

**138.472 Definitions for section -- Taxes on motor vehicles provided for sharing or rent.**

- (1) As used in this section:
  - (a) "Bad debt" has the same meaning as in 26 U.S.C. sec. 166, except that the following shall be excluded:
    1. Financing charges or interest;
    2. Excise or sales and use taxes charged on the purchase price;
    3. Uncollectible amounts on property that remains in the possession of the person until the full purchase price is paid;
    4. Expenses incurred in attempting to collect any debt; or
    5. Repossessed property;
  - (b) "Charged off for income tax purposes" means:
    1. The charging off of unpaid balances due on accounts determined to be uncollectible; or
    2. Declaring as uncollectible the unpaid balance due on accounts if the person is not required to file federal income tax returns;
  - (c) "Department" means the Kentucky Department of Revenue;
  - (d) "Gross receipts" means the total consideration received for the:
    1. Rental of a vehicle, including the daily or hourly rental fee, fees charged for using the services, charges for insurance protection plans, fuel charges, pickup and delivery fees, late fees, and any charges for any services necessary to complete the rental transaction made by a:
      - a. Peer-to-peer car sharing company; or
      - b. Motor vehicle rental company; and
    2. Charges made to provide the service to a user, including any charges for time or mileage, fees for using the services, and any charges for any services necessary to complete the transaction made by a:
      - a. TNC;
      - b. Taxicab; or
      - c. Limousine service provider;
  - (e) The following terms have the same meaning as in KRS 281.010:
    1. "Human service transportation delivery";
    2. "Limousine";
    3. "Peer-to-peer car sharing certificate";
    4. "Peer-to-peer car sharing company";
    5. "Peer-to-peer car sharing driver";
    6. "Peer-to-peer car sharing program";
    7. "Shared vehicle";
    8. "Shared vehicle driver";
    9. "Taxicab";

10. "Transportation network company" or "TNC";
  11. "Transportation network company service" or "TNC service"; and
  12. "U-Drive-It";
- (f) "Motor vehicle rental company" has the same meaning as in KRS 281.687; and
- (g) "Person" means the individual or the entity required to be the holder of any of the following certificates in KRS 281.630:
1. Limousine;
  2. Peer-to-peer car sharing;
  3. Taxicab;
  4. Transportation network; and
  5. U-Drive-It.
- (2) (a) An excise tax is imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent, with or without a driver, within the Commonwealth.
- (b) The tax is imposed at the rate of six percent (6%) of the gross receipts derived from the:
1. Rental of a shared vehicle by a peer-to-peer car sharing company;
  2. Rental of a vehicle by a motor vehicle renting company;
  3. Sales of TNC services;
  4. Sales of taxicab services; and
  5. Sales of limousine services.
- (c) Excluded from the tax are receipts derived from the provision of human service transportation delivery.
- (3) (a) The tax imposed under subsection (2) of this section shall be administered and collected by the department. Revenues generated from the tax shall be deposited into the general fund.
- (b) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department by every person required to pay the tax in a form prescribed by the department.
- (4) The tax imposed by subsection (2) of this section shall be the direct obligation of the peer-to-peer car sharing company, the motor vehicle renting company, the TNC, the taxicab service provider, and the limousine service provider, but it may be charged to and collected from the user of the service. The tax shall be remitted to the department each month on forms and pursuant to administrative regulations promulgated by the department.
- (5) (a) A person may deduct as a bad debt the amount found to be worthless and charged off for income tax purposes, provided the person is reporting and remitting this tax on the accrual basis.
- (b) The person may take the deduction on the return for the period during which the bad debt is written off as uncollectible in the person's books and records and is eligible to be charged off for income tax purposes.

- (c)
    - 1. The person may obtain a refund equal to the amount of bad debt that exceeds the amount of tax due for the period during which the bad debt is written off.
    - 2. The refund claim shall be made within four (4) years from the due date of the return on which the bad debt could first be claimed.
    - 3. Notwithstanding KRS 131.183, no interest shall be paid upon any deduction taken or refund made for bad debts.
  - (d) If any bad debt accounts are thereafter, in whole or in part, collected by the person, the amount collected shall be included in the return filed for the period in which the collection is made and the amount of the tax due shall be paid with the return.
  - (e) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the service and the excise tax on the service, proportionally, and then to interest, service charges, and any other charges.
- (6) (a) As soon as practicable after each return is received, the department shall examine and audit the return. If the amount of taxes computed by the department is greater than the amount returned by the person, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the person.
- (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the amount of taxes computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the person, the excess shall be assessed by the department within six (6) years from the date the return was filed.
- (7) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle Regulation to void the certificate issued to a:
- (a) Limousine certificate holder;
  - (b) Peer-to-peer car sharing certificate holder;
  - (c) Taxicab certificate holder;
  - (d) TNC certificate holder; or
  - (e) U-Drive-It certificate holder.
- (8) If a person fails or refuses to file a return or furnish any information requested in writing, the department may, from any information in its possession, make an estimate of the certificate holder's total trip costs and issue an assessment against the certificate holder based on the estimated trip cost charges and add a penalty of

ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.

- (9) If the tax imposed by subsection (2) of this section is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.
- (10) (a) For purposes of this subsection, "taxes" shall include:
  1. Interest accrued at the rate provided by KRS 131.183;
  2. All applicable penalties imposed under this chapter; and
  3. All applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
- (b)
  1. Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this section shall be personally and individually liable, both jointly and severally, for the taxes imposed under this section, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person.
  2. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due.
  3. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this section become or became due.
- (c)
  1. Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this section, shall be personally and individually liable, both jointly and severally, for the taxes imposed under this section.
  2. Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person.
  3. The personal and individual liability shall apply to each and every manager of a limited liability company, partner of a limited liability partnership, and general partner of a limited liability limited partnership at the time the taxes become or became due.
  4. No person shall be personally and individually liable under this

subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this section at the time that the taxes imposed by this section become or became due.

- (11) Any person who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

**Effective:** August 1, 2024

**History:** Amended 2024 Ky. Acts ch. 166, sec. 28, effective August 1, 2024. -- Amended 2023 Ky. Acts ch. 92, sec. 4, effective March 24, 2023. -- Created 2022 Ky. Acts ch. 212, sec. 11, effective January 1, 2023.

**Legislative Research Commission Note** (3/24/2023). 2023 Ky. Acts ch. 92, sec. 55, provides that the amendments to this statute in that Act apply retroactively to January 1, 2023, except that any penalty imposed under subsection (11) of this statute and any interest imposed under KRS 131.183 shall not apply to a return required to be filed under subsection (3)(b) of this statute before March 24, 2023, if the return is filed and the tax is paid by the twentieth day of the month following March 24, 2023; and notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to those amendments.