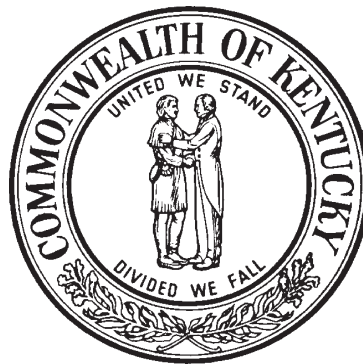


WITHHOLDING KENTUCKY INCOME TAX



INSTRUCTIONS FOR EMPLOYERS

Revised November 2022

Commonwealth of Kentucky
DEPARTMENT OF REVENUE
Frankfort

TEAM 
KENTUCKY®

Forms

FORMS
501 High Street, Station 23B
Frankfort, KY 40601
(502) 564-3658

Information

Withholding Tax Inquiries (502) 564-7287

Forms and Information on the Internet

revenue.ky.gov

KENTUCKY TAXPAYER SERVICE CENTER LOCATIONS
revenue.ky.gov/Get-Help/Pages/Service-Centers.aspx

Ashland

1539 Greenup Avenue, 41101-7695
(606) 920-2037
Fax: (606) 920-2039

Bowling Green

201 West Professional Park Court, 42104-3278
(270) 746-7470
Fax: (270) 746-7847

Corbin

15100 North US25E, Suite 2, 40701-6188
(606) 528-3322
Fax: (606) 523-1972

Frankfort

501 High Street, Station 38, 40601
(502) 564-5930
Fax: (502) 564-8946

Hopkinsville

181 Hammond Drive, 42240-7926
(270) 889-6521
Fax: (270) 889-6563

Louisville

600 West Cedar Street, 2nd Floor West, 40202-2310
(502) 595-4512
Fax: (502) 595-4205

Northern Kentucky

Turfway Ridge Office Park
7310 Turfway Rd., Suite 190
Florence, 41042-4871
(859) 371-9049
Fax: (859) 371-9154

Owensboro

401 Frederica Street, Bldg. C, Suite 201, 42301-6295
(270) 687-7301
Fax: (270) 687-7244

Paducah

Clark Business Complex, Suite G
2928 Park Avenue, 42001-4024
(270) 575-7148
Fax: (270) 575-7027

Pikeville

Uniplex Center
126 Trivette Drive, Suite 203, 41501-1275
(606) 433-7675
Fax: (606) 433-7679

Kentucky Department of Revenue
Mission Statement

As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.

The Kentucky Department of Revenue does not discriminate on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity, veteran status, genetic information or ancestry in employment or the provision of services.



AUGUST 2021

YOUR RIGHTS AS A KENTUCKY TAXPAYER

As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue (DOR) is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.

As a Kentucky taxpayer, you have the right to expect the DOR to honor its mission and uphold your rights every time you contact or are contacted by the DOR.

Some Kentucky taxpayer rights are very specific, such as when and how to protest a Notice of Tax Due or the denial of a refund. Others are more general.

The following is a summary of your rights and the DOR's responsibilities to you as a Kentucky taxpayer.

RIGHTS OF TAXPAYER

Privacy

You have the right to privacy with regard to information you provide pertaining to returns, reports, or the affairs of your business.

Assistance

You have the right to advice and assistance from the DOR in complying with state tax laws.

Explanation

You have the right to a clear and concise explanation of:

- ✓ basis of assessment of additional taxes, interest and penalties, or the denial or reduction of any refund or credit claim;
- ✓ procedure for protest and appeal of a Notice of Tax Due, a reduction or denial of a refund, or a denial of a request for additional time to file a supporting statement; and
- ✓ tax laws and changes in tax laws so that you can comply with the law.

Protest and Appeal

You have the right to file a protest with the DOR if you disagree with a Notice of Tax Due, a reduction or denial of a refund, or a denial of a request for additional time to file a supporting statement. If you file a timely protest, you have a right to a conference to discuss the matter. If you are not satisfied with the Department's final ruling following your protest, you may appeal the final ruling to the Kentucky Board of Tax Appeals, pursuant to KRS 131.110(5) and KRS 49.220 et. seq. (See reverse for procedure to file a protest.)

Representation

You have the right to representation by your authorized agent (attorney, accountant, or other person) in any hearing or conference with the DOR. You have the right to be informed of this right prior to the conference or hearing. If you intend for your representative to attend the conference or hearing in your place, you will be required to give your representative a power of attorney before the DOR can discuss tax matters with your authorized agent. See Form 20A100.

Recordings

You have the right to make an audio recording of any meeting, conference, or hearing with the DOR. The DOR has the right to make an audio recording, if you are notified in writing in advance or if you make a recording. You have the right to receive a copy of the recording.

Consideration

You have the right to consideration of:

- ✓ waiver of penalties or collection fees if "reasonable cause" for reduction or waiver is given ("reasonable cause" is defined in KRS 131.010(9) as: "an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the department pursuant to law or administrative regulation");
- ✓ installment payments of delinquent taxes, interest, and penalties;
- ✓ waiver of interest and penalties, but not taxes, resulting from incorrect written advice from the DOR if all facts were given and the law did not change or the courts did not issue a ruling to the contrary;
- ✓ extension of time for filing reports or returns; and
- ✓ payment of charges incurred resulting from an erroneous filing of a lien or levy by the DOR.

Guarantee

You have the right to a guarantee that DOR employees are not paid, evaluated, or promoted based on taxes assessed or collected, or a tax assessment or collection quota or goal imposed or suggested.

Damages

You have the right to file a claim for actual and direct monetary damages with the Kentucky Board of Tax Appeals if a DOR employee willfully, recklessly, and intentionally disregards your rights as a Kentucky taxpayer.

