

141.210 Auditing of returns -- Assessment of additional tax -- Taxpayer to notify department of audit of federal income tax returns.

- (1) As used in this section and KRS 141.235, unless the context requires otherwise:
 - (a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the taxpayer's federal income tax return become final and unappealable; and
 - (b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.
- (2) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the department within four (4) years from the date the return was filed, except as otherwise provided in this subsection.
 - (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.
 - (b) In the case of a return where a taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income stated in the return the additional tax may be assessed at any time within six (6) years after the return was filed.
 - (c) In the case of a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.
 - (d) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the department receives the final determination of the federal audit from the taxpayer, whichever is later.
 - (e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration of the times provided for in this subsection for assessing additional tax for the taxable year which resulted in the net operating loss or capital loss carryback.

The times provided in this subsection may be extended by agreement between the taxpayer and the department. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (3) If any additional tax is assessed on account of any income which has been returned for taxation by any other taxpayer, the department, with the consent of the other taxpayer, his personal representatives, or heirs, shall reduce the amount of the additional tax assessed for each year by the amount of the income tax paid for that year by the other taxpayer on account of the income in question.
- (4) Every taxpayer shall:
- (a) Notify the department in writing of every audit of the taxpayer's federal income tax return within thirty (30) days after the taxpayer has or should have had knowledge of the beginning of the audit by the Internal Revenue Service, and
 - (b) Submit a copy of the final determination of the federal audit within one hundred eighty (180) days of the conclusion of the federal audit.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 114, effective April 14, 2018; and ch. 207, sec. 114, effective April 27, 2018. -- Amended 2005 Ky. Acts ch. 85, sec. 490, effective June 20, 2005. -- Amended 1994 Ky. Acts ch. 106, sec. 2, effective July 15, 1994. -- Amended 1974 Ky. Acts ch. 163, sec. 6. -- Amended 1970 Ky. Acts ch. 216, sec. 7. -- Amended 1966 Ky. Acts ch. 176, Part I, sec. 9. -- Amended 1956 (4th Extra, Sess.) Ky. Acts ch. 4, sec. 10. -- Amended 1954 Ky. Acts ch. 79, sec. 16. -- Amended 1952 Ky. Acts ch. 194, sec. 10. -- Amended 1948 Ky. Acts ch. 93, sec. 7. - Repealed in part 1944 Ky. Acts ch. 173, sec. 9. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4281-12, 4281b-26.

Legislative Research Commission Note (4/27/2018). This statute was amended by 2018 Ky. Acts chs. 171 and 207, which are in conflict. Under KRS 446.250, Acts ch. 207, which was last enacted by the General Assembly, prevails.