

### **131.130 General powers and duties of department -- Prosecution duties.**

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the department:

- (1) The department may promulgate administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state. To assist taxpayers in understanding and interpreting the tax laws, the department may, through incorporation by reference, include examples as part of any administrative regulation. The examples may include demonstrative, nonexclusive lists of items if the department determines the lists would be helpful to taxpayers in understanding the application of the tax laws.
- (2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic records, any person's documents, files, and equipment if those records, documents, or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county where the person is domiciled or has his or her principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.
- (3) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law.
- (4) The department shall advise on all questions respecting the construction of state revenue laws and its application to various classes of taxpayers and property.
- (5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file, and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand

juries, courts, or tribunals.

- (7) The department may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration.
- (8)
  - (a) Notwithstanding KRS Chapter 13A, the department may research the fields of taxation, finance, and local government administration, publish its findings, respond to the public's and taxpayers' questions, and publish its responses.
  - (b) To assist taxpayers and the public in understanding and interpreting the tax laws, the department:
    1. May include examples as part of any response or publication. The examples may include demonstrative, nonexclusive lists of items, if the department determines that the list would be helpful to taxpayers in understanding the application of the tax laws; and
    2. Shall publish its administrative writings, tax forms, and instructions to those tax forms on its official website in accordance with KRS 131.020(1)(b).
- (9) The department may promulgate administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require the taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to the administrative regulations.
- (10) The department may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.
- (11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity, except for consumer debt owed for health care goods and services, and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:
  - (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and
  - (b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.
- (12) Notwithstanding subsection (11) of this section, KRS 45.237, 45.238, 45.241, or 131.030, or any agreement to the contrary, the department shall not collect or continue collection duties of any consumer debts owed for health care goods and

services. For the purpose of this section, "consumer debt" shall be defined as a debt incurred by an individual, as defined in KRS 141.010, for a personal or family purpose, regardless of whether an obligation has been reduced to judgment.

- (13) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

**Effective:** July 15, 2024

**History:** Amended 2024 Ky. Acts ch. 166, sec. 26, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 212, sec. 28, effective July 14, 2022. -- Amended 2017 Ky. Acts ch. 95, sec. 1, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 82, sec. 32, effective July 15, 2016. -- Amended 2010 Ky. Acts ch. 81, sec. 1, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 10, sec. 31, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 113, effective June 20, 2005; and ch. 184, sec. 2, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 118, sec. 5, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 135, sec. 1, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 117, sec. 1, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 314, sec. 3, effective July 15, 1998; and ch. 536, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 56, sec. 1, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 322, sec. 12, effective July 15, 1988. -- Amended 1962 Ky. Acts ch. 56, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4019a-10c, 4114h-2, 4149b-12, 4202a-31, 4223b-10, 4224a-5, 4224c-3, 4224c-5, 4281a-33, 4281a-40, 4281b-23, 4281c-20, 4281e-9, 4281f-5, 4281f-27, 4281g-13, 4281h-12, 4281i-6, 4281j-4.