Interest

You may have the right to receive interest on an overpayment of tax.

DEPARTMENT OF REVENUE RESPONSIBILITIES

The DOR has the responsibility to:

- ✓ perform audits and conduct conferences and hearings with you at reasonable times and places;
- ✓ authorize, require, or conduct an investigation or surveillance of you only if it relates to a tax matter;
- ✓ make a written request for payment of delinquent taxes which are due and payable at least 30 days prior to seizure and sale of your assets;
- ✓ conduct educational and informational programs to help you understand and comply with the laws;
- ✓ publish clear and simple statements to explain tax procedures, remedies, your rights and obligations, and the rights and obligations of the DOR;
- ✓ notify you in writing when an erroneous lien or levy is released and, if requested, notify major credit reporting companies in counties where lien was filed;

- ✓ advise you of procedures, remedies, and your rights and obligations with an original notice of audit or when an original Notice of Tax Due is issued, a refund or credit is denied or reduced, or whenever a license or permit is denied, revoked, or canceled;
- ✓ notify you in writing prior to termination or modification of a payment agreement;
- ✓ furnish copies of the agent's audit workpapers and a written narrative explaining the reason(s) for the assessment;
- ✓ resolve tax controversies on a fair and equitable basis at the administrative level whenever possible;
- ✓ notify you in writing at your last known address at least 60 days prior to publishing your name on a list of delinquent taxpayers for which a tax or judgment lien has been filed; and
- ✓ notify you by certified mail 20 days prior to submitting your name to the relevant agency for the revocation or denial of professional license, driver's license, or motor vehicle registration.

PROTEST AND APPEAL PROCEDURE

Protest

If you receive a Notice of Tax Due, or if the DOR notifies you that a tax refund has been reduced or denied, or the DOR denies your request for additional time to file a supporting statement, you have the right to protest. To do so:

- ✓ submit a written protest within 60 days from the original notice date (or 45 days if the original notice date is prior to 07/01/2018); notice of refund reduction or denial, or denial of a request for additional time to file a supporting statement;
- ✓ identify the type of tax involved and give the account number, Social Security number, or other identification number and attach a copy of the DOR Notice of Tax Due or refund denial to support that your protest is timely;
- ✓ explain why you disagree;
- ✓ attach any proof or documentation available to support your protest or request additional time to support your protest;
- ✓ sign your statement, include your daytime telephone number and mailing address; and
- ✓ mail to the Kentucky Department of Revenue, Frankfort, Kentucky 40620.

Conference

You have the right to request a conference to discuss the issue.

Final Ruling

If you do not want to have a conference or if the conference did not resolve your protest, you have the right to request a final ruling of the DOR so that you can appeal your case further.

Appeal

If you do not agree with the DOR's final ruling, you can file a written appeal with the Kentucky Board of Tax Appeals. If you do not agree with the decision of the Kentucky Board of Tax Appeals, you have the right to appeal their ruling to the Kentucky courts (first to the circuit court in your home county or in Franklin County, then to the Kentucky Court of Appeals, and finally to the Kentucky Supreme Court).

NOTE: The above protest and appeal procedures do not apply for real property which is valued by the local property valuation administrator (PVA). Contact the local PVA for information about how to appeal the valuation of real property.

TAXPAYER OMBUDSMAN

The DOR has a Taxpayer Ombudsman whose job is to serve as an advocate for taxpayers' rights. One of the main functions of the Ombudsman is to ensure that your rights as a Kentucky taxpayer are protected.

Also, an important function of the Taxpayer Ombudsman is to confer with DOR employees when you have a problem or conflict that you have been unable to resolve. However, it is not the role of the Ombudsman to intercede in an audit,

handle a protest, waive taxes, penalty or interest, or answer technical tax questions. To file a protest, see PROTEST AND APPEAL PROCEDURE. Please do not mail your protest to the Ombudsman.

The Taxpayer Ombudsman is your advocate and is there to make sure your rights are protected. If you think you are not being treated fairly or if you have a problem or complaint, please contact the Ombudsman for assistance.

The Taxpayer Ombudsman may be contacted by telephone at 502-564-7822 (between 8:00 a.m. and 5:00 p.m. weekdays). The mailing address is: Department of Revenue, Taxpayer Ombudsman, 501 High Street, Station 1, Frankfort, Kentucky 40601.

WHERE TO GET ASSISTANCE

The DOR has offices in Frankfort and taxpayer service centers in nine cities and towns throughout Kentucky. DOR employees in the service centers answer tax questions and provide assistance. You may obtain assistance by contacting any of the following:

Ashland Taxpayer Service Center
1539 Greenup Avenue, 41101-7695
606-920-2037

Bowling Green Taxpayer Service Center
201 West Professional Park Court, 42104-3278
270-746-7470

Corbin Taxpayer Service Center
15100 North US25E, Suite 2, 40701-6188
606-528-3322

Frankfort Taxpayer Service Center
501 High Street, 40601-2103
502-564-5930

Hopkinsville Taxpayer Service Center
181 Hammond Drive, 42240-7926
270-889-6521

Louisville Taxpayer Service Center
600 West Cedar Street, 2nd Floor West, 40202-2310
502-595-4512

Northern Kentucky Taxpayer Service Center
Turfway Ridge Office Park
7310 Turfway Road, Suite 190
Florence 41042-4871
859-371-9049

Owensboro Taxpayer Service Center
401 Frederica Street, Building C, Suite 201, 42301-6295
270-687-7301

Paducah Taxpayer Service Center
Clark Business Complex, Suite G
2928 Park Avenue, 42001-4024
270-575-7148

Pikeville Taxpayer Service Center
Uniplex Center, 126 Trivette Drive, Suite 203, 41501-1275
606-433-7675

* * * * *

The DOR has an online taxpayer service center where you can download forms, publications, and obtain general information about the department. The address is www.revenue.ky.gov.

