

103 KAR 25:131. Current month payment of sales and use taxes by larger taxpayers.

RELATES TO: KRS 139.590, 139.980, 139.990

STATUTORY AUTHORITY: KRS 131.130 (1)

NECESSITY, FUNCTION, AND CONFORMITY: In order to facilitate payment of the sales and use taxes levied in KRS Chapter 139, KRS 139.590 permits the Department of Revenue, within its discretion, to require tax payments for periods other than monthly. This administrative regulation prescribes a procedure whereby any taxpayer whose average monthly sales and use tax liability exceeds \$10,000 is required to remit by the 25th of each month, taxes applicable to the period commencing on the 16th of the previous month and extending through the 15th of the current month.

Section 1. Any taxpayer whose average monthly sales and use tax liability exceeds \$10,000 must report and remit by the 25th of each month, sales and use taxes applicable to the period beginning on the 16th of the previous month and extending through the 15th of the current month.

Section 2. This change in filing requirements shall be effective for the tax return that normally would be filed on or before September 20, 1988. Instead, those taxpayers identified in Section 1 of this administrative regulation must file the August, 1988 return no later than September 25, 1988, and remit tax for both the full month of August, 1988 and for the first fifteen (15) calendar days of September, 1988. The tax due for the first fifteen (15) days of September may be computed either on an actual basis or an estimated basis. If the taxpayer elects to use the estimated basis, the tax paid for the first fifteen (15) days of September cannot be less than one-half (1/2) of the total tax liability for the month of August, 1988. After the initial return is filed under this procedure, subsequent returns shall be due on or before the 25th of each month and shall include payment of tax covering the period from the 16th of the previous month through the 15th of the current month, with the fifteen (15) days of the current month reported on either an actual or estimated basis. The estimated amount cannot be less than one-half (1/2) the total tax computed for the previous calendar month before applying any credit for prepayment.

Section 3. Taxpayers shall make the election referred to in Section 2 of this administrative regulation at the time of filing the initial return under this administrative regulation, and shall continue to file on that basis unless a change is authorized in writing by the department.

Section 4. The Department of Revenue shall review all taxpayer payments for the 1987 calendar year and all subsequent years and identify those taxpayers who meet the \$10,000 test based on the average monthly tax liability for that period. In determining the amount of tax due from a taxpayer for a reporting period, the department shall consider the total amount due based on current tax reporting procedure. Changes in reporting procedure for the purpose of circumventing the requirements of this administrative regulation will not be permitted. The department shall notify such taxpayers in writing of their obligation to begin remitting tax as set out in this administrative regulation at least forty (40) days in advance of the date that the first such payment is to be forwarded to the department.

Section 5. The Department of Revenue shall develop procedures for implementing and administering the payment program set out in this administrative regulation. Taxpayers electing to "estimate" tax due shall be permitted to continue to report gross receipts, deductions, and purchases subject to use tax, on a calendar month basis with appropriate credit given for the tax already remitted for the first fifteen (15) days.

Section 6. Taxpayers required to remit tax as described in this administrative regulation shall con-

tinue such practice until notified otherwise in writing by the department. Taxpayers will be relieved of such responsibility only if their average monthly tax liability is less than \$8,000 for two (2) consecutive calendar years.

Section 7. Taxpayers failing to comply with the provisions of this administrative regulation shall be subject to penalties as provided in KRS 139.980 and interest as provided in KRS 131.183. (14 Ky.R. 2127; eff. 7-1-1988; TAm eff. 5-20-2009; TAm eff. 6-22-2016.)