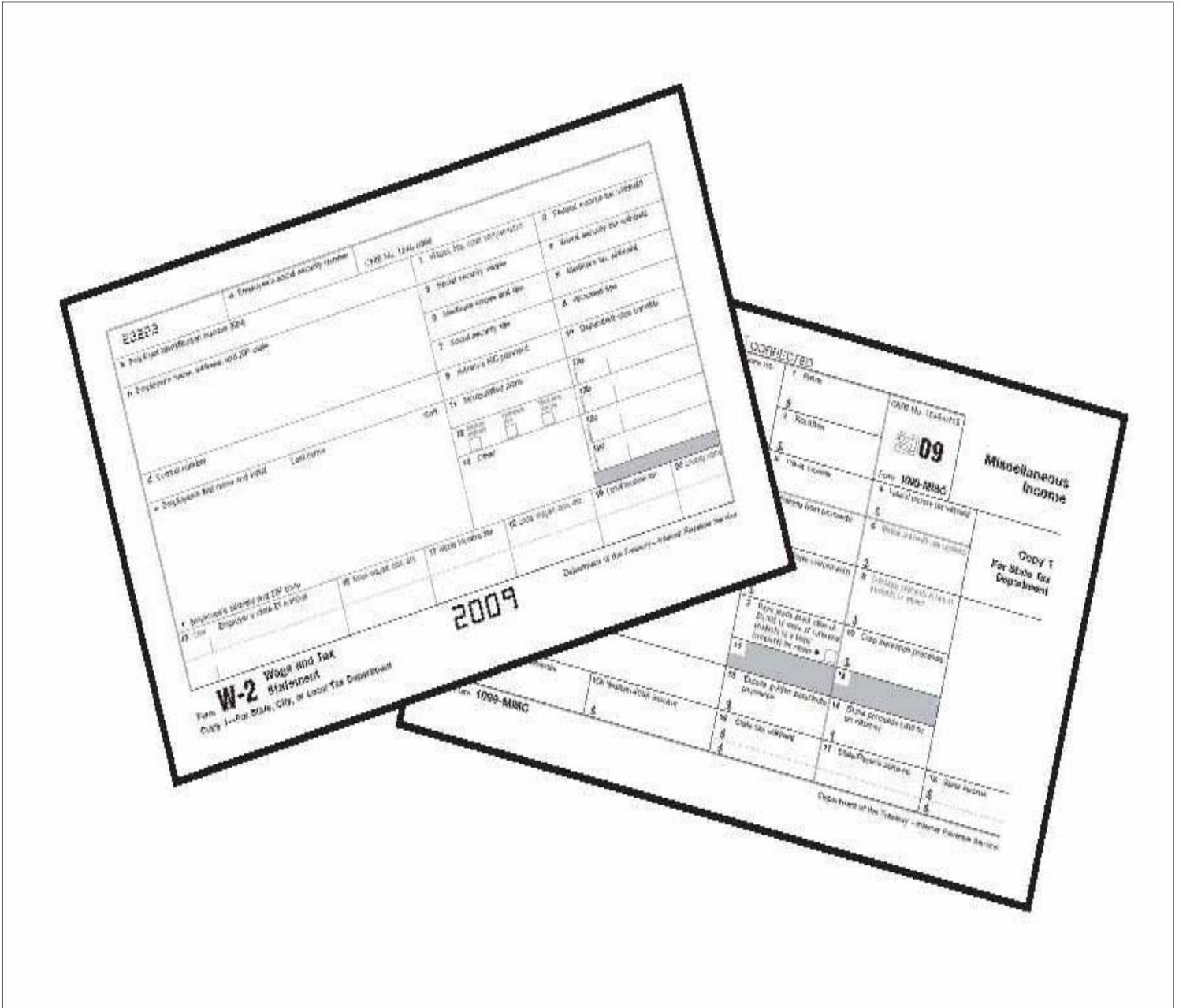


BASIC WITHHOLDING TAX AND CONTRACT LABOR



May, 2009

WH100
Office of Income Taxation
Communications & Training Branch

BASIC WITHHOLDING TAX AND CONTRACT LABOR

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General Information

DEFINITION

Withholding Tax is the state tax an employer is required to withhold on an employee and pay into the DOR. As an individual you are required to file an individual return where you, as the employee, will get to use the state tax withheld to reduce the liability you owe to the state.

HISTORY

Individual Income tax became effective on income earned in 1936. However, it was not until 1954, when Kentucky became the fourth state to adopt a withholding system that employers were required to withhold and remit the tax to the Commonwealth.

PROCESSING WH RETURNS

Withholding tax returns, Forms K-1 and K-3, are processed using the Department's scanning and imaging equipment (Modernized Front End or MFE). The scanning process captures the taxpayer's information and uploads this information to the withholding tax database. The monthly, twice-monthly, or quarterly return, Form K-1, is shown on the withholding tax database with a return code of "01;" Form K-3, the annual reconciliation return, is due January 31 and is shown as return code "03" on the database.

RECONCILIATION OF RETURNS COMPARED TO K-2'S

Annual reconciliation is the process of comparing the total tax withheld on employees' K-2's to the total tax reported and paid by the employer for the same year.

RECEIPTS

FY 2007-2008	\$3,205,671,395
FY 2006-2007	\$3,027,965,146
FY 2005-2006	\$2,917,096,782
FY 2004-2005	\$2,830,949,723

Employer/Employee Relationship Defined

EMPLOYEE

In accordance with KRS 141.010(19), (20), (22) and (23), for Kentucky withholding tax purposes, the terms wages, employee and employer mean the same as defined in Section 3401 of the Internal Revenue Code (IRC) in effect December 31, 2006. Therefore, wages or other payments which are subject to withholding of federal income tax made for services performed in Kentucky are subject to Kentucky withholding.

Internal Revenue Code Sec. 3401(c)— For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a state, or any political

subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

"employer" (except for purposes of subsection (a)) means such person.

See Appendix for portions of the statutes and regulations.

EMPLOYER

Regulation 103 KAR 18:010, Employers required to withhold, defines the term "employer" from the standpoint of Kentucky income tax withholding requirements.

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 cabinet the tax required to be withheld."

Internal Revenue Code Sec. 3401(d)—For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

1. if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and
2. in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term

Wages Subject to Withholding

For purposes of this class, the term "wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Sections 3402(k), (o), (p), (q), and (s) of the IRC. 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 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 employees of those states that have entered into reciprocal agreements with Kentucky. Qualified employees must complete a Certificate of Nonresidence, Form 42A809 and the employer must keep these on file.

Agricultural workers are not exempt from 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.

Wages paid to the following are specifically exempt from withholding but voluntary withholding by mutual agreement is permitted:

1. Household servants;
2. Casual employees (\$50 of wages and 24 days on job per quarter limitation);
3. Employees of foreign governments and international organizations;
4. Ministers of a church or members of a religious order;
5. Newspersons under age 18;
6. Employees as non-cash 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;
8. Recipients of payments from tax-exempt trusts or annuity plans.

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.

Gambling Winnings—Every person making a payment of gambling winnings that is subject to federal tax withholding must deduct and withhold Kentucky income tax from the payment. The amount withheld 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 following chart 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 (401(k) 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, 2006, for exceptions.

Exemption Certificates

Authorized by KRS 141.325 and
Regulation 103 KAR 18:110

An employer is required to have each new employee complete an employee's withholding exemption certificate. The employer is required to keep each certificate in the employee's file in the event it is needed for future reference. There are five types of exemption certificates:

FORM K-4
Employee's Withholding Exemption
Certificate

FORM K-4A
Withholding Exemptions for Excess
Itemize Deductions

FORM K-4E
Special Withholding Exemption
Certificate

FORM K-4FC
Fort Campbell Exemption
Certificate

FORM 42A809
Certificate of Nonresidence

FORM K-4

Form K-4 is the standard certificate and authorizes the employer to withhold Kentucky income tax based on the exemptions claimed. This form shall remain in effect until changed by the employee. The employee is required to change their K-4 within 10 days of a change in their exemptions. The number of withholding exemptions claimed by the employee shall not exceed the number to which he or she is entitled. If the employee has not or will not file an exemption certificate, the employer must withhold tax as if no exemptions were claimed.

FORM K-4A

Form K-4A is provided for employees to use as a *worksheet* to determine if they may claim additional exemptions on the Form K-4 due to an unusually large amount of itemized deductions. This form should be updated annually.

