

**Property Tax Duties of the  
Sheriff's Office**

**Prepared by  
The Office of Property Valuation**

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## **INTRODUCTION**

The sheriff is directed by KRS 134.119 to be the collector of state, county and district property taxes. The sheriff's property tax responsibilities include the collection of all types of property tax bills including any additional, supplemental, omitted or franchise property tax bills that are issued. All monthly collections must be accounted for in a report submitted to each taxing district.

For collecting the property taxes, the sheriff's office receives a percentage of the total amount collected for each district as a commission. This commission is the primary source of funding for the sheriff's office.

At the end of each collection year, the sheriff must make a settlement with the Department of Revenue for the State property taxes collected and with all local districts for which the sheriff collected property taxes.

The sheriff is required to annually execute a bond for the faithful performance of the duties of the office. The bond shall be executed prior to the sheriff collecting taxes for the year and it shall be approved by the governing body of the county and then is filed with the county clerk and Department of Revenue.

A separate State revenue bond is not required by the Department of Revenue; however, the governing body of the county may require the sheriff to enter into an additional bond.

Each of these duties – along with a discussion of the Kentucky property tax calendar – will be addressed in detail in the following sections of this manual.

## **THE KENTUCKY PROPERTY TAX CALENDAR**

The Kentucky property tax calendar provides a general outline of the major statutory due dates for the various parts of the property tax assessment and collection cycle. These dates have been established by the Legislature in an attempt to provide for continuity throughout the year across the State as well as to provide for the equitable and timely levy and collection of property taxes. It is important for all sheriffs and deputies in the sheriff's office to understand the requirements of the property tax calendar.

### **Overview of the Tax Calendar**

The assessment date of both real and personal property is January 1 of each year. Real property owners can list their property with the property valuation administrator between January 1 and March 1, while tangible personal property must be listed between January 1 and May 15.

The preliminary real property assessment totals are scheduled to be submitted by the property valuation administrator to the Office of Property Valuation by the first Monday in April. These totals are evaluated to ensure they meet the fair cash value standards that have been established. If the totals are accepted, the next phase of the property tax calendar may begin. If the totals are rejected, the property valuation administrator will receive specific instructions regarding what must be done to be accepted.

The tax roll inspection period is scheduled to begin on the first Monday in May and continue for thirteen days. The tax roll must be open for six days per week – including Saturdays – and is scheduled to conclude on the third Monday in May. Alternate schedules can be used for the inspection period. For example, the inspection period does not have to begin on a Monday; however, the applicable statute does provide that the last day of the inspection period cannot be a Saturday, Sunday or legal holiday.

During the tax roll inspection period, property owners may file assessment appeals in the county clerk's office. The county clerk needs to ensure that the property owner has had a conference with the property valuation administrator and has listed his or her opinion of value for the property in question before accepting the appeal. Taxpayers who have had a conference with the property valuation administrator have until the close of business of the day following the last day of the inspection period to file an appeal.

Within three working days after the close of the inspection period, the county clerk's office is required to provide a summary of all appeals filed to the property valuation administrator. The property valuation administrator then has three more working days to make the necessary changes to the tax roll due to the appeal filings and submit a final summary of the real property assessments to the Office of Property Valuation.

The local board of assessment appeals convenes no earlier than twenty-five and not later than thirty-five calendar days following the conclusion of the tax roll inspection period. If no appeals have been filed, the board meets for only one day to review the assessments

of property owned by the property valuation administrator and the deputies in the office. The board meets for no more than five days unless an extension has been granted by the Office of Property Valuation.

After the assessments of all property in a county have been finalized and certified by the Office of Property Valuation, local tax rates can be set and tax bills can be prepared and mailed. The property tax calendar provides for the delivery of the tax bills to the sheriff by September 15<sup>th</sup> of each year; however, many counties wait until October 1 or November 1 to mail their tax bills. If tax bills are mailed by October 1, taxpayers have until November 1 to pay their bill with a 2% discount. The face amount of the tax bill is due from November 2 to December 31. In January, a 5% penalty is added to the total amount due and beginning February 1 the penalty increases to 10% of the tax due. In addition, a 10% sheriff's fee – based upon the tax and 10% penalty – is added to the total amount now due. On April 15<sup>th</sup>, all unpaid tax bills are transferred from the sheriff's office to the county clerk's office as of the close of business. The sheriff will then be responsible for getting all documents together for the various settlements that must be done to close out the collection cycle. A separate section of this manual will cover the settlement process in detail.

A diagram of the property tax calendar is shown on the following page.

# KENTUCKY PROPERTY TAX CALENDAR

	REAL ESTATE	PERSONAL PROPERTY
Assessment Date	January 1	January 1
Listing Period	January 1 - March 1	January 1 - May 15
First Recap to Office of Property Valuation	First Monday in April	
Public Inspection of Tax Roll/PVA Conferences	13 Days Beginning First Monday in May (6 days per week, including Saturday)	
Final Recap to Office of Property Valuation	No Later Than 6 Work Days After the Close of Inspection	
Property Valuation Certification	Upon Completion of Action by Department of Revenue	Upon Completion of Action by Department of Revenue
Board of Assessment Appeals	5 Days Beginning 25 to 35 Days After Inspection	
Tax Bills Delivered to Sheriff	By September 15	By September 15
Pay With Discount	By November 1	By November 1
Pay At Face Amount	November 2 - December 31	November 2 - December 31
Tax Bills Delinquent	January 1	January 1
Pay With 5 Percent Penalty	January 1 - January 31	January 1 - January 31
Pay With 10 Percent Penalty and 10 percent Sheriff's add-on fee.	February 1 – April 15	February 1 – April 15
Transfer of Delinquent Tax Bills from the Sheriff to the County Clerk	April 15 – Sheriff collects tax through the close of business.	April 15 – Sheriff collects tax through the close of business.
County Clerk's Sale of Certificates of Delinquency	July 14 through August 28	
Sheriff's Settlement	By September 1	

## COLLECTION OF “REGULAR” PROPERTY TAX BILLS

After a county’s property tax assessments have been certified by the Office of Property Valuation, the tax rate setting process begins. Any issues with getting the tax rates set can affect the tax collection schedule and should be monitored by the sheriff. After a collection schedule has been developed, the dates adopted need to be submitted to the Office of Property Valuation for approval. Once all tax rates and collection dates have been finalized and approved, the tax bills can then be printed and they are delivered to the sheriff’s office for mailing.

In addition to receiving the tax bills from the county clerk, the Sheriff’s Official Receipt for Property Tax Bills (Revenue Form 62A385) shall also be prepared by the county clerk or their authorized vendor. This form summarizes the tax amounts due from both real and tangible personal property for the State and all local taxing districts in the county. This receipt must be signed and acknowledged by the sheriff before the county clerk and the form is then filed and recorded in the order book of the county judge executive. The original of the receipt form is forwarded to the Office of Property Valuation so that it can be reconciled with the Certification of Equalized Assessment that was issued earlier in the year. Additionally, since the receipt is the basis for charges of property taxes to the sheriff’s office for the collection year, the sheriff also needs to be sure that the amounts on the receipt are correct.

Collections will continue in accordance with the schedule adopted until the close of business on April 15<sup>th</sup> – or three months and fifteen days from the date the taxes were due under an alternative collection schedule. On that date, all unpaid tax bills are transferred to the county clerk’s office where they are then known as certificates of delinquency. The sheriff’s 10% add on fee and the commission that the sheriff’s office would have received had the tax bill been paid are both included in the total due on the certificate of delinquency. An example of a properly calculated certificate of delinquency at the time of transfer to the county clerk’s office is included in another section of this manual.

When the transfer of the delinquent tax bills is made, the sheriff and county clerk will need to complete a receipt – Revenue Form 62A358 – which documents the number of bills and the total amount of the delinquencies that the county clerk’s office is receiving. Both the sheriff and county clerk need to sign this receipt form acknowledging the transfer.

An issue to keep in mind with the transfer of the delinquent tax bills is the handling of the payments that are postmarked timely but received after the transfer date. KRS 134.119 (3) (a) 2 requires that timely postmarked payments must be accepted and processed for the amount due immediately before the transfer date. Payments of this type can be processed as agreed upon by the sheriff and county clerk, but if there is no agreement in place between the two offices, the sheriff shall accept and process the payments. If the sheriff’s office does process these payments, a supplemental receipt – Revenue Form

62A358-S – will need to be completed to update the total number of bills and the total delinquent amount that will be handled by the county clerk’s office. As with the original receipt form, both the sheriff and county clerk will need to sign the supplemental receipt form to acknowledge the updated totals.

Copies of both receipt forms are included in the Appendix to this manual.