The information in this brochure merely summarizes your rights as a Kentucky taxpayer and the responsibilities of the Department of Revenue. The Kentucky Taxpayers' Bill of Rights may be found in the Kentucky Revised Statutes (KRS) at Chapter 131.041-131.083. Additional rights and responsibilities are provided for in KRS 131.020, 131.110, 131.170, 131.1817, 131.183, 131.190, 131.500, 131.654, 133.120, 133.130, 134.580, and 134.590.

The Kentucky Department of Revenue does not discriminate on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity, veteran status, genetic information or ancestry in employment or the provision of services.

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Commonwealth of Kentucky
DEPARTMENT OF REVENUE
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WITHHOLDING ON SALARIES AND WAGES UNDER THE KENTUCKY INCOME TAX LAW

INSTRUCTIONS FOR EMPLOYERS

I. WAGES SUBJECT TO WITHHOLDING

For withholding tax purposes, the terms *wages*, *employee* and *employer* mean the same as defined in Section 3401 of the Internal Revenue Code currently in effect for Kentucky. Therefore, wages or other payments made for services performed in Kentucky, which are subject to withholding of federal income tax, are subject to Kentucky withholding. Wages paid to the following are specifically exempt from withholding but voluntary withholding by mutual agreement is permitted:

1. household employees;
2. election workers;
3. employees of foreign governments and international organizations;
4. ministers of a church or members of a religious order;
5. newsmen under age 18;
6. employees as noncash tips and total cash tips of less than \$20 per month;
7. employees in a form other than in cash for services not in the course of the employer's business;

The above payments are the most common types that are not subject to withholding. However, this list is not all-inclusive. The Internal Revenue Code and related rulings and regulations should be consulted for other payments that may be excluded from withholding.

Regulation 103 KAR 18:010 provides that "Every employer incorporated in Kentucky, qualified to do business in Kentucky, doing business in Kentucky, or subject to the jurisdiction of Kentucky in any manner, and making payment of wages subject to withholding shall deduct, withhold, and pay to the department the tax required to be withheld."

Wages paid to a Kentucky resident as a regular employee in the conduct of business of an employer required to withhold taxes, are subject to withholding on services performed both in and outside Kentucky.

Wages paid to a nonresident of Kentucky to the extent paid for services rendered in Kentucky are subject to withholding, except for wages paid to employees of those states that have entered into reciprocal agreements with Kentucky. (See Section III.) A completed Form K-4 (42A804), Kentucky's Withholding Certificate, must be on file for each employee.

Agricultural workers are subject to withholding for Kentucky purposes unless remuneration is paid in any medium other

than cash, the cash amount received by an employee is less than \$150 during the calendar year and employer's calendar year labor expense is less than \$2,500.

II. WITHHOLDING TAX FORMS

Following are the withholding forms which may be used by the employer. Reference will be made to them throughout this booklet.

10A100	Kentucky Tax Registration Application
K-1*	Employer's Return of Income Tax Withheld
K-3*	Employer's Return of Income Tax Withheld (Annual Reconciliation)
42A801(D)	Amended K-1
42A803(D)	Amended K-3
42A804	Form K-4, Kentucky's Withholding Certificate
42A805	Form K-5, Kentucky Employer's Report of Withholding Tax Statements
42A806	Transmitter Report for CD Submission
42A808	Authorization to Submit Annual Employee Wage and Tax Statements via Kentucky Department of Revenue Web site.

*Employers that have been granted an electronic filing waiver will be mailed forms K-1 or K-3 at the end of each reporting period. These preprinted forms contain important processing information and cannot be furnished in blank form. When a form is misplaced or not received, an employer should request another form be issued. When requesting any of these forms, please furnish the employer's correct name, address, Kentucky withholding account number and the period for which the form is requested.

Online Filing of Withholding Tax Returns—The Kentucky Department of Revenue has implemented online filing of Withholding Tax returns and payments. WRAPS, Withholding Return and Payment System, provides the ability to file Withholding Tax returns online.

Taxpayers may file returns, view and/or amend returns previously filed online, request refunds and credit forwards, as well as pay their Withholding Tax using the Enterprise Electronic Payment System.

Please visit revenue.ky.gov to review the WRAPS user guide and register for WRAPS.

***Bulk Filing of Withholding Tax Returns—The Kentucky Department of Revenue has implemented a Bulk Filing system for payroll companies who choose to file a large number of Withholding Tax Returns in a single file. For details regarding how to become a Bulk Filer; please refer to the Department of Revenue Gateway Registration Overview on our website at revenue.ky.gov.

III. KENTUCKY'S WITHHOLDING CERTIFICATE

Form K-4—Kentucky's Withholding Certificate;

All Kentucky wage earners are taxed at a flat 4.5% tax rate with a standard deduction allowance annually adjusted by the Department of Revenue in accordance with KRS 141.081(2)(a).

There are no personal exemptions. However, an employee may be exempt from withholding if they meet the criteria defined on the Form K-4.

- An Employee may be exempt from withholding for the current tax year if both of the following apply:
 - For the prior tax year; the employee had a right to a refund of all Kentucky income tax withheld because they had no Kentucky income tax liability; and
 - For the current tax year; the employee expects a refund of all Kentucky income tax withheld.
- Under the provisions of Public Law 105-261, pay and compensation earned at the Fort Campbell, Kentucky, military base is exempt from Kentucky income tax if you are not a resident of Kentucky. KRS 141.010 (32) defines "resident" as an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- An employee may be exempt from withholding, if they meet the conditions set forth under the Servicemember Civil Relief Act as amended by the Military Spouses Residence Relief Act.
- An employee may be exempt from withholding if they work in Kentucky but reside in one of the following reciprocal states: Illinois, Indiana, Michigan, West Virginia, Wisconsin, Virginia and commutes daily or Ohio and are not a shareholder-employee who is a "twenty (20) percent or greater" direct or indirect equity investor in a S corporation.

