FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 18:070. Supplemental wages and other payments subject to withholding.

RELATES TO: KRS 141.010~~[(29)]~~, 141.020, 141.310, 141.315, ~~[141.900(22),]~~ 341.020, 341.090, 341.395, 26 U.S.C. 3402(q)

STATUTORY AUTHORITY: KRS 131.130, 141.050(4), 141.310(8), 141.315

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations for the administration and enforcement of all Kentucky tax laws. KRS 141.050(4) requires the department~~[Department of Revenue]~~to promulgate administrative regulations and prescribe the forms and reports necessary for the proper administration of ~~[any and]~~ all provisions of KRS Chapter 141. KRS 141.310(8) authorizes the department to promulgate an administrative regulation for withholding in addition to those provided in KRS 141.310 and 141.315 if the employer and employee agree to additional withholding. KRS 141.315 requires the department to promulgate administrative regulations governing certain specified types of payments. This administrative regulation prescribes procedures for withholding income tax on gambling winnings, supplemental wages, vacation pay, and unemployment benefits.

Section 1. Definitions.

(1) "Benefit year" is defined by KRS 341.090(3).

(2) "Benefits" is defined by KRS 341.020(4).

(3) "Cabinet" is~~[means the Education and Workforce Development Cabinet as]~~defined by KRS 341.005(2).

(4) "Department" is ~~[means the Department of Revenue as]~~defined by KRS 141.010(7)~~[(5)]~~.

(5) "Fund" is defined by KRS 341.020(1).

(6) "Gambling winnings" means winnings that are subject to withholding as defined by 26 U.S.C. 3402(q) of the Internal Revenue Code.

(7) "Supplemental wages" means payments made to an employee by the individual's employer in addition to regular wages.

(8) "Vacation pay" means a paid leave of absence that is paid in addition to regular wages. Vacation pay includes:

(a) Annual leave;

(b) Personal time off;

(c) Sick leave; or

(d) Any other paid time off authorized by the employer.

Section 2. Gambling Winnings. Every person making a payment of gambling winnings shall deduct and withhold from the payment Kentucky income tax at the maximum tax rate provided in KRS 141.020.

Section 3. Supplemental Wages.

(1) If supplemental wages are paid at the same time as regular wages, the tax to be withheld shall be determined as if the aggregate of the supplemental and regular wages were a single wage payment for the regular payroll period.

(2) If supplemental wages are paid at a different time, the employer shall determine the tax to be withheld by aggregating the supplemental wages either with the regular wages for the current payroll period or with the regular wages for the last preceding payroll period within the same calendar year.

Section 4. Vacation Pay.

(1) If an employee receives vacation pay for the time of a leave of~~[vacation]~~absence, the vacation pay shall be subject to withholding as though it were a regular wage payment made for the payroll period or periods which occur during the vacation.

(2) If vacation pay is paid in addition to regular wages to an employee who forgoes his or her leave~~[vacation]~~, the payments shall be treated as supplemental wages.

Section 5. Unemployment Benefits.

(1) An individual filing a new claim for benefits may choose, at the time of filing the initial claim, to have state income tax imposed by KRS 141.020 withheld from the individual's benefits.

(a) State tax withholding shall not be mandatory and may be changed once per benefit year.

(b) If an individual chooses to have the state income tax imposed by KRS 141.020 deducted and withheld from the individual's benefits, the tax rate shall be equal to the rate imposed by KRS 141.020. ~~[shall:]~~

~~[(a)]~~ ~~[Be notified of the requirements established in KRS 341.395(1) by the Education and Workforce Development Cabinet; and]~~

~~[(b)]~~ ~~[Indicate on the initial or reopened claim for benefits if the individual elects to have the state income tax imposed by KRS 141.020 deducted and withheld from the individual's benefits at the rate of four (4) percent. An individual may make the indication:]~~

~~[1.]~~ ~~[On paper by completing an "Initial Claim Application" as incorporated by reference in 787 KAR 1:090;]~~

~~[2.]~~ ~~[Electronically by submitting an Initial Claim Application online at https://uiclaims.des.ky.gov/ebenefit; or]~~

~~[3.]~~ ~~[By any other means of filing an initial claim application as established by the cabinet and 787 KAR 1:090(2).]~~

(2) The amounts deducted and withheld from benefits pursuant to subsection (1) of this section shall remain in the unemployment insurance fund until transferred to the department as a payment of income tax in accordance with the priority order established in 787 KAR 1:320.

