

1 AN ACT relating to the administration of tax laws.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 131.081 is amended to read as follows:

4 The following rules, principles, or requirements shall apply in the administration of all
5 taxes subject to the jurisdiction of the department~~[of Revenue]~~.

6 (1) The department shall develop and implement a Kentucky tax education and
7 information program directed at new taxpayers, taxpayer and industry groups, and
8 department employees to enhance the understanding of and compliance with
9 Kentucky tax laws, including the application of new tax legislation to taxpayer
10 activities and areas of recurrent taxpayer noncompliance or inconsistency of
11 administration.

12 (2) The department shall publish brief statements in simple and nontechnical language
13 which explain procedures, remedies, and the rights and obligations of taxpayers and
14 the department. These statements shall be provided to taxpayers with the initial
15 notice of audit; each original notice of tax due; each denial or reduction of a refund
16 or credit claimed by a taxpayer; each denial, cancellation, or revocation of any
17 license, permit, or other required authorization applied for or held by a taxpayer;
18 and, if practical and appropriate, in informational publications by the department
19 distributed to the public.

20 (3) Taxpayers shall have the right to be assisted or represented by an attorney,
21 accountant, or other person in any conference, hearing, or other matter before the
22 department. The taxpayer shall be informed of this right prior to conduct of any
23 conference or hearing.

24 (4) The department shall perform audits and conduct conferences and hearings only at
25 reasonable times and places.

26 (5) Taxpayers shall have the right to make audio recordings of any conference with or
27 hearing by the department. The department may make similar audio recordings if

1 prior written notice is given to the taxpayer or if the taxpayer records the conference
2 or hearing. The taxpayer shall be entitled to a copy of this department recording or a
3 transcript as provided in KRS 61.874.

4 (6) If any taxpayer's failure to submit a timely return or payment to the department is
5 due to the taxpayer's reasonable reliance on written advice from the department, the
6 taxpayer shall be relieved of any penalty or interest with respect thereto, provided
7 the taxpayer requested the advice in writing from the department and the specific
8 facts and circumstances of the activity or transaction were fully described in the
9 taxpayer's request, the department did not subsequently rescind or modify the advice
10 in writing, and there were no subsequent changes in applicable laws or regulations
11 or a final decision of a court which rendered the department's earlier written advice
12 no longer valid.

13 (7) Taxpayers shall have the right to receive a copy of any audit of the department by
14 the Auditor of Public Accounts relating to the department's compliance with the
15 provisions of KRS 131.041 to 131.081.

16 (8) The department shall:

17 (a) Include with each notice of tax due a clear and concise description of the basis
18 and amount of any tax, penalty, and interest assessed against the taxpayer, and
19 copies of the agent's audit workpapers and the agent's written narrative setting
20 forth the grounds upon which the assessment is made;

21 (b) Notify taxpayers in writing, if an employee, agent, or representative of the
22 department, in connection with fulfilling assigned duties, determines that a
23 taxpayer may have overpaid any tax, as a result of a deduction, exemption,
24 credit, payment, or otherwise; and

25 (c) Notify taxpayers~~[- taxpayers shall be similarly notified]~~ regarding the denial
26 or reduction of any refund or credit claim filed by a taxpayer.

27 (9) (a) Taxpayers shall have the right to an installment payment agreement for the

1 payment of delinquent taxes, penalties, and interest owed, provided the
2 taxpayer requests the agreement in writing clearly demonstrating:

- 3 1. His or her inability to pay in full; and
- 4 2. That the agreement will facilitate collection by the department of the
5 amounts owed.

6 (b) The department may modify or terminate an installment payment agreement
7 and may pursue statutory remedies against the taxpayer if it determines that:

- 8 1. The taxpayer has not complied with the terms of the agreement,
9 including minimum payment requirements established by the agreement;
- 10 2. The taxpayers' financial condition has sufficiently changed;
- 11 3. The taxpayer fails to provide any requested financial condition update
12 information;
- 13 4. The taxpayer gave false or misleading information in securing the
14 agreement; or
- 15 5. The taxpayer fails to timely report and pay any other tax due the
16 Commonwealth.

17 (c) The department shall give written notice to the taxpayer at least thirty (30)
18 days prior to modifying or terminating an installment payment agreement
19 unless the department has reason to believe that collection of the amounts
20 owed will be jeopardized in whole or in part by delay.

21 (10) The department shall not knowingly authorize, require, or conduct any investigation
22 or surveillance of any person for nontax administration related purposes, except
23 internal security related investigations involving Department of Revenue personnel.

24 ~~(11) In addition to the circumstances under which an extension of time for filing reports~~
25 ~~or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to~~
26 ~~the same extension of the due date of any comparable Kentucky tax report or return~~
27 ~~for which the taxpayer has secured a written extension from the Internal Revenue~~

1 ~~Service provided the taxpayer notifies the department in writing and provides a~~
2 ~~copy of the extension at the time and in the manner which the department may~~
3 ~~require.~~

4 ~~(12)~~ The department shall bear the cost or, if paid by the taxpayer, reimburse the
5 taxpayer for recording or bank charges as the direct result of any erroneous lien or
6 levy by the department, provided the erroneous lien or levy was caused by
7 department error and, prior to issuance of the erroneous lien or levy, the taxpayer
8 timely responded to all contacts by the department and provided information or
9 documentation sufficient to establish his or her position. When the department
10 releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer
11 and, if requested by the taxpayer, a copy of the release, together with an
12 explanation, shall be mailed to the major credit reporting companies located in the
13 county where it was filed.

