gross income
11. Medical and Dental Insurance Premiums Paid With After-Tax Dollars	Limited deduction as self-employed health insurance	100% adjustment to gross income
12. Capital Gains on Property Taken by Eminent Domain	Taxable	Exempt
13. Election Workers—Income for Training or Working at Election Booths	Taxable	Exempt
14. Artistic Contributions	Noncash contribution allowed as itemized deduction	Appraised value allowed as itemized deduction or adjustment to income
15. State Income Taxes	Deductible	Nondeductible
16. Leasehold Interest—Charitable Contribution	May be deductible	Deductible; Schedule HH required
17. Kentucky Unemployment Tax Credit	No credit allowed	\$100 per certified employee; Schedule UTC required
18. Work Opportunity Credit (federal Form 5884)	Tax credit allowed; wage expense reduced by amount of credit	No credit allowed; entire wage expense is deductible
19. Welfare to Work Credit (federal Form 8861)	Tax credit allowed; wage expense reduced by amount of credit	No credit allowed; wage expense reduced by amount of federal credit
20. Child and Dependent Care Credit	Tax credit based on expenses	20% of federal credit
21. Family Size Tax Credit	No credit allowed	Decreasing tax credit allowed
22. Education Tuition Tax Credit	Tax credit based on expenses	25% of federal credit for Kentucky undergraduate studies
23. Taxpayer Who May be Claimed as Dependent on Another's Return (i.e., full-time student)	May not claim self	May claim self
24. Child's Income Reported by Parent	Permitted; taxed at parent's rate	Not permitted
25. National Tobacco Settlement TLAP Income Quota Buyout (including imputed interest)	Taxable	Exempt
26. Bonus Depreciation/Additional Section 179 Expense	Deductible	Nondeductible
27. Sales Tax Deduction	Schedule A deduction in lieu of state and local income tax	Nondeductible