

103 KAR 1:010. Protests.

RELATES TO: KRS 49.220, 49.250, 131.010, 131.030, 131.081, 131.110, 131.180

STATUTORY AUTHORITY: KRS 131.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Kentucky Department of Revenue to promulgate administrative regulations for the administration and enforcement of all tax laws of this state. This administrative regulation provides guidance regarding a taxpayer's protest rights and outlines procedures to facilitate the filing, processing, and disposition of a protest.

Section 1. Definition. "Notice" means a letter, memorandum, or other document from the department that:

- (1) Notifies the taxpayer that tax has been assessed and is due, or a request for refund has been partially denied or denied in full; and
- (2) Explains the taxpayer's right to protest the assessment, refund denial, or refund reduction, and the time period for filing a protest.

Section 2. Protest - Assessments.

- (1) Taxpayers shall be notified of additional tax assessments by mail. Payment including interest from the original due date, in the absence of protest, shall be made within sixty (60) days from the date of the notice informing the taxpayer that tax is owed.
- (2) A written protest may be filed by the taxpayer, or other persons representing the taxpayer, against additional assessments. The department may require the taxpayer to furnish a "Declaration of Representative," Form 20A100 if a representative is serving on behalf of the taxpayer. The time period for submitting a supporting statement may be extended as provided in KRS 131.110(1).
- (3) A taxpayer or taxpayer representative may submit a written protest and supporting statements to the department by one (1) of the following methods:
 - (a) Hand delivery to the department at 501 High Street, Frankfort, Kentucky 40601, or a department Taxpayer Service Center location as listed on the department's Web site;
 - (b) By the United States postal service or express mail service to the address listed in the notice; or
 - (c) Electronically to an email address, if provided, listed in the assessment or notice.
- (4) When determining if the protest was timely filed, the department shall record the submission as:
 - (a) The date stamped as received by the department, if hand delivered;
 - (b) The postmark date from the United States post office, if the postal service is used, but excluding the date from a postage meter;
 - (c) The delivery confirmation date when received by the department, if an express mail service is used; or
 - (d) The electronic date and time received, if electronically delivered. If the protest is submitted to the department electronically, the taxpayer shall also mail a copy of the protest and supporting statements to the department at the address listed in the notice.
- (5) The department shall acknowledge receipt of the taxpayer's protest in writing within ninety (90) calendar days from the date received by the department.
- (6) Scheduling options for a conference shall be communicated to the taxpayer by the department within forty-five (45) days of the taxpayer's written request for a conference.

Section 3. Protest - Refund Denials.

- (1) The department shall send the taxpayer a notice by mail of any denial or partial denial of any refund applied for, including a refund claimed upon any return.
- (2) The department shall include with each notice of the denial:

- (a) References to the statutes and administrative regulations that are the basis for the denial; and
 - (b) The date by which the taxpayer may protest the denial.
- (3) If the taxpayer disagrees with the disallowance of any refund, the taxpayer may file a written protest and supporting statements with the department by the methods set forth in Section 2 of this administrative regulation.
- (4) If the taxpayer or taxpayer representative has submitted all supporting statements and documentation requested by the department, but has not received a determination regarding the refund request from the department within 180 calendar days from the date the request was submitted, the taxpayer may file a protest on the claim as if the refund has been denied by the department.

Section 4. Protest - Transfer.

- (1) Unless the assessment results from an audit performed by the Office of Field Operations, the department shall attempt to resolve the protest within the taxing area from which the assessment was issued.
- (2) If the protest cannot be resolved by the taxing area, the taxing area shall transfer the protest to the Division of Protest Resolution.
- (3) A taxpayer may request in writing that a protest be transferred to the Division of Protest Resolution by the methods outlined in Section 2 of this administrative regulation for consideration by the department.
- (4) The taxing area shall complete the transfer within forty-five (45) days of receipt of the taxpayer's written request to transfer the protest to the Division of Protest Resolution.
- (5) The Division of Protest Resolution shall acknowledge receipt of the protest in writing to the taxpayer within forty-five (45) days of the transfer. The acknowledgement shall contain:
- (a) The name and contact information of the department employee assigned to the taxpayer's protest; and
 - (b) The name and contact information of the employee's direct supervisor.

Section 5. Final Ruling. If the department cannot resolve the protest after transfer to the Division of Protest Resolution, the department shall issue a final ruling to the taxpayer.

Section 6. Failure by the department to meet any of the deadlines imposed by this administrative regulation:

- (1) May justify a waiver of penalties, in accordance with 103 KAR 1:040; and
 - (2) Shall not be interpreted to allow a reduction in any tax, interest, or fees assessed by the department.
- (GA-1; 1 Ky.R. 137; 324; eff. 12-11-1974; 3 Ky.R. 381; eff. 12-1-1976; 9 Ky.R. 1150; eff. 5-4-1983; 17 Ky.R. 1126; eff. 11-21-1990; 44 Ky.R. 1595, 2186; eff. 5-4-2018; TAm eff. 9-12-2018; 46 Ky.R. 46, 862, eff. 10-4-2019.)