FORM K-4E

Form K-4E may be filed by the employee with the employer to exempt his or her earnings from Kentucky withholding tax if the following requirements are met:

1. The filing threshold amount is based on federal poverty level guidelines and adjusted annually.
2. No income tax liability is anticipated for the current year.

FORM K-4FC

Form K-4FC is based on the provisions of Public Law 105-261. Pay and compensation earned at Fort Campbell, Kentucky, military base is exempt from Kentucky income tax if the employee is not a resident of Kentucky. Employee must change this form within 10 days of change in residency. Employers are required to keep a copy of this form for their files and send the DOR a copy.

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, West Virginia or Wisconsin; or
2. the employee resides in Virginia and commutes **daily** to his or her place of employment in Kentucky.
3. the employee is a resident of Ohio and is not a shareholder-employee who is "twenty (20) percent or greater" direct or indirect equity investor in an S corporation. Wages which an S corporation pays to a shareholder-employee who meets this requirement shall not be exempt under the reciprocal agreement.

Form 42A809 *must* be completed and certified by the employee and maintained in the employer's file to exempt such nonresidents from Kentucky withholding. This form must be updated within 10 days of any change.

Withholding Tax Tables

Kentucky tax tables are located on the DOR's website at www.revenue.ky.gov and can also be in the "Withholding Kentucky Income Tax--Instructions for Employers and Withholding Tax Tables" book.

The tables are broken down by the following pay periods:

Daily Payroll Period
 Weekly Payroll Period
 Bi-Weekly Payroll Period
 Semi-Monthly Payroll Period
 Monthly Payroll Period

Each table shows withholding amounts for persons claiming 0 to 10 or more exemptions.

Employers may elect to use the computer formula below for calculating Kentucky withholding. **No other formula or withholding method may be used unless specific written approval is granted by the DOR.**

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;
(\$60.00)

3% of the next \$1,000 of net income;
(\$30.00)

4% of the next \$1,000 of net income;
(\$40.00)

5% of the next \$3,000 of net income;
(\$150.00)

5.8% of the next \$67,000 of net income;

6% of the net income in excess of \$75,000

2008 Example:

Payroll Frequency:	Monthly
Gross Monthly:	\$3,020
One Tax Credit (exemption):	\$ 20

1. Compute annual gross income:
 $\$3,020 \times 12 = \$36,240$
2. Compute taxable gross income:
 $\$36,240 - \$2,100 = \$34,140$
3. Compute tax:
 $\$34,140 \times \text{tax rate} = \$1,796.12$
4. Deduct tax credit (exemption):
 $\$1,796.12 - \$20 = \$1,776.12$
5. Compute tax for tax period:
 $\$1,776.12 \div 12 = \148.01

*(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.

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. *The preprinted tax forms contain important processing information and cannot be furnished in blank form.*

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 the DOR when the account is placed on an annual filing basis. The annual return (Form K-3) is filed with the DOR by January 31, following the close of the calendar year. Employers assigned to an annual frequency who wish to file more frequently may be changed if a request is made in writing.

QUARTERLY FILING

Employers withholding \$400 - \$1,999 Kentucky income tax a year must file and pay on a quarterly basis. The quarterly return (Form K-1) must be submitted for each of the first three-quarters of the calendar year on or before the last day of the month following the end of the quarter. A combination return (Form K-3) must be filed the last quarter on or before January 31. 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.

MONTHLY FILING

Employers withholding \$2,000 - \$49,999 Kentucky income tax a year must file and pay on a monthly basis. Employers required to file a return and remit tax withheld monthly shall continue monthly filing unless permission is granted by the DOR to file quarterly. The monthly return (Form K-1) must be filed for the first 11 months of the year on or before the 15th day of the following month. For the last month of the calendar year, a Form K-3 must be filed. This return is due on or before January 31. In addition to showing the tax withheld for the last month of the year, an annual reconciliation area is provided for reporting the previous return information for reconciliation purposes. Payment of tax withheld for the month must be submitted with the return. This return must be filed even though no income tax was withheld for the period.

TWICE-MONTHLY FILING

Employers withholding \$50,000 or more Kentucky income tax a year must file and

pay 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 the DOR to change filing frequency. An employer must submit in writing a request to change from the twice-monthly filing frequency. The twice-monthly return (Form K-1) must be filed for the 1st 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. Employers on a twice-monthly basis must file a Form K-3 for the last reporting period of the calendar year. In addition to showing the tax withheld for the last reporting period of the year, an annual reconciliation area is provided for adjusting the employer's account. Filing period December 16 through December 31 is due on or before January 31, not January 10. Filing period for January 1 through January 31 is due on or before February 10.

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.

<u>Filing Frequency</u>	<u>Active Accounts</u>	<u>Threshold</u>
Annual	21,294	\$0 - \$399 Annually
Quarterly	28,016	\$400 - \$1,999 Annually
Monthly	56,918	\$2,000 - \$49,999 Annually
Twice-monthly	<u>8,268</u>	\$50,000 - \$99,000 Annually
Total (for 2009)	115,126	

<u>Payment Frequency</u>	<u>Threshold</u>
Twice-Monthly EFT (Electronic Funds Transfer)	\$300,000 or More Annually
One-Day Deposit	\$100,000 or More Withheld During Reporting Period

Filing Dates

Period	Form	Due Date
<u>QUARTERLY FILING</u>		
January-March	K-1, K-1E	April 30
April-June	K-1, K-1E	July 31
July-September	K-1, K-1E	October 31
October-December	K-3, K-3E	January 31
<u>MONTHLY FILING</u>		
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
<u>TWICE-MONTHLY FILING</u>		
January 1-January 31*	K-1	February 10
February 1-February 15	K-1	February 25
February 16-February 28	K-1	March 10
March 1-March 15	K-1	March 25
March 16-March 31	K-1	April 10
April 1-April 15	K-1	April 25
April 16-April 30	K-1	May 10
May 1-May 15	K-1	May 25
May 16-May 31	K-1	June 10
June 1-June 15	K-1	June 25
June 16-June 30	K-1	July 10
July 1-July 15	K-1	July 25
July 16-July 31	K-1	August 10
August 1-August 15	K-1	August 25
August 16-August 31	K-1	September 10
September 1-September 15	K-1	September 25
September 16-September 30	K-1	October 10
October 1-October 15	K-1	October 25
October 16-October 31	K-1	November 25
November 16-November 30	K-1	December 10
December 1-December 15	K-1	December 26
December 16-December 31**	K-3	January 31

* First reporting period of year will be 15 days longer and be due February 10.

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

Reporting Requirements

Following are the withholding forms which may be used by the employer.

K-1	Employer's Return of Income Tax Withheld
K-1E	Employer's Quarterly Return of Income Tax Withheld (Electronic Funds Transfer)
K-3	Employer's Return of Income Tax Withheld(Annual Reconciliation)
K-3E	Employer's Quarterly Return of Income Tax Withheld (Annual Reconciliation for Electronic Funds Transfer)
K-4	Employee's Withholding Exemption Certificate
K-4A	Withholding Exemptions for Excess Itemized Deductions
K-4E	Special Withholding Exemption Certificate
K-4FC	Fort Campbell Exemption Certificate
42A809	Certificate of Nonresidence
42A806	Transmitter Report for Filing Kentucky Wage Statements
42A808	Authorization to Submit Employees Annual Wage and Tax Statements via Web Filing
42A815	Withholding Tax Refund Application
K-2/W-2	Wage and Tax Statement
10A100	Kentucky Tax Registration Application

The reporting forms (K-1, K-1E, K-3 and K-3E) will be mailed to the employer prior to 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, the employer should request another form be issued by contacting the Taxpayer Assistance Section of Withholding Tax.

FILING METHODS FOR WITHHOLDING RETURNS

Interactive Voice Response (IVR) System (No Tax Due Returns)—This reporting method is only available to taxpayers that the Department has identified as zero return filers within the last fiscal year. Taxpayers may not choose to file using this method unless they have been contacted by the Department through correspondence assigning a PIN to them for this purpose.

For any period during which an employer has withheld zero taxes, a return may be filed by making a simple toll-free telephone call by following these steps:

- Make call by the date the return is due.
- Have the withholding tax account number and PIN (assigned by the DOR) available.
- Call the toll-free number 1-866-282-1851. This number is available 24 hours a day, seven days a week.
- Enter the appropriate responses using the touch-tone telephone keypad.
- Record the confirmation number given to them. The filing of the return is not complete until the confirmation number is given.
- For the December report, the TP must have withheld no taxes for the entire year.
- The TP does not mail the paper return if using this system.

