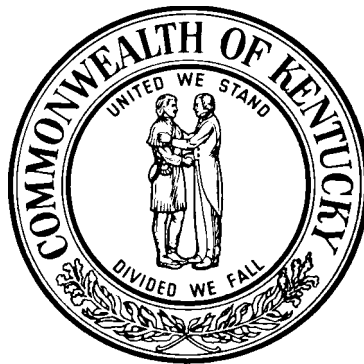


**WITHHOLDING
KENTUCKY INCOME TAX**



INSTRUCTIONS FOR EMPLOYERS

Revised July 2006

Commonwealth of Kentucky
DEPARTMENT OF REVENUE
Frankfort



Forms

Operations and Support Services Branch
200 Fair Oaks Lane
Frankfort, KY 40620
(502) 564-3658

Information

Withholding Tax Inquiries (502) 564-7287
Telecommunication Device for the Deaf (502) 564-3058

Forms and Information on the Internet revenue.ky.gov

KENTUCKY TAXPAYER SERVICE CENTER LOCATIONS
revenue.ky.gov/aboutus/taxpayerservicecenters.htm

Ashland

134 Sixteenth Street, 41101-7670
(606) 920-2037
Fax: (606) 920-2039

Louisville

620 South Third Street, Suite 102, 40202-2446
(502) 595-4512
Fax: (502) 595-4205

Bowling Green

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

Northern Kentucky

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

Central Kentucky

200 Fair Oaks Lane
Frankfort, 40620
(502) 564-4581 (Taxpayer Assistance)
Fax: (502) 564-8946

Owensboro

311 West 2nd Street, 42301-0734
(270) 687-7301
Fax: (270) 687-7244

Corbin

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

Paducah

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

Hopkinsville

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

Pikeville

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

**Kentucky Department of Revenue
Mission Statement**

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, religion, age or disability in employment or
the provision of services.*

TABLE OF CONTENTS

SECTION	PAGE
Kentucky Taxpayer Service Center Locations	inside front cover
Kentucky Department of Revenue Web Page	inside front cover
I. Wages Subject to Withholding	1
II. Withholding Forms	1
III. Employee Exemption Certificates	1
IV. Employer Filing Requirements	2
Annual Filing	2
Quarterly Filing	2
Monthly Filing	3
Twice-Monthly Filing	3
One-Day Deposit	4
V. Termination of Business	4
VI. Wage and Tax Statements	4
Web Filing, Diskette and CD Reporting of Wage and Tax Statements	4
VII. Electronic Fund Transfer	5
VIII. Summary of Employer Requirements	5
IX. Gambling Winnings	5
X. Interest, Penalties, Bond Requirement and Corporate Officer Liability	5
XI. Computer Formula (Optional Withholding Method)	6
XII. Taxable/Exempt Chart	6
XIII. Commonly Asked Questions and Answers	6
XIV. Forms Available Online	7
Notice—Information Concerning Worker's Compensation Insurance	8
Appendix Sample Withholding Tax Forms	9

WITHHOLDING ON SALARIES AND WAGES UNDER THE KENTUCKY INCOME TAX LAW

INSTRUCTIONS FOR EMPLOYERS

I. WAGES SUBJECT TO WITHHOLDING

For Kentucky withholding tax purposes, the terms *wages*, *employee* and *employer* mean the same as defined in Section 3401 of the Internal Revenue Code in effect December 31, 2004. 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 a nonresident of Kentucky to the extent paid for services rendered in Kentucky are subject to withholding, except for wages paid employees of those states that have entered into reciprocal agreements with Kentucky. (*See Section III.*) A completed Form 42A809, Certificate of Nonresidence, 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 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-2	Wage and Tax Statement
K-3*	Employer's Return of Income Tax Withheld (Annual Reconciliation)
K-4	Employee's Withholding Exemption Certificate
K-4A	Withholding Exemptions for Excess Itemized Deductions
K-4E	Special Withholding Exemption Certificate
42A809	Certificate of Nonresidence
K-4FC	Fort Campbell Exemption Certificate
K-1E*	Employer's Return of Income Tax Withheld (Electronic Funds Transfer)
K-3E*	Employer's Return of Income Tax Withheld (Annual Reconciliation) (Electronic Funds Transfer)
42A806	Transmitter Report for Filing Kentucky Wage Statements
42A808	Authorization to Submit Annual Employee Wage and Tax Statements via Kentucky Department of Revenue Web site.

