

AN ACT relating to the administration of tax laws and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 131.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Commissioner" means the commissioner of *the department*~~[Revenue]~~;
- (2) "Department" means the Department of Revenue;
- (3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person;
- (4) "Taxpayer" means any person required or permitted by law or administrative regulation to perform any act subject to the administrative jurisdiction of the department including the following:
 - (a) File a report, return, statement, certification, claim, estimate, declaration, form, or other document;
 - (b) Furnish any information;
 - (c) Withhold, collect, or pay any tax, installment, estimate, or other funds;
 - (d) Secure any license, permit, or other authorization to conduct a business or exercise any privilege, right, or responsibility;
- (5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System;
- (6) "Tax interest rate" means the interest rate determined under KRS 131.183;
- (7) "Tax" includes any assessment or license fee administered by the department; however, it shall not include moneys withheld or collected by the department pursuant to KRS 131.560 or 160.627;
- (8) "Return" or "report" means any properly completed and, if required, signed form, statement, certification, claim estimate, declaration, or other document permitted or

- required to be submitted or filed with the department, including returns and reports or composites thereof which are permitted or required to be electronically transmitted;
- (9) "Reasonable cause" means an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of moneys due the department pursuant to law or administrative regulation;
- (10) "Fraud" means:
- (a) Intentional or reckless disregard for the law, administrative regulations, or the department's established policies to evade the filing of any return, report, or the payment of any moneys due to the department pursuant to law or administrative regulation; or
 - (b) The deliberate false reporting of returns or reports with the intent to gain a monetary advantage;
- (11) "Hard copy" means any document, record, report, or other data printed on paper or stored by an imaging system that does not permit additions, deletions, or other changes to the original documents;
- (12) "Electronic record" means a collection of related information stored as bits of data in a medium that supports electronic extraction of the data at the field level, but does not include electronic imaging systems;
- (13) "Electronic imaging systems" means a computer-based system used to store reproductions of documents and records through the use of electronic data processing, or computerized, digital, or optical scanning which records and indexes the document, but does not support electronic extraction of the data at the field level;
- (14) "Electronic fund transfer" means an electronic data processing medium that takes the place of a paper check for debiting or crediting an account and of which a

permanent record is made;~~and~~

(15) "Specified tax return preparer" means the same as in 26 U.S.C. sec. 6011(e)(3); **and**

(16) "Taxpayer representative" means any accountant, attorney, tax practitioner, or other person designated in writing by a taxpayer to represent that taxpayer before the department in any matter relating to taxes administered by the department.

→Section 2. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the department~~of Revenue~~.

(1) **(a)** The department shall develop and implement a Kentucky tax education and information program directed at~~new~~ taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation, **existing tax statutes, and administrative regulations related** to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(b) The Kentucky tax education and information program shall:

1. Be formalized by the department through the promulgation of an administrative regulation pursuant to KRS Chapter 13A; and

2. Include:

a. A component that allows:

i. The submission of general questions by the public, to which the department shall respond; and

ii. The publication of the questions submitted and the department's responses on no less than an annual basis upon the department's Web site; and

b. The publication of informational bulletins to be distributed to the public and maintained on the department's Web site, and:

- i. The informational bulletins shall be updated, revised, and maintained by the department on an ongoing basis; and*
 - ii. Updates and revisions to the informational bulletins shall be made within ninety (90) days of the effective date of any statutory or regulatory amendments.*
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department *in tax-related matters*. These statements shall be provided to taxpayers:
 - (a)* With the initial notice of audit;
 - (b)* *With* each original notice of tax due;
 - (c)* *With* each denial or reduction of a refund or credit claimed by a taxpayer;
 - (d)* *With* each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and ~~[, if practical and appropriate,]~~
 - (e)* In informational publications *prepared* by the department *and* distributed to the public.
- (3) *(a)* Taxpayers shall have the right to be assisted or represented by *a taxpayer representative* ~~[an attorney, accountant, or other person]~~ in any *audit*, conference, hearing, or other matter before the department. ~~[The taxpayer shall be informed of this right.]~~ Prior to *conducting* ~~[conduct of]~~ any *audit*, conference, or hearing, *the department shall inform the taxpayer of this right.*
- (b)* *If a taxpayer is assisted or represented by a taxpayer representative, all communications with the taxpayer shall be directed to the taxpayer representative unless otherwise instructed by the taxpayer or the taxpayer representative, except in the case of a final ruling which shall be mailed as*

provided by subsection (6) of Section 3 of this Act.

