

138.510 Taxes on pari-mutuel wagering on live racing and telephone account, intertrack, and interstate wagering -- Exemptions -- Uses of tax revenue.

- (1) (a) Except as provided in paragraphs (b) and (d) of this subsection, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the commission.
 1. For each track with a daily average live handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track during the fiscal year.
 2. For each track with a daily average live handle under one million two hundred thousand dollars (\$1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.
- (b) 1. If:
 - a. A track located in this state is the host track for a live one (1) or two (2) day international horse racing event in 2010 that distributes in excess of a total of fifteen million dollars (\$15,000,000) in purses during the international horse racing event; and
 - b. On or before November 4, 2010, the organization responsible for selecting the location of the same international horse racing event in subsequent years contractually agrees to conduct the international horse racing event at a host track in this state in calendar year 2011 or 2012 or calendar years 2011 and 2012;

then the excise tax imposed by paragraph (a) of this subsection shall not be imposed on pari-mutuel wagering on any live racing conducted during the one (1) or two (2) day international horse racing event held at a host track within this state in calendar years 2010 through 2012.
2. Beginning January 1, 2013, if the requirements of subparagraph 1. of this paragraph are satisfied, the tax exemption established by subparagraph 1. of this paragraph shall remain in effect for any succeeding one (1) or two (2) day international horse racing event if the event returns within three (3) years of a previously-held international horse racing event.
3. A minimum of five hundred thousand dollars (\$500,000) of the amount that would have been paid to the Commonwealth but for the exemption provided by this paragraph shall be used by the host track to fund undercard races during each international horse racing event.
4. Notwithstanding paragraph (c) of this subsection, if the requirements of subparagraph 1.a. of this paragraph are satisfied but the requirements of subparagraph 1.b. of this paragraph are not, then the excise tax imposed by paragraph (a) of this subsection shall be imposed on pari-mutuel wagering on any live racing conducted during the one (1) or two (2) day international horse racing event and the total amount of revenue

collected shall be distributed as follows:

- a. Eighty percent (80%) shall be deposited into the Thoroughbred development fund established in KRS 230.400;
 - b. Thirteen percent (13%) shall be deposited into the standardbred development fund established in KRS 230.770; and
 - c. Seven percent (7%) shall be deposited into the Kentucky quarter horse, Appaloosa, and Arabian development fund established in KRS 230.445.
- (c) Money shall be deducted from the tax paid under paragraph (a) of this subsection and deposited as follows:
1. An amount equal to three-quarters of one percent (0.75%) of all money wagered on live races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400;
 2. An amount equal to one percent (1%) of all money wagered on live races at the track for harness racing shall be deposited in the Kentucky standardbred development fund established in KRS 230.770;
 3. An amount equal to one percent (1%) of all money wagered on live races at the track for quarter horse, Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, Appaloosa, and Arabian development fund established by KRS 230.445.
 4. An amount equal to two-tenths of one percent (0.2%) of all money wagered on live races at the track shall be deposited in the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville;
 5.
 - a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities.
 - b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities.
 - c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.
 - d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and

6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).
- (d) The excise tax imposed by paragraph (a) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.
- (2) (a) Except as provided in paragraphs (c) and (d) of this subsection, an excise tax is imposed on:
 1. All tracks conducting telephone account wagering;
 2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the commission; and
 3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.
- (b) The tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
- (c) A noncontiguous track facility approved by the commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars (\$250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.
- (d)
 1. A track located in this state shall be exempt from the excise tax imposed by paragraph (b) of this subsection on wagers placed on all races conducted at a one (1) or two (2) day international horse racing event if:
 - a. The international horse racing event is conducted at a host track in this state; and
 - b. The host track is exempt from the excise tax during the international horse racing event under subsection (1)(b) of this section.
 2. Notwithstanding paragraph (e) of this subsection, if the host track is not exempt and is taxed pursuant to subsection (1)(b)4. of this section, then the excise tax imposed by paragraphs (a) and (b) of this subsection shall be imposed on wagers placed on all races conducted at the one (1) or two (2) day international horse racing event and the total amount of revenue collected shall be distributed as follows:
 - a. Eighty percent (80%) shall be deposited into the Thoroughbred development fund established in KRS 230.400;
 - b. Thirteen percent (13%) shall be deposited into the standardbred development fund established in KRS 230.770; and
 - c. Seven percent (7%) shall be deposited into the Kentucky quarter horse, Appaloosa, and Arabian development fund established in KRS 230.445.

- (e) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:
1. An amount equal to two percent (2%) of the amount wagered shall be deposited as follows:
 - a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;
 - b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race meeting or the interstate wagering is conducted on a harness race meeting; or
 - c. In the Kentucky quarter horse, Appaloosa, and Arabian development fund established by KRS 230.445, if the host track is conducting a quarter horse, Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, Appaloosa, or Arabian horse race meeting;
 2. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;
 3. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(c)5. of this section; and
 4. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).
- (3) The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 106, effective July 15, 2010; and ch. 57, sec. 1, effective July 15, 2010. -- Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 107, effective June 26, 2009. -- Amended 2005 Ky. Acts ch. 106, sec. 6, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 191, sec. 48, effective July 13, 2004. -- Amended 2000 Ky. Acts ch. 447, sec. 2, effective July 14, 2000. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 43, effective May 30, 1997. -- Amended 1994 Ky. Acts ch. 114, sec. 1, effective July 15, 1994; ch. 272, sec. 2, effective July 15, 1994; and ch. 438, sec. 5, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 109, sec. 7, effective March 30, 1992; and ch. 194, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 159, sec. 2, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 376, sec. 5, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 215, sec. 1, effective July 15, 1986; and ch. 296, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 240, sec. 2, effective July 13, 1984. --

Amended 1982 Ky. Acts ch. 100, sec. 8, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 190, sec. 2, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 343, sec. 2. -- Amended 1970 Ky. Acts ch. 258, sec. 1. -- Amended 1956 Ky. Acts ch. 13, sec. 1, effective February 3, 1956. -- Amended 1954 Ky. Acts ch. 76, sec. 1. -- Created 1948 Ky. Acts ch. 35, sec. 1.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 57, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (7/14/2000). In codifying the 2000 Regular Session changes to this statute, an existing reference to "subsection (2)" has been changed to "subsection (3)" under KRS 7.136(1). 1994 Ky. Acts ch. 438, sec. 5, broke down the prior subsection (2) into subsections (2) and (3), and the reference to fiscal year remained in the resulting subsection (3), but the necessary adjustment to the reference in subsection (1) was inadvertently overlooked.

Legislative Research Commission Note (7/14/92). This section was amended by two 1992 Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which was last enacted by the General Assembly prevails, pursuant to KRS 446.250.