*The reporting forms (K-1, K-1E, K-3 and K-3E) will be mailed to the employer at the end of each reporting period. **These preprinted computer 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.

III. EMPLOYEE EXEMPTION CERTIFICATES

Employees are required to complete an employee's withholding exemption certificate and file it with the employer. The Kentucky Department of Revenue (DOR) has four types of exemption certificates:

- Form K-4—Employee's Withholding Exemption Certificate;
- Form K-4E—Special Withholding Exemption Certificate;
- Form 42A809—Certificate of Nonresidence; and
- Form K-4FC—Fort Campbell Exemption Certificate.

A. Employee's Withholding Exemption Certificate (Form K-4)

Form K-4 is the standard certificate and authorizes the employer to withhold Kentucky income tax based on the exemptions claimed. The number of withholding exemptions claimed by the employee shall not exceed the number to which he or she is entitled. The exemptions to which an employee is entitled are explained in detail on Form K-4.

Form K-4A is provided for employees to use as a worksheet to determine if they may claim additional exemptions on Form K-4 due to an unusually large amount of itemized deductions. If an employee does not properly complete the K-4, the employer must withhold the tax as if no exemptions were claimed.

B. Special Withholding Exemption Certificate (Form K-4E)

An employee may be entitled to claim exemption from withholding of Kentucky income tax if no income tax liability is anticipated for the current year. If the employee is entitled to claim this exemption and completes Form K-4E, the employer will not withhold Kentucky income tax from their wages. The filing threshold amount is based on federal poverty level guidelines and adjusted annually. For more information on the current threshold amounts or current year exemption forms, contact the Department of Revenue, Withholding Tax Branch at (502) 564-7287.

C. Certificate of Nonresidence (Form 42A809)

Under reciprocal tax agreements, salaries or wages earned in Kentucky are exempt from Kentucky withholding tax if:

1. the employee is a resident of Illinois, Indiana, Michigan, Ohio, West Virginia, or Wisconsin; or
2. the employee resides in Virginia and commutes **daily** to his or her place of employment in Kentucky. Form 42A809 **must** be completed and certified by the employee and maintained in the employer's file to exempt such nonresidents from Kentucky withholding.

Contact DOR for further details on reciprocal agreements with other states since their laws may vary from year to year.

D. Fort Campbell Exemption Certificate (Form K-4FC)

Under the provisions of Public Law 105-261, pay and compensation earned at Fort Campbell, Kentucky, military bases is exempt from Kentucky income tax if the employee is not a resident of Kentucky. KRS 141.010(17) 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 183 days of the taxable year in this state.

If the employee is not a resident, Form 42A807 must be completed and filed. It is the employee's responsibility to notify the employer to revoke this certificate 10 days after a move or change of address.

Employers: Keep a copy of Form 42A807 for your files and mail a copy with your name and federal or Kentucky identification number to the Kentucky Department of Revenue, P.O. Box 181, Frankfort, Kentucky 40602-0181 within 30 days of receipt.

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 reporting and payment frequency, **returns issued to employers must be filed even though no Kentucky income tax was withheld during that 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. The return must be filed even though no tax was withheld during the period. **DOR's copy of the Wage and Tax Statements (Forms K-2) issued to employees must be submitted separately with Transmitter Report (Form 42A806) by the due date of January 31.** (See Section VI for additional information.)

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.

B. Quarterly Filing

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

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, Frankfort, Kentucky 40619, 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 though 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 adjusting the employer's account.

Form K-3 shows the amount of tax credited to the account for the **first three quarters**. This amount plus the amount withheld for the fourth quarter should agree with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Forms K-2).

If the account is underpaid, the amount of additional tax should be entered on Line 4, Form K-3 and paid with the fourth quarter return. **If the account is overpaid**, credit may be taken on Line 4 against any tax due for the fourth quarter. All overpayments and underpayments will be verified by DOR.

DOR's copy of Wage and Tax Statements (Forms K-2) issued to employees must be submitted separately with Transmitter Report (Form 42A806) by the due date of January 31. (See Section VI for additional information.)

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 requirements must notify DOR and be placed on a monthly filing basis. Employers required to file a return and remit tax withheld monthly shall continue monthly filing unless permission is granted by DOR to file quarterly. 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.

