

141.201 Corporation returns -- Election of affiliated groups to file consolidated returns -- Taxable years beginning on or after January 1, 2019.

- (1) This section shall apply to taxable years beginning on or after January 1, 2019.
- (2) As used in this section:
 - (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;
 - (b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section;
 - (c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with this chapter;
 - (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
 - (e) "Election period" means the forty-eight (48) month period provided for in subsection (4)(d) of this section.
- (3) Every corporation doing business in this state, except those corporations listed as exempt from taxation under KRS 141.040(1)(a) and (b), shall, for each taxable year:
 - (a)
 1. File a combined report, if the corporation is a member of unitary business group as provided in KRS 141.202; or
 2. Make an election to file a consolidated return with all members of the affiliated group as provided in this section; or
 - (b) File a separate return, if paragraph (a) of this subsection does not apply.
- (4)
 - (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.
 - (b)
 1. An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under this chapter.
 2. The determinations and computations required by this chapter shall be made in accordance with Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code.
 3. Corporations listed as exempt from taxation under KRS 141.040(1)(a) and (b) shall not be included in the return.
 4. All transactions between corporations included in the consolidated return shall be eliminated in computing net income as provided in KRS 141.039(2), and determining the apportionment fraction in accordance with KRS 141.120.
 - (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the

department on or before the due date of the return, including extensions, for the first taxable year for which the election is made.

- (d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the forty-eighth consecutive calendar month expires.
- (e) For each taxable year for which an affiliated group has made an election provided in paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.
- (5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (6) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The department may require a further or supplemental report of further information and data necessary for computation of the tax.
- (7) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

Effective: April 15, 2020

History: Amended 2020 Ky. Acts ch. 91, sec. 11, effective April 15, 2020. -- Amended 2019 Ky. Acts ch. 151, sec. 47, effective June 27, 2019. -- Created 2018 Ky. Acts ch. 207, sec. 119, effective April 27, 2018.

Legislative Research Commission Note (4/15/2020). 2020 Ky. Acts ch. 91, sec. 76 provides that the changes made to this statute in Section 11 of that Act apply to taxable years beginning on or after January 1, 2019.

Legislative Research Commission Note (6/27/2019). Section 83 of 2019 Ky. Acts ch. 151 states that the amendments to this statute made in Section 47 of that Act apply to taxable years beginning on or after January 1, 2019.

Legislative Research Commission Note (4/27/2018). Pursuant to 2018 Ky. Acts ch. 207, sec. 154, the provisions created for this statute in that Act apply to taxable years beginning on or after January 1, 2019.