

103 KAR 17:140. Individual income tax - reciprocity - nonresidents.

RELATES TO: KRS 141.070

STATUTORY AUTHORITY: KRS 131.130(1), 141.050(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations to administer and enforce Kentucky's tax laws. This administrative regulation establishes reciprocity requirements for Kentucky residents, and residents of states with which Kentucky has negotiated reciprocal agreements under the provisions of KRS 141.070.

Section 1. In accordance with KRS 141.070, reciprocal agreements with other states exempting specific income from tax shall apply only to the specific types of income listed. Income from other sources may require the filing of a nonresident income tax return.

Section 2. The agreements shall provide the same exemption for the listed income from withholding tax.

Section 3. A list of states that Kentucky has negotiated reciprocal agreements and the type of income exemption available are listed in this section:

(1) Illinois.

(a) Reciprocity with Illinois shall be in accordance with the reciprocity agreement titled "Agreement between Director of Revenue for the State of Illinois and the Commissioner of Revenue of the Commonwealth of Kentucky".

(b) Residents of Illinois shall be exempt from Kentucky income tax on wages and salaries.

(2) Indiana.

(a) Reciprocity with Indiana shall be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Indiana".

(b) Residents of Indiana shall be exempt from Kentucky income tax on wages, salaries, and commissions.

(3) Michigan.

(a) Reciprocity with Michigan shall be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Michigan".

(b) Residents of Michigan shall be exempt from tax on income earned from personal services in Kentucky. Personal services shall include salaries and wages.

(4) Ohio.

(a) Except as provided in paragraphs (b) and (c) of this subsection, reciprocity with Ohio shall be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Ohio".

(b) Except as provided in paragraph (c) of this subsection, residents of Ohio shall be exempt from Kentucky income tax on salaries and wages.

(c) Effective for calendar years beginning on or after January 1, 2007, the reciprocity agreement with Ohio shall not apply with respect to wages which an S corporation pays to a shareholder-employee if the shareholder-employee is a "twenty (20) percent or greater" direct or indirect equity investor in the S corporation.

(5) Virginia.

(a) Reciprocity with Virginia shall be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and Commonwealth of Virginia".

(b) Virginia residents commuting daily to work in Kentucky shall be exempt from income tax on salaries and wages.

(6) West Virginia.

(a) Reciprocity with West Virginia shall be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement between State of West Virginia and Commonwealth of Kentucky".

(b) Residents of West Virginia shall be exempt from Kentucky income tax on salaries and wages.

(7) Wisconsin.

(a) Reciprocity with Wisconsin shall be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Wisconsin".

(b) Residents of Wisconsin shall be exempt from tax on income earned from personal services in Kentucky. Personal services shall include salaries and wages.

Section 4. For a person domiciled in one (1) of the states listed in Section 3 of this administrative regulation, but who maintains a place of abode and spends more than 183 days in Kentucky during the year, reciprocity shall not apply and that person shall be considered a Kentucky resident for tax purposes.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Agreement between Director of Revenue for the State of Illinois and the Commissioner of Revenue of the Commonwealth of Kentucky, January 28, 1971;

(b) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Indiana, January 1, 1965.

(c) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Michigan, February 16, 1968;

(d) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Ohio, January 7, 1972;

(e) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and Commonwealth of Virginia, September 2, 1964;

(f) Reciprocal Income Tax Agreement between State of West Virginia and Commonwealth of Kentucky, April 9, 1965; and

(g) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of Wisconsin, June 21, 1965.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

(33 Ky.R. 1202; 1606; 1792; eff. 2-2-2007; TAm eff. 5-16-2017; 45 Ky.R. 736, 1183; eff. 12-7-2018.)