Payment Methods - Currently, there are two ways of making withholding tax payments.

1. Payment (paper check or other instrument) with the return
2. Electronic Funds Transfer (EFT)

ELECTRONIC FUNDS TRANSFER (EFT)

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 funds transfer (EFT). DOR will notify employers when they reach this threshold.

The 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 funds transfer payers remit payment to the DOR by the debit method or other means as prescribed by the Department. The Department 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 funds transfer. The current threshold for mandatory electronic funds transfer established by Administrative Regulation 103 KAR 1:060 is \$25,000 for **withholding taxes only**. 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 the DOR for withholding tax filing purposes. The business must then register with DOR's EFT Group at (502) 564-6020, or by visiting one of the taxpayer service centers. Once the completed application is received and processed, the business will receive specific instructions for the payment method selected and will be notified when they may begin remitting payment via EFT.

Once an employer is paying by EFT, only Form K-1E is mailed on a quarterly basis. Form K-3E is the annual reconciliation return due on January 31.

```

DEPARTMENT OF REVENUE - WITHHOLDING TAX
MASTER DATA DISPLAY                REW8010
# EMPLOYER NUMBER 222222 0  MAINT. DATE 12 18 00 **** FILING DATA ****
**** EMPLOYER DATA ****           FREQ TW-MONTHL  PERM? NO
BUSINESS NAME MELS DINER           PREV FREQ MONTHLY
PREV FREQ DATE 01 02
MAILING ADDRESS 86 BLUE PLATE BLVD  LIABILITY DATE 10 01 00
STATUS ACTIVE
STATUS DATE 11 22 00
CITY GREASY      STATE NJ          CANCEL DATE
ZIP CODE 07901   TELEPHONE NUMBER M
LOCATION TELEPHONE
ALPHA KEYS      COUNTY 158 NEW JERSEY  DISTRICT 20 FRANKFORT
MELS DINER      AUDIT CLASS 3  BUSINESS CODE 734
LIMITED

EFT CODE Y

FEDERAL ID NUMBER 111111111

PRESS 'PF4' TO RETURN TO THE WITHHOLDING MENU SCREEN
PRESS 'PA1' TO BRING UP ADDITIONAL ACCOUNT NUMBERS

```

Although EFT filers have a return filing frequency of quarterly, their payment frequency may vary depending on the amount of withholding tax that is accumulated on an annual basis. This screen shot reflects an example of an EFT filer with a payment frequency of twice-monthly. Please note the EFT code field which reflects a "Y." This is the flag indicator that this particular employer is an EFT client.

ELECTRONIC REFUNDS

Per KRS 131.155(5), Refund by Electronic Funds Transfer, taxpayers and any other persons who are required to collect or remit taxes administered by the Department by electronic fund transfer shall be entitled to receive refunds for any overpayment of taxes or fees, on or after July 1, 2001, by electronic fund transfer.

Taxpayers requesting electronic refunds must complete Form 42A815, Withholding Tax Refund Application.

Wage and Tax Statement Reporting

There are three ways for employers to provide this information.

- Form K-2/W-2 (less than 100 employees)
- Magnetic Media (CD or diskette)
- Web Filing

FORM K-2/W-2

Employers must furnish the designated copies of the Wage and Tax Statement (Form K-2) to their employees by January 31. The copy designated to be sent to Department of Revenue must be submitted with Form 42A806, Transmitter Report for Filing Kentucky Wage Statements, by January 31.

Employers may order the official form, Wage and Tax Statement (Form K-2), 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 employer identification number (FEIN) 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 \$100.

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 Department of Revenue; and
4. an acceptable format with spaces designated as follows:
 - a. gross wages;
 - b. state 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.

MAGNETIC MEDIA (CD OR DISKETTE)

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. This form of reporting will be covered more in another class.

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 the 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 for Filing Kentucky Wage Statements, Form 42A806, should accompany all magnetic media submitted.

WEB FILING

Web Filing is a method of reporting employees' annual wage and tax information. The DOR has designed a secure web-site that streamlines 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 or by email at DOR.WebResponseWithholdingTax@ky.gov

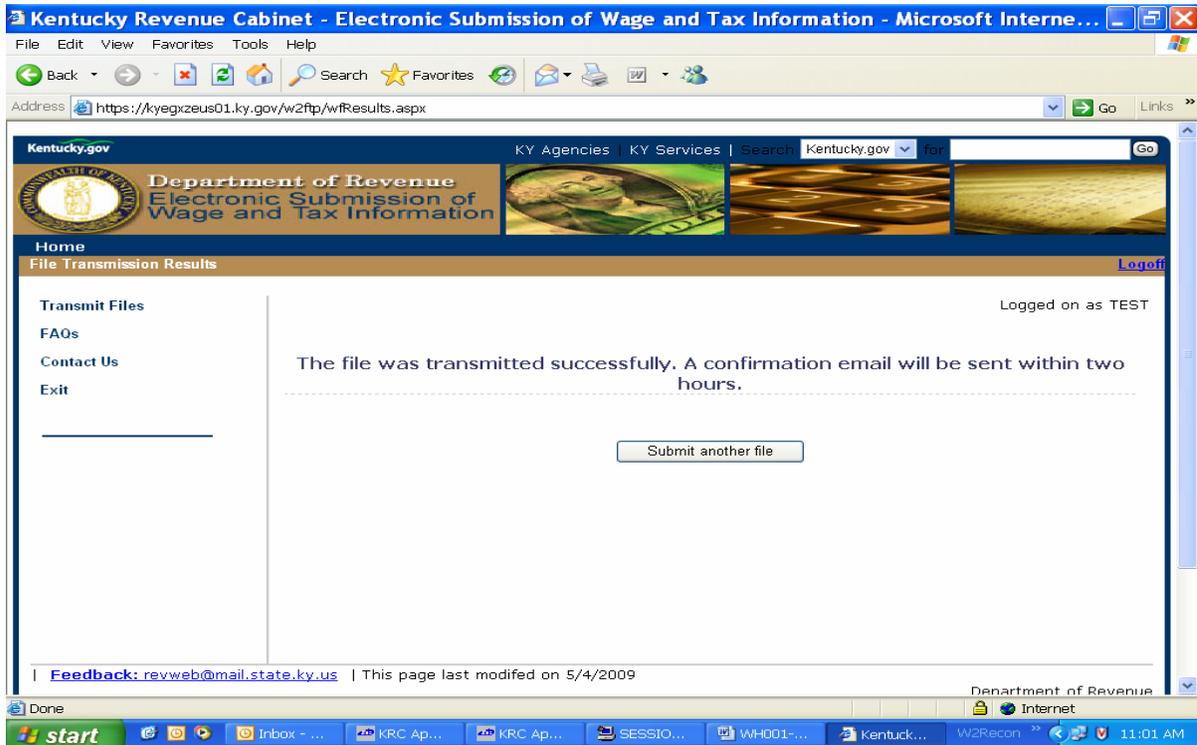
1. Log on with your FEIN and assigned PIN.

The screenshot shows the 'Transmitter Logon' page of the Kentucky Revenue Cabinet's Electronic Submission of Wage and Tax Information system. The page includes a navigation menu with 'Transmit Files', 'FAQs', 'Contact Us', and 'Exit'. The main form area contains fields for 'FEIN' and 'PIN', both marked as required. A 'Logon' button is positioned below these fields. A message below the form states: 'To register, use form [42A808](#). If you are already registered, but have forgotten your PIN number, send an email to krc.withholding@ky.gov.'

2. Enter the file location, tax year and click <Submit>.

The screenshot shows the 'Submit Withholding File' page. The user is logged in as 'TEST'. The form contains the following fields and options: 'Employer FEIN' (11-1111111), 'Email' (employee@ky.gov), 'Filename' (C:\Documents and Settings\... with a 'Browse...' button and a '(100 Megabyte Limit)' note), 'Tax Year' (2008), and a 'Test Only' checkbox. A 'Submit' button is located at the bottom of the form.

3. Transfer confirmation message is displayed (file received).



4. E-mail confirmation is received within two hours of submission to notify you the file format is correct or details errors to be corrected.

The Department of Revenue follows the federal specification format for filing K-2 data via magnetic media or Web Filing. This does not mean a duplicate copy of the 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 EFW2 specifications for filing W-2 information on magnetic media.

Required Data Records for Kentucky

There is one format (EFW2) for CD, diskette and web filing reporting.

