

## **601 KAR 1:147. Auditing of U-drive-it permit holders.**

RELATES TO: KRS 131.340, 138.462, 138.463, 138.4631, 186.005, 186.281, 281.615-281.670

STATUTORY AUTHORITY: KRS 138.463(5), 186.281(2)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 138.463 requires the Transportation Cabinet to establish standards for fair market rental or lease value and assess, collect, and audit the monthly U-drive-it usage tax. This administrative regulation establishes the record-keeping requirements for a permit holder and the audit procedures of the Transportation Cabinet.

Section 1. Definitions. (1) "Lease" is defined by KRS 138.463(3).

(2) "Rental" is defined by KRS 138.462(2).

Section 2. Recordkeeping. (1) Rental records.

(a) A holder of a U-drive-it permit who rents a vehicle shall:

1. Use a consecutive, preprinted numbering system for a rental agreement;
2. For each motor vehicle included in the permit holder's rental fleet, retain a copy of the original manufacturer's invoice or a document that shows the manufacturer's suggested retail price of the motor vehicle plus the cost of options included on the motor vehicle; and
3. Retain a copy of the rental agreement including a void or damaged agreement.

(b) The following information shall be included on a rental agreement:

1. Rental agreement number;
2. Beginning date of the rental;
3. Ending date of the rental;
4. Identification of the specific rental vehicle that includes the following:
  - a. Vehicle identification number;
  - b. Make;
  - c. Model; and
  - d. Year;
5. Odometer reading of the rental vehicle at the beginning of the rental agreement;
6. Odometer reading of the rental vehicle at the end of the rental agreement;
7. Amount charged for the rental agreement;
8. Method of calculation of the rental amount charged that includes mileage charges and number of days used; and
9. Identification of the person renting the vehicle.

(c) If applicable, the following shall be attached to an original rental agreement:

1. Replacement vehicle information; and
2. Information that will alter the original rental agreement.

(d) The record of a rental transaction shall be maintained for a period not less than six (6) years after the due date of the U-drive-it tax return.

(2) Lease records. A holder of a U-drive-it permit who leases a vehicle shall retain a copy of the leasing agreement and other information required by this subsection.

(a) A lease agreement shall include the following information:

1. Complete name and address of the lessee;
2. Beginning date of the lease;
3. Ending date or term of the lease;
4. Identification of the lease vehicle that includes the following:
  - a. Vehicle identification number;

- b. Make;
  - c. Model;
  - d. Year; and
  - e. Manufacturer's suggested retail price;
  - 5. Final lease termination calculation and date;
  - 6. Monthly payment amount subject to the tax imposed by KRS 138.463;
  - 7. Down payment or trade-in information;
  - 8. Dated signature of the lessee and the lessor; and
  - 9. Date of first lease payment, if different from agreement beginning date.
- (b) The following, if applicable, shall be attached to the lease agreement:
- 1. Certificate of title of the leased vehicle;
  - 2. A lease amount calculation worksheet;
  - 3. A lease extension agreement;
  - 4. Documentation of a lease early termination; and
  - 5. Information that would alter the original lease agreement.
- (c) The record of a lease transaction shall be maintained for a period not less than six (6) years after the due date of the U-drive-it tax return.

Section 3. Audits of Permit Holders. (1) The Division of Road Fund Audits shall notify the permit holder of the date, time, and location of the audit. At least fifteen (15) days' advance notice shall be given to the permit holder.

(2) The audit period shall not exceed four (4) or six (6) years as established in KRS 138.463(6).

(3) A permit holder who fails to make available the required records, or sufficient alternative records, requested by the auditor shall receive a tax assessment or have the permit cancelled pursuant to KRS 138.463(7).

(4)(a) A missing or incomplete record shall result in an assessment based on KRS 138.460 or 138.463, whichever is appropriate as determined by the audit.

(b) In computing the assessment for a specific transaction, a permit holder shall receive credit for a tax previously remitted to the Transportation Cabinet for that transaction.

(5) If an audit is conducted, the auditor shall conduct and document a pre-audit telephone conference with the permit holder outlining:

- (a) The operation;
- (b) Audit procedures;
- (c) Records to be examined;
- (d) Sample period; and
- (e) Sampling procedures.

(6) The permit holder and auditor shall determine during the pre-audit telephone conference which parties shall be:

- (a) Responsible for the final acceptance of audit findings; and
- (b) Involved in the fieldwork close-out conference.

(7) If the audit is conducted, the auditor shall conduct and document a fieldwork close-out conference with the permit holder outlining preliminary findings to include:

- (a) Recommendations;
- (b) Right of appeal; and
- (c) To whom the audit report shall be addressed.

(8) The Transportation Cabinet shall furnish the permit holder with a letter of audit findings and recap schedules. If requested, the cabinet shall supply detailed work papers to the permit holder that serve as backup material to the recap schedules.

(9) If an audit indicates that additional tax is owed, the Transportation Cabinet shall issue a Notice of Tax Due statement.

(10) Within forty-five (45) days of the notice of tax due statement, a permit holder shall pay the tax due, or protest in writing pursuant to Section 4 of this administrative regulation.

Section 4. Protest or Appeal of Audit Results. (1)(a) A written protest may be filed by a taxpayer or a person representing a taxpayer.

(b) A protest shall include:

1. A supporting statement that includes the grounds upon which the protest is made as required by KRS 131.110(1); and

2. Documents that identify the adjustment requested, or the portion of the audit protested.

(c) A protest shall be filed with the cabinet's Division of Road Fund Audits within forty-five (45) days from the date of the notice of tax due statement.

(2) If the supporting statements and documents are not sufficient to change the assessment results, the taxpayer may request an information gathering, or protest conference, with the Division of Road Fund Audits in writing by regular mail, facsimile, or electronic mail.

(3) The Division of Road Fund Audits shall issue a final ruling to the taxpayer within sixty (60) days from the date the taxpayer submits additional information, or within sixty (60) days of the protest conference. (24 Ky.R. 1185; 1525; 2366; eff. 5-18-1998; 40 Ky.R. 128; eff. 10-1-2013; Crt eff. 2-18-2019.)