- (4) (a) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.

(b) Unless otherwise agreed upon by the department and the taxpayer or taxpayer representative, the department shall hold any requested conference or hearing no later than six (6) months after a written request is made by a taxpayer or the taxpayer representative.

- (5) A taxpayer or taxpayer representative~~[Taxpayers]~~ shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or taxpayer representative or if the taxpayer or taxpayer representative records the conference or hearing. The taxpayer or taxpayer representative shall be entitled to a copy of this department recording and, if the department transcribes the recording, the department's~~[or a]~~ transcript as provided in KRS 61.874.

- (6) (a) As used in this subsection, "determination" means a written analysis by the department in response to a taxpayer's written inquiry about the tax effect of a specific activity or transaction.

(b) To ensure compliance with all statutory and regulatory requirements, taxpayers shall have the right to request a determination from the department.

(c) A taxpayer requesting a determination under this subsection shall do so in writing and include the following:

1. The taxpayer name, address, telephone number, Kentucky tax identification number, and federal identification number, if applicable;
2. A description of the taxpayer's operations;
3. A detailed description of the matter for which the determination is

being requested; and

4. The taxpayer's analysis and conclusion of the tax effect on the matter for which a determination is being requested.

(d) The request for a determination must be dated and have an original signature of the taxpayer or taxpayer's representative. The department shall not accept a stamped or faxed signature on the request.

(e) The department shall issue the determination in writing within six (6) months of receiving the written request for the determination from a taxpayer or taxpayer representative. The determination shall be binding on the department and the requesting taxpayer, unless:

1. The facts and circumstances of the activity or transaction were materially misstated in the written request;

2. With regard to the requesting taxpayer, the facts and circumstances of the activity or transaction are involved in active litigation or currently under protest or audit; or

3. There were subsequent changes in applicable statutes, administrative regulations, or judicial decisions which rendered the department's determination no longer valid.

(f) If any taxpayer submits a timely refund claim based on a determination issued to that taxpayer, the department shall promptly authorize payment of the refund claim to that taxpayer with interest at the tax interest rate, unless:

1. The facts and circumstances of the activity or transaction were materially misstated in the written request;

2. With regard to the requesting taxpayer, the facts and circumstances of the activity or transaction are involved in active litigation or currently under protest or audit; or

3. *There were subsequent changes in applicable statutes, administrative regulations, or judicial decisions which rendered the department's determination no longer valid.*

(g) If any requesting taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, obtained in accordance with paragraphs (c) and (d) of this subsection, the requesting taxpayer shall be relieved of any penalty, fee, or interest with respect to the late or incomplete filing of that return or the late or incomplete payment of that tax~~[thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid].~~

(h) 1. *The department may rescind a previously issued determination at any time by issuing a written notice to the taxpayer or taxpayer representative that includes an explanation of the reason for the rescission.*

2. *Unless the rescission is based on a change in applicable statutes, administrative regulations, or judicial decisions which rendered the department's determination no longer valid, the rescission shall take effect:*

a. *On the first day of the next tax period, for taxpayers that file an annual return; or*

b. *Ninety (90) days after the rescission, for taxpayers that file a return more than once annually.*

- 3. The taxpayer may protest the department's rescission under Section 3 of this Act within forty-five (45) days from the date of the rescission.**
- (i) The department shall promulgate an administrative regulation pursuant to KRS Chapter 13A that includes:**
- 1. The address to which the taxpayer shall submit determination requests; and**
 - 2. A requirement for the payment of a reasonable fee assessed by the department to issue a determination.**
- (j) The provisions of this subsection shall not apply to final rulings issued under Section 3 of this Act.**
- (7) **(a)** Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (b) Within ninety (90) days of receipt of any audit by the Auditor of Public Accounts, the department shall post the audit on its Web site.**
- (8) **Regardless of the type of tax or the type of examination performed:**
- (a)** The department shall include with each notice of tax due, **or refund or credit denial:**
- 1.** A clear and concise description of the basis and amount of:
 - a.** Any tax, penalty, **fee,** and interest assessed against the taxpayer **and notification that waiver of the penalty and fee assessed may be appropriate if reasonable cause exists;[-]**
 - b.** **Any denial or reduction of any refund claimed by the taxpayer;**
or
 - c.** **Any denial or reduction to any credit claimed by a taxpayer;** and
 - 2.** Copies of the agent's~~[-audit]~~ workpapers and~~[-the agent's]~~ written narrative setting forth the grounds upon which the assessment, **denial, or**

reduction is made.

