

Kentucky Tax Alert

INDIVIDUAL INCOME TAX REFUND DESIGNATIONS

An individual income taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund may designate an amount, not to exceed the amount of the refund, to be paid to a selected fund. Effective for taxable years beginning on or after Jan. 1, 2016, new check boxes have been added to the Kentucky Individual Income Tax Return which allow a designation of all or a portion of an individual's refund to be contributed to the taxpayer's fund of choice. The new options are as follows:

Kentucky Special Olympics

HB 178 adds a check box which allows an individual's refund to be contributed to the Kentucky Special Olympics. Designated funds support health, education and athletic programs serving children and adults with intellectual disabilities in the Special Olympics Kentucky program.

Pediatric Cancer Research Trust Fund

SB 82 adds a check box which allows an individual's refund to be contributed to the Pediatric Cancer Research Trust Fund. Designated funds support pediatric cancer research and treatment for Kentucky patients.

Rape Crisis Center Trust Fund

SB 82 adds a check box which allows an individual's refund to be contributed to the Rape Crisis Center Trust Fund. Designated funds support centers which serve victims of rape and their families by providing counseling and other support.

INNOCENT SPOUSE RELIEF

HB 299 amends KRS 141.180 and establishes relief for an innocent spouse to be effective as of the date that the Internal Revenue Service approved the relief, or if there is no federal income tax liability as of the date that the Kentucky Department of Revenue (DOR)

approved the relief. It also allows for payments made after the effective date of the relief to be refunded as applicable.

ADJUSTED PRIME RATE CAPTURE DATE

HB 299 amends KRS 131.183 to base the annual adjustment of the tax interest rate on the prime rate charged by banks in September rather than October. The adjusted prime rate is used to set the tax interest rate. The adjusted prime rate for 2015 is 4 percent. The interest rate charged on outstanding liabilities is 6 percent, and 2 percent interest is given on refunds, as appropriate.

MISCELLANEOUS TAXES

Motor Fuel Taxes

HB 299 made changes in the Motor Fuels Tax statutes. The average wholesale floor price increased from \$1.786 to \$2.177 per gallon and went into effect statutorily upon the date signed into law by the Governor. Other changes are effective June 26, 2015. The quarterly tax rate calculation changed to an annual calculation based on an average of the four quarterly average wholesale price calculations in the previous fiscal year. HB 299 limited the decrease in the average wholesale price to 90 percent of the average wholesale price in effect at the close of the previous fiscal year.

TABLE OF CONTENTS

Individual Income Tax Refund Designations.....	1
Innocent Spouse Relief	1
Adjusted Prime Rate Capture Date.....	1
Miscellaneous Taxes	1-2
Film Production Tax Credit Program Expanded ...	2
Historic Rehabilitation Tax Credit Regulation Adopted.....	2-3
Property Tax	3
Metropolitan College Consortium Tax Credit Extended.....	3
Deadline for Filing Tangible Personal Property Tax Return (Form 62A500)	3

Motor Vehicle Usage Tax

HB 378 modifies KRS 138.470 to exempt resident military service members who are on duty in Kentucky from the usage tax on motor vehicles purchased from a Kentucky dealer. This is effective for vehicles purchased on or after June 28, 2015. HB 299 cleaned up statutes to reflect previous legal actions and removed unadministrable compliance language.

Pari-Mutuel Tax

HB 134 amends KRS 138.510 to exempt the excise tax on the track hosting a live two-day international horse racing event. In addition, the track does not have to report the amounts wagered to compute the daily average live handle.



Tobacco Taxes

Effective July 1, 2015, HB 512 made changes relating to the Tobacco Master Settlement Agreement. KRS 131.160 requires the DOR to provide a directory of all participating manufacturers and non-participating manufacturers that have been certified by the Attorney General as being in compliance with the Master Settlement Agreement and Model Act. The DOR updates the directory to add or remove a tobacco manufacturer or brand family that does not meet certification requirements as determined by the Attorney General. The DOR notifies wholesalers, distributors and retailers when there have been changes to the directory. Retailers should provide to their wholesalers and distributors updated email addresses to ensure prompt notification of removal of product from the directory. Directory updates may be found on DOR's tobacco tax website:

<http://revenue.ky.gov/Business/Tobaccotax.htm>

Effective July 1, 2015, cigarettes and "roll your own" tobacco that have been removed from the directory are considered contraband and will be subject to seizure and destruction, even if a stamp had been applied.

HB 512 imposes penalties for violation under KRS 131.612, 248.752 and/or 248.754.