Required Records: RA--Submitter Record
 RE--Employer Record
 RW--Employee Wage Record
 RS--State Record
 RT--Total Record
 RF--Final Record

CDs and diskettes will be returned unprocessed if they contain:

- Improper Formatting
- Incorrect Record Codes
- Incorrect Record Sequence

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*.

Out-of-State Employers

An out-of-state employer may voluntarily withhold Kentucky tax on a Kentucky resident who is working outside of Kentucky.

When an out-of-state employer voluntarily registers their company for withholding, they are subject to the same guidelines as all other Kentucky employers.

This credit provision does not affect the reciprocal agreements Kentucky has negotiated with other states exempting specific income from tax.

Reciprocal Agreements

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

1. the employee is a resident of:
 - a. Illinois
 - b. Indiana
 - c. Michigan
 - d. West Virginia
 - e. Wisconsin; or
2. the employee resides in Virginia and commutes daily to his or her place of employment in Kentucky.
3. the employee is a resident of Ohio and is not a shareholder-employee who is a "twenty (20) percent or greater" direct or indirect equity investor in an S corporation. Wages which an S corporation pays to a shareholder-employee who meets this requirement shall not be exempt under the reciprocal agreement.

Residents of reciprocal states working in Kentucky should be advised to file Form 42A809, Certificate of Nonresidence, to eliminate Kentucky withholdings from their wages.

Termination of Business

If an employer discontinues business during the year, the following action 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. *Note: It is important that this step be taken. Failure to do this will generate computer notices which could result in assessments for delinquent returns.*

Annual Reconciliation and Compliance

Employers are required to submit wage and tax information to the Department each year via Form 42A806, Transmitter Report for Filing Kentucky Wage Statements. Annual reconciliation is the process of comparing the actual tax withheld on employees' W-2s as reported to the Department by the employer to the total tax reported and paid by the employer during the same year. If there is a discrepancy, then the total amount

of tax reported as being withheld on the K-3 is used as a tool for reconciling the account as well.

W-2 RECONCILIATION PROGRAM

W-2 Recon was developed to assist in the reconciliation process. With over 100,000 employers and 1.3 million taxpayers, it was a very time-consuming and often impossible task to perform this manual reconciliation process for every employer each year. Due to time constraints not all withholding accounts were reconciled. Miles and miles of calculator tape were used each year to add up withholding amounts for each account reconciled.

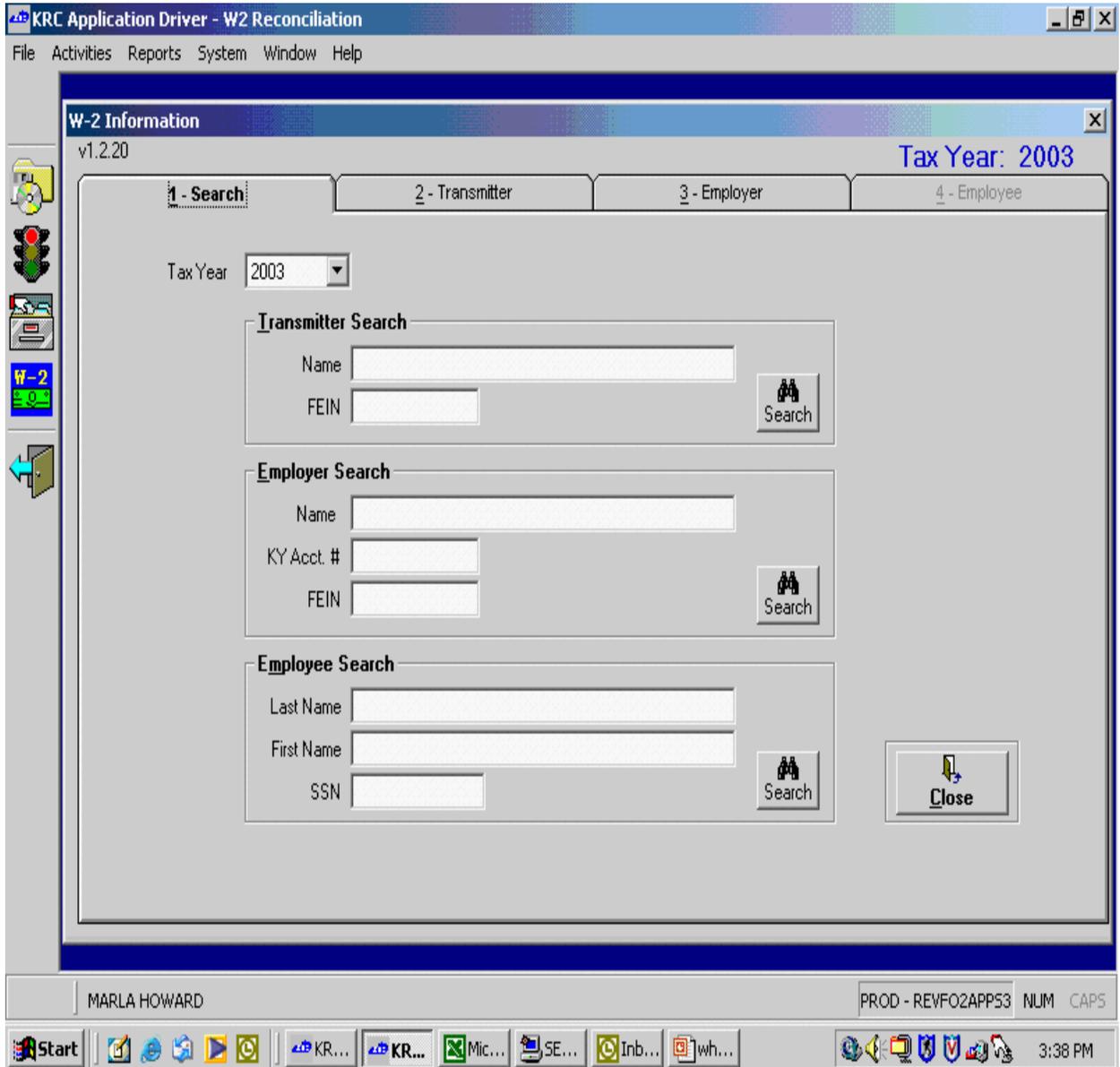
With the development of W-2 Recon this tax data is now available electronically and all withholding accounts are reconciled every tax year.

Employers with 100 or more employees are required to report this wage and tax information electronically, either on diskette or on CD, or directly to the Department via Web Filing. Wage and tax information that is reported on paper W-2s is data-entered into a compatible file format.

The electronic data from both sources is loaded into the W-2 Reconciliation Program. In addition, payment information from the Withholding Tax Database is captured for the comparison process and loaded into the W-2 Reconciliation Program. The data from the individual W-2s is added together by the W-2 Reconciliation Program for each account and compared to the total amount of tax paid by the employer for the year. Any discrepancies are flagged by the system. The Withholding Tax

Compliance Sections 1 and 2 review the discrepancies; generate inquiry letters, and issue bills or refunds to reconcile the withholding accounts.