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, Frankfort, Kentucky 40619, 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 though 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 the last month of the year, an annual reconciliation area is provided for adjusting the employer's account.

Form K-3 shows the amount of tax credited to the account for the **first nine months** of the year. This amount plus the amounts submitted for October and November and the amount due for December should reconcile with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Forms K-2).

If the account is underpaid, the amount of additional tax should be entered on Line 4, Form K-3 and paid with the fourth quarter return. **If the account is overpaid**, credit may be taken on Line 4 against any tax due for the fourth quarter. All overpayments and underpayments will be verified by DOR.

DOR's copy of Wage and Tax Statements (Forms K-2) issued to employees must be submitted separately with Transmitter Report (Form 42A806) by the due date of January 31. (See Section VI for additional information.)

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 requirements must notify DOR and be placed on a twice-monthly basis. Employers required to file a return and remit tax withheld twice monthly shall continue twice-monthly filing unless permission is granted by DOR to change filing

frequency. 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.

1. Form K-1

The twice-monthly return (Form K-1) must be filed for the first through the 15th of the month due on or before the 25th of the month; the 16th through the end of the month 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 though 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 adjusting the employer's account.

Form K-3 shows the amount of tax credited to the account for the **first nine months** of the year. This amount plus the amounts submitted for October and November and the amount due for December should reconcile with the total amount of Kentucky tax withheld as shown on the Wage and Tax Statements (Forms K-2).

If the account is underpaid, the amount of additional tax should be entered on Line 4, Form K-3 and paid with the return. **If the account is overpaid**, credit may be taken on Line 4 against any tax due for the last reporting period. All overpayments and underpayments will be verified by DOR.

DOR's copy of Wage and Tax Statements (Forms K-2) issued to employees must be submitted separately with Transmitter Report (Form 42A806) by the due date of January 31. (See Section VI for additional information.)

TWICE-MONTHLY FILING

Return and Payment

Reporting Period	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 Withholding Tax Branch at (502) 564-7287 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. provide a Form K-2 for each employee; and submit DOR's copy separately with transmitter report (Form 42A806);
2. prepare and file a Form K-3;
3. check "request for cancellation" box on back of Form K-1 or K-3. An effective date and phone number must be entered. **It is important that this step be taken. Failure to do this will generate computer notices which could result in assessments for delinquent returns.**

VI. WAGE AND TAX STATEMENTS

Employers must furnish the designated copies of the Wage and Tax Statement (Form K-2) to their employees by January 31. **This is required by Regulation 103 KAR 18:050. DOR's copy of Wage and Tax Statements (Forms K-2) issued to employees must be submitted separately with Transmitter Report (Form 42A806) by the due date of January 31. Failure to furnish these required forms may result in penalties in accordance with KRS 131.180(4).**

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 designated copies of Form K-2 within 30 days of the last payment of wages or within 30 days of the request. The designated copies to be sent to DOR must be included with all other employees' wage and tax statements and filed with Transmitter Report (Form 42A806) on or before the following January 31.

DOR provides a six-part packet of wage and tax statements which contains the federal Form W-2 and Kentucky Form K-2, for reporting income tax withheld to DOR and the Internal Revenue Service. Employers may order the official form or use an approved commercially printed form. Order forms may be obtained by contacting any Kentucky Taxpayer Service Center.

It is very important that the Kentucky Withholding Account Number be listed on the Wage and Tax Statements (Forms K-2). Many employers list only the Federal Identification Number, which causes processing problems. The forms must also be **legible**. Illegible forms are often a major problem in the reconciliation of the employer accounts.

Employers who submit wage and tax statements that are incomplete or are improperly completed are subject to a **penalty of \$10 for each incorrect or delinquent statement**. The statements must be completed as shown in the Appendix of this booklet.

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. a copy to be filed by the employer annually with DOR; and
4. an acceptable format with spaces designated as follows:
 - a. gross wages;
 - b. Kentucky gross wages if different from federal gross wages;
 - c. Kentucky tax withheld and federal tax withheld;

- d. employee's Social Security number;
- e. Kentucky employer account number; and
- f. name of state (commercially printed forms).

