

131.081 Rules applicable to the administration of all taxes under jurisdiction of Department of Revenue.

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

- (1) 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 to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (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. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; 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, in informational publications by the department distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) 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 if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.
- (6) If any 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, the taxpayer shall be relieved of any penalty or interest with respect 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.
- (7) 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.
- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against

the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. 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 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) 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. 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.

- (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 to:
1. Examine a taxpayer's books and records;
 2. Collect a tax from a taxpayer; or
 3. Provide 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 arrangement or contract shall be void and unenforceable.
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Kentucky Claims Commission for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, or 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. In the awarding of damages pursuant to this subsection, the commission 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 commission, the department shall be reimbursed by the taxpayer for its costs in defending the action. Any claims brought pursuant to this subsection shall be in accordance with KRS 49.040 to 49.180.
- (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.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 100, effective April 14, 2018; and ch. 207, sec. 100, effective April 27, 2018. -- Amended 2017 Ky. Acts ch. 74, sec. 63, effective June 29, 2017. -- Amended 2013 Ky. Acts ch. 119, sec. 1, effective July 1, 2013. -- Amended 2006 Ky. Acts ch. 251, sec. 2, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 111, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 503, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 134, sec. 2, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 508, sec. 43, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 361, sec. 3, effective July 14, 1992. -- Created 1990 Ky. Acts ch. 423, sec. 4, effective July 13, 1990.

Legislative Research Commission Note (4/27/2018). This statute was amended by 2018 Ky. Acts chs. 171 and 207, which do not appear to be in conflict and have been codified together.