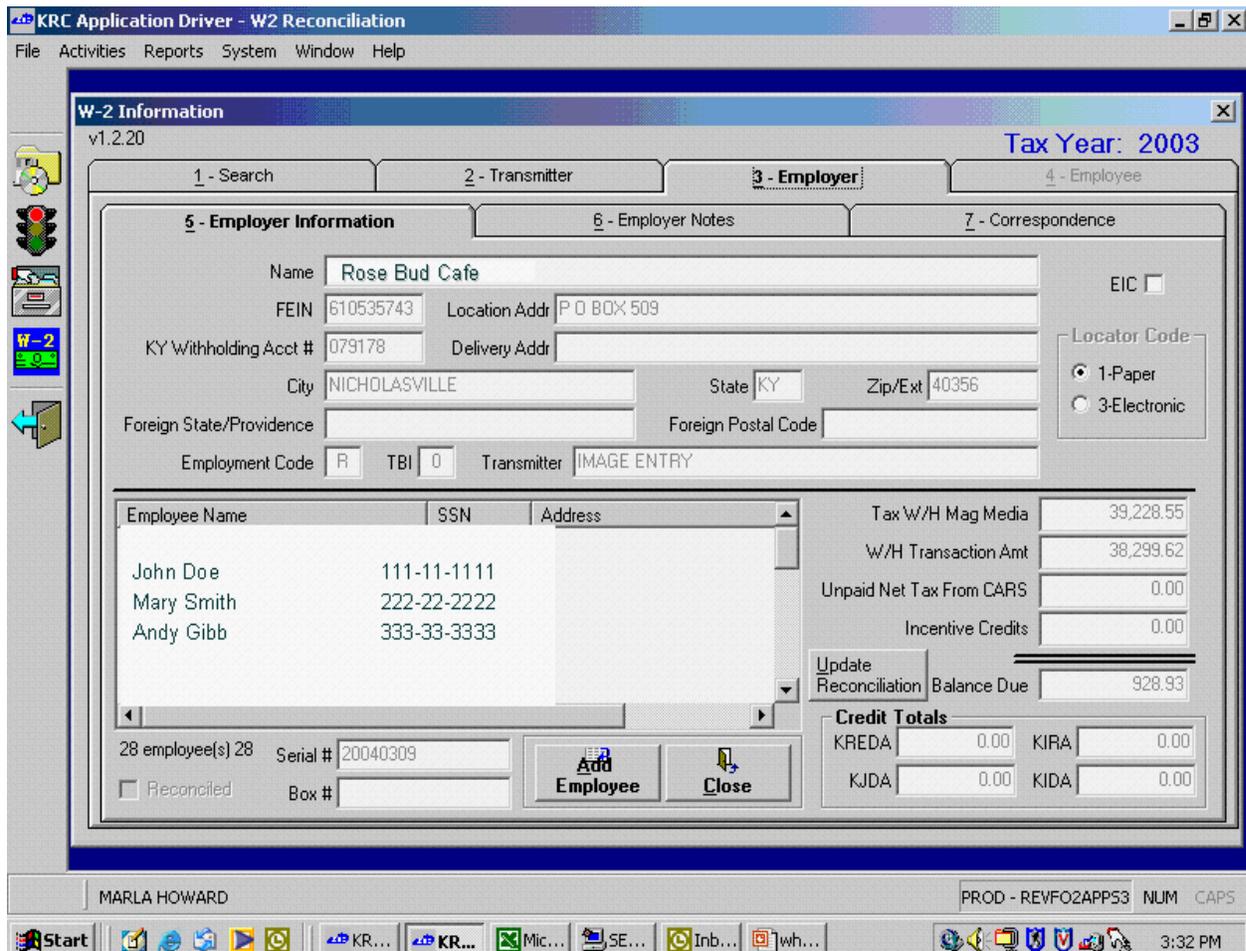
Since the release of this program the annual reconciliation process is much more efficient and performed in a timelier manner. In past years the annual reconciliation process could be anywhere from three to four years behind the current tax year. With the release of W-2 Recon the annual reconciliation process is now able to be performed within the same tax year the wage and tax information is reported. This gives the taxpayer a better opportunity to provide the Department records for verification if needed and reduces the amount of interest paid on refunds.



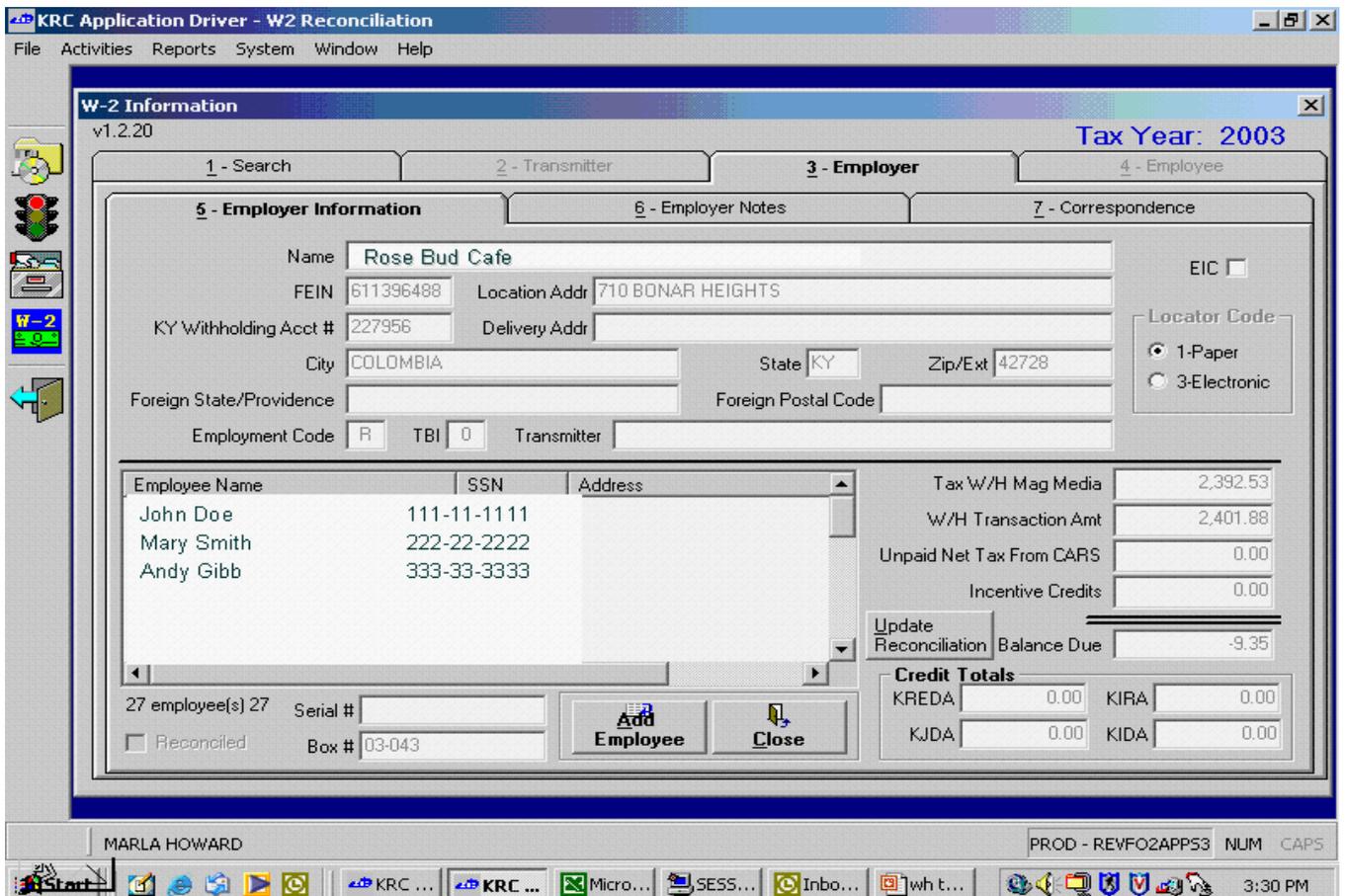
COMMON REASONS FOR ACCOUNTS TO APPEAR UNDER/OVER PAID

1. Taxpayer issues W-2Cs (corrected) and files amended return; electronic versions of the W2s were not adjusted in W-2 Recon.
2. Payments posted to an incorrect account number.
3. Payments posted to an incorrect tax type.
4. Payments posted to an incorrect period.
5. Keying errors (amount withheld or state of residence).
6. Taxpayer did not issue all K-2 information (additional K-2's could be needed)
7. Economic incentive programs
8. True under/overpayments.

