

### **138.715 Civil penalties and interest.**

- (1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid on the tax.
- (2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the department in writing the reasons for failure to comply with KRS 138.660 to 138.7291 and if the department finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation by the taxpayer within the twelve (12) months.
- (3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.552. Whenever any licensee neglects or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the department shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.660 to 138.7291 for any particular quarter and assess and collect the amount of tax and penalties due.
- (4) Any licensee who fails to make any report required under the provisions of KRS 138.660 to 138.7291 within the time allowed may be required to pay a penalty of five hundred dollars (\$500) for any offense. The penalty is to be assessed and collected in the manner provided for the assessment and collection of taxes, or the licensee may be proceeded against in a civil action instigated by the department. In addition, such licensee may be compelled to make the required return.
- (5) In any action for the collection of taxes due under KRS 138.660 to 138.7291 and any penalties or interest imposed in connection therewith, an assessment by the department of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 135, sec. 1, effective July 14, 2018. -- Amended 2009 Ky. Acts ch. 10, sec. 51, effective January 1, 2010. -- Amended 1998 Ky. Acts ch. 31, sec. 5, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 175, sec. 9, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 174, sec. 7, effective January 1, 1987. -- Amended 1982 Ky. Acts ch. 452, sec. 19, effective July 1, 1982. -- Amended 1970 Ky. Acts ch. 57, sec. 2. -- Amended 1956 (2d Extra. Sess.) Ky. Acts ch. 9, sec. 26. -- Amended 1956 Ky. Acts ch. 171, sec. 5. -- Created 1954 Ky. Acts ch. 97, sec. 14.