If any of the four criteria are met; the employee is exempt from Kentucky Withholding. The employee must complete Form K-4 and file it with the employer before withholding will be discontinued.

IV. EMPLOYER FILING REQUIREMENTS

Employers report and pay Kentucky withholding tax annually, quarterly, monthly or twice monthly. Employers who accumulate \$100,000 or more tax during any reporting period must remit payment within one banking day. Regardless of the assigned reporting and payment frequency, **returns must be filed even when no Kentucky income tax was withheld during the period.** Delinquent returns interrupt normal processing and often result in assessments which easily could have been prevented. The filing methods are described below.

A. Annual Filing

Employers withholding less than \$400 Kentucky income tax a year will be required to file a return and remit the tax annually. The employer will be notified by DOR when the account is placed on an annual filing basis. The annual return (Form K-3) is filed with DOR by January 31, following the close of the calendar year. The tax due is to be paid in full at the time the return is filed. Tax paid should reconcile with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Form W-2). **The K-3 return must be filed even if no tax was withheld during the period. See Section VI for the withholding statement requirements.**

Employers assigned to an annual frequency who wish to file quarterly may be changed if a request is made in writing. Employers requesting this change should submit the request to the Withholding Tax Branch, Department of Revenue, P.O. Box 181, Station 57, Frankfort, Kentucky 40602-0181 or by e-mail at DOR.WebResponseWithholdingTax@ky.gov.

Employers on annual filing frequencies are required to electronically file and pay the income tax withheld for periods beginning on or after January 1, 2022. (103 KAR 18:150)

B. Quarterly Filing

Employers withholding \$400-\$1,999 Kentucky income tax a year must file and pay on a quarterly basis.

Employers on quarterly filing frequencies are required to electronically file and pay the income tax withheld for periods beginning on or after January 1, 2022. (103 KAR 18:150)

1. Form K-1

The quarterly return (Form K-1) must be submitted for the **first three quarters** of the calendar year. The return **must be filed** with the Department of Revenue on or before the last day of the month following the end of the quarter.

Payment of the tax withheld for the quarter must be submitted with the return. **The return must be filed even if no income tax was withheld for the period.**

2. *Form K-3*

Employers on a quarterly filing basis must file a quarterly return and annual reconciliation (Form K-3) for the fourth quarter. In addition to submitting the tax withheld for the fourth quarter, an annual reconciliation area is provided for balancing the employer’s account.

Tax paid for the first three quarters plus the tax due for the fourth quarter should reconcile with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Form W-2).

If the account is overpaid, credit may be taken against any tax due for the fourth quarter. All overpayments and underpayments will be verified by DOR.

The K-3 return must be filed even if no income tax was withheld for the period. See Section VI for the withholding statement requirements.

QUARTERLY FILING		
Period	Form	Due Date
January–March	K-1	April 30
April–June	K-1	July 31
July–September	K-1	October 31
October–December	K-3	January 31

C. **Monthly Filing**

Employers withholding \$2,000-\$49,999 Kentucky income tax a year must file and pay on a monthly basis. Employers meeting the monthly filing requirement must notify DOR and be placed on a monthly filing basis. When an account has been placed on monthly filing and the employer fails to file monthly, applicable interest and penalties will be assessed as described in Section X.

Effective May 5, 2020, Kentucky’s tax law requires employers filing on a monthly frequency to **electronically file** and pay the income tax withheld for periods beginning on or after January 1, 2021.

1. *Form K-1*

The monthly return (Form K-1) must be filed for the **first 11 months** of the year. The return must be filed with the Department of Revenue on or before the 15th day of the following month. Payment of tax withheld for the month must be submitted with the return. **The return must be filed even if no income tax was withheld for the period.**

2. *Form K-3*

Employers on a monthly filing basis must file a Form K-3 for the last month of the calendar year. In addition to submitting the tax withheld for December, an annual reconciliation area is provided for balancing the employer's account.

Tax paid for the first 11 months plus the tax due for December should reconcile with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Form W-2).

If the account is overpaid, credit may be taken against any tax due for December. All overpayments and underpayments will be verified by DOR.

The K-3 return must be filed even if no income tax was withheld for the period. See Section VI for the withholding statement requirements.

MONTHLY FILING		
Period	Form	Due Date
January	K-1	February 15
February	K-1	March 15
March	K-1	April 15
April	K-1	May 15
May	K-1	June 15
June	K-1	July 15
July	K-1	August 15
August	K-1	September 15
September	K-1	October 15
October	K-1	November 15
November	K-1	December 15
December	K-3	January 31

D. **Twice-Monthly Filing**

Employers withholding \$50,000 or more Kentucky income tax a year must file and pay on a twice-monthly basis. Employers meeting the twice-monthly filing requirement must notify DOR and be placed on a twice-monthly basis. When an account has been placed on twice-monthly filing and the employer fails to file twice-monthly, applicable interest and penalties will be assessed as described in Section X.

Effective May 5, 2020, Kentucky’s tax law requires employers filing on a twice-monthly frequency to **electronically file** and pay the income tax withheld for periods beginning on or after January 1, 2021.