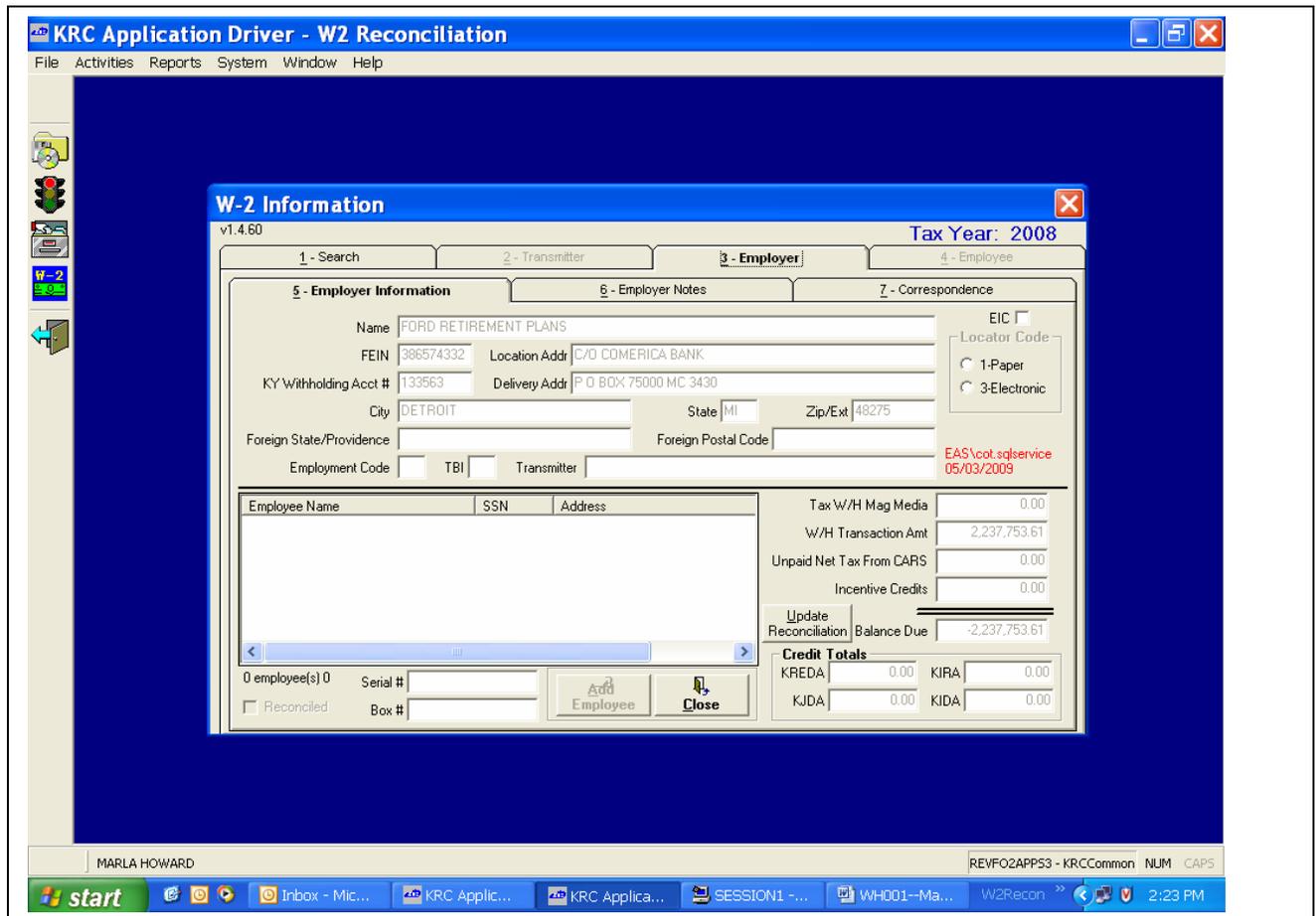
Underpayment (Bill)—If an account is deemed a true underpayment after researching all avenues available (K-3, CRIS screen, W-2 Recon account maintenance screen, and previous/future periods) then an underpaid (XRW) bill is created and sent to the taxpayer. If the user is unable to determine if the account is a true underpayment after researching then an underpaid letter is sent to the taxpayer giving them 20 days to respond. This letter is followed up by an underpaid bill if the taxpayer does not respond within the 20 days given.



Overpayment (Refund/Credit Forward)—The Withholding Tax Compliance Sections 1 and 2 review overpaid accounts during the reconciliation process to verify overpayments reflected. The user will either send an “additional K-2’s needed” letter (allowing the taxpayer 20 days to respond) or will allow the overpayment to reside on the account. Per KRS 141.345 (2) Withholding tax refunds and/or credit forwards are only generated upon taxpayer written request. Generally, taxpayers are able to determine that there is an overpayment when they reconcile their withholding account at year-end. If requested by the taxpayer, the overpayment can be used as a credit forward for a future period in lieu of a refund.



K-2 Delinquency (failure to file K-2's with the DOR)—Employers who pay into the DOR throughout the year and do not file wage and tax information with the Department are sent a K-2 Delinquency letter of inquiry. If the taxpayer does not respond within the given 20 days then the user will bill the taxpayer an estimated assessment for failure to file requested information. The taxpayer can either pay this estimated assessment in full or file the requested information and the bill will be adjusted to a late filing penalty.



Commonly Asked Questions and
Answers

1. *Who is considered an employee?*

Answer: 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?*

Answer: 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 from Revenue's web site, www.revenue.ky.gov by contacting the nearest Kentucky Taxpayer Service Center or by calling the Withholding Tax Branch at 502-564-7287.

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

Answer: 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?*

Answer: 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?*

Answer: 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 the DOR. Copy 2 is to be issued to the employee to enable him or her to file an individual income tax return. Copy 1 should be submitted with Form 42A806 (Transmitter Report for Filing Kentucky Wage Statements) on or before January 31. 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 the DOR?*

Answer: Penalties will be assessed per KRS 131.180.

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

Answer: 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?

Answer: Kentucky income tax law is based on the Internal Revenue Code in effect December 31, 2006. 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 for the year. 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?

Answer: No. Kentucky tax may be withheld voluntarily, but is not required. Pensions include annuity contracts, profit-sharing plans, retirement plans, and/or employee savings plans.

10. What should I do if I do not receive a return?

Answer: If a return is not received 10 days before the due date, contact the DOR immediately so a new return can be issued. Each return is preprinted and contains coded data for processing purposes.

CONTRACT LABOR

Anyone running a company must make decisions involving their employees. Often these decisions include items such as:

- What medical insurance should we provide?
- How do we structure a retirement plan for employees?
- What is a fair vacation policy?

There is one issue however, that is often overlooked; proper employee classification. Are these employees considered independent contractors or employees? It is a crucial decision that has tax implications for the employer and the employee.

Companies of all types and sizes are making use of contract labor in lieu of full-time (or even part-time) employees. Often contracting labor makes sense for many reasons. Some of those reasons include the following:

- Specific skills may be required for a short-term project,
- Additional personnel may be required to get through a seasonal busy period, or
- It may be more cost-effective than employing personnel.

Department of Revenue (DOR) personnel are sometimes faced with the difficult task of making a determination of the classification of workers who provide products and services for others. The legal standard for distinguishing between independent contractor and employee can be difficult to apply. Kentucky withholding tax law is based on the federal withholding tax law in effect

December 31, 2006 (KRS 141.010). DOR generally follows the administrative regulations and rulings of the Internal Revenue Service in those areas where no specific Kentucky law exists (KRS 141.050).

In accordance with KRS 141.010 (20) for Kentucky withholding tax purposes, the term *employee* means the same as defined in Section 3401 of the Internal Revenue Code in effect December 31, 2006. 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.

CLASSIFICATIONS

The majority of classifications of workers are not challenged by the DOR. When they are, there is usually agreement between the DOR and the business after the facts and circumstances are jointly reviewed. In some cases, which will be discussed later, the Internal Revenue Service (IRS) makes a final determination.

The status of a worker as either an independent contractor or employee must be determined accurately to ensure that workers and businesses complete any necessary registration with the DOR and anticipate and meet their tax responsibilities timely and accurately. Either worker classification - independent contractor or employee - can be a valid and appropriate business choice.

TAX AND LABOR LAW IMPACT

Who is an employee? A general rule is that anyone who performs services for you is your employee if you can control what will be done and how it will be done.

Who is an independent contractor? A general rule is that the payer has the right to control or direct only the result of the work done by an independent contractor, and not the means and methods of accomplishing the result.

What difference does it make to classify a worker as an independent contractor instead of as an employee?

Employers are responsible for various employment taxes on their employees. These include Social Security, Medicare, federal income tax, state income tax, SUTA and FUTA. Many times workers are classified as independent contractors to relieve the employer of this responsibility.

Some of the requirements of an employer/employee relationship:

- **Employee Withholding.** Employers are responsible for the withholding and timely remittance of federal income taxes, state and local income taxes, and FICA taxes from wages paid to their employees.
- **Employer Payroll Taxes.** Employers owe, and must remit, their own share of payroll taxes, such as FICA and federal and state unemployment insurance, on employee wages.
- **Labor Laws.** Worker's compensation, working

conditions, and minimum wage laws all impose on employers certain financial and other requirements for the benefit of employees.

- **Employee Benefits.** Employees generally enjoy employer funded benefit programs such as vacations, holidays with pay, health insurance, and pension and profit sharing plans; contractors generally do not receive these benefits.
- **Reporting.** Wages paid to employees (along with the amounts of the various taxes withheld) are reported on Form W-2; amounts paid to contractors are reported on Form 1099. Additionally, federal Forms 940 and 941 (and perhaps others) must be filed for wages paid to employees. And state requirements must also be met.

In a payer/contractor relationship, payers are required to file information returns to report certain types of payments made to independent contractors during the year. For example, Form 1099-MISC, Miscellaneous Income, is filed with the IRS to report payments of \$600 or more to persons not treated as employees (e.g. independent contractors) for services performed for the payer's trade or business.

