

141.235 Action interfering with collection or payment prohibited -- Limitation on refund of taxes.

- (1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.
- (2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:
 - (a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly.
 - (b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the taxpayer shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.
 - (c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

- (3) Overpayments as defined in KRS 134.580 of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). Effective for refunds issued after April 24, 2008, the interest shall not begin to accrue until ninety (90) days after the latest of:
 - (a) The due date of the return;
 - (b) The date the return was filed;
 - (c) The date the tax was paid;
 - (d) The last day prescribed by law for filing the return; or
 - (e) The date an amended return claiming a refund is filed.
- (4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the commissioner or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

Effective: March 24, 2009

History: Repealed and reenacted 2009 Ky. Acts ch. 86, sec. 9, effective March 24, 2009. -- Amended 2008 Ky. Acts ch. 132, sec. 10, effective April 24, 2008. -- Amended 2005 Ky. Acts ch. 85, sec. 492, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 344, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 106, sec. 3, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 452, sec. 25, effective July 1, 1982. -- Amended 1976 Ky. Acts ch. 155, sec. 13. -- Amended 1972 Ky. Acts ch. 203, sec. 18. -- Amended 1970 Ky. Acts ch. 216, sec. 8. -- Amended 1966 Ky. Acts ch. 176, Part I, sec. 10. -- Amended 1962 Ky. Acts ch. 124, sec. 5. -- Amended 1954 Ky. Acts ch. 79, sec. 19. -- Created 1948 Ky. Acts ch. 93, sec. 10.

Legislative Research Commission Note (3/24/2009). 2009 Ky. Acts ch. 86, sec. 15, provides that "the provisions of Sections 7 to 10 of this Act shall apply retroactively to all outstanding refund claims for taxable years ending prior to the effective date of this Act and shall apply to all claims for those taxable years pending in any judicial or administrative forum."

Legislative Research Commission Note (3/24/2009). 2009 Ky. Acts ch. 86, sec. 17, provides that "The intent of the General Assembly in repealing and reenacting KRS 136.392, 138.195, 141.160, 160.6156, 160.6157, 160.6158, 131.183, 141.044, 141.235, 134.580, 393.060, and 157.621 in Sections 1 to 12 of this Act is to affirm the amendments made to these sections in 2008 Ky. Acts ch. 132. The provisions in Sections 1 to 12 of this Act shall apply retroactively to April 24, 2008."

Legislative Research Commission Note (3/24/2009). 2009 Ky. Acts ch. 86, sec. 18, provides "To the extent that any provision included in this Act is considered new language, the provisions of KRS 446.145 requiring such new language to be underlined are notwithstanding."

Legislative Research Commission Note (4/24/2008). 2008 Ky. Acts ch. 132, sec. 15 provides that the amendments made to this statute by that Act "shall apply retroactively to all outstanding refund claims for taxable years ending prior to the effective date of this Act (April 24, 2008) and shall apply to all claims for those taxable years pending in any judicial or administrative forum."