

Kentucky Tax Alert

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Sales and Use Tax Issues

Switch Access Charges

Effective Jan. 1, 2006, certain switch access charges are no longer subject to sales tax. KRS 139.195(4)(b)7 provides “the sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale” are not included as communications service subject to sales tax if the charges are separately itemized on the customer’s bill. The seller must maintain documentation to substantiate the communications service is not taxable. Code 180 should be used on the sales and use tax return with a description as *switch access*. End user access charges are not included in the exemption.

Streamlined Sales Tax

The Streamlined Sales Tax Agreement (SSTA) is part of a nationwide effort by 43 states, the District of Columbia, 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 Kentucky was one of the initial Governing Board member states. In order to be accepted as a full-member state, Kentucky passed various law changes in both the 2004 and 2005 legislative sessions. These changes conform Kentucky’s sales and use tax statutes to the definitions given in the agreement.

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 registration process other than the original registration with the Streamlined Sales Tax project. Once registered, Model 4 taxpayers may begin filing their returns by accessing our site at

<http://revenue.ky.gov/etax.htm> and selecting the Streamlined Sales Tax link. These taxpayers may access their returns using their Streamlined Sales Tax ID number and the password set up when they registered with the Streamlined Sales Tax Central Registration System. The DOR anticipates that Certified Service Providers will soon be in place to assist Model 1 taxpayers with their filing responsibilities.

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. Full-member SSTA states are Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, North Dakota, Oklahoma, South Dakota and West Virginia. Associate-member states are Arkansas, Nevada, Ohio, Tennessee, Utah and Wyoming. Other states will become members as the project progresses.

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Sales and Use Tax Issues *(Continued from page 1)*

There is amnesty information on the Web site that may be of interest to in-state retailers that have sales and use tax activity in other states. A temporary amnesty program is available for sales and use taxes uncollected or unpaid on sales by retailers for any period prior to registration through the Streamlined Sales Tax Central Registration System. A seller is not eligible for amnesty in streamlined states if:

- (1) the seller is currently registered in the member state to collect sales and use tax;
- (2) the seller had been registered in the member state within 12 months of the state becoming a member state; or
- (3) the seller has received notice of an audit by the member state and the audit is not yet fully resolved, including any related administrative and judicial processes.

Furthermore, this amnesty does not extend to sales and use tax liability that a seller may have in its capacity as a buyer or to any tax liability other than sales and use tax liability as a seller.

Telecommunications Tax

The telecommunications tax took effect Jan. 1, 2006 and is one of the last pieces of the Tax Modernization package (HB 272 signed by Gov. Fletcher on March 18, 2005) to be implemented. The telecommunications tax consists of a 3 percent excise tax on multi-channel video programming (MVP) services, such as cable TV service and satellite service, a 2.4 percent gross revenues tax on MVP services and a 1.3 percent gross revenues tax on communications services.



The telecommunications resale certificate, Form 75A105, applies **only to the excise tax** portion of the telecommunications tax. Any provider that purchases multi-channel video programming for resale may issue a telecommunications resale certificate (Form 75A105) to the vendor and be relieved of this tax obligation at the time of purchase. The provider must collect the excise tax from the subsequent sale to the end user.

However, there is no resale exclusion for receipts subject to the 2.4 percent gross revenues tax on multi-channel video programming services or the 1.3 percent gross revenues tax on communications services.

The Telecommunications Tax (Excise) Resale Certificate (Form 75A105) will become available through the DOR's Web site at <http://revenue.ky.gov/business/Telecom.htm> in the near future.



Clarification for Amended Returns

When filing a current year state amended return (Form 740-X), please verify the taxpayer's full name is shown on the actual return. An unusually high number of amended returns already received for the current tax year are listing only the taxpayer's last name, even when the filing status is *Married, filing joint return* and/or *Married, filing separately on a combined return*.

Gasoline Excise Tax Rate

Under KRS 138.210 and 138.220, the DOR is responsible for establishing the average wholesale price (AWP) of gasoline for the purpose of calculating the gasoline excise tax rate. The current price calculation is based on sales data accumulated for the month of January 2006 and a grade and formulation weighted average reflecting gasoline consumption patterns.



For the quarter commencing April 1, 2006, the DOR has determined the AWP of gasoline will remain \$1.34. Therefore, the rate will remain 18.5 cents per gallon for gasoline and 15.5 cents per gallon for special fuels and is inclusive of the 1.4 cent Petroleum Storage Tank Environmental Assurance Fee. Additionally, the rate for liquefied petroleum remains at 17.1 cents per gallon.



Tax Refund Information Available by Phone

Information on Kentucky individual income tax refunds is available 24-hours per day through DOR's Automated Refund and Tax Information System (ARTIS). Call (502) 564-1600 from a touch-tone telephone to verify DOR's receipt of the return or when the refund was mailed.



To use ARTIS, taxpayers must know the Social Security number listed first on the return, and the exact whole-dollar amount of the refund. Acknowledgment of receipt of a return is available for taxpayers using both labels provided by DOR on their tax form packet. Labels are provided for the envelope and the tax return.

For taxpayers not using both labels, acknowledgment is not available until the return is processed. These taxpayers should wait eight weeks after mailing their return before calling ARTIS. Callers who do not receive a refund mailing date from ARTIS should wait seven days before calling again.

ARTIS is automatically available to all taxpayers electronically filing their individual income tax returns.

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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