An issue that always arises when tax bills are mailed out is the bills that are returned by the post office because of a bad address. When this occurs, if the sheriff is aware of a new address for a taxpayer, the sheriff needs to provide this information to the property valuation administrator. Revenue Form 62A380 has been developed for the sheriff’s office to use to document the updated address information provided to the property valuation administrator. This will help ensure that all subsequent mailings will be delivered to the proper address and the sheriff can also use the new address to forward the original tax bill to the taxpayer.

### **Inclusion of Fire Fees on a County’s Property Tax Bill**

KRS 75.450 allows a fiscal court to adopt an ordinance that would allow a fire department that collects subscriber fees to add those fees to the county’s property tax bill. The subscriber fees shall be a separate line item on the property tax bill and the sheriff collects and distributes the fees in the same manner as the other taxes on the bill. Subscriber fees that are unpaid represent a lien on the real property and the charges will incur the same penalty as State and county property tax amounts.

These provisions can cause issues for property owners who are not used to receiving a property tax bill due to the application of a homestead exemption or if the assessment of their property does not generate a tax bill large enough to exceed the tax bill thresholds in place – typically any tax bill under \$10 is not prepared. As part of the implementation of this method of collecting fire department subscriber fees, an extensive public relations campaign should be undertaken to help ensure that all property owners understand what these fees represent, any options to reduce or eliminate the fees that may be available and that any delinquent fees are subject to being acquired by third party purchasers.

### **Inclusion of 911 Fees on a County’s Property Tax Bill**

KRS 65.760 allows a city, county or urban-county government to levy any special tax, license or fee to fund 911 emergency services.<sup>1</sup> However, unlike the fire fees discussed in the previous section, 911 Service Fees do NOT constitute a lien upon real property. The fee is a personal obligation of the property owner and non-payment of the fee is a Class A Misdemeanor.

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<sup>1</sup> In a 2015 divided opinion, Kentucky Supreme Court upheld the addition of this type of fee to a county’s property tax bill. See Greater Cincinnati/Northern Kentucky Apartment Association, Inc. v. Campbell County Fiscal Court, 479 S.W.3d 603, 608 (Ky. 2015), reh’g denied (Feb. 18, 2016).



When adding a 911 fee to a county tax bill, the fee must be separately shown on the bill. The 911 fee is not subject to the 2% discount for early payment of the property tax bill, nor are the late payment penalty amounts added to it. Only the tax portion of a certificate of delinquency with a 911 fee on it would be offered for sale to any third party purchaser.

## **COLLECTION OF ADDITIONAL, SUPPLEMENTAL AND OMITTED BILLS**

In addition to the regular property tax bills that are prepared, the sheriff's office is also responsible for the collection of various types of tax bills which address special situations. The different types of tax bills that may need to be prepared and collected are additional, supplemental and omitted property tax bills. Additional and supplemental tax bills will be charged to the sheriff using the "Sheriff's Official Receipt for Additional/Supplemental Property Tax Bill(s)" – Revenue Form 62A386. Omitted property tax bills will be charged to the sheriff on the "Listing of Omitted Real Property" – Revenue Form 62A379. The following sections discuss the characteristics of each of these bill types and the procedures to follow when collecting them.

### **Additional Property Tax Bills**

Additional property tax bills are prepared when a taxpayer does not receive a tax bill even though all information about the property was available in the property valuation administrator's office. Regardless of what phase the tax collection schedule for the regular bills is in, the additional bill must have a thirty-day time period for each collection period (2% discount, face amount, 5% penalty and 10% penalty plus 10% sheriff's fee).

Any delinquent additional tax bills that were issued by November 1 can continue to be transferred by the sheriff to the county clerk as of the close of business on April 15 since the full collection cycle will have been completed. In all other instances, a delinquent additional bill will be transferred by the sheriff to the county clerk's office at the close of business on the 15<sup>th</sup> day of the fourth month after the face amount of the additional tax bill was due.

### **Supplemental Property Tax Bills**

Supplemental property tax bills result from the property assessment appeals process. While an appeal is pending, KRS 133.120(9) entitles a taxpayer to pay property tax on his or her claim of value. When a final decision has been reached for the assessed value, if it is higher than the taxpayer's claim of value, a supplemental tax bill must be prepared. A supplemental tax bill may also have interest added to the total due if it is issued after the regular tax bills have entered the penalty phase of the collection schedule (typically starting in January). Since sheriffs are responsible for collecting the appropriate amount, the following example will illustrate the proper way to prepare a supplemental tax bill.

## **Supplemental Tax Bill Example**

The property valuation administrator assessed Mr. Smith's house and lot at \$150,000. Mr. Smith disagreed with the assessed value and, after having a conference with the property valuation administrator, he filed an appeal in the county clerk's office. Mr. Smith listed a value of \$100,000 in his appeal petition. The local board of assessment appeals upheld the property valuation administrator's value and Mr. Smith continued his appeal to the Kentucky Claims Commission (KCC). Prior to his hearing before the KCC, the regular county tax bills were prepared and Mr. Smith's tax bill was based upon his \$100,000 claim of value. In February, the KCC heard Mr. Smith's appeal and it determined the property should be assessed at \$140,000. This decision was not appealed further by Mr. Smith and it became final on March 15<sup>th</sup>.

Based upon the above information, the county clerk must now prepare a supplemental property tax bill based upon the \$40,000 assessment difference between Mr. Smith's claim of value and the final determination made by the KCC. The appropriate state and local tax rates are applied to the \$40,000 assessed value to arrive at the proper amount of tax Mr. Smith must now pay. Additionally, interest at the statutory tax interest rate must be calculated and added to the tax amount. Assuming the tax bill was prepared on March 15<sup>th</sup> and a tax interest rate of 5%, the interest rate to apply to the tax due is 1.01%. This is calculated by using a daily interest factor of .01369863% (5% / 365 days) and multiplying that factor by 74 days (January 1 – March 15).

In accordance with KRS 134.015 (6), supplemental property tax bills are due on the day they are prepared and subject to a penalty of 10% if they are not paid to the sheriff's office within thirty days after they become due. Additionally, the 10% sheriff's fee will also apply to a supplemental property tax bill not paid within thirty days.

## **Omitted Property Tax Bills**

Omitted real property tax bills are prepared when the property valuation administrator has determined that a parcel has been left off of the property tax roll. Omitted property taxes can be levied against a taxpayer for up to five years. The taxpayer must first be notified by the property valuation administrator of the omitted assessment and given an opportunity to appeal the assessed value. When the omitted assessment has been finalized, an omitted property tax bill must be prepared by the county clerk's office and delivered to the sheriff's office for collection.

An omitted property tax bill will consist of tax, penalty and interest. The applicable state and local tax rates must first be used to calculate the tax due for an omitted tax bill. If the property valuation administrator has determined that the omitted assessment was voluntarily listed by the taxpayer, the penalty to apply to the omitted tax bill will be 10% of the tax due. If it has been determined that the assessment was involuntarily listed by the property valuation administrator, the penalty will be 20% of the tax due. Finally, interest at the statutory tax interest rate must be added to the omitted bill. Since the tax interest rate usually fluctuates from year to year, it is likely that different interest rates

will have to be used for an omitted bill that covers more than one year. A copy of the Department of Revenue Circular 62C112 which provides a detailed example of the interest computations for an omitted property tax bill is included in the Appendix of this manual.

Omitted property tax bills are also due on the day they are prepared and are subject to another 10% penalty and the 10% sheriff's fee-computed on the original tax, penalty and interest amount-if the bill is not paid within thirty days.

### **Transfer of Delinquent Supplemental and Omitted Tax Bills**

Supplemental and omitted tax bills are due the date they are prepared and the taxpayer has only thirty days to pay these types of bills without incurring further penalties. Therefore, a supplemental or omitted property tax bill is eligible to be transferred from the sheriff to the county clerk on the fifteenth day of the fourth month after the initial thirty-day payment period has elapsed.

## **COLLECTION OF FRANCHISE TAX BILLS**

Franchise or public service companies are assessed in Frankfort by a Division within the Department of Revenue. Companies that typically fall into this category include airlines, railroads and utilities. Assessments for these companies can get quite complicated and they are subject to being finalized at any time during the year. This means that the county clerk's office will likely receive franchise tax assessment certifications throughout the year which means the sheriff's office can receive a franchise tax bill anytime during the year.

Unlike the regular county tax bills, the State portion of franchise bills is prepared and billed directly from the Department of Revenue. Therefore, only local property taxes will appear on a franchise bill that is prepared by the county clerk's office. The normal real and personal property tax rates for each local taxing district are applied to each assessment certification received and then the bill is delivered to the sheriff's office for mailing and collecting.