(b) Workpapers shall:

1. Be prepared by the department for every:

a. Assessment of tax, penalty, fee, and interest;

b. Denial or reduction of refund claim; or

c. Denial or reduction of any credit claimed by a taxpayer; and

2. Provide a detailed explanation of the changes made by the department so the taxpayer can understand and identify the changes made. The detailed explanation shall include reference to the statutes and administrative regulations that are the basis for the changes.

(c) Any notice of tax due, or denial or reduction of refund or credit claimed, shall be sent to the taxpayer in a manner that allows proof of delivery to the taxpayer to be demonstrated by the department.

(d) 1. The taxpayer may deny any request from the department to extend the statute of limitations for making an additional assessment of tax.

2. The department shall not issue a jeopardy, tentative, or estimated assessment against a taxpayer based on the taxpayer's denial of the request ~~[- Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer].~~

(9) (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:

1. His or her inability to pay in full; and
2. That the agreement will facilitate collection by the department of the amounts owed.

(b) The department may modify or terminate an installment payment agreement and may pursue statutory remedies against the taxpayer if it determines that:

1. The taxpayer has not complied with the terms of the agreement, including minimum payment requirements established by the agreement;
 2. The taxpayers' financial condition has sufficiently changed;
 3. The taxpayer fails to provide any requested financial condition update information;
 4. The taxpayer gave false or misleading information in securing the agreement; or
 5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
- (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) **The department shall advise the taxpayer in writing if an employee, agent, or representative of the department, in connection with fulfilling assigned duties, determines that a taxpayer may have overpaid any tax, as a result of a deduction, exemption, credit, payment, or otherwise.**
- (11)** The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving department~~[of Revenue]~~ personnel.
- ~~{(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may~~

require.]

(12) (a) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position.

(b) ~~If~~~~When~~ the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and~~, if requested by the taxpayer,~~ a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed, with proof of the mailing to the major credit reporting companies provided to the taxpayer.

(13) (a) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(b) No arrangement or contract shall be entered into for the service:

1. Of examining a taxpayer's books and records;

2. Of collecting a tax from a taxpayer; or

3. For legal representation of the department;

if any part of the compensation or other benefits paid or payable for the service is contingent upon or otherwise related to the amount of tax, interest, fee, or penalty assessed against or collected from the taxpayer. Any such contract or arrangement shall be void and unenforceable.

(14) (a) Any department employee shall not willfully, recklessly, or intentionally disregard the rights of a taxpayer as provided in KRS 131.041 to 131.081 or in the tax laws administered by the department.

- (b)** Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer resulting from any action described in paragraph (a) of this subsection by a department employee~~[as a result of willful, reckless, and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department].~~
- (c)** In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the department shall be reimbursed by the taxpayer for its costs in defending the action.
- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the department~~[of Revenue]~~, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.
- ➔Section 3. KRS 131.110 is amended to read as follows:
- (1) The department~~[of Revenue]~~ shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the department within forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the

department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.

- (2) After a timely protest has been filed, the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or ***may be represented*** by a ***taxpayer*** representative. Further conferences may be held by mutual agreement.
- (3) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer ***or taxpayer representative***. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.
- (4) ***(a)*** The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement.
(b) When a final ruling is requested, the department shall issue ~~the~~^{such} ruling within thirty (30) days from the date the request is received by the department.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.
- (6) The final ruling shall be mailed to the taxpayer with a copy of the final ruling mailed to the taxpayer representative, if applicable.***
- (7) If:***
 - (a) A taxpayer has timely protested a notice of tax due issued by the department; and***
 - (b) 1. Six (6) months have elapsed without a substantive response from the department on all issues raised in the protest; or***
 - 2. Ninety (90) days have elapsed since the taxpayer's last substantive***

response to the department regarding the protest;
then, the department shall accept all grounds of the protest, adjust the taxpayer's liability in accordance with the protest, and advise the taxpayer in writing of the outcome and conclusion of the protest.

