

**67.767 Development, adoption, use, and availability of standard form or forms for occupational license tax returns -- Duties of Secretary of State and tax districts.**

- (1) (a) The Secretary of State shall prescribe a standard form or forms, through promulgation of an administrative regulation, which shall be accepted by all tax districts and shall allow for returns of net profits and gross receipts occupational license taxes by all business entities unless the tax district opts out from acceptance in accordance with subsection (2) of this section or is exempted under subsection (3) of this section. The Secretary shall also develop and update as necessary instructions or a set of instructions for business entities on the completion of the standard form or forms so that business entities have the current information necessary to ensure the proper payment of the tax to each tax district.
- (b) The Secretary shall seek advice and comments on the development, amendment, and maintenance of the form or forms and instructions from an advisory committee chaired by the Secretary, or his or her designee, that is composed of a representative from the Kentucky Association of Counties, the Kentucky League of Cities, the Kentucky Occupational License Association, the Kentucky School Boards Association, the Kentucky Society of Certified Public Accountants, urban-county governments, and consolidated local governments, and a representative of business entities appointed by the Secretary.
- (c) During the development of the proposed initial form or forms, the Secretary of State shall report in writing to the Interim Joint Committee on Local Government on the progress of the development process. When the proposed administrative regulation is filed with the Legislative Research Commission pursuant to KRS Chapter 13A, the Secretary of State shall also submit a copy thereof, via regular or electronic mail, to the members of the Interim Joint Committee on Local Government or, if during a session of the General Assembly, to the members of the House Standing Committee on Local Government and the Senate Standing Committee on State and Local Government. The submission to the members shall include a note from the Secretary of State stating that the members may submit any comments regarding the proposed administrative regulation in accordance with the deadline established in KRS 13A.270(1)(c).
- (d) Notwithstanding KRS 13A.290(6)(a), after review by the Administrative Regulation Review Subcommittee, the Legislative Research Commission shall assign the administrative regulation to the Interim Joint Committee on Local Government for consideration or, if during a session of the General Assembly, to the House Standing Committee on Local Government and the Senate Standing Committee on State and Local Government.
- (e) Once the standard form or forms are adopted or amended, the Secretary of State shall include the form or forms, instructions, and any updates on the one-stop business portal or another public Web site maintained by that office along with information submitted to the Secretary of State pursuant to

subsection (2) or (3) of this section. The form or forms and instructions shall be updated and maintained by the Secretary of State at no cost to the tax districts. No fee shall be levied against the public or businesses for accessing and downloading forms, instructions, or other information maintained by the Secretary of State under this section.

- (2) After the form or forms are adopted under subsection (1) of this section but prior to July 1, 2017, a tax district may adopt the standard form or forms as its exclusive return form or forms, may accept the standard form or forms in addition to the tax district's own return form or forms, or may elect to opt out of accepting the standard form or forms through adoption of a written order by the tax district's governing body. If a tax district elects not to accept the standard form or forms, it shall forward the following information to the Secretary of State for inclusion on the one-stop business portal or another public Web site maintained by that office:
  - (a) A copy of the written order specifying that the tax district will not accept the standard form or forms within thirty (30) days of its adoption; and
  - (b) A copy of occupational license tax forms that the tax district accepts, any accompanying instructions, and any future amendments to those forms and instructions within thirty (30) days of any change.
- (3) After July 1, 2017, a tax district shall either adopt the standard form or forms as its exclusive return form or forms or accept the standard form or forms in addition to the tax district's own return form or forms, unless:
  - (a) The tax district submits a written request approved by the tax district's governing body to the Secretary of State for an exemption based on documented information that acceptance of the form will impose an undue financial hardship on the tax district; and
  - (b) The Secretary of State approves the request for an exemption and obtains the return form or forms that will be accepted by the tax district and any applicable instructions for inclusion on the one-stop business portal or another public Web site maintained by that office. In exercising his or her discretion to grant an exemption under this subsection, the Secretary of State may impose any reasonable terms and limitations upon the exemption.
- (4) Upon receipt of an order pursuant to subsection (2) of this section or upon the issuance of an exemption under subsection (3) of this section, the Secretary of State shall provide notice to the Kentucky Society of Certified Public Accountants of the tax districts that have submitted a written order to opt out under subsection (2) of this section or that are granted an exemption under subsection (3) of this section.
- (5) The Secretary of State shall, only upon the request of a tax district, include electronic links for the electronic filing of forms with the local tax district by no later than July 1, 2017.
- (6) Nothing in this section or KRS 67.766 shall be interpreted to alter or preempt the requirements imposed by a tax district regarding deadlines, reporting, rates, or other legally imposed procedures regarding the imposition, administration, and collection of local occupational license taxes by a tax district. Nor shall the adoption or use of

a standard form or forms developed under this section release the taxpayer from any liability or responsibility to the tax district for the correct payment of taxes, penalties, and any other obligations imposed by the tax district. This section and KRS 67.766 shall not be interpreted to authorize the collection of local tax revenues by the state government or any other agency of the state.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 70, sec. 2, effective July 12, 2012.

**Legislative Research Commission Note (7/12/2012).** Under the authority of KRS 7.136(1), the Reviser of Statutes has altered the format of the text in subsection (1) of this statute during codification. The words in the text were not changed.