Franchise tax bills are due on the day they are prepared and if payment is not made within thirty days, a 10% penalty, 10% sheriff's add on fee and interest at the tax interest rate are added to the total due. Delinquent franchise property tax bills are transferred to the county clerk's office on the fifteenth day of the fourth month after the initial thirty-day time period allowed for payment has expired.

## **COLLECTION OF BILLS FOR TELECOMMUNICATIONS COMPANIES, AND DISTILLED SPIRITS**

Tangible personal property owned by telecommunications companies and distilled spirits are also assessed centrally by Department of Revenue personnel. The assessment certifications will be received by the county clerk's office in the same manner as public service company assessments. However, the tax bills prepared for these assessment categories will follow the standard property tax collection schedule in place for the county's regular property tax bills. If there is a delay in finalizing assessments for this type of property and the bills must be issued at a different time than the regular tax bills then thirty days must be allowed for the 2% discount, face amount, 5% penalty and 10% penalty plus 10% sheriff's fee collection periods. Bills of these types are also transferred from the sheriff to the county clerk on the fifteenth day of the fourth month after the face amount collection period expires.

### **MONTHLY REPORT OF PROPERTY TAX COLLECTIONS**

All property tax receipts for each month must be distributed by the sheriff's office to all taxing districts by the 10<sup>th</sup> of the following month. The sheriff may be granted an extension for up to 15 days (in 5 day increments) for filing the collection report for State collections. Any extension request must be made in writing and a reasonable cause for the delay in remitting the tax receipts must exist.

Computerized versions of the monthly collection report form are used in all sheriffs' offices; however, occasionally a paper form is needed to report a special collection. These forms can be downloaded from the sheriff's website: <http://revenue.ky.gov/sheriffnetwork/pages/default.aspx>.

### **SHERIFF'S COMMISSION**

The sheriff's office receives a 4 ¼ % commission on all State property tax collected. By statute, the commission due the sheriff on all county property taxes is also 4 ¼ % of the amount collected. The commission on school taxes can range between 1 ½ % to 4% and is subject to negotiation between the sheriff and the appropriate school district official. Likewise, specific statutes govern the commission rate allowed on special taxing district collections.

### **PARTIAL PAYMENTS**

Most taxpayers will pay the entire amount due by mail or in person. However, according to KRS 134.119 (3) (a) "...the sheriff may accept full or partial payment for any outstanding taxes or tax claims". The decision on whether or not to accept partial payments rests solely with the sheriff.

## **EXONERATIONS**

After the tax bills have been prepared and mailed, situations will occur that require a tax bill to be adjusted. The form used to adjust tax bills is known as an exoneration form (Revenue Form 62A366 or 62A366-R). The exoneration process is initiated in the property valuation administrator's office. When a sheriff's office receives a properly completed exoneration form from the property valuation administrator, the appropriate tax bill needs to be adjusted.

If the bill has not yet been paid, the taxpayer will then owe taxes based upon the new assessment amount that is detailed on the exoneration form. If the exoneration completely eliminates an assessed value, then the affected taxpayer would be relieved of any tax liability for that assessment.

If the bill has already been paid, then the sheriff's office will be responsible for refunding the appropriate amount to the taxpayer if sufficient funds are available. The next section will have more details about the refund process.

It is possible to have an exoneration that increases a property's assessed value. When this occurs, a new bill for the additional tax amount will need to be prepared and mailed to the affected taxpayer.

Each exoneration form needs to be properly maintained by the sheriff and a report that lists each exoneration amount will need to be generated for review by both the Department of Revenue field staff and personnel with the State Auditor's Office. If an exoneration form is found to be improper, the exoneration will be rescinded and the property valuation administrator will be instructed to initiate the additional bill process.

## **REFUNDS**

When an exoneration form decreases the assessment of a property tax bill that has already been paid, a refund will need to be made to the taxpayer if application is made within two years from the date of payment. The statute governing property tax refunds – KRS 134.590 – authorizes a sheriff, after receiving proper authorization from each taxing district, to refund the taxes from current collections. If the sheriff does not have a sufficient amount of funds on hand to make the refund, then the taxpayer can make a refund application to each taxing district. However, if this method is pursued, please be sure to coordinate the refund process with the taxing district to ensure that duplicate refunds are not inadvertently issued.

When a sheriff makes a refund of an amount that has already been collected in a previous month, the amount remitted to each taxing district needs to be reduced by the amount of the refund on the next month's collection report. Each district's pro rata share of the total refund is shown as a subtraction from the amount due on the applicable collection report.

Occasionally, an exoneration form will be received that affects a tax bill that was paid in a prior year. These refunds can also be made from current collections by the sheriff and should be shown as a deduction of the amount due to each district on the next monthly collection report. A refund of this type needs to be labeled on the monthly collection report as a prior year refund. A special adjustment for all prior year refunds made during the collection cycle will be made in the year ending sheriff's settlement so that the sheriff is not penalized for making this type of refund.

## **DELINQUENT PROPERTY TAX COLLECTION PROCEDURES**

All regular unpaid tax bills are considered delinquent on January 1 following the assessment date and are subject to a 5% penalty during January. Beginning February 1<sup>st</sup>, all unpaid tax bills are subject to a 10% penalty and an additional 10% fee for the sheriff. Keep in mind that these dates are subject to change if the tax calendar has been delayed. Examples of the collection methods available to the sheriff are detailed in the following sections.

### **Mailing of Second Notice**

Anytime after January 1, the sheriff will send out a second notice to delinquent taxpayers advising them of the delinquent amount now due. This notice should also inform the taxpayer that the delinquent tax bill will be subject to a significant increase in penalties, interest and fees and may be acquired by a third party purchaser if it is not paid in the sheriff's office by the close of business on April 15<sup>th</sup>. If a county's collection schedule has been delayed, then the sheriff will use an alternate date in the notice as the deadline for paying the delinquent bills in the sheriff's office.

### **Distrain Procedures**

If collection rates are less than 85% for real property tax bills at the expiration of the 5% penalty period, the Department of Revenue can require the sheriff to implement additional collection procedures. The first method for the sheriff to attempt would be to distrain personal property owned by the delinquent taxpayer. This action is authorized under KRS 134.119 (5) (a), which makes all personal property of a delinquent taxpayer subject to distraint. If this type of action is needed, it is recommended that the sheriff first distrain any bank account of the taxpayer found in the county. If no bank account can be located within the county a second approach is to distrain the wages or other compensation payable to the delinquent taxpayer.

## **Attachment Procedures**

The sheriff also has the option of attaching funds owed to the delinquent taxpayer which are in the hands of a third party. This procedure is authorized by KRS 135.010. An attachment differs from distraint in that it is a statutory procedure to freeze assets held by a third party until a judiciary hearing leads to a court order requiring payment to the sheriff. An attachment proceeding would require the assistance of the county attorney.

If distraint or attachment procedures are considered necessary to improve a county's property tax collection rate, the Department of Revenue will offer assistance to the sheriff.

## **PENALTY WAIVER GUIDELINES**

In November of 2009, the Office of Property Valuation updated its guidelines for the waiver of penalty, fees and – in one instance – interest that apply to delinquent property tax bills. These guidelines are included in the Appendix of this manual.

While the bills are the responsibility of the sheriff's office to collect, there will typically be the 10% penalty and 10% sheriff's fee that can be considered for a waiver. The sheriff or authorized deputies are encouraged to make these waiver determinations since local knowledge of a taxpayer's individual circumstance is crucial to making a correct decision. A form for use by the sheriff's office which documents why a taxpayer was granted a waiver has been developed and accompanies the waiver guidelines. These forms should be maintained by the sheriff's office at least until that particular collection year has been audited by the State Auditor's Office.

When a waiver decision has been made while the tax bill is payable to the sheriff's office, only the sheriff or an authorized deputy needs to sign the waiver form. After the tax bill becomes payable in the county clerk's office, the sheriff will need to be consulted by the county attorney if any waiver is being considered. In these instances, the county attorney, county clerk and sheriff will all need to sign the waiver form since each of those offices have fees that can be affected by a waiver.

If the sheriff is unsure if a waiver should be granted for a particular situation, all documentation can be forwarded to the Office of Property Valuation. After all information has been reviewed, a letter will be sent to both the taxpayer and the sheriff's office detailing the decision made.

## **TRANSFER OF DELINQUENT TAX BILLS TO COUNTY CLERK**

In accordance with KRS 134.122, the sheriff will transfer all delinquent property tax bills to the county clerk as of the close of business on April 15<sup>th</sup> or three months and fifteen days from the date the taxes were due under an alternative collection schedule. A receipt form to use to document the transfer between the sheriff and county clerk is included in the Appendix to this manual.

At the time of transfer, the amount due on the delinquent bills will continue to include the sheriff's 10% fee and they will include the sheriff's commission that would have been earned had the bill been paid in the sheriff's office. These amounts will be distributed back to the sheriff's office by the county clerk when a delinquent tax bill is paid in the clerk's office.