→Section 4. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Department of Revenue:

- (1) The department may promulgate administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state. To assist taxpayers in understanding and interpreting the tax laws, the department may, through incorporation by reference, include examples as part of any administrative regulation. The examples may include demonstrative, nonexclusive lists of items if the department determines such lists would be helpful to taxpayers in understanding the application of the tax laws.
- (2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic records, any person's documents, files, and equipment if those records, documents, or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his or her principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.
- (3) (a) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative

regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(b) Tax compliance forms and instructions issued by the department shall not carry the force and effect of an administrative regulation otherwise promulgated pursuant to KRS Chapter 13A.

- (4) The department shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.
- (5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file, and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand

juries, courts, or tribunals.

- (7) The department may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration.
- (8) The department may research the fields of taxation, finance, and local government administration, and publish its findings, as the commissioner may deem wise.
- (9) The department may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require the taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.
- (10) The department may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.
- (11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:
 - (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

- (b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.
- (12) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

➔ Section 5. KRS 131.170 is amended to read as follows:

- (1) The department~~[of Revenue]~~ may~~[, when extension is not otherwise provided for,]~~ grant a reasonable extension of time for filing reports or returns ***if:***
- (a) ***An extension is not otherwise provided by statute; and***
- (b) ***The taxpayer demonstrates that reasonable cause***~~[whenever, in its judgment, good cause therefor]~~ exists ***for the extension.***
- (2) The department shall ***maintain***~~[keep]~~ a record of ***all***~~[such]~~ extensions ***granted pursuant to subsection (1) of this section.***
- (3) ***Any***~~[Except where a taxpayer is abroad, no]~~ extension ***granted*** shall ***not exceed***~~[be granted for more than]~~ six (6) months, ***except:***
- (a) ***If a taxpayer is abroad, the extension shall not exceed***~~[and in no case for more than]~~ one (1) year; ***or***
- (b) ***If a taxpayer has secured an extension from the Internal Revenue Service, the taxpayer shall be entitled to the same extension for any comparable Kentucky report or return, provided the taxpayer notifies the department in writing and provides a copy of the federal extension at the time and in the manner which the department may require.***
- (4) If any extension operates to postpone a tax payment, interest at the tax interest rate as defined in KRS 131.010(6) shall be collected.~~[The department may condition the~~

~~extension upon a bond sufficient to cover any tax and penalty determined to be due.~~
~~‡~~

(5) The department may, upon~~on~~ request, permit a taxpayer~~person~~ to file a tax return or report~~or pay tax~~ on a date other than that prescribed by statute, or to change the tax~~fiscal~~ period covered by the~~such~~ return or report~~, if the variation will not ultimately effect a reduction in revenue~~.

(6) The department may, upon request, permit a taxpayer to pay tax on a date other than that prescribed by statute, provided that interest at the tax interest rate is also paid.

➔Section 6. KRS 131.175 is amended to read as follows:

(1) Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the department~~of Revenue~~, the sheriff or the county clerk, the commissioner shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the department that failure to file or pay timely is due to reasonable cause.

(2) Notwithstanding subsection (1) of this section, the commissioner shall abate all or part of any interest, penalty, and fee assessment to the extent that additional interest has accrued on a deficiency due to any unreasonable error or delay by an employee, agent, or representative of the department.