1. *Form K-1*

The twice-monthly return (Form K-1) must be filed for the first through the 15th of the month and is due on or before the 25th of the month; the 16th through the end of the month is due on or before the 10th of the following month. Payment of tax withheld for the reporting period must be submitted with the return. **The return must be filed even if no income tax was withheld for the period.**

2. Form K-3

Employers on a twice-monthly filing basis must file a Form K-3 for the last reporting period of the calendar year. In addition to submitting the tax withheld for the last reporting period of the year, an annual reconciliation area is provided for balancing the employer's account.

Tax paid for the first 11 months plus the tax due for December should reconcile with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Form W-2).

If the account is overpaid, credit may be taken against any tax due for the last reporting period. All overpayments and underpayments will be verified by DOR.

The K-3 return must be filed even if no income tax was withheld for the period. See Section VI for the withholding statement requirements.

TWICE-MONTHLY FILING

Reporting Period	Return and Payment Due Date
January 1-January 31*	February 10
February 1-February 15	February 25
February 16-February 28	March 10
March 1-March 15	March 25
March 16-March 31	April 10
April 1-April 15	April 25
April 16-April 30	May 10
May 1-May 15	May 25
May 16-May 31	June 10
June 1-June 15	June 25
June 16-June 30	July 10
July 1-July 15	July 25
July 16-July 31	August 10
August 1-August 15	August 25
August 16-August 31	September 10
September 1-September 15	September 25
September 16-September 30	October 10
October 1-October 15	October 25
October 16-October 31	November 10
November 1-November 15	November 25
November 16-November 30	December 10
December 1-December 15	December 26
December 16-December 31**	January 31

* First reporting period of year will be for the entire month of January and due on February 10.

** Payment and return will be on Form K-3, Annual Reconciliation, due January 31.

E. One-Day Deposit

Employers who accumulate \$100,000 or more Kentucky income tax withheld during any reporting period must remit payment within one banking day. Employers who meet this requirement for the first time should contact the EFT area at (502) 564-6020 for instructions.

V. TERMINATION OF BUSINESS

If an employer discontinues business during the year, the following actions must be taken to close the withholding account:

1. Fill out Form 10A104, Update or Cancellation of Kentucky Tax Account(s) and return to Department of Revenue. **This step must be taken. Failure to do so will generate computer notices which could result in assessments for delinquent returns.**
2. Provide a Form W-2 for each employee; and report the withholding statements to DOR electronically on CD or on Form K-5.
3. Prepare and file Form K-3 via wraps.ky.gov. An email will be sent to the email address on file notifying you when the form is available.

VI. WITHHOLDING STATEMENTS

Withholding Statement Reporting to Employees

Employers must furnish the designated copies of the Wage and Tax Statement (Form W-2) to their employees by January 31. This is required by Regulation 103 KAR 18:050.

If an employee is discharged or terminates his or her employment during the year and requests a withholding statement, the employer must provide the employee with the designated copies of Form W-2 within 30 days of the last payment of wages or within 30 days of the request.

Employers may use an approved commercially printed six-part Form W-2. It is important that the Kentucky withholding account number be listed on the Wage and Tax Statements (Form W-2). Many employers list only the Federal Identification Number, which causes processing problems of the employee's individual income tax returns.

Commercially printed forms must include:

1. a legible copy for the employee stating that it is to be attached to his or her Kentucky income tax return;
2. a copy for the employee's personal records;
3. an acceptable format with spaces designated as follows:
 - a. taxable wages;
 - b. Kentucky taxable wages;
 - c. Kentucky tax withheld and federal tax withheld;
 - d. employer's Kentucky withholding account number and federal identification number;
 - e. employee's Social Security number;
 - f. employee's name and address;
 - g. employer's name and address; and
 - h. name of state.

Withholding Statement Reporting to DOR

Withholding statements include Forms W-2, W-2G, and 1099 Series. Do not mail paper copies of the withholding statements to the DOR. **Paper copies of Forms W-2, W-2G, and 1099 Series received by the DOR will not be processed and will not be considered filed. Retain the paper forms for your records and only provide copies upon request.**

The withholding statement information must be either submitted electronically or reported using Form K-5. Withholding statement information must be submitted to DOR by January 31. Failure to furnish the required withholding statement information may result in penalties in accordance with KRS 131.180(3).

Only report 1099 data to the DOR when Kentucky tax has been withheld.

Electronic Filing Threshold

Regulation 103 KAR 18:050(4) requires any employer or payer issuing 26 or more withholding statements (Forms W-2, W-2G, and 1099 Series) annually to file electronically. Employers and payers issuing fewer than 26 withholding statements that are not filed electronically must file Form K-5.

Withholding Statement Format and Filing Methods

- The EFW2 format for W-2 electronic files must be submitted via Web Filing or on CD.
- The Publication 1220 format for W-2G and 1099 electronic files must be submitted on CD.
- Form K-5 is required for withholding statements not reported in an electronic file format.
 - Form K-5 is completed online and either filed electronically by clicking the submit button or printed with a barcode and mailed to DOR. The K-5 print and mail option is only available for those reporting fewer than 26 withholding statements.

Web Filing and CD Electronic Filing of W-2 Information

DOR follows the federal specification format for filing W-2 data electronically. This does not mean a duplicate copy of your federal electronic file is acceptable. There are differences in the data record requirements and some differences in procedural requirements between the federal and state formats.

Kentucky follows the SSA's EFW2 specifications with DOR defined RS Records for filing W-2 information. Specifications are available at <https://revenue.ky.gov/Business/Pages/Employer-Payroll-Withholding.aspx>

Web Filing is the preferred method of reporting annual Wage and Tax Statement (W-2) information. DOR has designed a secure website to provide this functionality. Web Filing streamlines the processing of the wage and tax information and offers an easy, secure way to meet the filing requirements. For information regarding participation in the Web Filing method to electronically file wage and tax information, contact the Withholding Tax Compliance Section at (502) 564-1900 or by e-mail at

DOR.WebResponseWithholdingTax@ky.gov.