The sheriff's office will receive monthly distributions from the county clerk for payments made on the delinquent tax bills. If the tax bills are transferred to the county clerk's office on April 15<sup>th</sup>, the county clerk's tax sale will be held between July 14<sup>th</sup> and the latter part of October - with most tax sales being completed by the end of August. By the 10<sup>th</sup> of the month following the tax sale, the sheriff's office will likely receive a larger than normal distribution from the county clerk due to the sale of delinquent tax bills to third party purchasers.

### **AMOUNTS TO ADD WHEN A TAX BILL IS TRANSFERRED TO THE COUNTY CLERK**

A tax bill with a face amount due of \$1,000 will have the following amounts added to it when it is transferred from the sheriff to the county clerk:

Face amount of the tax bill	\$1,000.00
10% penalty	100.00
Sheriff's add on fee	110.00
Sheriff's commission*	44.00
Total of Certificate of Delinquency	 \$1,254.00

\*An assumed commission of 4% was applied to \$1,100 (\$1,000 + \$100) to arrive at \$44.00. You would use your county's actual commission rates to determine the amount to add to the total due.



## SETTLEMENT BY THE SHERIFF

After transferring the delinquent property tax bills to the county clerk, the sheriff starts the process of completing a settlement of the collections with the state and local taxing districts. (KRS 134.192)

Before the sheriff presents his or her records for settlement to the Office of Property Valuation, it is necessary that the following forms or documents are completed or obtained:

1. *Receipt for Transferring Delinquent Property Tax Bills from the Sheriff to the County Clerk*, Revenue Form 62A358 – This form documents the number and dollar amount of delinquent tax bills transferred from the sheriff's office to the county clerk's office.
2. *Supplemental Receipt to Document Timely Postmarked Payments Received after the Delinquent Tax Bill Transfer Date*, Revenue Form 62A358-S – This form is used to update the number and dollar amount of delinquent tax bills transferred from the sheriff's office to the county clerk's office for payments that were postmarked timely but received after the bills are transferred to the county clerk's office.
3. *Sheriff's Report of Real Property Tax Bills Transferred to the County Clerk*, Revenue Form 62A359 – This report details all delinquent real property tax bills that have been transferred to the county clerk's office in accordance with KRS 134.122.
4. *Sheriff's Report of Delinquent Taxpayers*, Revenue Form 62A362 – This report lists all delinquent tangible personal property tax bills (KRS 134.122).
5. *Sheriff's List of Executive Orders Correcting Erroneous Assessments*, Revenue Form 62A372 – This list includes all executive orders increasing or decreasing assessments. A copy of each Executive Order Correcting Erroneous Assessment, Revenue Form 62A366, must be attached (KRS 133.100 and 133.130(2)).
6. *Certification*, Revenue Form 62A372-A – This certification must be signed by the sheriff.
7. Forms 62A359, 62A362 and 62A372 are acceptable on a computer printout. There must be a total on each one.
8. Copy of advertisement of the due date of taxes required by KRS 134.280.

Although the state settlement can be completed prior to the completion of the local settlement, a copy of the county settlement and a copy of the Executive Order Approving the County Settlement, signed by the county judge/executive, must be submitted to the Office of Property Valuation before the state settlement will be finalized. The sheriff is given credit in the settlement for monies collected, uncollectible tax bills on personal

property, and tax bills on real property for which certificates of delinquency have been issued to the taxing units (KRS 134.192).

A property assessment coordinator from the Office of Property Valuation will make the settlement for the state property tax collections in the office of the sheriff each year. When the sheriff has completed the necessary forms, he/she should contact the Office of Property Valuation to make an appointment for making the settlement. The sheriff will not receive a quietus until any unpaid balance is paid and the local settlements have been finalized.

Upon receiving a quietus from the Office of Property Valuation, the sheriff is ready to receive the next year's tax bills (KRS 134.192).

### **INCOMING / OUTGOING SHERIFF SETTLEMENTS**

When a sheriff leaves office in the middle of a collection cycle, an outgoing sheriff settlement must be performed by the Department of Revenue. This settlement is a modified version of the normal sheriff settlement process. The outgoing sheriff is charged with the original amount due plus any additional, supplemental or omitted tax bills that may have been issued prior to the sheriff's departure. The outgoing sheriff receives credit for all payments remitted, any decrease exonerations and the amount of the bills that remain unpaid at the time the sheriff leaves office. If the settlement indicates the outgoing sheriff overpaid what was due to the State, a refund will be issued and if it indicates an additional amount is owed to the State, the outgoing sheriff will be billed for the balance due.

The incoming sheriff will be charged for the amount of the bills that remain unpaid at the time the previous sheriff left office. Another settlement will be completed for the incoming sheriff at the end of the collection cycle. This settlement will follow the process outlined in the previous section of this manual.

Since the amount that remains unpaid at the time the sheriff's office changes hands is an important component of both the outgoing and incoming sheriff's settlements, it is crucial that both parties agree on this amount. During the transition between the outgoing and incoming sheriff, tax collections may be suspended for a period of up to 15 days so that an accurate accounting of the bills that remain unpaid can be made. In accordance with KRS 134.215, both the incoming and outgoing sheriff shall have working access to the office facilities, records and mail that pertains to the collection of property taxes during the transition time frame. Both the outgoing and incoming sheriff will be required to sign a receipt that documents the amount of taxes that remain unpaid at the time of the transfer. The collection schedule will be extended for the length of time collections were suspended so that the taxpayers are not penalized. A field representative from the Department of Revenue can assist in facilitating this process if needed.

# **APPENDIX**

**SHERIFF**

**PROPERTY TAX FORMS**

COMMONWEALTH OF KENTUCKY  
**DEPARTMENT OF REVENUE**  
FINANCE AND ADMINISTRATION CABINET  
FRANKFORT KENTUCKY  
40620

**201\_\_ TAX COLLECTION SCHEDULE**

\_\_\_\_\_ COUNTY

	<b>Starting Date</b>	<b>Ending Date</b>
<b>2% Discount</b>	_____	_____
<b>Face Amount</b>	_____	_____
<b>5% Penalty</b>	_____	_____
<b>10% Penalty + 10% Add-On</b>	_____	_____

**Please submit this form to:**

**Office of Property Valuation  
P O Box 1727  
Frankfort KY 40602**

## **INSTRUCTIONS**

After the tax bills are prepared, the county clerk must complete four copies of this receipt showing the amount of taxes due each taxing district. The sheriff must complete the acknowledgement and sign all four copies in the presence of the county clerk. Submit the original to the Office of Property Valuation, Frankfort, Kentucky 40620 with two copies of the County Clerk's Claim for Preparing Tax Bills, Revenue Form 62A363. Forward the second copy to the county judge-executive, deliver the third copy to the sheriff and retain the fourth copy to be made a part of the court record.

**REVENUE CIRCULAR 62C112**  
**FOR OMITTED PROPERTY TAX BILLS**

**PENALTY WAIVER**

**GUIDELINES**



Commonwealth of Kentucky  
Finance and Administration Cabinet  
Department of Revenue  
**Office of Property Valuation**  
501 High Street Post Office Box 1202  
Frankfort KY 40602-1202

**MEMORANDUM**

To: Kentucky Sheriffs  
Kentucky County Attorneys  
Kentucky County Clerks  
Kentucky Property Valuation Administrators

From: David L Gordon   
Executive Director, Office of Property Valuation

Date: 12 November 2009

RE: Guidance for the Waiver of Penalties and Interest on Real and Personal Property

\*\* \*\*

The Kentucky Department of Revenue (“Department”) has developed the following guidance to allow the county attorneys under contract with the Department, sheriffs, and county clerks, to provide for the waiver of penalties and, in one instance, interest at the local level as the agent for the Department. KRS 131.140(2) The county attorneys acting under contract with the Department, sheriffs, and county clerks are allowed to waive penalties and interest, when the waiver will facilitate the collection of the delinquent tax bill and further, to prevent any injustice to the taxpayer. In light of the fact that the local official will be more familiar with the taxpayer and his or her circumstance, each waiver of penalties and interest reviewed by the local official should be done on a case-by-case basis, with each taxpayer’s circumstance being reviewed independently.

KRS 133.220 requires the county clerk to prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. Unfortunately, errors can occur on a tax bill, some of which are beyond the control of the taxpayer, which can result in the failure of the taxpayer not receiving a notice of tax due.

