

CHAPTER 503**(HB 822)**

AN ACT relating to taxpayer information.

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

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

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Revenue Cabinet.

- (1) The cabinet shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and cabinet employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The cabinet shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the cabinet. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the cabinet distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the cabinet. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The cabinet shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the cabinet. The cabinet may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of this cabinet recording or a transcript as provided in KRS 61.874.
- (6) If any taxpayer's failure to submit a timely return or payment to the cabinet is due to the taxpayer's reasonable reliance on written advice from the cabinet, the taxpayer shall be relieved of any penalty or interest with respect thereto provided the taxpayer requested the advice in writing from the cabinet and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the cabinet did not subsequently rescind or modify the advice in writing and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the cabinet's earlier written advice no longer valid.
- (7) Taxpayers shall have the right to receive a copy of any audit of the cabinet by the Auditor of Public Accounts relating to the cabinet's compliance with the provisions of KRS 131.041 to 131.081.

- (8) The cabinet shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the cabinet of the amounts owed. The cabinet may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The cabinet shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the cabinet has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The cabinet shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Revenue Cabinet personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the cabinet in writing and provides a copy of the extension at the time and in the manner which the cabinet may require.
- (12) The cabinet shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the cabinet, provided the erroneous lien or levy was caused by cabinet error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the cabinet and provided information or documentation sufficient to establish his or her position. When the cabinet releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.
- (13) The cabinet shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by cabinet employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the cabinet. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the cabinet shall be reimbursed by the taxpayer for its costs in defending the action.

- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided *in Section 2 of this Act*~~[by KRS 131.190]~~, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the cabinet to any person *or be intentionally and without authorization inspected by any present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.*

Section 2. KRS 131.190 is amended to read as follows:

- (1) No present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall *intentionally and without authorization inspect or* divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The secretary or the secretary's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in *Section 3(2) of this Act*~~[KRS 131.990(2)]~~. The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.
- (2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.
- (3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet under the gasoline excise tax law may be made public by the cabinet.
- (4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, *and shall not be inspected intentionally and without authorization by any present secretary or employee of the Revenue Cabinet, or any other person.*
- (5) Statistics of crude oil as reported to the Revenue Cabinet under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the

Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the cabinet by release to the Department of Mines and Minerals.

Section 3. KRS 131.990 is amended to read as follows:

- (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- (2)
 - (a) *Any person who violates the intentional unauthorized inspection provisions of Section 2(1) of this Act shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.*
 - (b) *Any person who violates the provisions of Section 2(1) of this Act by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.*
 - (c) *Any person who violates the intentional unauthorized inspection provisions of Section 2(4) of this Act shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.*
 - (d) *Any person who violates the provisions of Section 2(4) of this Act by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.*
 - (e) *Any present secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of Section 2(1) or (4) of this Act may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment*~~[Any person who violates any of the provisions of KRS 131.190, except subsection (4) thereof, shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and shall be disqualified and removed from office or employment. Any person who violates the provisions of KRS 131.190(4) shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years or both].~~
- (3) Any person who willfully fails to comply with the rules and regulations promulgated by the Revenue Cabinet for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- (4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

Approved April 21, 2000