

138.472 Definitions for section -- Taxes on motor vehicles provided for sharing or rent.

- (1) As used in this section:
 - (a) "Department" means the Kentucky Department of Revenue;
 - (b) "Gross receipts" means the total consideration received for the:
 1. Rental of a vehicle, including the daily or hourly rental fee, fees charged for using the services, charges for insurance protection plans, fuel charges, pickup and delivery fees, late fees, and any charges for any services necessary to complete the rental transaction made by a:
 - a. Peer-to-peer car sharing company; or
 - b. Motor vehicle rental company; and
 2. Charges made to provide the service to a user, including any charges for time or mileage, fees for using the services, and any charges for any services necessary to complete the transaction made by a:
 - a. TNC;
 - b. Taxicab; or
 - c. Limousine service provider;
 - (c) The following terms have the same meaning as in KRS 281.010:
 1. "Limousine";
 2. "Peer-to-peer car sharing certificate";
 3. "Peer-to-peer car sharing company";
 4. "Peer-to-peer car sharing driver";
 5. "Peer-to-peer car sharing program";
 6. "Shared vehicle";
 7. "Shared vehicle driver";
 8. "Taxicab";
 9. "Transportation network company" or "TNC";
 10. "Transportation network company service" or "TNC service"; and
 11. "U-Drive-It";
 - (d) "Motor vehicle rental company" has the same meaning as in KRS 281.687; and
 - (e) "Person" means the holder of any of the following certificates in KRS 281.630:
 1. Limousine;
 2. Peer-to-peer car sharing;
 3. Taxicab;
 4. Transportation network; and
 5. U-Drive-It.
- (2) An excise tax is imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent, with or without a driver, within the Commonwealth.

The tax is imposed at the rate of six percent (6%) of the gross receipts derived from the:

- (a) Rental of a shared vehicle by a peer-to-peer car sharing company;
 - (b) Rental of a vehicle by a motor vehicle renting company;
 - (c) Sales of TNC services;
 - (d) Sales of taxicab services; and
 - (e) Sales of limousine services.
- (3) The tax imposed under subsection (2) of this section shall be administered and collected by the department. Revenues generated from the tax shall be deposited into the general fund.
- (4) The tax imposed by subsection (2) of this section shall be the direct obligation of the peer-to-peer car sharing company, the motor vehicle renting company, the TNC, the taxicab service provider, and the limousine service provider, but it may be charged to and collected from the user of the service. The tax shall be remitted to the department each month on forms and pursuant to administrative regulations promulgated by the department.
- (5) (a) As soon as practicable after each return is received, the department shall examine and audit the return. If the amount of taxes computed by the department is greater than the amount returned by the person, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the person.
- (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the amount of taxes computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the person, the excess shall be assessed by the department within six (6) years from the date the return was filed.
- (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle Regulation to void the certificate issued to a:
- (a) Limousine certificate holder;
 - (b) Peer-to-peer car sharing certificate holder;
 - (c) Taxicab certificate holder;
 - (d) TNC certificate holder; or
 - (e) U-Drive-It certificate holder.
- (7) If a person fails or refuses to file a return or furnish any information requested in writing, the department may, from any information in its possession, make an estimate of the certificate holder's total trip costs and issue an assessment against the certificate holder based on the estimated trip cost charges and add a penalty of

ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.

- (8) If any person fails to make and file a return required by subsection (4) of this section on or before the due date of the return, or if the taxes, or portion thereof, is not paid on or before the date prescribed for its payment, then, unless it is shown to the satisfaction of the department that the failure is due to a reasonable cause, five percent (5%) of the taxes found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars (\$10).
- (9) If the tax imposed by subsection (2) of this section is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.
- (10) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
- (11) Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this chapter, shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company, partner of a limited liability partnership, and general partner of a limited liability limited partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

"Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

- (12) Any person who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

Effective: January 1, 2023

History: Created 2022 Ky. Acts ch. 212, sec. 11, effective January 1, 2023.