Web Filing, Diskette and CD Reporting of Wage and Tax Statements

Web filing is a method of reporting Annual Employee Wage and Tax Information. DOR has designed a secure Web site 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 of electronically reporting wage and tax information, contact the Withholding Tax Compliance Section at (502) 564-7287, ext. 4141, 4653, 4190, 4613 or 4663 or by e-mail at DOR.WebResponseWithholdingTax@ky.gov.

DOR follows the federal specification format for filing K-2 data via magnetic media. This does not mean a duplicate copy of your federal magnetic media is acceptable. There are differences in the data record requirements and some differences in procedural requirements between the federal and state.

Kentucky follows the SSA's MMREF specifications for filing W-2 information.

Diskette and CD Submissions

Regulation 103 KAR 18:050, Section 6 requires any employer who issues **100 or more Forms K-2** annually to utilize an acceptable form of magnetic media. Employers with fewer than 100 Forms K-2 are encouraged, but not required, to utilize magnetic media filing.

The use of magnetic media eliminates the necessity of filing paper K-2s with DOR. Employers and third-party processors who use software to produce paper forms of the K-2 should convert to magnetic media reporting as an alternative to filing paper forms.

The reporting of K-2 information by magnetic media to DOR is required **annually**. This is due by January 31, of the following year. The Withholding Tax Returns (K-1, K-1E, K-3, K-3E) **cannot** be accepted on magnetic media. Only K-2 information can be accepted in a magnetic media format.

Authorization to file magnetic media is not required. However, a Transmitter Report (Form 42A806) should accompany all magnetic media submitted. A reproducible blank transmitter report is included in the Reproducible Forms section of this booklet.

DOR accepts 3.5" diskettes, CDs and Web filing of wage and tax statements (Form K-2/W-2). Any other form of media will be returned as unacceptable.

Required Data Records for Kentucky

THERE IS ONE FORMAT (MMREF-1) FOR CD, DISKETTE AND WEB FILING.

Required Records: RA–Submitter Record, RE–Employer Record, RW–Employer Wage Record, RS–State Record **REQUIRED**, RT–Total Record and RF–Final Record

CDs and Diskettes **will be returned unprocessed if they contain:**

Improper Formatting
Incorrect Record Codes
Incorrect Record Sequence

Additional information for K-2/W-2 submissions:

Be sure to use a blank CD

Diskettes must be 3.5" MS-DOS compatible *double density, 1.44 megabytes* or *high density, 720 kilobytes*.

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 with refund request.

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 in effect December 31, 2004.
2. All employees subject to withholding must complete an Employee's Withholding Exemption Certificate, Form K-4, Form K-4E or Form 42A809. These forms are used by the employer to determine the amount of tax to be withheld and should be on file immediately after an employee begins to work.
3. The employer must withhold tax according to the tables or computer formula.
4. The employer must send payment of all income tax withheld for the applicable period to the Department of Revenue, Frankfort, Kentucky 40619. This payment must be accompanied by Form K-1, Employer's Return of Income Tax Withheld, which will be furnished by DOR.
5. 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 K-2 (Copies "No. 2" and "C") or a previously approved commercially printed wage and tax statement showing:
 - a. gross wages;
 - b. Kentucky gross wages if different from federal gross wages;
 - c. Kentucky tax withheld and federal tax withheld;
 - d. employee's Social Security number;

- e. Kentucky employer account number; and
 - f. name of state (commercially printed forms).
6. 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. **DOR's copy of Wage and Tax Statements (Forms K-2) issued to employees must be submitted separately with Transmitter Report (Form 42A806) by the due date of January 31.**
 7. 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.
 8. Employers required to withhold Kentucky income tax are generally the same as under federal law. **It is necessary to file a Form K-2 for each employee even though there may be no Kentucky income tax withheld.**
 9. All required returns will be mailed to the employer at the end of each reporting period. **These computer forms are preprinted and cannot be furnished in blank form.** If a return is not received, DOR should be notified giving the correct name and address of the employer, Kentucky Withholding Account Number and the period for which the duplicate return is requested.

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 shall deduct and withhold from the payment Kentucky income tax. The withholding tax rate for gambling winnings is 6 percent of the proceeds paid (the amount of winnings minus the amount of the bet).

