

103 KAR 1:160. Mandatory electronic filing and payment requirements.

RELATES TO: KRS 65.7621, 131.010, 131.130, 131.155, 131.250, 131.990, 136.604, 136.616, 136.620, 138.135, 138.140, 138.143, 138.146, 138.195, 138.240, 138.250, 138.260, 139.200, 139.310, 141.010, 141.020, 141.040, 141.0401, 141.150, 141.201, 141.202, 141.206, 141.220; 141.310, 141.315, 141.330, 141.335, 142.115, 142.400, 142.402, 160.613, 160.614, 160.615, 224.50-868, 224.60-145, 234.320, 365.390, 446.010.

STATUTORY AUTHORITY: KRS 131.130, 131.155; 131.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of Kentucky tax laws. KRS 131.250(1) authorizes the department to require any tax return, report, or statement to be electronically filed to facilitate the administration of the taxes it administers. KRS 131.155(1) authorizes the department to require any tax payment to be made by electronic fund transfer to facilitate the administration, payment, or collection of the taxes. KRS 131.155(3) requires the department to promulgate administrative regulations establishing electronic fund transfer requirements for the payment of fees and taxes administered by the department. This administrative regulation establishes requirements for the electronic filing of tax returns, reports, and statements, and for tax payments to be made by electronic fund transfer for certain taxes administered by the department.

Section 1. Definitions.

- (1) "Commercial mobile radio service" and "CMRS" is defined by KRS 65.7621(4).
- (2) "Corporation" is defined by KRS 141.010(4).
- (3) "Department" is defined by KRS 131.010(2).
- (4) "Electronic fund transfer" is defined by KRS 131.010(14).
- (5) "Employer" is defined by KRS 141.010(9).
- (6) "Limited liability pass-through entity" is defined by KRS 141.010(16).
- (7) "Pass-through entity" is defined by KRS 141.010(22).
- (8) "Person" is defined by KRS 446.010(33).
- (9) "Reasonable cause" is defined by KRS 131.010(9).
- (10) "Specified tax return preparer" means, with respect to any calendar year, any tax return preparer unless the preparer reasonably expects to file ten (10) or fewer individual income tax returns during the calendar year.
- (11) "Taxpayer" is defined by KRS 131.010(4).

Section 2. Tax Returns, Reports, Statements, and Tax Payments.

- (1) The tax returns, reports, schedules, and statements relating to the taxes subject to this administrative regulation shall be electronically filed with the department.
- (2) The tax or fee payments relating to taxes or fees included in this administrative regulation shall be made by electronic fund transfer.

Section 3. Income Taxes. The following income tax returns, reports, schedules, statements, and payments shall be submitted electronically:

- (1) Individuals. Individual income tax returns, reports, statements, and related tax payments filed by a specified tax return preparer to report taxes imposed pursuant to KRS 141.020;
- (2) Corporations and limited liability pass-through entities. Corporation income and limited liability entity tax returns, reports, statements, and related tax payments filed by corporations and limited liability pass-through entities in accordance with KRS 141.201(3), 141.202, and 141.0401(4) to report and pay corporation and limited liability entity taxes imposed pursuant to KRS 141.040 and 141.0401 if the corporation or limited

liability pass-through entity has gross receipts in an amount equal to, or greater than, \$1,000,000 on its annual federal income tax return in the current year;

(3) Pass-through entities. Pass-through entity returns, reports, statements, and related tax payments filed to report and pay taxes in accordance with the requirements under KRS 141.206 if the pass-through entity reports gross receipts in an amount equal to, or greater than, \$1,000,000 on its federal income tax return; and

(4) Employers.

(a) Reports, statements, and payment requirements imposed upon employers with regard to the deduction and withholding of income taxes from wages paid pursuant to KRS 141.310 and 141.315 shall be filed and paid electronically as provided under 103 KAR 18:150; and

(b) Annual withholding statements filed pursuant to KRS 141.335 and 141.150 shall be filed electronically as provided under 103 KAR 18:050.

Section 4. Sales and Excise Taxes and Fees. The following returns, reports, statements, and payments shall be submitted electronically when filing, reporting, and paying sales and excise taxes and fees:

(1) Cigarettes, tobacco products, and vapor products excise taxes and license fees.

(a) License applications, license fees, excise taxes, returns and reports, stamp orders, and statements filed and paid pursuant to KRS 138.135, 138.140, 138.143, 138.146, and 138.195, as provided under 103 KAR 41.220; and

(b) Enforcement and administrative fees required to be filed and paid pursuant to KRS 365.390;

(2) Commercial mobile radio service (CMRS) fees. Returns and payments to report and pay the CMRS prepaid service charges collected and remitted to the department in accordance with KRS 142.115;

(3) Gasoline, special fuels, and liquefied petroleum gas motor fuels excise taxes and fees. Reports, excise taxes, and fees required to be filed and paid pursuant to KRS 138.240, 138.250, 138.260, 224.60-145, and 234.320;

(4) Multichannel video programming and communications services excise taxes. Returns, reports, statements, and related tax payments required to be filed and paid in accordance with KRS 136.620 to report the taxes imposed pursuant to KRS 136.604 and 136.616;

(5) Sales and use taxes.

(a) Returns, reports, supplementary schedules, and related tax payments required to be filed and paid to report retail sales or services subject to the tax imposed pursuant to KRS 139.200; and

(b) Returns, reports, supplementary schedules, and related tax payments required to be filed and paid for the storage, use, or other consumption of tangible personal property, digital property, and extended warranty services subject to the tax imposed pursuant to KRS 139.310;

(6) Statewide transient room taxes. Returns, reports, statements, and related tax payments required to be filed and paid in accordance with KRS 142.402 to report the tax imposed pursuant to KRS 142.400;

(7) Tire fees. Returns, reports, and related fee payments required to be filed and paid to report sales of new motor vehicle tires and the number of waste tires received and pay fees pursuant to KRS 224.50-868; and

(8) Utility gross receipts license taxes. Returns, reports, statements, and related tax payments required to be filed and paid in accordance with KRS 160.615 to report the taxes imposed pursuant to KRS 160.613 and 160.614.

Section 5. Penalties for Noncompliance. Any person, taxpayer, or tax preparer who fails or refuses to comply with the requirements of this administrative regulation shall, unless it is

shown to the satisfaction of the department that the failure is due to reasonable cause, pay applicable penalties as provided under KRS 131.990.

Section 6. Waiver.

(1) A person, taxpayer, or tax preparer required to electronically file a return, report, or statement may contact the department to request a waiver as authorized by KRS 131.250(2). A written request for waiver of the electronic filing requirement shall be submitted to the department via the method required for the particular tax involved. The contact information by tax type may be found on the Department of Revenue's Web site at <http://revenue.ky.gov>.

(2) The Department may waive the electronic fund transfer requirement if a taxpayer is unable to remit funds electronically, as provided in KRS 131.155(4).

Section 7. Effective Date. The returns, reports, statements, or payments required to be submitted electronically by this administrative regulation shall be effective for tax periods beginning on or after October 1, 2021.

(47 Ky.R. 1710, 2356; eff. 8-3-2021.)