Taxpayers who are paid via a 1099-MISC may not realize the tax implications and have a rude awakening come tax time. Depending upon their tax liability, they could be subject to non-estimating penalties. Another issue is reporting the income. Most taxpayers report it as wages, but it is not uncommon to see it

reported on a Schedule C, which in turn, could trigger self-employment tax.

MISCLASSIFICATION OF EMPLOYEES

If an employer misclassifies an employee as an independent contractor with no reasonable basis for doing so, that employer may be held liable for employment taxes for that worker. Merely labeling a worker as an independent contractor is not enough. They must actually be an independent contractor.

Why is this important? There are tax consequences of incorrectly treating an employee as an independent contractor. The employer will be liable for Social Security, Medicare and income taxes if they do not deduct and withhold them because an employee was treated as a non-employee. See Internal Revenue Code Section 3509 for details.

No one wants to deal with an IRS audit and possible penalties and interest changes. If it is determined that an independent contractor is in fact, your employee, you must pay the IRS all back-taxes owed, plus interest, plus penalty (12% - 35% of the total tax bill).

With more companies using independent contractors, the IRS and State Revenue departments are increasingly viewing the usage of contract labor with suspicion. Any company using contract labor solely to avoid withholding and payment of payroll taxes should beware.

If an employer has a reasonable basis for not treating a worker as an employee, they may be relieved from having to pay employment taxes for that worker. To get this relief, all required information

returns must be filed (Form 1099-MISC) on a basis consistent with the treatment of the worker. The employer (or predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977. (Section 530 of the Revenue Act of 1978, IRS Publication 1976)

EMPLOYEE CATEGORIES

Before you can know how to treat payments you make for services, you must first know the business relationship that exists between you and the person performing the services. The person performing the services may be:

- An independent contractor,
- A common-law employee,
- A statutory employee, or
- A statutory non-employee.

This discussion explains these four categories. A later discussion, Employee or Independent Contractor, points out the differences between an independent contractor and an employee and gives examples from various types of occupations. If an individual who works for you is not an employee under the common-law rules, you generally do not have to withhold Federal income tax from that individual's pay. However, in some cases you may be required to backup withhold on these payments. See IRS Circular E for information on backup withholding.

INDEPENDENT CONTRACTORS

People such as lawyers, contractors, subcontractors, public stenographers, and auctioneers who follow an independent trade, business, or profession in which they offer their services to the public are generally not employees. However, whether such people are employees or independent contractors depends on the facts in each case. The general rule is that an individual is an independent contractor if you, the payer, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

COMMON-LAW EMPLOYEES

Under common-law rules, anyone who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed.

If you have an employer-employee relationship, it makes no difference how it is labeled. The substance of the relationship, not the label, governs the worker's status. It does not matter whether the individual is employed full time or part time.

For employment tax purposes, no distinction is made between classes of employees. Superintendents, managers, and other supervisory personnel are all employees. An officer of a corporation is generally an employee, but a director is not. An officer who performs no services or only minor services, and neither

receives nor is entitled to receive any pay, is not considered an employee.

You generally have to withhold and pay income tax, social security tax, and Medicare taxes on wages you pay to common-law employees. However, the wages of certain employees may be exempt from one or more of these taxes.

LEASED EMPLOYEES

Under certain circumstances, a corporation furnishing workers to various professional people and firms is the employer of those workers for employment tax purposes. For example, a professional service corporation may provide the services of secretaries, nurses, and other similarly trained workers to its subscribers. The service corporation enters into contracts with the subscribers under which the subscribers specify the services to be provided and the fees to be paid to the service corporation.

The service corporation has the right to control and direct the worker's services for the subscriber, including the right to discharge or reassign the worker. The service corporation hires the workers, controls the payment of their wages, provides them with unemployment insurance and other benefits, and is the employer for employment tax purposes.

STATUTORY EMPLOYEES

Income tax is not required to be withheld from the wages of statutory employees. Four categories of workers who are independent contractors under common law are treated by statute as employees.

1) A driver who distributes beverages (other than milk) or meat, vegetable, fruit, or bakery products; or who picks up and delivers laundry or dry cleaning, if the driver is your agent or is paid on commission.

2) A full-time life insurance sales agent whose principal business activity is selling life insurance or annuity contracts, or both, primarily for one life insurance company.

3) An individual who works at home on materials or goods that you supply and that must be returned to you or to a person you name, if you also furnish specifications for the work to be done.

4) A full-time traveling or city salesperson who works on your behalf and turns in orders to you from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments. The goods sold must be merchandise for resale or supplies for use in the buyer's business operation. The work performed for you must be the salesperson's principal business activity.

Employer must report payments to statutory employees and furnish them an appropriate Form W-2. The W-2 should reflect income as other compensation in box 1 and be checked "statutory employee" in box 15.

STATUTORY NONEMPLOYEES

There are two categories of statutory non-employees:

- Direct sellers and
- Licensed real estate agents.

They are treated as self-employed for all Federal tax purposes, including income tax and employment taxes, if:

- Substantially all payments for their services as direct sellers or real estate agents are directly related to sales or other output, rather than to the number of hours worked and
- Their services are performed under a written contract providing that they will not be treated as employees for Federal tax purposes.

DIRECT SELLERS

Direct sellers include persons falling within any of the following three groups:

- Persons engaged in selling (or soliciting the sale of) consumer products in the home or place of business, other than in a permanent retail establishment.
- Persons engaged in selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis prescribed by regulations, for resale in the home or at a place of business other than in a permanent retail establishment.
- Persons engaged in the trade or business of delivering or distributing newspapers or shopping news (including any services directly related to such delivery or distribution).

Direct selling includes activities of individuals who attempt to increase direct sales activities of their direct sellers and who earn income based on the productivity of their direct sellers. Such activities include providing motivation and encouragement; imparting skills, knowledge, or experience; and recruiting. For more information on direct sellers, see IRS Pub.911, Direct Sellers.

LICENSED REAL ESTATE AGENTS

This category includes individuals engaged in appraisal activities for real estate sales if they earn income based on sales or other out-put.

EMPLOYEE OR INDEPENDENT CONTRACTOR DETERMINING STATUS

To determine whether an individual is an employee or an independent contractor under the common law, the relationship of the worker and the business must be examined. All evidence of control and independence must be considered. In any employee-independent contractor determination, all information that provides evidence of the degree of control and the degree of independence must be considered.

Facts that provide evidence of the degree of control and independence fall into three categories: behavioral control, financial control, and the type of relationship of the parties.

Behavioral control covers the amount of control the employer has over the worker in terms of where, when, and how the job is done, among other factors.

Financial control dictates how much control the company has over a worker's pay, business expenses, and facility investment. Relationship type is based on written agreements, employee benefits, and length of relationship between the company and worker. Additional information on these three factors follows.

BEHAVIORAL CONTROL

Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of instructions the business gives the worker. An employee is generally subject to the business' instructions about when, where, and how to work. All of the following are examples of types of instructions about how to do work:

- When and where to do the work
- What tools or equipment to use
- What workers to hire or to assist with the work
- Where to purchase supplies and services
- What work must be performed by a specified individual
- What order or sequence to follow

The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to instruct some highly specialized professionals; in other cases, the task may require little or no instruction. The key consideration is whether the business has retained the right

to control the details of a worker's performance or instead has given up that right.

Training the business gives the worker is also a factor. An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods.

FINANCIAL CONTROL

Facts that show whether the business has a right to control the business aspects of the worker's job include:

- The extent to which the worker has unreimbursed business expenses. Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services they perform for their business.
- The extent of the worker's investment. An independent contractor often has a significant investment in the facilities he or she uses in performing services for someone else. However, a significant investment is not necessary for independent contractor status.
- The extent to which the worker makes services available to the relevant market. An independent contractor is generally free to seek out business opportunities.

Independent contractors often advertise, maintain a visible business location, and are available to work in the relevant market.

- How the business pays the worker. An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is usually paid by a flat fee for the job. However, it is common in some professions, such as law, to pay independent contractors hourly.
- The extent to which the worker can realize a profit or loss. An independent contractor can make a profit or loss.

TYPE OF RELATIONSHIP

Facts that show the parties' type of relationship include:

- Written contracts describing the relationship the parties intend to create.
- Whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay.
- The permanency of the relationship. If you engage a worker with the expectation that the relationship will continue

indefinitely, rather than for a specific project or period, this is generally considered evidence that your intent was to create an employer-employee relationship.