CD submission is another filing option to report annual Wage and Tax Statement (W-2) information. Employers and third-party processors who do not register for web filing may utilize this filing method to submit EFW2 files to the DOR. All CD submissions must accompany a Transmitter Report, Form 42A806.

CD Electronic Filing of W-2G and 1099 Information

DOR follows the federal Publication 1220 specification format for filing W-2G and 1099 data electronically. DOR defined B Records are required when reporting Kentucky statements. Specifications are available at <https://revenue.ky.gov/Business/Pages/Employer-Payroll-Withholding.aspx>

CD submission is the only method of filing W-2G and 1099 data in the Publication 1220 electronic format. All CD submissions must accompany a Transmitter Report, Form 42A806.

Only report 1099 data to the DOR when Kentucky tax has been withheld.

Form K-5 Filing of W-2, W-2G, and 1099 Information

Form K-5 must be used to report W-2, W-2G, and 1099 information that is not filed in an electronic file format. The K-5 is completed online and may be filed electronically by clicking the submit button or it may be printed and mailed to the DOR at the address on the form.

The online electronic filing method may be used to report any number of withholding statements. However, the print and mail filing method is only an option available for those reporting fewer than 26 withholding statements. Form K-5 is available at <https://revenue.ky.gov/Business/Pages/Employer-Payroll-Withholding.aspx>

K-5 Filing Tips

- Only report Kentucky W-2's, W-2G's, and 1099's.
- Only report 1099's that have Kentucky tax withheld.
- Incomplete forms cannot be submitted or saved.
- 26 or more withholding statements requires electronic filing.
- A separate Form K-5 must be filed for each type Form W-2, W-2G, or 1099.
- W-2C's cannot be reported on Form K-5.
- Be sure to retain a copy of the completed Form K-5 for your records.
- Tax years prior to 2018 may be reported on Form K-5 – requires electronic filing.
- Do not mail paper copies of W-2's, W-2G's, or 1099's to the DOR. Paper copies of Forms W-2, W-2G, and 1099 received by the DOR will not be processed and will not be considered filed. Retain the paper forms for your records and only provide copies upon request.

Form W-2C – Corrected Wage and Tax Statement

W-2 corrections can only be made via paper and must be reported by filing Form W-2C, not Form K-5.

VII. ELECTRONIC FUND TRANSFER

Employers whose average monthly income tax withholding exceeds the amount referred to in Regulation 103 KAR 1:060 will be required to submit tax payments via electronic fund transfer (EFT). DOR will notify employers when they reach this threshold.

DOR offers business entities the opportunity to voluntarily pay their withholding tax via EFT. KRS 131.155—**Electronic Fund Transfer** was amended by the 2000 General Assembly to require that all electronic fund transfer payers remit payment to DOR by the debit method or other means as prescribed by DOR. DOR may also require reporting agents whose aggregate payment on behalf of multiple taxpayers is in excess of the threshold or anyone who reports and pays for more than 100 individual accounts to remit all payments via electronic fund transfer. The current threshold for mandatory electronic fund transfer established by Regulation 103 KAR 1:060 is \$25,000 for withholding taxes. Many business entities find this a convenient and efficient way to remit their tax payments.

To be eligible for EFT, the business must be registered with DOR for withholding tax filing purposes. The business must then register with DOR's EFT group. Applications for EFT may be obtained by contacting the EFT Group at (502) 564-6020, or by visiting one of DOR's taxpayer service centers. Once the completed application is received and processed the business will be notified that they may begin remitting payments via EFT and will receive specific instructions for the payment method selected.

KRS 131.155(5)

Taxpayers and any other persons who are required to collect and remit taxes administered by the department by electronic fund transfer shall be entitled to receive refunds for any overpayment of taxes or fees by electronic fund transfer. Form 42A815, Withholding Tax Refund Application, must be submitted to request an electronic refund.

VIII. SUMMARY OF EMPLOYER REQUIREMENTS

1. DOR uses a combined application for registration of withholding, corporation, coal and sales and use taxes. Employers required to withhold Kentucky income tax must complete Sections A, B, C and D of this form. A withholding account number is required when an employer has one or more employees as defined in Section 3401 of the Internal Revenue Code currently in effect for Kentucky.
2. The employer must withhold tax according to the tables or computer formula.
3. The employer must send payment of all income tax withheld for the applicable period to the Department of Revenue electronically via wraps.ky.gov or a third party vendor.
4. On or before January 31 of each year, or at the termination of employment, the employer must give each employee a wage and tax statement in duplicate using Form

W-2 (Copies No. 2, B and C) or a previously approved commercially printed wage and tax statement showing:

- a. taxable wages;
- b. Kentucky taxable wages;
- c. Kentucky tax withheld and federal tax withheld;
- d. employer's Kentucky withholding account number and federal identification number;
- e. employee's Social Security number;
- f. employee's name and address;
- g. employer's name and address; and
- h. name of state.

5. The employer must file Form K-3, Employer's Return of Income Tax Withheld, on or before January 31 of each year. Form K-3 is a combination return reporting income tax withheld for the period ending December 31, and reconciling withholding for the year. **The employer must report Wage and Tax Statement information to DOR by January 31.**
6. Income exempt from Kentucky withholding is generally the same as under federal law. The chief classes exempt are domestic workers, fees paid to public officials and ministers.
7. Employers required to withhold Kentucky income tax are generally the same as under federal law. **It is necessary to report W-2 information for each employee even if there may be no Kentucky income tax withheld.**
8. Employers that have provided sufficient justification that they are unable to file electronically and have been granted a waiver by the Department of Revenue, will be mailed forms K-1 or K-3 at the end of each reporting period. These preprinted forms contain important processing information and cannot be furnished in blank form. When a form not received contact DOR to request a replacement. When requesting any of these forms, please furnish the employer's correct name, address, Kentucky withholding account number and the period for which the form is requested.
9. Other Employer Requirements

You may need to register for a Kentucky Unemployment Insurance account. Please visit <https://kewes.ky.gov> for additional information.