14 ~~(12)~~~~(13)~~ The department shall not evaluate individual officers or employees on the
15 basis of taxes assessed or collected or impose or suggest tax assessment or
16 collection quotas or goals.

17 ~~(13)~~~~(14)~~ **(a) A department employee shall not willfully, recklessly, or intentionally**
18 **disregard the rights of a taxpayer as provided in KRS 131.041 to 131.081 or**
19 **in the tax laws administered by the department.**

20 **(b) 1.** Taxpayers shall have the right to bring an action for damages against the
21 Commonwealth to the Board of Claims for actual and direct monetary
22 damages sustained by the taxpayer ~~as a result of willful, reckless, and~~
23 ~~intentional disregard by department employees of the rights of taxpayers~~
24 ~~as set out in KRS 131.041 to 131.081 or in the tax laws administered by~~
25 ~~the department].~~

26 **2.** In the awarding of damages ~~pursuant to this subsection],~~ the board shall
27 take into consideration the negligence or omissions, if any, on the part of

1 the taxpayer which contributed to the damages.

2 **3.** If any proceeding brought by a taxpayer is ruled frivolous by the board,
3 the department shall be reimbursed by the taxpayer for its costs in
4 defending the action.

5 ~~(14)~~~~(15)~~ Taxpayers shall have the right to privacy with regard to the information
6 provided on their Kentucky tax returns and reports, including any attached
7 information or documents. Except as provided in KRS 131.190, no information
8 pertaining to the returns, reports, or the affairs of a person's business shall be
9 divulged by the department to any person or be intentionally and without
10 authorization inspected by any present or former commissioner or employee of the
11 department~~[of Revenue]~~, member of a county board of assessment appeals,
12 property valuation administrator or employee, or any other person.

13 ➔Section 2. KRS 131.170 is amended to read as follows:

14 **(1)** The department~~[of Revenue]~~ may~~[, when extension is not otherwise provided for,]~~
15 grant a reasonable extension of time for filing reports or returns **if:**

16 **(a) An extension is not otherwise provided by statute; and**

17 **(b) The taxpayer demonstrates that reasonable cause exists for the extension**~~[~~
18 ~~whenever, in its judgment, good cause therefor exists].~~

19 **(2)** The department shall **maintain**~~[keep]~~ a record of **all**~~[such]~~ extensions **granted**.

20 **(3) Any extension granted shall not exceed**~~[Except where a taxpayer is abroad, no~~
21 ~~extension shall be granted for more than]~~ six (6) months, **except:**

22 **(a) If a taxpayer is abroad, the extension shall not exceed**~~[and in no case for~~
23 ~~more than]~~ one (1) year; **or**

24 **(b) If a taxpayer has secured an extension from the Internal Revenue Service,**
25 **the taxpayer shall be entitled to the same extension for any comparable**
26 **Kentucky tax report or return related to taxes levied by KRS 141.020,**
27 **141.040, or 141.0401, if the taxpayer notifies the department in writing and**

1 *provides a copy of the federal extension at the time and in the manner*
 2 *which the department may require.*

3 **(4)** If any extension operates to postpone a tax payment, interest at the tax interest rate
 4 as defined in KRS 131.010(6) shall be collected.

5 **(5)** The department may condition the extension upon a bond sufficient to cover any tax
 6 and penalty determined to be due.

7 **(6)** The department may, upon~~on~~ request, permit a taxpayer~~person~~ to file a tax
 8 return or report or pay tax on a date other than that prescribed by statute, or to
 9 change the fiscal period covered by the~~such~~ return or report~~, if the variation will~~
 10 ~~not ultimately effect a reduction in revenue~~.

11 ➔Section 3. KRS 131.175 is amended to read as follows:

12 Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable
 13 directly to the department~~of Revenue~~, the sheriff or the county clerk, the commissioner
 14 shall:

15 **(1)** Have the authority to waive penalties~~the penalty~~, but not interest, where it is
 16 shown to the satisfaction of the department that failure to file or pay timely is due to
 17 reasonable cause; and

18 **(2)** *Have the authority to abate all or part of any interest to the extent that additional*
 19 *interest accrued on a deficiency due to an error or delay by the department.*

20 ➔Section 4. KRS 131.370 is amended to read as follows:

21 (1) Any party aggrieved by any final order of the Kentucky Board of Tax Appeals,
 22 except on appeals from a county board of assessment appeals, may appeal to the
 23 Franklin Circuit Court or to the Circuit Court of the county in which the party
 24 aggrieved resides or conducts his place of business in accordance with KRS Chapter
 25 13B. Any final orders entered on the rulings of a county board of assessment
 26 appeals may be appealed in like manner to the Circuit Court of the county in which
 27 the appeal originated.

- 1 (2) If the appeal is from an order sustaining a tax assessment, collection of the tax
2 ~~shall~~^{may} be stayed by the filing of a *petition or an appeal to any court. Full*
3 *payment of the tax or a supersedeas bond is not required to appeal an order*
4 *sustaining from a tax assessment*~~[supersedeas bond in the manner directed by the~~
5 ~~Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580].~~