KRS 131.175 allows for the waiver of penalties when it is shown that the failure to pay is due to “reasonable cause”. Though KRS 131.175 specifically does not allow for the waiver of interest, KRS 131.081(6) does allow for the waiver of interest when it is shown that the taxpayer has relied on written advice from the Department, which would include written advice from a local official. Waiver of penalties and interest should only be granted as a matter of settlement and for the purpose of facilitating the collection of the tax, as allowed by KRS 131.030(3). Further, no authority is provided by the Kentucky General Assembly to reduce the amount of tax due, unless there is a clerical, mathematical or procedural error in an assessment or any duplication of an assessment and that error has been reviewed and approved by the Department. KRS 133.110.

The sheriff may waive the penalties and interest that have been added when the tax bill is payable to the sheriff’s office whenever reasonable cause has been demonstrated. If a waiver of a penalty and interest on a property tax bill is granted after the tax bill is transferred to the county clerks’ office, each of the local officials affected by the waiver of the penalties and interest must sign the form.

The Department encourages the local officials to communicate and participate with each other in the decision to waive any penalty and interest related to this memorandum

#### I. GUIDELINES FOR WAIVER OF PENALTY AND INTEREST

KRS 131.175 allows for the waiver of penalties when there is shown “reasonable cause”. KRS 131.010(9) defines reasonable cause as an event, happening, circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the Department pursuant to law or administrative regulation.

The waiver of interest can only occur when the taxpayer has shown that he or she has relied on erroneous written advice from the Department, which includes erroneous written advice from a local official. KRS 131.081(6)

A taxpayer’s demonstration of reasonable cause relieves the taxpayer of paying a penalty and interest because payment would be unfair to the taxpayer in light of the circumstances surrounding the nonpayment of tax. A review by the local official of the circumstance provided by the taxpayer should be done on a case-by-case basis, with each taxpayer’s circumstance being reviewed independently.

103 KAR 1:040 enumerate the circumstances constituting reasonable cause, which are as follows:

1. The taxpayer has relied on erroneous written advice from the Department, which would include erroneous written advice from a local official;
2. Death or serious illness of a taxpayer or his or her immediate family at the time the tax bills were mailed or due;
3. Death or serious illness of the taxpayer’s tax return preparer at the time the tax bills were mailed or due;
4. Unavoidable absence of the taxpayer when the tax bills were mailed or due;

5. Destruction or unavailability of taxpayer records due to a catastrophic event at the time the tax bills were mailed or due;
6. Inability to obtain records in custody of a third party. For example, taxpayer divorced and the tax bill was mailed to the person other than who received the property under the terms of the divorce decree;
7. Employee theft or defalcation of taxpayer's financial records;
8. Undue hardship which can include the loss of a job or an unexpected emergency at the time the tax bills were mailed or due;
9. Human error. For example, the taxpayer's name or address may be misspelled and the taxpayer does not receive the bill;
10. Erroneous written advice by tax advisor on which it was reasonable for the taxpayer to rely;
11. Reliance on substantial legal authority;
12. Ignorance of reporting requirements due to the lack of previous tax and penalty experience. For example, the taxpayer moved in our out of state but failed to update the address with the property valuation administrator's office. Another example is when a taxpayer purchases property after January 1 and the tax bill is sent to the January 1 owner. The new owner is unaware of the delinquency the sheriff sends a second notice or the county attorney contacts the taxpayer about the delinquent tax bill;
13. Miscellaneous. The taxpayer has submitted a written waiver of penalties and fees and it is decided that the statements of the taxpayer establishes reasonable cause for delay in filing of a return or paying a tax which clearly negates negligence on the part of the taxpayer.

## II. DOCUMENTATION

The Department has developed a form for use by the local official which documents why a taxpayer should be granted a waiver of a penalty and interest. The circumstance for waiver of penalties or interest correspond with the ones listed in 103 KAR 1:040. The local official should simply check the box that applies and sign the form. If a waiver is granted for a miscellaneous reason, then please provide details in the section marked "other".

If a penalty and interest on a property tax bill is waived while the sheriff is the local official responsible for its collection, only the sheriff or an authorized deputy is required to sign the form. A copy of the signed form may be provided to the taxpayer if a copy is requested. The original, signed copy should remain on file with the sheriff's office. The Department will review these forms as part of the settlement process to complete a collection cycle. These forms are also subject to inspection by the Auditor of Public Accounts.

If a waiver of a penalty and interest on a property tax bill is granted after the tax bill is transferred to the county clerks' office, each of the local officials affected by the waiver of the penalties and interest must sign the form. Again, a copy of the signed form may be provided to the taxpayer upon request. The original signed copy should remain on file in the County Clerk's office for review by the Department and the Auditor of Public Accounts.

### III. CONCLUSION

The situations detailed in this memorandum describe the most common occurrences encountered. The local official should not hesitate to contact the Department for further consideration of any situation, listed or unlisted, in this memorandum. Please contact the Office of Property Valuation at (502) 564-8338 for further discussion.

**WAIVER OF PROPERTY TAX PENALITIES  
(AND INTEREST UNDER KRS 131.081(6) ONLY)**

\_\_\_\_\_  
Name of Taxpayer

\_\_\_\_\_  
County

\_\_\_\_\_  
Year

\_\_\_\_\_  
Tax Bill Number(s)

**PENALTIES WAIVED**

(Please check the box that applies)

- Taxpayer has relied on erroneous written advice from the Department or a local official.  
**(103 KAR 1:040(1))**
  
- Death or serious illness of a taxpayer or a member of the taxpayer's immediate family at time the tax bills were mailed or due. **(103 KAR 1:040(2))**
  
- Death or serious illness of the taxpayer's tax return preparer at the time the tax bills were mailed or due. **(103 KAR 1:040(3))**
  
- Unavoidable absence of the taxpayer at the time tax bills were mailed or due. **(103 KAR 1:040(4))**
  
- Destruction or unavailability of taxpayer records due to a catastrophic event at the time the tax bills were mailed or due. **(103 KAR 1:040(5))**
  
- Inability to obtain records in custody of a third party. For example, taxpayer divorced and the tax bill was mailed to the person other than who received the property under the terms of the divorce decree.  
**(103 KAR 1:040(6))**
  
- Employee theft or defalcation (misuse of funds) of taxpayer's financial records. **(103 KAR 1:040(7))**
  
- Undue hardship which can include the loss of a job or unexpected emergency at the time the tax bills were mailed or due. **(103 KAR 1:040(8))**
  
- Human error. For example, the taxpayer's name or address may be misspelled and the taxpayer does not receive the bill. **(103 KAR 1:040(9))**

- Erroneous written advice by tax advisor on which it was reasonable for the taxpayer to rely. **(103 KAR 1:040(10))**
  
- Reliance on substantial legal authority. **(103 KAR 1:040(11))**
  
- Lack of previous tax and penalty experience by the taxpayer. For example, the taxpayer moved in or out of state, but failed to update the address with the property valuation administrator's office. Another example is when a taxpayer purchases property after January 1 and the tax bill is sent to the January 1 owner. The new owner is unaware of the delinquency; the sheriff sends a second notice or the county attorney contacts the taxpayer about the delinquent bill. **(103 KAR 1:040(12))**
  
- Miscellaneous. The taxpayer has submitted a written waiver of penalties and it is decided that the statements of the taxpayer establishes reasonable cause for delay in filing of a return or paying a tax which clearly negates negligence on the part of the taxpayer. **(103 KAR 1:040(14))**

Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
 Sheriff's Signature and Date

\_\_\_\_\_  
 Clerk's Signature and Date – If waiver involves a delinquency filed in the clerk's office

\_\_\_\_\_  
 County Attorney's Signature and Date – If waiver involves a delinquency filed in the clerk's office and County Attorney is under contract with the Department to collect delinquent property tax bills.

**VARIOUS STATUTES GOVERNING  
PROPERTY TAX DUTIES  
PERFORMED  
BY SHERIFF OFFICES**

**134.015 Due dates -- Person responsible for payment -- Regular and alternative collection schedules -- Discounts.**

(1) All property taxes are due and payable on or before December 31 of the assessment year except as otherwise provided by law. Payment shall be made to the sheriff as provided in KRS 134.119 unless otherwise provided by law.

(2) (a) Any taxpayer who pays the property taxes in full by November 1 of the assessment year shall receive a two percent (2%) discount on the amount otherwise due.

(b) Taxes paid in full between November 2 and December 31 of the assessment year shall be paid at the amount reflected on the tax bill without discount or penalty.

(c) Taxes paid in full between January 1 and January 31 of the year following the assessment year shall be subject to a penalty of five percent (5%) of the taxes due and unpaid.

(d) Taxes paid after January 31 of the year following the assessment year shall be subject to a penalty of ten percent (10%) of the taxes due and unpaid.