Kentucky businesses are required to comply with the Kentucky Revised Uniform Unclaimed Property Act, codified as KRS Chapter 393A. If you have uncashed vendor checks, payroll checks, unclaimed customer deposits or refunds, or other types of property belonging to third-parties, you may be required to turn the property over to the Kentucky State Treasury. Please review KRS Chapter 393A, or visit <https://treasury.ky.gov> for more information.

IX. GAMBLING WINNINGS

Regulation 103 KAR 18:070 establishes the withholding rate on gambling winnings at the maximum income tax rate in KRS 141.020. Every person making a payment of gambling winnings that is subject to federal tax withholding must deduct and withhold from the payment Kentucky income tax. The withholding tax rate for gambling winnings is 4.5 percent of the proceeds paid (the amount of winnings minus the amount of the bet). The Kentucky tax withheld from gambling winnings should be reported and paid on the payee's withholding account. The winnings and tax withheld should be reported and paid on Form K-1 or K-3 return.

Gambling winnings of more than \$5,000 from the following sources are subject to income tax withholding.

- Any sweepstakes, wagering pool, or lottery.
- Any other wager, if the proceeds are at least 300 times the amount of the bet.

Gambling winnings from bingo, keno, and slot machines are generally not subject to income tax withholding.

The definition of *wages* in KRS 141.010(37) includes *gambling winnings* subject to withholding as provided in Section 3402(q) of the Internal Revenue Code. Additional information is available in Internal Revenue Service Publication 505, Tax Withholding and Estimated Tax.

X. INTEREST, PENALTIES, BOND REQUIREMENT AND CORPORATE OFFICER LIABILITY

A. **Interest (KRS 141.985)**—If the tax, whether assessed by DOR or the taxpayer, or any installment or portion of the tax is not paid on or before the due date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount computed from the due date until paid.

B. **Penalties (KRS 131.180 and 131.990)**—Any employer who fails to withhold and remit taxes as required by KRS Chapter 141 may be subject to the following penalties.

1. *Late filing of return*—2 percent of the total tax due for each 30 days or a fraction thereof the return or report is late, not to exceed 20 percent (minimum \$10).
2. *Late payment or failure to withhold tax*—2 percent of the tax not timely paid or withheld for each 30 days or fraction thereof the payment is late, not to exceed 20 percent (minimum \$10).

3. *Failure to timely obtain identification number, permit, license or other document of authority*—10 percent of any cost or fee required for issuance (minimum \$50).

4. *Failure to file return or furnish information*—Any employer required to furnish a wage and tax statement who fails to furnish a statement, may for such failure be subject to civil penalty of \$25 for each return (minimum \$100).

5. *Failure to file returns or statements electronically*—Any taxpayer or tax return preparer who fails or refuses to file a return, report, or statement electronically may be assessed a processing fee of ten dollars (\$10) for each return.

C. **Criminal Penalty (KRS 141.990)**—Any employer who willfully fails to make a return, or willfully makes a false return, or who willfully fails to pay the tax owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

D. **Criminal Penalty (KRS 514.040)**—A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee. Theft by deception is a Class A misdemeanor unless the amount of the check or sight order is \$500 or more but less than \$10,000, in which case it is a Class D felony; or \$10,000 or more, in which case it is a Class C felony.

E. **Bond Requirement (KRS 141.310(14))**—Any employer may be required to post a bond with DOR. Action to restrain or enjoin the operation of an employer's business may be taken until the bond is posted and/or the tax is paid. The amount of the bond shall not exceed \$50,000.

F. **Corporate Officer Liability (KRS 141.340(2))**—Certain corporate officers shall be held liable for any tax required to be withheld from wages paid to employees of the corporation.

XI. COMPUTER FORMULA (OPTIONAL WITHHOLDING METHOD)

The current year Computer Formula example and tax tables can be found at revenue.ky.gov.

XII. TAXABLE/EXEMPT CHART

Withholding tax law is based on the federal withholding tax law currently in effect for Kentucky. DOR generally follows the administrative regulations and rulings of the Internal Revenue Service in those areas where no specific Kentucky law exists.

The Kentucky Legislature has provided for the prospective adoption of amendments to the Internal Revenue Code currently in effect for Kentucky, which would extend provisions that would otherwise terminate, providing any subsequent federal legislation is limited only to the extension of the statute.

The chart below has been prepared as a quick reference guide to the withholding tax treatment of many types of payments or payees.

Situation	Kentucky Withholding Treatment
Agricultural Workers—Wages	Required*
Aliens	Required
Bonuses	Required
Cafeteria Plans	Not Required
Clergy	Not Required
Company Cars	Required
Contractors	Not Required
Dependent Care Assistance Programs	Not Required
Directors and Officers	Required
Dismissal or Severance Pay	Required
Domestic Workers	Not Required
Election Campaign Workers	Not Required
Family Employment	Required
Federal Thrift Savings Fund	Not Required*
Flexible Benefit Plans	Not Required
Fringe Benefits	Not Required*
Golden Parachute Payments	Required
Group-Term Life	Not Required*
Health Care Plans	Not Required
IRA	Not Required
Loans	Not Required
Meals and Lodging	Not Required*
Moving Expenses	Required
Nonprofit Organizations	Required
Pensions	Not Required
Retirement and Pension Plans (401K Plan)	Not Required*
Scholarships and Grants	Not Required
SEP Plan	Not Required*
Sick Pay	Required*
Third-Party Sick Pay	Not Required
Tips	Required (over \$20)
Travel Expenses	Not Required*
Vacation Pay	Required

*Refer to Internal Revenue Code currently in effect for Kentucky.

