

103 KAR 25:131. Current month accelerated payment of sales and use taxes by larger taxpayers.

RELATES TO: KRS 131.183, 139.590, 139.980, 139.990

STATUTORY AUTHORITY: KRS 131.130, 139.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations for the administration and enforcement of tax laws in this state. To facilitate payment of the sales and use taxes levied in KRS Chapter 139, KRS 139.590 authorizes the Department of Revenue, within its discretion, to permit or require returns or tax payments for periods other than monthly periods. This administrative regulation establishes a procedure whereby any taxpayer whose average monthly sales and use tax liability exceeds \$50,000 is required to remit by the 25th of each month, taxes applicable to the period commencing on the 16th of the previous month and extending through the 15th of the current month.

Section 1. Any taxpayer whose average monthly sales and use tax liability exceeds \$50,000 shall report and remit by the 25th of each month, sales and use taxes applicable to the period beginning on the 16th of the previous month and extending through the 15th of the current month.

Section 2. The department shall review all taxpayer payments annually on a calendar year basis and identify those taxpayers who meet the \$50,000 test based on the average monthly tax liability for that period. In determining the amount of tax due from a taxpayer for a reporting period, the department shall consider the total amount due based on current tax reporting procedure. Changes in reporting procedure for the purpose of circumventing the requirements of this administrative regulation shall not be permitted. The department shall notify taxpayers in writing of their obligation to begin remitting tax as set forth in this administrative regulation at least forty (40) days in advance of the date that the first payment is to be forwarded to the department.

Section 3.

(1) This accelerated filing requirements shall be effective for the July tax return following the department's calendar year review and notification referenced in Section 2 of this administrative regulation.

(2) Those taxpayers identified in Section 1 of this administrative regulation shall file the July return no later than August 25th and remit tax for both the full month of July and for the first fifteen (15) calendar days of August.

(3) The tax due for the first fifteen (15) days of August may be computed either on an actual basis or an estimated basis. If the taxpayer elects to use the estimated basis, the tax paid for the first fifteen (15) days of August cannot be less than one-half (1/2) of the total tax liability for the month of July.

(4) After the initial return is filed under this procedure, subsequent returns shall be due on or before the 25th of each month and shall include payment of tax covering the period from the 16th of the previous month through the 15th of the current month, with the fifteen (15) days of the current month reported on either an actual or estimated basis. The estimated amount cannot be less than one-half (1/2) the total tax computed for the previous calendar month before applying any credit for prepayment.

Section 4. Taxpayers shall make the election to file on an estimated or actual basis referred to in Section 3(3) of this administrative regulation at the time of filing the initial return under this administrative regulation, and shall continue to file on that basis unless a change is authorized in writing by the department.

Section 5. The department shall develop procedures for implementing and administering the payment program set forth in this administrative regulation. Taxpayers electing to "estimate" tax due may continue to report gross receipts, deductions, and purchases subject to use tax, on a calendar month basis with appropriate credit given for the tax already remitted for the first fifteen (15) days.

Section 6. Taxpayers required to remit tax as described in this administrative regulation shall continue this practice until notified otherwise in writing by the department. Taxpayers shall be relieved of the responsibility only if their average monthly tax liability is less than \$40,000 for two (2) consecutive calendar years.

Section 7. Taxpayers failing to comply with the provisions of this administrative regulation shall be subject to penalties as provided in KRS 139.980 and interest as provided in KRS 131.183.

(14 Ky.R. 2127; eff. 7-1-1988; TAm eff. 5-20-2009; TAm eff. 6-22-2016; 46 Ky.R. 570, 1084; eff. 11-1-2019.)