(3) If the regular collection schedule established by subsections (1) and (2) of this section is delayed, the department may establish an alternative collection schedule. Taxes shall be due two (2) full months from the date the tax bills are mailed. The alternative collection schedule shall allow a two percent (2%) discount for all tax bills paid in full within one (1) full month of the date the tax bills were mailed. Upon expiration of the discount period, the face amount reflected on the tax bill without discount or penalty shall be due for the next full month. Payments made within one (1) month following the face amount period shall be subject to a penalty of five percent (5%) of the taxes due and unpaid. Payments made after the five percent (5%) penalty period shall be subject to a penalty of ten percent (10%) of the taxes due and unpaid.

(4) All taxes due under this section and all fees, penalties, and interest thereon are a personal debt of the taxpayer on the assessment date, from the time the tax becomes due until paid.

(5) The lien that attaches to property on which taxes have become delinquent under KRS 134.420 shall continue as provided in KRS 134.420, from the time the taxes become delinquent until the taxes are paid or the eleven (11) year period established by KRS 134.420 expires, regardless of who owns the property.

(6) A tax bill issued against omitted property, or an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall be due the day the bill is prepared and shall be considered delinquent on that date. If the tax bill is not paid within one (1) full month of the due date, an additional penalty of ten percent (10%) of the tax, fees, penalties, and interest due shall be added to the tax bill. The laws relating to delinquent taxes on the same class of property or taxpayers involved shall apply to delinquent omitted tax bills unless otherwise provided by law.

**Effective:** January 1, 2010.

**History:** Created 2009 Ky. Acts ch. 10, sec. 2, effective January 1, 2010.



**134.119 Sheriff is collector of taxes -- Means of payment -- Penalties -- Sale of personal property -- Compensation of sheriff.**

(1) (a) The sheriff shall be the collector of all state, county, county school district, and other taxing district property taxes unless the payment is directed by law to be made to some other person. The sheriff may contract to collect taxes on behalf of cities, independent school districts, or any other governmental unit with the authority to levy a property tax, if the enabling legislation authorizing imposition of the tax permits the governmental unit to contract for the performance of tax collection duties.

(b) The provisions of this chapter relating to the collection of property taxes shall apply to other property tax collectors to the extent that the governing body of the city, school district, or taxing district appointing the tax collector has not adopted alternative tax collection processes and procedures.

(2) Payment to the sheriff may be provided by any commercially acceptable means. The sheriff may limit the acceptable methods of payment to those that ensure that payment cannot be reversed or nullified due to insufficient funds.

(3) (a) 1. The sheriff shall accept payment from the day on which the tax bills are mailed by the sheriff to the taxpayer as provided in KRS 133.220 and 133.230, through the day on which the sheriff files the uncollected tax claims with the county clerk pursuant to KRS 134.122. During this time period, the sheriff may accept full or partial payment for any outstanding taxes or tax claims.

2. a. Any payments received by the sheriff by mail that:

i. Are received after the day on which uncollected tax claims are filed with the county clerk pursuant to KRS 134.122; and

ii. Have a postmark that reflects a date on or before the day the uncollected tax claims are filed with the county clerk;

shall be accepted and processed, and the amount due shall be the amount due immediately before the transfer of the uncollected tax claims by the sheriff to the county clerk.

b. Payments described in this subparagraph may be processed as agreed by the sheriff and county clerk.

c. Absent an agreement between the sheriff and the county clerk, the payment shall be accepted and processed by the sheriff.

d. If the sheriff accepts and processes the payment, the sheriff shall notify the county clerk, and the county clerk shall update his or her records to reflect payment of the certificate of delinquency.

e. The sheriff and the county clerk shall reconcile all transactions addressed by this subparagraph by preparation of an addendum to the original reconciliation provided by the sheriff to the county clerk at the time of transfer. The addendum shall be prepared thirty (30) days after the original transfer, and shall be filed by the county clerk in the clerk's order book.

(b) All payments received by the sheriff shall be entered immediately by the sheriff on his or her books. Partial payments shall be credited against the total amount due and shall be apportioned by the sheriff among the entities included on the tax bill in the same proportion the amount due to each bears to the amount paid.

(c) The acceptance of any payment before the taxpayer's tax liability has been finally determined shall not imply that the payment was the correct amount due and shall not preclude the assessment and collection of additional taxes due or the refund of any part of the amount paid that is in excess of the amount determined to be due.

(d) The sheriff may accept payment of any tax or tax claim from any other person on behalf of the taxpayer. Any person making a payment on behalf of a taxpayer may, upon the written notarized request of the taxpayer, be treated as a transferee as provided in KRS 134.121.

(e) The sheriff may accept payment of any amount due on a delinquent tax claim from any of the persons described in subparagraphs 1., 2., and 3. of this paragraph without permission of the taxpayer. The person seeking to make the payment shall provide sufficient proof to the sheriff that he or she meets the requirements to pay under this paragraph. The sheriff shall be held harmless if he or she relies upon information provided and accepts payment from a person not qualified to pay under this paragraph. Any person listed in subparagraph 1., 2., or 3. of this paragraph who makes full payment, may, upon written request to the sheriff, be treated as a transferee under KRS 134.121:

1. Any person holding a legal or equitable estate in the real or personal property upon which the delinquent taxes are due, other than a person whose only interest in the property is a lien resulting from ownership of a prior year certificate of delinquency;
2. A tenant or lawful occupant of real property, or a bailee or person in possession of any personal property upon which the delinquent taxes are due; or
3. Any person having a mortgage on real property or a security interest in real or personal property upon which the delinquent taxes are due.

(4) If, upon expiration of the five percent (5%) penalty period established by KRS 134.015(2)(c), the real property tax delinquencies of a sheriff exceed fifteen percent (15%) of the amount charged to the sheriff for collection, the department may require the sheriff to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following notification from the department that such efforts shall be made, the department may assume responsibility for collecting the delinquent taxes. If the department assumes the responsibility for collecting delinquent taxes, the department shall receive the amounts that would otherwise be paid to the sheriff as fees or commissions for the collection of tax bills.

(5) In collecting delinquent taxes, the sheriff: (a) May distraint and sell personal property owned by a delinquent taxpayer in the amount necessary to satisfy the delinquent tax claim. The sale shall be made under execution for cash. If the personal property of the delinquent taxpayer within the county is not sufficient to satisfy the delinquent tax claim, the sheriff may sell so much of the personal property as is available; and (b) Shall retain any amounts that come into his or her possession payable to a delinquent taxpayer, other than claims allowed for attendance as a witness, and shall apply such amounts to the amount due on the delinquent tax claim.

(6) (a) As compensation for collecting property taxes the sheriff shall be paid the following amounts, regardless of whether the amounts are collected by the sheriff prior to filing the tax claims with the county clerk, or by the county clerk after the tax claims become certificates of delinquency or personal property certificates of delinquency:

1. From the Commonwealth the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the Commonwealth;
2. From counties the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the counties;
3. The sheriff shall be compensated as provided by law or as negotiated if negotiation is permitted by law, for collecting taxes on behalf of any taxing district;
4. The sheriff shall be compensated as provided in KRS 160.500 for collecting school district taxes; and
5. The sheriff shall be compensated as provided in KRS 91A.070 for collecting taxes on behalf of any city.

(b) The sheriff shall include the amounts he or she is entitled to under the provisions of paragraph (a) of this subsection as part of the delinquent tax claims filed with the county clerk. The amount so included shall become a part of the certificate of delinquency, and shall be paid by the person paying the certificate of delinquency rather than the taxing jurisdiction for which the taxes were collected.

(7) As additional compensation for the collection of delinquent taxes, the sheriff shall be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten percent (10%) of the ten percent (10%) penalty for all delinquent taxes. This fee shall be added to the total amount due, and shall be paid by the person paying the tax claim if payment is made to the sheriff, or the certificate of delinquency or personal property certificate of delinquency if payment is made after the tax claim has been filed with the county clerk.

(8) If, in the process of collecting property taxes, the sheriff becomes aware of a new address for a taxpayer, the sheriff shall provide, on a form provided by the department, the information relating to the new address to the property valuation administrator, who shall update his or her records to reflect the new address.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 75, sec. 2, effective July 15, 2010. -- Created 2009 Ky. Acts ch. 10, sec. 3, effective January 1, 2010.

**134.121 Transferees -- Rights and obligations.**

(1) (a) Upon receipt of a written request by a person who pays taxes on behalf of another to be treated as a transferee and verification that the request meets the requirements of KRS 134.119(3)(d) or (e), the sheriff shall issue a certificate of transfer in accordance with the provisions of this section.

(b) 1. Any person making a request and having taxes paid on his or her behalf under this section; and  
2. The heirs and assigns of the person;

shall be estopped from claiming any irregularity in the tax or any proceedings related to the tax prior to the time of transfer.