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(22) 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. **Civil Penalties (KRS 131.180)**—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).
- C. **Criminal Penalty (KRS 141.990(5))**—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(1)(e))**—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 \$300 or more, in which case it is a Class D felony.
- E. **Bond Requirement (KRS 141.310(13))**—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)

Employers may compute Kentucky income tax withholding by the computer formula shown below. **No other formula or withholding method may be used unless specific written approval is granted by DOR.** Further information may be secured by writing the Withholding Tax Branch, Department of Revenue, P.O. Box 181, Frankfort, Kentucky 40602-0181.

Formula:

Gross income for pay period, times number of pay periods annually, equals annual gross income, minus standard deduction, equals taxable income. Compute tax on taxable income from Kentucky tax rate schedule to determine gross annual tax. Gross annual tax minus (\$20 times number of tax credits claimed) equals annual tax divided by number of pay periods annually equals Kentucky withholding tax for pay period.

Kentucky Tax Rate Schedule

- 2% of the first \$3,000 of net income;
- 3% of the next \$1,000 of net income;
- 4% of the next \$1,000 of net income;
- 5% of the next \$3,000 of net income;
- 5.8% of the next \$67,000 of net income;
- 6% of the net income in excess of \$75,000.

2006 Example:

Payroll Frequency	Monthly
Gross Monthly Wages	\$3,020
One Tax Credit (exemption)	\$20
1. Compute annual gross income:	\$3,020 x 12 = \$36,240
2. Compute taxable income:	\$36,240 - \$1,970 = \$34,270
3. Compute tax:	\$34,270 x tax rate = \$1,803.66
4. Deduct tax credit (exemption):	\$1,803.66 - \$20 = \$1,783.66

5. Compute tax for tax period: $\$1,783.66 \div 12 = \148.64
(Divide by number of pay periods) (monthly withholding)

NOTE: The DOR annually adjusts the standard deduction in accordance with KRS 141.081(2)(a). Employers that use the formula to compute the amount of withholding may use the standard deduction for the current year.

XII. TAXABLE/EXEMPT CHART

Kentucky withholding tax law is based on the federal withholding tax law in effect December 31, 2004. 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 December 31, 2004, Internal Revenue Code 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	Not Required
Nonprofit Organizations	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 in effect December 31, 2004, for exceptions.

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?**

A Kentucky Tax Registration Application, Revenue Form 10A100, must be filed. Once received, the application will be reviewed and an account number will be assigned indicating the filing frequency. Applications may be obtained by contacting the nearest Kentucky Taxpayer Service Center, online at *revenue.ky.gov*, or the following address:

Operations and Support Services Branch
Department of Revenue
Station 35
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-2?**

A K-2 is the state copy of the Wage and Tax Statement (Form W-2). Copy 1 of Form K-2 must be submitted to DOR with Transmitter Report (Form 42A806). Copy 2 is to be issued to the employee to enable him or her to file an individual income tax return. Copy 2 should be issued to employees before January 31 of each year.

6. **What happens if an employer does not submit copies of K-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 not required to be submitted unless Kentucky tax is withheld or the liquidation or dissolution of a corporation takes place.

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

Kentucky income tax law is based on the Internal Revenue Code in effect December 31, 2004. 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. **What should I do if I do not receive a return?**

If a return is not received 10 days before the due date, contact DOR immediately, at (502) 564-7287, so a new return can be issued. Each return is preprinted and contains coded data for processing purposes.

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

An amended return is available by contacting a taxpayer service center and from our Web site. Refer to these sources on the inside front cover. In many cases a phone call to DOR may eliminate the need to file an amended return.

XIV. FORMS AVAILABLE ONLINE

Withholding Tax Forms

42A804	Form K-4–Employee's Withholding Exemption Certificate
42A804-A	Form K-4A–Withholding Exemptions for Excess Itemized Deductions
42A804-E	Form K-4E–Special Withholding Exemption Certificate
42A806	Transmitter Report for Filing Kentucky Wage Statements
42A807	Fort Campbell Exemption Certificate
42A808	Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site
42A809	Certificate of Nonresidence
42A815	Withholding Tax Refund Application
	Withholding Tax Book–Instructions for Employers
	Withholding Tax Tables
42D003	K-2 Order Form



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 Department of Labor, Office of Workers Claims Enforcement Branch at 1-502-564-5550 or 1-800-731-5241. Our Internet Web site is www.labor.ky.gov/workersclaims.