(3) The cabinet shall follow all procedures pertaining to the deducting and withholding of income tax specified in KRS 341.395(3) or by the department.103 KAR 18:070

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: July 8, 2026

FILED WITH LRC: July 9, 2026 at 3:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 23, 2026, at 10:00 a.m. E.T/9:00 a.m. C.T. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky

40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Gary Morris Phone: (502) 564-0424 Email: DORTAXPOLICY@ky.gov

Subject Headings:Finance and Administration; Taxation; Wages and Hours

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation establishes procedures for withholding income tax on gambling winnings, supplemental wages, vacation pay, and unemployment benefits.

(b) The necessity of this administrative regulation:
This regulation is necessary to provide relevant guidance on the withholding of supplemental wages and other payments.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 141.310 authorizes the Department of Revenue to promulgate an administrative regulation for withholding in addition to those provided in KRS 141.310 and 141.315 if the employer and employee agree to additional withholding.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This regulation assists in providing necessary guidance for withholding income tax on gambling winnings, supplemental wages, vacation pay, and unemployment benefits.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This amendment adds a definition for vacation pay and updates the section on unemployment benefits due to procedureal changes to the unemployment application process.

(b) The necessity of the amendment to this administrative regulation:
This amendment is necessary to clarify what leave pay is considered vacation pay and to updated guidance on withholding of income tax from unemployment benefits.

(c) How the amendment conforms to the content of the authorizing statutes:
See 1(c).

(d) How the amendment will assist in the effective administration of the statutes:
This amendment will provide updated guidance for withholding income tax on gambling winnings, supplemental wages, vacation pay, and unemployment benefits.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
This amendment applies to individuals with gambling winnings, supplemental wages, vacation pay, and unemployment benefits subject to withholding. Businesses required to withhold must also follow this regulation. This amendment is not expected to have a major impact because it does not change the withholding requirements. The amendment provides clarity and updated guidance.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

This amendment is not anticipated to impact the entities identified in question (4) because it should not change current withholding practices.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

The Department does not anticipate implementation costs for the entities to implement this amendment because the amendment is to provide clarity and updates.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

This amendment provides clarity in definitions and updated information related to the unemployment benefits.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

(b) On a continuing basis:

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Any negligible costs associated with this amendment would be absorbed by the Department's budget; however, no costs are anticipated.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary to implement this amendment.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

The administrative regulation does not establish any fees.

(10) TIERING: Is tiering applied?

{Explain why or why not} Tiering is not applied because all taxpayers will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 131.130 authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of all Kentucky tax laws. KRS 141.050 requires the Department to promulgate administrative regulations and prescribe forms necessary to administer KRS Chapter 141. KRS 141.310 authorizes the Department to promulgate and administrative regulation for withholding of income taxes for income other than wages. KRS 141.315 requires the Department to promulgate an administrative regulation for certain specified types of payments.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

See the answer to (1). This amendment is not due to recent legislation passed by the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Department of Revenue is the promulgating agency and the only agency impacted by this administrative regulation.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:There is no anticipated impact on expenditures.

For subsequent years:There is no anticipated impact on expenditures.

2. Revenues:

For the first year:There is no anticipated impact on revenues.

For subsequent years:There is no anticipated impact on revenues.

3. Cost Savings:

For the first year:There is no cost savings anticipated.

For subsequent years:There is no cost savings anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

The amendment to this administrative regulation will not impact local entities.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:No impact to local entities.

For subsequent years:No impact to local entities.

2. Revenues:

For the first year:No impact to local entities.

For subsequent years:No impact to local entities.

3. Cost Savings:

For the first year:No impact to local entities.

For subsequent years:No impact to local entities.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
The amendment to this administrative regulation is not anticipated to impact regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:No impact to regulated entities.

For subsequent years:No impact to regulated entities.

2. Revenues:

For the first year:No impact to regulated entities.

For subsequent years:No impact to regulated entities.

3. Cost Savings:

For the first year:No impact to regulated entities.

For subsequent years:No impact to regulated entities.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:
The Department does not anticipate that the amendment to this regulation will have a fiscal impact.

(b) Methodology and resources used to reach this conclusion:
This amendment adds definitions to provide clarity and updated information related to withholding on unemployment benefits.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):
The amendment to this administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion:
This amendment provides clarity with new definitions and updated information on unemployment withholding.