XIII. COMMONLY ASKED QUESTIONS AND ANSWERS

1. Who is considered an employee?

An employee is someone who receives wages for services performed for his or her employer. The term wages includes all remuneration (other than fees paid to a public official) for services performed. Therefore, wages earned for services performed in Kentucky are subject to Kentucky withholding. Corporate officers are also considered employees.

2. How do I obtain a Withholding Tax Account Number?

- The employer may register online at <https://onestop.ky.gov/Pages/default.aspx>.
- The employer may fill out the Kentucky Tax Registration Application, Revenue Form 10A100. Once received, the application will be reviewed and an account number and filing frequency will be assigned. Applications may be obtained online at <https://revenue.ky.gov/Pages/index.aspx>, by contacting the nearest Kentucky Taxpayer Service Center or the following address:

Department of Revenue
 ATTN: FORMS
 Station 23B
 Frankfort, Kentucky 40620
 (502) 564-3658

3. Is an out-of-state employer required to withhold?

Regulation 103 KAR 18:010(2) provides that wages paid to nonresidents are subject to withholding to the extent that they earned wages while working in Kentucky unless the nonresident employee is a resident of a reciprocal state. An out-of-state employer may voluntarily withhold Kentucky tax on a Kentucky resident who is working outside of Kentucky.

4. Does an employer have to withhold tax on a spouse or relative?

Yes. Tax must be withheld on a spouse employed by a spouse, son or daughter employed by parent, a parent employed by a son, daughter, or any other employee-relative.

5. What is a K-5?

A K-5 is used to report withholding statement information from W-2's, W-2G's, and 1099's that has not been submitted in an electronic file (EFW2 or Publication 1220 format). The K-5 is completed online and can be filed by clicking the submit button or it may be printed and mailed to the address on the form. The print and mail option is **only** available for those reporting fewer than 26 withholding statements.

6. What happens if an employer does not submit copies of W-2s to his or her employees or DOR?

Penalties will be assessed per KRS 131.180.

7. Is Form 1099 required to be filed with Kentucky?

Form 1099 is only reported to Kentucky when Kentucky tax has been withheld. 1099 information may be reported in an electronic file on CD in the Publication 1220 format or it may be reported on Form K-5.

8. Is tax required to be withheld on agricultural labor?

Kentucky income tax law is based on the Internal Revenue Code currently in effect for Kentucky. Section 3121(a) of the Internal Revenue Code includes agricultural wages as being taxable unless remuneration is paid in any medium other than cash, the cash amount received by an employee is less than \$150 and the employer's labor expense is less than \$2,500. Therefore, any agricultural wages taxable for federal purposes would also be considered taxable for Kentucky.

9. Is Kentucky tax required to be withheld on pensions?

No. Kentucky tax may be withheld voluntarily, but is not required.

10. How do I amend information on a previously filed return?

Online filers may amend previously filed periods online by locating the period to be amended and selecting "Click here to amend the return" displayed under the "Return Status" heading. For additional assistance amending a return online, please go to the WRAPS Home Page, Important Links and select the Public User Guide.

XIV. FORMS AVAILABLE ONLINE AT *revenue.ky.gov*

Withholding Tax Forms

42A801(D)	Amended K-1
42A803(D)	Amended K-3
42A804	Form K-4—Kentucky's Withholding Certificate
42A805	Form K-5—Kentucky Employer's Report of Withholding Tax Statements
42A806	Transmitter Report for CD Submission of Electronic Files—EFW2 or Publication 1220 Format
42A808	Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site
42A815	Withholding Tax Refund Application
42A003	Withholding Tax Book—Instructions for Employers
42A003(T)	Withholding Tax Tables



IMPORTANT INFORMATION FOR KENTUCKY EMPLOYERS CONCERNING WORKERS COMPENSATION INSURANCE

Every Kentucky employer with one or more employees is required to maintain workers compensation insurance. (KRS 342.630) There are no special exceptions for family member or part-time employees. Out of state employers performing any work in this state are required to have Kentucky workers compensation insurance. Keep in mind that workers often referred to as "day laborers (contract labor)" are considered employees under the Workers Compensation Act and must be covered.

Exempted by statute are farm laborers, domestic servants working in a private home of an employer who has less than two employees, workers employed by a homeowner for residential maintenance, remodeling and repair lasting no more than 20 consecutive work days, and employees protected by federal laws, including railroad and maritime workers. (KRS 342.650)

Compliance with the Act

The Enforcement Branch of the Office of Workers Claims seeks compliance of all employers in the state. This is accomplished by regular inspections of employers to verify compliance. The Office of Workers Claims can issue a citation resulting in a fine of \$100 to \$1,000 for each offense. The fine can be substantial since each employee and each day of violation shall constitute a separate offense [KRS 342.990(7)(c)]. An injunction prohibiting the employer from doing business until it comes into compliance can be obtained. The statute also prohibits the employer from deducting premium from wages or salary of any employee entitled to benefits.

Kentucky does not sponsor a state-run insurance program. Therefore, it is the employer's responsibility to secure the insurance from a private carrier. Workers compensation insurance may be obtained by purchasing a policy from an insurance agent that represents approved insurance companies.

This information form provides a brief explanation of the Workers Compensation Act. Additional information can be obtained by contacting the Kentucky Education and Labor Cabinet, Department of Workers Claims Enforcement Branch at 1-502-564-5550 or 1-800-731-5241. Our Internet Web site is www.labor.ky.gov/comp.

