

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amended at ARRS Committee)

103 KAR 18:020. Withholding return adjustment.

RELATES TO: KRS 141.330, 141.355

STATUTORY AUTHORITY: KRS 131.130(1), 141.050(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations to administer and enforce Kentucky's tax laws. KRS 141.050(4) requires the department to promulgate administrative regulations to effectively carry out the provisions of KRS Chapter 141. This administrative regulation establishes the procedure the employer is required to use in correcting errors in the withholding and payment of Kentucky income tax.

Section 1. General. If the amount of tax withheld by the employer exceeds or is less than the tax required to be withheld and paid to the department for any period, proper adjustment may be made on the return for a subsequent period of the same calendar year. Every return on which an adjustment for a preceding period is reported shall include a statement explaining the adjustment and designating the period in which the error occurred. A claim for refund may be filed for any overpayment.

Section 2. Under-withholding. If less than the correct amount of the tax required to be withheld is deducted from any wage payment, the employer may deduct the under-collection from the remuneration of the employee under his or her control. If there is no remuneration under the control of the employer, the matter is one for settlement between the employer and the employee, but the amount under-collected shall be the liability of the employer.

Section 3. Over-withholding. If more than the correct amount of tax required to be withheld is deducted from any wage payment, the over-collection may be repaid to the employee. The employer shall obtain and keep, as part of his or her records, the written acknowledgement of receipt of the repayment by the employee showing the date and amount of the repayment. Any over-collection not repaid and receipted for by the employee shall be reported and paid to the department for the period in which the over-collection was made.

Section 4. Other Errors. Employers shall consult the department for correction of errors in withholding which cannot be adjusted in a return for a subsequent period of the same calendar year.

(IW-2; 1 Ky.R. 227; eff. 1-8-1975; TAm eff. 5-16-2017; TAm eff. 7-16-2018; 48 Ky.R. 488, 1508; eff. 2-1-2022.)

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