➔Section 7. KRS 131.190 is amended to read as follows:

(1) (a) No present or former commissioner or employee of the department~~of Revenue~~, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information

regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

(b) The prohibition established by paragraph (a) of this subsection does not extend to:

1. Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
2. Any matter properly entered upon any assessment record, or in any way made a matter of public record;
3. Furnishing any taxpayer or taxpayer representative~~[his properly authorized agent]~~ with information respecting the taxpayer's~~[his]~~ own return;
4. Testimony provided by the commissioner or any employee of the department~~[of Revenue]~~ in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
5. Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the

- owner that was provided by the third-party filer;
6. Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820(1). The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this subparagraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10); or
 7. Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817.
- (2) **(a)** The commissioner shall make available any information for official use only and on a confidential basis to:
- 1.** The proper officer, agency, board or commission of this state;~~;~~
 - 2.** Any Kentucky county ~~or~~ ~~any Kentucky~~ city;~~;~~
 - 3.** Any other state, **including any intergovernmental entity or association of states;** or
 - 4.** The federal government,
under reciprocal agreements whereby the department shall receive similar or useful information in return.
- (b) The department shall maintain a record identifying all information made available pursuant to paragraph (a) of this subsection.**
- (c) If any information is made available pursuant to paragraph (a) of this subsection, the taxpayer shall be notified what information and to whom the information was provided.**
- (3) Statistics of tax-paid gasoline gallonage reported monthly to the department ~~of Revenue~~ under the gasoline excise tax law may be made public by the department.

- (4) Access to and inspection of information received from the Internal Revenue Service is for department~~[of Revenue]~~ use only, and is restricted to tax administration purposes. Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department~~[of Revenue]~~, or any other person.
- (5) Statistics of crude oil as reported to the department~~[of Revenue]~~ under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the department~~[of Revenue]~~ under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
- (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.
- (7) Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.

(8) (a) As used in this subsection, "redact" means to remove or obscure

appropriate text from the writing prior to publication in such a way as to obscure the identity of the taxpayer by replacing such obscured text with pseudonyms so as to make the involved fact pattern understandable.

(b) The department shall make available on its Web site, in redacted format as necessary to maintain taxpayer confidentiality, a copy of the following:

1. All final rulings issued pursuant to Section 3 of this Act;
2. All determinations and rescissions of determinations issued to a taxpayer pursuant to subsection (6) of Section 2 of this Act;
3. All manuals, including but not limited to training manuals, or other documents used to administer the tax laws of the Commonwealth;
4. Any other writing stating the department's interpretation of any matter under its jurisdiction; and
5. All forms used by the department in administering the tax laws of the Commonwealth.

(c) The department shall promptly publish on the department's Web site the documents listed in paragraph (b) of this subsection upon issuance and shall update and maintain the documents on an ongoing basis.

→ Section 8. KRS 131.365 is amended to read as follows:

- (1) (a) All~~The~~ final orders of the Kentucky Board of Tax Appeals shall be binding upon all parties **and the board itself unless and** until changed or modified by the courts of this state.
- (b) If no appeal to the courts is prosecuted, the final order of the board shall constitute a final determination **and the department shall apply the final order uniformly across the Commonwealth. Each final order shall be binding upon the board in all future appeals and until the board publicly states otherwise and provides the basis and reasoning for deviating from the final order.**

- (2) If the board finds that other issues are necessary to a full determination of the controversy, it may remand the whole proceeding to the agency from which the appeal was prosecuted for further determination. The parties may stipulate to the determination of the other issues without remand.
- (3) Any changes in ad valorem property tax assessment rolls, tax bills, or the application by any agency of the tax laws of the state shall be in conformity with the board's final order.
- (4) In the case of any appeal, any taxes, interest, *fee*, or penalty paid but found by the board to be in excess of that legally due shall be ordered refunded to the taxpayer.

➔Section 9. KRS 131.370 is amended to read as follows:

- (1) Any party aggrieved by any final order of the Kentucky Board of Tax Appeals, except on appeals from a county board of assessment appeals, may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business in accordance with KRS Chapter 13B. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated.
- (2) If the appeal is from an order sustaining a tax assessment, collection of the tax ~~shall~~^{may} be stayed by the filing of a petition or an appeal to any court ~~a supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580~~.

➔Section 10. KRS 131.990 is amended to read as follows:

- (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- (2) (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or

- imprisoned for not more than six (6) months, or both.
- (b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
 - (e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
- (3) Any person who willfully fails to comply with the rules and regulations promulgated by the department for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
 - (4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
 - (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

- (6) (a) Any person or financial institution that fails to comply with the provisions of KRS 131.672 and 131.674 within ninety (90) days after notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.
- (b) Any financial institution that fails or refuses to comply with the provisions of KRS 131.672 and 131.674 within one hundred twenty (120) days after the notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the department, the commissioner of the Department of Financial Institutions shall, as applicable, revoke the authority of the financial institution or its agents to do business in the Commonwealth.
- (7) Any taxpayer or tax return preparer who fails or refuses to comply with the provisions of KRS 131.250 or an administrative regulation promulgated under KRS 131.250 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each return not filed as required.