FILM PRODUCTION TAX CREDIT PROGRAM EXPANDED

HB 340 amends KRS 148.544 to expand the film tax credits for tax years beginning on or after Jan. 1, 2015, by reducing the threshold for qualifying expenditures for all companies and providing an enhanced incentive for Kentucky-based companies. The credits may be claimed against corporation income tax, limited liability entity tax (LLET) and personal income tax for qualifying production and payroll expenditures incurred by companies to film or produce a feature-length film, television program, industrial film, documentary, commercial or touring production of a Broadway show in Kentucky.

The new amounts are \$250,000 for feature-length films, television programs or industrial films (\$125,000 for Kentucky-based companies); \$100,000 for commercials; and \$20,000 for documentaries and/or Broadway shows (\$10,000 for Kentucky-based companies for documentaries only).

If the production or filming takes place in an enhanced incentive county, the credit is 35 percent of the expenditures; otherwise, it is 30 percent, still increased from the original legislation's 20 percent. If expenditures are paid on Kentucky resident crew members, the company gets a 35 percent credit on those costs.

HISTORIC REHABILITATION TAX CREDIT REGULATION ADOPTED

The Kentucky Heritage Council has now adopted 300 KAR 6:010 to implement the Certified Historic Structures Rehabilitation Tax Credit that may be used to offset a taxpayer's liability for Kentucky corporation income tax, limited liability entity tax (LLET), bank franchise tax or personal income tax. The regulation provides a detailed explanation of the credit application process, the authority of the Executive Director of the Kentucky Heritage Council to recapture credits and to inspect property, the appeal process if there is a determination that the rehabilitation project does not qualify for the credit and the fees for processing rehabilitation certification requests.

The historic rehabilitation credit is equal to 30 percent of the qualified rehabilitation expenses for owner-occupied residential property and 20 percent of the qualified rehabilitation expenses for all other property. A minimum investment of \$20,000 is required within a consecutive 24-month period for owner-occupied residential property. In the case of all other property, the minimum investment during the same time period must exceed the greater of \$20,000 or the adjusted basis of the structure. The maximum credit that may be claimed by a taxpayer is \$60,000 for owner-occupied residential property or \$400,000 for all other property. The annual statewide cap for all taxpayers is \$5 million per calendar year.

PROPERTY TAX

HB 20 allows for an annual depreciation of 10 percent on motor vehicles 20 years old or older. The effective date for this legislation is July 15, 2015, and it will affect motor vehicles for 2016 assessments.

HB 299 included technical changes to several property tax statutes. When a special exam has to be given to replace a Property Valuation Administrator (PVA), **KRS 132.380** was amended to allow a press release notification of the exam to be issued in the county where the vacancy occurs instead of a statewide press release. **KRS 133.020** was amended to allow qualified individuals other than the county judge/executive to swear in the local board of assessment appeals when the judge/executive is unavailable. **KRS 133.120** was amended to be more specific in stating what type of paid tax representatives can qualify to represent property owners at a PVA assessment conference and before the local board of assessment appeals. **KRS 136.180(5)** was removed because it was no longer needed when commercial watercraft statutes were revised in 2006, and it remained as an oversight. The amending of **KRS 136.1877** was a conforming change needed when **KRS 136.180(5)** was removed. **KRS 136.310(2)(a)** was amended to make clear that what is reported as Kentucky holdings for taxable Kentucky capital is the same as reported to the FDIC. **KRS 136.555** was amended to clarify that local bank deposit property tax refunds (2 year limitation) are directed to, and obtained from, the local taxing jurisdictions as specified in **KRS 134.590**, the statute for property tax refunds.

METROPOLITAN COLLEGE CONSORTIUM TAX CREDIT EXTENDED

HB 202 extends the sunset date to April 15, 2027, from the previous April 15, 2017. The Metropolitan College Consortium (MCC) tax credit is a nonrefundable credit that may be claimed against Kentucky corporation income tax, limited liability entity tax (LLET) and personal income tax. The new sunset date for the MCC tax credit is effective July 1, 2015.

DEADLINE FOR FILING TANGIBLE PERSONAL PROPERTY TAX RETURN (FORM 62A500)

The deadline for timely filing of tangible personal property tax returns is Friday, May 15, 2015. Any returns filed after that date are omitted and are subject to penalty and interest. The returns may be filed with the office of the Property Valuation Administrator in the county where the property is located, or with the Department of Revenue, 501 High Street, Frankfort KY, 40601-2103. *It shall be the duty of all persons owning any tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the department between January 1 and May 15 in each year, except as otherwise prescribed by law.* –KRS 132.220(1)(b)(2)

Kentucky Tax Alert comments and suggestions should be addressed to the Office of Income Taxation/Training Branch, Finance Cabinet, Department of Revenue, Frankfort, Kentucky, (502) 564-0937.

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