(2) The sheriff shall give a certificate of transfer to the person making the payment. The certificate of transfer shall specify the:

- (a) Sheriff's name;
- (b) County where the property is located;
- (c) Address of the property;
- (d) Amount paid;
- (e) Name of the person making the payment;
- (f) Account the payment was credited to; and
- (g) Person in whose name the property is listed as of January 1.

(3) A transferee shall be subrogated to the lien provided for in KRS 134.420, and shall have the same rights and powers of enforcing collection as provided in KRS 134.546(2).

(4) The holder of a certificate of transfer shall have the certificate of transfer required by subsection (2) of this section entered on the record of encumbrances on real estate of the county in which the certificate was issued. Failure to enter the certificate of transfer shall result in a loss of the lien upon the property, if the property is transferred in good faith and for valuable consideration before recording and without notice of the existence of the certificate of transfer. The county clerk shall charge a fee pursuant to KRS 64.012 for the recording and release of a certificate of transfer.

(5) When a transferee has acquired a certificate of transfer that is for any reason invalid, the state, county, city, or taxing district that received payment shall reimburse the transferee by paying to him or her the amount of principal, interest, penalties, and costs expended by him or her in the purchase.

(6) (a) Any person holding a lien upon property covered by a certificate of transfer may, at any time during the life of the certificate if there has been no sale of property for taxes, cancel the certificate by paying to the last recorded owner of the certificate of transfer, or to his or her order, the amount of the certificate and interest, at the tax interest rate established by KRS 131.183 from the date of the certificate.

(b) If both real and personal property are covered by one (1) certificate of transfer, the holder of a lien on any item of the property may obtain a cancellation of the lien on the certificate of transfer against the property on which he or she has a lien by paying to the last recorded owner of the certificate of transfer, before a tax sale under a certificate of delinquency, the amount applicable to the personal property included in the tax referred to by the certificate of transfer, plus the pro rata part of the face value of the certificate of transfer applicable to the

property on which release is desired, plus interest on the amount of the certificate of transfer at the tax interest rate established by KRS 131.183.

(c) If two (2) or more items of property are included in one (1) certificate of transfer, the transferee may release any item or items. The release shall not affect the lien of the certificate of transfer on the remaining items, but shall be a release only to the extent of the amount of taxes applying to the parcel or parcels released.

(d) The provisions of law that apply to the rights of the owner of land sold for taxes by the state, county, city, or taxing district shall also apply to the owner's rights under sales of land made to satisfy a certificate of transfer, and the owner of the land or his or her heirs or assigns may redeem the property within the same length of time, and upon the same terms, as are provided by law for redeeming property sold for taxes.

**Effective:** April 7, 2010

**History:** Amended 2010 Ky. Acts ch. 75, sec. 3, effective April 7, 2010. -- Created 2009 Ky. Acts ch. 10, sec. 5, effective January 1, 2010.

**134.122 Transfer of certificates of delinquency by sheriff to clerk.**

(1) (a) The sheriff shall, on April 15 or three (3) months and fifteen (15) days from the date the taxes were due under an alternative collection schedule, file all tax claims on real and personal property remaining in his or her possession with the county clerk, except that in a consolidated local government the sheriff shall have fourteen (14) working days from the required filing date to file the delinquent tax claims with the county clerk.

(b) The content of the information provided by the sheriff to the county clerk shall be determined by the department through the promulgation of an administrative regulation.

(c) The county clerk shall acknowledge receipt of the tax claims by providing the sheriff with a receipt in the format required by the department.

(d) If the sheriff fails to file the tax claims as required by this subsection, the sheriff shall be liable on his or her bond for the aggregate amount of the tax claims not filed with the clerk.

(2) (a) Upon filing with the county clerk, a real property tax claim shall become a certificate of delinquency and a personal property tax claim shall become a personal property certificate of delinquency, and the department, rather than the sheriff, shall be responsible for the collection of all amounts due in accordance with KRS 134.504.

(b) Certificates of delinquency and personal property certificates of delinquency filed with the county clerk are owned by the taxing jurisdictions whose taxes are included as part of the certificate of delinquency or personal property certificate of delinquency.

(c) The clerk shall accept payment for certificates of delinquency as provided in KRS 134.126 and 134.127.

(d) A certificate of delinquency or personal property certificate of delinquency shall include:

1. The face amount of the tax due;
2. The ten percent (10%) penalty as provided in KRS 134.015; and
3. The sheriff's commission and the ten percent (10%) sheriff's add-on as provided in KRS 134.119.

(e) The certificate of delinquency or personal property certificate of delinquency shall be prima facie evidence that:

1. The property represented by the certificate of delinquency or personal property certificate of delinquency was subject to the taxes levied thereon, and that the property was assessed as required by law;
2. The tax claim was valid and correct in all respects; and
3. The taxes were not paid any time before the establishment of the certificate of delinquency or personal property certificate of delinquency.

(3) If, in the process of collecting property taxes, the county clerk becomes aware of a new address for a taxpayer, the county clerk shall provide, using a form provided by the department, the information relating to the new address to the property valuation administrator, who shall update his or her records to reflect the new address.

**Effective:** April 23, 2012

**History:** Amended 2012 Ky. Acts ch. 161, sec. 2, effective April 23, 2012. -- Amended 2010 Ky. Acts ch. 75, sec. 4, effective April 7, 2010. -- Created 2009 Ky. Acts ch. 10, sec. 6, effective January 1, 2010.

**134.140 Investment of tax revenues until time of distribution -- Disposition of investment earnings.**

(1) The sheriff may invest any tax revenues held in his or her possession from the time of collection until the time of distribution to the proper taxing authorities. Investments by the sheriff shall be restricted to those permitted by KRS 66.480.

(2) As part of the monthly distribution of taxes to a district board of education as required by KRS 134.191, the sheriff shall pay to the board of education that part of the investment earnings for the month which are attributable to the investment of school taxes, less an amount not to exceed four percent (4%) of the earned monthly investment income to reimburse the sheriff for the costs of administering the investment.

(3) In counties where the sheriff pays fees and commissions collected to the county and the salaries and expenses of the sheriff's office are paid by the county, the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education in compliance with subsection (2) of this section, at the time of his or her monthly distribution of taxes to the county required by KRS 134.191.

(4) In those counties where the office of sheriff is funded in whole or in part by fees and commissions, the sheriff may use investment earnings, other than those which must be paid to the board of education in compliance with subsection (2) of this section, to pay lawful expenses of his or her office.

**Effective:** January 1, 2010

**History:** Amended 2009 Ky. Acts ch. 10, sec. 19, effective January 1, 2010. -- Amended 2002 Ky. Acts ch. 346, sec. 170, effective July 15, 2002. -- Amended 1982 Ky. Acts ch. 57, sec. 2, March 9, 1982. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4067, 4114h-2, 4129.

### **134.160 Office rooms, hours, and books of sheriff.**

(1) The governing body of a county shall provide the sheriff with office space that includes a secure place to keep the records of his or her office.

(2) (a) The sheriff shall keep an accurate account of all moneys received and all disbursements made, showing:

1. The amount;
2. The date and time of payment or disbursement;
3. The name of the person making the payment or to whom the disbursement was made; and
4. The account the payment was credited to or the disbursement deducted from.

(b) The sheriff shall maintain records that account for separate and distinct appropriations in separate and distinct accounts.

(c) The sheriff shall balance all accounts on a monthly basis unless otherwise provided by law. The cost of maintaining records and accounts in whatever form shall be paid for as other county records.

(3) All payments received by the sheriff shall be entered immediately by the sheriff on his or her books. The sheriff may provide a receipt specifying the amount and to what account the payment was credited to the person making the payment.

(4) The sheriff shall obtain a receipt for all disbursements made by the sheriff.

(5) Other than as permitted for investment and expenditures by this chapter, the sheriff shall not apply or use any money received by him or her for any purpose other than that for which the money was paid or collected.

(6) The sheriff shall keep all books and accounts in the manner and form required by the department.

(7) The books of the sheriff shall be open at all times to the inspection of the Auditor of Public Accounts, the department, the governing body of the county or any member thereof, the governing body of any other taxing district for which the sheriff collects taxes or any member thereof, the Commonwealth's and county attorneys, and any taxpayer or person having any interest therein.

**Effective:** January 1, 2010

**History:** Amended 2009 Ky. Acts ch. 10, sec. 20, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 254, effective June 20, 2005. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4137, 4138, 4139, 4140.



**134.191 Monthly reporting and payment of taxes collected by sheriff.**

(1) The sheriff shall provide monthly reports by the tenth day of each month to the chief executive of the county, the department, and any other district for which the sheriff collects taxes. The governing body of the county may require the sheriff to report and pay on a more frequent basis if necessary for bonding requirements; however, the sheriff shall not be required to report and pay more frequently than weekly.