(8) Any person who violates the provisions of subsection (14) of Section 2 of this Act shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.

➔Section 11. KRS 134.580 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Agency" means the agency of state government which administers the tax to be refunded or credited.

- (b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.
- (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.
- (3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and 131.340.
- (4) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
- (5) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date

the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.

- (6) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.
- (7) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.
- (8) No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.
- (9) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
 - (a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose.
 - (b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery,

refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn.

- (c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.

(10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:

- (a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.
- (b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

(11) (a) If:

1. A taxpayer has timely filed a refund claim with the department; and

2 a. Six (6) months have elapsed without a substantive response from the department on all issues raised in the refund claim; or

b. Ninety (90) days have elapsed since the taxpayer's last

substantive response to the department regarding the refund claim;

then, the department shall authorize payment of the refund claim or deny it.

(b) If the refund claim is denied as provided in paragraph (a) of this subsection:

1. The taxpayer may protest the department's denial as provided by Section 3 of this Act; and
2. The department shall bear the burdens of proof, production, and persuasion in any protest or appeal by the taxpayer of the denied refund claim.

(c) If the taxpayer protests the department's denial as provided by paragraph (b) of this subsection, and if the protest is appealed and the taxpayer's position is upheld, the department shall reimburse the taxpayer for its reasonable professional fees, costs, and expenses, up to twenty percent (20%) of the amount of tax, penalty, fee, or interest finally determined to be refunded to the taxpayer or finally determined not to be owed by the taxpayer.

→Section 12. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and

coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.

- (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
- (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.

3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Statewide Independent Living Council.
- (r) Unemployment Insurance Commission.
- (s) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (t) Kentucky Commission on the Deaf and Hard of Hearing.
- (u) Kentucky Educational Television.
- (v) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.

- (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.

- (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.
 - 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.

3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.

1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
- (a) Department of Highways.

1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Aviation.
- (d) Department of Rural and Municipal Aid.
1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.

- c. Bluegrass State Skills Corporation.
3. Office of Financial Services.
- a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.

- (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) **Office of the Taxpayer Ombudsman.**
 - (g) Department for Facilities and Support Services.
 - ~~(h)(g)~~ Department of Revenue.
 - ~~(i)(h)~~ Commonwealth Office of Technology.
 - ~~(j)(i)~~ State Property and Buildings Commission.
 - ~~(k)(j)~~ Office of Equal Employment Opportunity and Contract Compliance.
 - ~~(l)(k)~~ Kentucky Employees Retirement Systems.
 - ~~(m)(l)~~ Commonwealth Credit Union.
 - ~~(n)(m)~~ State Investment Commission.
 - ~~(o)(n)~~ Kentucky Housing Corporation.
 - ~~(p)(o)~~ Kentucky Local Correctional Facilities Construction Authority.
 - ~~(q)(p)~~ Kentucky Turnpike Authority.
 - ~~(r)(q)~~ Historic Properties Advisory Commission.
 - ~~(s)(r)~~ Kentucky Tobacco Settlement Trust Corporation.
 - ~~(t)(s)~~ Kentucky Higher Education Assistance Authority.
 - ~~(u)(t)~~ Kentucky River Authority.
 - ~~(v)(u)~~ Kentucky Teachers' Retirement System Board of Trustees.
 - ~~(w)(v)~~ Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:

- (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.

- (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.

- (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.

- (d) Kentucky Horse Park.
 - 1. Division of Support Services.

2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.

- (k) Office of Capital Plaza Operations.
 - (l) Office of Arts and Cultural Heritage.
 - (m) Kentucky African-American Heritage Commission.
 - (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
 - (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.

