

141.310 Withholding of tax from wages paid by employer.

- (1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.
- (2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.
- (3) If wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.
- (4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.
- (5) The tables mentioned in subsection (1) of this section shall consider the standard deduction.
- (6) The department may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation produces substantially the same result as set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the department at least thirty (30) days before the first payroll period for which it is to be used.
- (7) The department may, by administrative regulations, authorize employers:
 - (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
 - (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
 - (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.
- (8) The department may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.
- (9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee

against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

- (10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.
- (11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.
- (12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).
- (13) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.32-090 may offset the state portion of the assessment against the Kentucky income tax required to be withheld from the employee under this section.
- (14) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the department. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the department, but shall not exceed fifty thousand dollars (\$50,000).
- (15) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.27-080 may offset the assessment against the Kentucky income tax required to be withheld from the employee under this section.
- (16) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Effective: June 26, 2009

History: Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 52, effective June 26, 2009. -- Amended 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 13, effective August 30, 2007. -- Amended 2005 Ky. Acts ch. 85, sec. 495, effective June 20, 2005; and ch. 168, sec. 21, effective March 18, 2005. -- Amended 2004 Ky. Acts ch. 18, sec. 5, effective July 13, 2004; and ch. 105, sec. 21, effective July 13,

2004. -- Amended 2002 Ky. Acts ch. 338, sec. 42, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 133, sec. 8, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 300, sec. 2, effective July 14, 2000; and ch. 528, sec. 18, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 194, sec. 4, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 358, sec. 16, effective July 14, 1992; ch. 359, sec. 12, effective July 14, 1992; and ch. 360, sec. 14, effective July 14, 1992. -- Amended 1978 Ky. Acts ch. 233, sec. 13, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 84, Pt. II, sec. 6. -- Amended 1970 Ky. Acts ch. 216, sec. 9. -- Amended 1956 (4th Extra. Sess.) Ky. Acts ch. 4, sec. 12, effective April 23, 1956. -- Created 1954 Ky. Acts ch. 79, sec. 22.

Legislative Research Commission Note (3/18/2005). 2005 Ky. Acts ch. 168, sec. 165, provides that this section shall apply to tax years beginning on or after January 1, 2005.

Legislative Research Commission Note (7/14/2000). This section was amended by 2000 Ky. Acts chs. 300 and 528. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 528, which was last enacted by the General Assembly, prevails under KRS 446.250.

Legislative Research Commission Note (7/15/96). Under KRS 7.136(1)(h), KRS 154.26-090(1)(d)2.b. has been substituted in subsection (11) of this statute for a reference to KRS 156.24-090(1)(d)2.b. that appears in 1996 Ky. Acts ch. 194, sec. 4. Materials in the bill folder for Senate Bill 219 (which became 1996 Ky. Acts ch. 194) and the minutes of the Senate committee to which this bill was referred show that the former reference was intended to have been incorporated into that committee's committee substitute. The citation given in the Acts text does not exist, and it is clear that the erroneous citation resulted from a typographical error in preparing the committee substitute.