(2) The report shall be broken down by governmental entity and shall include the following information for the preceding month or reporting period, if the reporting period is other than monthly:

(a) The total amount of taxes collected;

(b) The total amount of any fines, forfeitures, or other moneys collected; and

(c) The disposition of such revenue or money collected.

(3) At the time of making the report, the sheriff shall pay to the county treasurer or other officer designated by the governing body of a county, to the department, and to any other district for which the sheriff collects taxes, all funds belonging to the county, the state, or the district that were collected during the period covered by the report.

(4) Any sheriff failing to pay over taxes collected as required by law shall be subject to a penalty of one percent (1%) for each thirty (30) day period or fraction thereof that the payment is not made, plus interest at the tax interest rate provided in KRS 131.183 on such amounts. The governing body of a county, the department, or the other district for which the sheriff collects taxes, in its settlement with the sheriff, shall charge him or her with such penalties and interest.

(5) The chief executive of a county, or the commissioner of the department may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) of this section with that entity when good cause exists. The extension shall be in writing and shall be recorded in the office of the county clerk. The extension when granted shall suspend the penalty and interest for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

**Effective:** January 1, 2010

**History:** Created 2009 Ky. Acts ch. 10, sec. 21, effective January 1, 2010.

### **134.192 Annual settlement of tax collections by sheriff.**

- (1) Each sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year. If any sheriff resigns, dies, or otherwise vacates his or her office, the books and records shall be made available to the department, the county, and any other district for which the sheriff collects taxes within thirty (30) days from the date that the office is vacated. The annual settlement of the sheriff shall be audited in accordance with KRS 43.070 and 64.810.
- (2) (a) The department shall conduct the settlement relating to taxes collected for the state.  
(b) The sheriff shall settle his or her accounts with the county, the school district, and any other taxing district for which he or she collects taxes. On request of the governing body of the county or any other district for which the sheriff collects taxes, the department may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the department may initiate the local settlement on behalf of the county, the school district, and the taxing districts. Upon completion of the local settlement, the department may receive reasonable reimbursement for expenses incurred.
- (3) In making his or her settlement with the local governments and the department, the sheriff shall be allowed credit for the uncollected tax claims properly filed with the county clerk's office as required by KRS 134.122.
- (4) All tax bills on omitted property that were not turned over to the sheriff in time to be collected shall be carried over as a charge against the sheriff as part of the annual settlement.
- (5) The report of the state and local settlement shall be filed in the county clerk's office and approved by the governing body of the county no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected for the county, the school district, and all taxing districts, and an itemized statement of the money disbursed to or on behalf of the county, the school district, and all taxing districts.
- (6) The settlement shall be published pursuant to KRS Chapter 424.
- (7) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his or her hands attributable to amounts charged against the sheriff relating to the collection of property taxes, and shall take receipts as provided in KRS 134.160. The sheriff shall pay any additional amounts charged against him or her as a result of the settlements.
- (8) (a) If the sheriff fails to remit amounts charged against him or her to the appropriate taxing district, the department may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts.  
(b) The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the department.
- (9) No tax bills or tax books shall be delivered to the sheriff during the second or any subsequent calendar year of the sheriff's regular term until the settlement is submitted and approved by the department and the governing body of a county, and until the sheriff's bond is in place, should a bond be required by the fiscal court.
- (10) If the tax records of a county are destroyed by fire, flood, tornado, or other act of nature, or are lost, stolen, or mutilated so as to require a reassessment of the property in the county or a recertification of the tax bills, the sheriff shall have five (5) months from the time he or she receives the recertified tax bills to make settlement pursuant to this section.

(11) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his or her settlement:

(a) A complete statement of all funds received by his or her office for official services, showing separately the total income received by his or her office for services rendered, exclusive of his or her commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his or her office, including his or her salary, compensation of deputies and assistants, and reasonable expenses.

(12) At the time he or she files the statements required by subsection (11) of this section, the sheriff shall pay to the governing body of the county any fees, commissions, and other income of his or her office, including income from investments, which exceed the sum of his or her maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810. The provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

(13) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

**Effective:** January 1, 2010

**History:** Created 2009 Ky. Acts ch. 10, sec. 22, effective January 1, 2010.

**134.215 Outgoing sheriff -- Delivery of records and unpaid tax bills to successor -- Receipt for unpaid and partially paid tax bills, contents, filing, recording -- Responsibility for collecting and accounting for accounts -- Settlement -- Notice of temporary refusal to accept payment of taxes -- Expense allowance to outgoing sheriff for preparation of receipt.**

(1) An outgoing sheriff, as soon as his or her successor has been qualified and inducted into office and his or her official bond approved, shall:

(a) Immediately vacate his or her office;

(b) Deliver to his or her successor all books, papers, records, and other property held by virtue of his or her office; and

(c) Make a complete settlement of his or her accounts as sheriff, as provided in KRS 134.192, except as otherwise provided in this section.

(2) (a) All unpaid tax claims and tax claims upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his or her term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law.

(b) The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax claims. This receipt shall show in detail for each unpaid and for each partially paid tax claim the total amount due each taxing district as reflected on the tax claims. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county clerk, and recorded in the order book of the county clerk in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county clerk shall be filed with the department.

(c) The outgoing sheriff and his or her bondsmen or sureties shall be relieved in the final settlement of his or her accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes.

(3) Each outgoing sheriff shall make a final settlement with the department, the fiscal court, and all districts for which his or her office collected taxes by March 15 immediately following the expiration of his or her term of office. The settlement shall address all charges of taxes made against the sheriff and all money received by him or her as sheriff, and shall include all of the information required for the annual settlement pursuant to KRS 134.192. Upon approval of the final settlement, the outgoing sheriff shall deliver these records to the incumbent sheriff. The final settlement of the outgoing sheriff shall be audited as provided in KRS 43.070 and 64.810.

(4) (a) For the purpose of establishing an accurate accounting for unpaid and partially paid tax claims, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of the period from January 1 through January 15.

(b) During the transition period from January 1 through January 15, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property.

(c) Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself or herself, deputies, and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax claims turned over to the incoming sheriff.

**Effective:** January 1, 2010

**History:** Amended 2009 Ky. Acts ch. 10, sec. 23, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 256, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 71, sec. 7, effective July 15, 2002. -- Amended 1992 Ky. Acts ch. 220, sec. 10, effective January 1, 1994. -- Amended 1978 Ky. Acts ch. 384, sec. 273, effective June 17, 1978. -- Amended 1966 Ky. Acts ch. 239, sec. 136. -- Amended 1952 Ky. Acts ch. 220, sec. 1. -- Created 1950 Ky. Acts ch. 92, sec. 1.

**134.230 Bond to be executed by sheriff -- Liability of sheriff and sureties.**

(1) (a) The sheriff shall execute a bond annually to the Commonwealth with one (1) or more sufficient sureties in the minimum sum of ten thousand dollars (\$10,000), conditioned on the faithful performance of his or her duties and to pay over to the proper person and at the proper time all money collected. The bond shall be executed prior to the sheriff collecting taxes for the year in which the bond is executed. The bond shall be approved by order of the governing body of the county, and shall be filed by the governing body of the county with the county clerk and with the department.

(b) The governing body of the county may require the sheriff to enter into an additional bond, with good surety to be approved by the governing body of the county.

(2) (a) Subject to the provisions of paragraph (b) of this subsection, the sureties on all bonds executed by the sheriff pursuant to this section shall be jointly and severally liable for any default of the sheriff during the calendar year in which the bond was executed, whether the liability accrues before or after the execution of the bond.

(b) Neither the sheriff nor a surety shall be liable for any act or default of the sheriff relating to the sheriff's revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the department, the chief executive of the county, the county attorney, or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

(3) (a) Any sheriff who fails to execute a bond as required by this section shall forfeit his or her office. The vacancy shall be filled as provided in KRS 63.220.

(b) If the chief executive of the county does not appoint a sheriff as provided in KRS 63.220 within thirty (30) days, the department may appoint a tax collector to collect the moneys due the state. An appointed collector shall execute a bond within ten (10) days of being appointed, in the same manner and under the same conditions as provided in this section for a sheriff. A sheriff who forfeits his or her office under this subsection or who resigns his or her office shall not be appointed as collector under this section.

**Effective:** January 1, 2010

**History:** Amended 2009 Ky. Acts ch. 10, sec. 24, effective January 1, 2010. -- Amended 1994 Ky. Acts ch. 9, sec. 2, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 27, sec. 6, effective July 13, 1990; and ch. 183, sec. 1, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 112, sec. 1, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 384, sec. 275, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1964 Ky. Acts ch. 131, sec. 1. -- Amended 1954 Ky. Acts ch. 145, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4130, 4134.

## **Contact Information**

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