(j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 13. KRS 42.0145 is amended to read as follows:

- (1) The Office of the Secretary of the Finance and Administration Cabinet shall consist of the Office of General Counsel, Office of Administrative Services, Office of Public Information, Office of Policy and Audit,~~and~~ Office of Equal Employment Opportunity and Contract Compliance, **and Office of the Taxpayer Ombudsman**, each headed by an executive director who shall be appointed by the secretary with the approval of the Governor. The Office of the Secretary shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.
- (2) The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet, subject to the provisions of KRS Chapter 12.
- (3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

➔Section 14. KRS 131.020 is amended to read as follows:

(1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:

(a) Office of the Commissioner of the Department of Revenue, which shall *include* ~~consist of:~~

~~1.~~ the Division of Special Investigations, headed by a division director who shall report to the commissioner. The division shall investigate alleged violations of the tax laws and recommend criminal prosecution of the laws as warranted~~;~~ and

~~2.~~ The taxpayer ombudsman, who shall perform those duties set out in ~~KRS 131.083~~;

(b) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency;

3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time; and
 4. Division of Protest Resolution, which shall be responsible for ensuring an independent review of tax disputes. The division shall administer the protest functions for the department from office resolution through court action;
- (c) Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The office shall consist of the:
1. Division of Local Support, which shall be responsible for providing supervision, assistance, and training to the property valuation administrators and sheriffs within the Commonwealth;
 2. Division of State Valuation, which shall be responsible for providing assessments of public service companies and motor vehicles, and providing assistance to property valuation administrators and sheriffs with the administration of tangible and omitted property taxes within the Commonwealth; and
 3. Division of Minerals Taxation and Geographical Information System Services, which shall be responsible for providing geographical information system mapping support, ensuring proper filing of severance tax returns, ensuring consistency of unmined coal assessments, and gathering and providing data to properly assess minerals to the property valuation administrators within the Commonwealth;
- (d) Office of Sales and Excise Taxes, headed by an executive director who shall

report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
- (e) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
- (f) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

- (2) The functions and duties of the department shall include conducting conferences,

administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 15. KRS 131.083 is amended to read as follows:

The **Finance and Administration Cabinet**~~[department]~~ shall provide the services of a taxpayer ombudsman to carry out the spirit and specific purposes of KRS 131.041 to 131.081. The taxpayer ombudsman shall:

- (1) Coordinate the resolution of taxpayer complaints and problems, if ~~so~~ requested by a taxpayer or the taxpayer's representative;
- (2) Provide recommendations to the department for new or revised informational publications and recommend taxpayer and department employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance;
- (3) Provide recommendations to the department for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to

promote better understanding and voluntary compliance by taxpayers; and

- (4) At least annually, on or before October 1, prepare and submit a report to the *Interim Joint Committee on Appropriations and Revenue, the secretary of the Finance and Administration Cabinet, and the* commissioner of the Department of Revenue summarizing the activities of the taxpayer ombudsman during the immediately preceding fiscal year, describing any recommendations made pursuant to subsections (2) and (3) of this section, including the progress in implementing such recommendations, and providing such other information as the taxpayer ombudsman deems appropriate relating to the rights of Kentucky taxpayers.

➔Section 16. The Department of Revenue shall undertake a detailed review of penalties and fees assessed and collected, and ongoing criminal prosecutions initiated, by the department. No later than November 30, 2015, the department shall report to the Interim Joint Committee on Appropriations and Revenue the following information related to the fiscal years ending on June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015:

- (1) The total amount for each civil and criminal penalty and fee assessed, including the statutory authority for each assessment;
- (2) The total amount of revenue collected from each civil and criminal penalty and fee assessed;
- (3) The total number of criminal prosecutions initiated;
- (4) The average length of time a criminal prosecution remains pending, including the duration of the prosecution from the time it was initiated to the end of the fiscal year; and
- (5) A recommendation by the department as to whether the civil or criminal penalty or fee should be maintained as written, repealed in full, or modified in some manner. In each instance the department shall provide the reasoning and basis for each recommendation.

➔Section 17. This Act shall be known as the "Taxpayer Rights Enhancement Act of 2015."

➔Section 18. The following KRS section is repealed:
131.051 "Taxpayer representative" defined for KRS 131.041 to 131.081.

➔Section 19. Whereas preserving and protecting taxpayer rights is of the highest concern, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.