Kentucky Tax Alert

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REVISIONS ON KENTUCKY TAX REGISTRATION APPLICATION (FORM 10A100)

The 10A100 Kentucky Tax Registration Application has been revised; the current form number is 10A100 (1-08). Please note the Department of Revenue will no longer accept applications that are dated prior to form number 10A100 (3-07) as the previous versions of the application do not make provisions for recent law changes.

This application is designed to allow a business to apply for or update the following applicable tax accounts:

- Employer's Withholding Tax;
- Sales and Use Tax;
- Consumer's Use Tax;
- Corporation Income Tax;
- Limited Liability Entity Tax (LLE);
- Transient Room Tax;
- Motor Vehicle Tire Fee; and
- Coal Severance and Processing Tax.

NOTE: The most significant change to the application is the addition of Coal Severance and Processing Tax information.

The Department of Revenue routinely receives 10A100 Kentucky Tax Registration Applications with missing information. If the following information is not included on the 10A100, the issuance of tax accounts for the business will be delayed and the application may be returned to the taxpayer:

- FEIN (if applicable);
- Responsible Party(ies) (including full name, residential address and SSN);
- Effective Date;
- Start Date for Withholding and/or Sales and Use Tax; and
- Ownership Type.

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.

IMPORTANT SCANNING INFORMATION

The Department of Revenue (DOR) utilizes high-speed scanning and imaging equipment to process the large number of forms, correspondence and remittances it receives on a daily basis. The system captures images of all documents and translates the data via different types of software. This eliminates much of the traditional methods of data entry work done to capture data from these documents.

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In order to maximize the benefits of this system and to expedite the processing of taxpayer's correspondence, your assistance is needed. Listed below are a number of helpful hints that will expedite our service to you.

- Always complete forms in dark ink only, preferably black.
- Write inside the boxes printed on the forms, not outside or on the edge.
- When signing checks please do not sign your name on the banking information line.
- Always use original forms sent by the DOR.

The forms currently processed by this system are the Sales Tax Return, Form 51A102, Withholding K1, Form 42A801, Withholding K3, Form 42A803 and Unemployment Insurance, Form UI 3.

Thanks for your assistance and remember by doing these things you will greatly assist the DOR in processing your tax documents quickly and accurately.

LIMITED LIABILITY ENTITY TAX (LLET) REMINDER

For taxable years beginning on or after Jan. 1, 2007, every corporation or limited liability pass-through entity, unless exempt, is subject to the limited liability entity tax imposed by KRS 141.0401. The tax is reported on the same tax form used to report the entity's income and by attaching Schedule LLET. An individually owned single member LLC would report their LLET on Form 725 with the schedule LLET attached. The LLET is the smaller of the tax calculated on Kentucky gross receipts at $0.095 per $100, or Kentucky gross profits at $0.75 per $100, but not less than $175.

Small business relief from the LLET is available. If the company has $3 million or less in gross receipts from all sources or gross profits from all sources, then the LLET is the $175 minimum. If the company's gross receipts from all sources or gross profits from all sources are greater than $3 million and less then $6 million then the LLET is reduced based on the amount of gross receipts or gross profits of the company on a progressive scale. The calculation and formula for this reduction is calculated on the Schedule LLET, which is available at www.revenue.ky.gov under Forms. If the company has $6 million or more in gross receipts from all sources or gross profits from all sources, the company will be subject to the LLET at the normal rate. The LLET reduced by the $175 minimum creates a credit that may be used against the corporation or individual income tax subject to certain limitations.

WITHHOLDING ON DISTRIBUTIVE SHARE INCOME–KRS 141.206

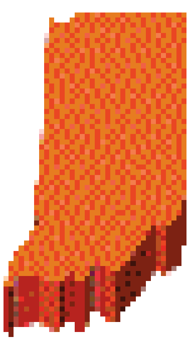
Withholding on distributive share income, otherwise known as pass-through entity (PTE) withholding, is reported on Form 740NP-WH with Forms PTE-WH attached. Copies of the PTE-WH forms must also be sent to each nonresident individual or foreign corporation whose only source of Kentucky income is from the pass-through entity. A foreign corporation in this case is any corporation that was formed outside of Kentucky. The PTE withholding is the amount required to be withheld from each nonresident individual (this includes trust and estates) or corporate partner, member or shareholder on the distributable income apportioned to Kentucky. The withholding is only on each nonresident individual partner, member or shareholder, or corporate partner that is doing business in Kentucky only through its ownership interest in a pass-through entity. The withholding rate is 6 percent of the distributable income. [Estimated tax payments are not required.] However, the full amount of withholding is due on the 15th day of the fourth month after the entity's year end. For calendar year filers, the due date is April 15th.

A composite return may be filed for nonresident individuals who are exempt from the withholding requirement. A nonresident individual may be exempt from PTE withholding if the entity provides evidence that the individual has filed an appropriate Kentucky income tax return in the prior year. The individual must also elect to be included in the composite return. This election is made directly to the entity and must be made available upon request to the Kentucky DOR. Income tax is calculated on the distributable income of the electing partners, members or shareholders at the rate of 6 percent. There are no credits or deductions available on the composite return. The composite return is filed on Form 740–NP.

Things to remember: (1) no withholding is required on members, partners or shareholders that are pass-through entities; (2) include all items listed on the Schedule K in distributable income including, but not limited to interest income, dividend income, capital gains, guaranteed payments and rents; (3) the department will recognize the extension to file the income/LLET return as an extension to file the 740NP-WH return. The extension to file the return does not extend the time to pay the withholding by the original due date. Both the 740NP-WH and the PTE-WH are available at www.revenue.ky.gov under *Forms*. These schedules are included in the forms for your entity type.

INDIANA DEPARTMENT OF REVENUE LAUNCHES ANOTHER ENHANCED VERSION OF I-FILE

The Indiana Department of Revenue launched another enhanced version of I-File on Jan. 1, 2008. One of the enhancements to the program allows part-year and non-resident filers to submit their returns electronically. Already more than 44,000 taxpayers have filed their taxes using the state's fast, friendly and free online tool. Since the launch of its newly revamped I-File program in 2006, continued enhancements—driven by taxpayer feedback—have made I-File an easy-to-use service that contributes to better government efficiency. Last year, more than 51 percent of Indiana tax filers used programs like I-File to electronically file their taxes. The state saves 96 cents in processing cost for every tax return that is filed electronically. And taxpayers are finding the newly enhanced I-File tool to their liking. Not only do taxpayers get their refunds in seven to 14 days if filed through programs like I-File, compared with six to 12 weeks with paper filings, but customer surveys in 2006 and 2007 found that more than 96 percent of I-File users were satisfied or very satisfied with the revamped tool—and 94 percent would recommend it to a friend or family member. The surveys collected input from more than 2,500 taxpayers.



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*.