- The extent to which services performed by the worker are a key aspect of the regular business of the company. If a worker provides services that are a key aspect of your regular business activity, it is more likely that you will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer-employee relationship.

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***20 COMMON LAW FACTORS USED TO
DETERMINE EMPLOYEE STATUS:
INDEPENDENT CONTRACTOR VERSUS
EMPLOYEE***

The Internal Revenue Service has created a series of questions based on common law principles to determine a worker's status under the tax laws. The relevant issues fall into three main categories: behavioral control, financial control and relationship of the parties.

In each case, it is very important to consider all the facts. No single fact assures that you are an independent contractor. However, if the majority of questions 1-14 are answered as "no" and the majority of questions 15-20 are answered as "yes", then the relationship may be that of an Independent contractor rather than an employer-employee.

The following is a 20-point question checklist that has been established by the IRS. Please note this 20 factor test is only designed as a guideline for determining whether an individual is an employee.

1 - INSTRUCTIONS

Will you instruct the individual (or have the right to instruct) on when, where, and how the work will be done?

An employee must comply with instructions about when, where, and how to work. Even if no instructions are given, the control factor is present if the employer has the right to give instructions.

2 - TRAINING

Will you train or provide training to the individual on performing services in a particular manner?

An employee is trained to perform services in a particular manner. Independent contractors ordinarily use their own methods and do not receive training from the purchaser of their services.

3 - INTEGRATION

Are the services that this individual will be providing a part of the business operations?

An employee's services are integrated into the business operations because the services are important to the success or continuation of the business. This shows that the employee is subject to direction and control.

4 - SERVICES RENDERED PERSONALLY

Will the individual be personally performing the services?

An independent contractor has the capability of hiring someone to personally perform the work. An employee renders services personally. This shows that the employer is interested in the methods, as well as the results.

5 - HIRING, SUPERVISING, and PAYING ASSISTANTS

Will you be hiring, supervising, and paying others to assist the individual?

An employee works for an employer who hires, supervises, and pays assistants. An independent contractor hires, supervises, and pays assistants under a contract that requires him/her to provide materials and labor, and to be responsible only for the result

6 - CONTINUING RELATIONSHIP

Will this be an ongoing relationship?

An employee has a continuing relationship with an employer. A continuing relationship may exist where work is performed at frequently recurring, although irregular, intervals.

7 - SET HOURS of WORK

Will you be setting the individual's hours of work?

An employee has set hours of work established by an employer. An independent contractor is the master of his/her own time.

8 - FULL TIME REQUIRED

Will the individual be working only for you?

An independent contractor is free to work when and for whom he/she chooses.

9 - DOING WORK on EMPLOYER'S PREMISES

Will the individual work on the premises or at a location you designate?

An employee works at a location or on a route designated by an employer. Generally an independent contractor would not be required to work at a

location designated by the contractor, unless required by the nature of the work to be performed.

10 - ORDER or SEQUENCE SET

Will you define the order or sequencing of the work?

An employee must generally perform services in the order or sequence set by an employer, which shows that the employee is subject to direction and control.

11 - ORAL or WRITTEN REPORTS

Will the individual be asked or required to submit a report to you describing his/her actions?

An employer may require an employee to submit report. This indicates that the employee must account to the employer for his/her actions. An independent contractor may submit a report or demonstrate accurate completion of the work performed by the contractor.

12 - PAYMENT by HOUR, WEEK, MONTH

Will you be paying the individual by the hour, week, or month?

An employee is generally paid by the hour, week, or month. An independent contractor is generally paid by the job or on a straight commission or a set fee for services performed.

13 - PAYMENT of BUSINESS and/or TRAVELING EXPENSES

Will you be paying any expenses for the individual?

An employer generally pays an employee's business and travel expenses. This shows the employee is subject to regulation and control.

14 - FURNISHING of TOOLS and MATERIALS

Will you be furnishing the individual with tools, materials, equipment, etc?

An employer generally furnishes an employee significant tools, materials, and other equipment.

15 - SIGNIFICANT INVESTMENT

Will the individual have any investment in the facilities he/she will be using?

An independent contractor has a significant investment in the facilities he/she uses in performing services for someone else.

16 - REALIZATION of PROFIT or LOSS

Will the individual realize a profit or suffer a loss?

An individual who can realize a profit or suffer a loss is generally classified as an independent contractor.

17 - WORKING for MORE THAN ONE FIRM
at a TIME

Can the individual be working for more than one employer?

Individuals may work for more than one employer and still be classified as an employee; however, an independent contractor may provide his/her services to multiple unrelated persons or firms at the same time and generally has a significant client base.

18 - MAKING SERVICES AVAILABLE to
GENERAL PUBLIC

Does the individual offer his/her services to the general public?

An independent contractor makes his/her services available to the general public.

19 - RIGHT to DISCHARGE

Have you given up your right to discharge the individual?

An employee can be fired by an employer. An independent contractor cannot be discharged as long as he/she produces a result that meets the specifications of the contract.

20 - RIGHT to TERMINATE

If the individual quits, will he/she incur a liability for work not completed?

An employee can quit his/her job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

INDUSTRY EXAMPLES

The following situations, as detailed by the IRS, present facts to determine if the taxpayer is an employee or independent contractor.

SPECIAL SITUATIONS: Salespersons

To determine whether salespersons are employees under the usual common-law rules, you must evaluate each individual case. If a salesperson who works for you does not meet the tests for a common-law employee, discussed earlier, you do not have to withhold income tax from his or her pay (see Statutory Employees earlier).

However, even if a salesperson is not an employee under the usual common-law rules, his or her pay may still be subject to social security, Medicare, and FUTA taxes. To determine whether a salesperson is an employee for social security, Medicare, and FUTA tax purposes, the salesperson must meet all eight elements of the statutory employee test. A salesperson is an employee for

social security, Medicare, and FUTA tax purposes if he or she:

1. Works full time for one person or company except, possibly, for sideline sales activities on behalf of some other person,
2. Sells on behalf of, and turns his or her orders over to, the person or company for which he or she works,
3. Sells to wholesalers, retailers, contractors, or operators of hotels, restaurants, or similar establishments,
4. Sells merchandise for resale, or supplies for use in the customer's business,
5. Agrees to do substantially all of this work personally,
6. Has no substantial investment in the facilities used to do the work, other than in facilities for transportation,
7. Maintains a continuing relationship with the person or company for which he or she works, and
8. Is not an employee under common-law rules.

OTHER INDUSTRY EXAMPLES

- Jerry Jones has an agreement with Wilma White to supervise the remodeling of her house. She did not advance funds to help him carry on the work. She makes direct payments to the suppliers for all necessary materials. She carries liability and workers' compensation insurance covering Jerry and others he engaged to assist him. She pays them an hourly rate and exercises almost constant supervision over the work. Jerry is not free to transfer his assistants to other jobs. He may not work on other jobs while working for Wilma. He assumes no responsibility to complete the work and will incur no contractual liability if he fails to do so. He and his assistants perform personal services for hourly wages. They are employees of Wilma White.
- Vera Elm, an electrician, submitted a job estimate to a housing complex for electrical work at \$16 per hour for 400 hours. She is to receive \$1,280 every 2 weeks for the next 10 weeks. This is not considered payment by the hour. Even if she works more or less than 400 hours to complete the work, Vera Elm will receive \$6,400. She also performs additional electrical installations under contracts with other companies, which she obtained through advertisements. Vera is an independent contractor.
- Sam Sparks performs auto repair services in the repair department of an auto sales company. He work regular hours and is paid on a percentage basis. He has no investment in the repair department. The sales company supplies all facilities, repair parts, and supplies; issues instructions on the amounts to be charged, parts to be used, and the time for completion of each job; and checks all estimates and repair orders. Sam is an employee of the sales company.
- Donna Yuma, attorney, is a sole practitioner who rents office space and pays for the following items: telephone, computer, on-line legal research linkup, fax machine, and photocopier. Donna buys office supplies and pays bar dues and

membership dues for three other professional organizations. Donna has a part-time receptionist who also does bookkeeping. She pays the receptionist, withholds and pays federal and state employment taxes, and files a Form W-2 each year. For the past two years, Donna has had only three clients - corporations with which there have been long-standing relationships. Donna charges the corporations an hourly rate for her services, sending monthly bills detailing the work performed for the prior month. The bills include charges for long distance calls, on-line research time, fax charges, photocopies, postage, and travel. The corporations have agreed to reimburse her. Donna is an independent contractor.

- An auto sales agency furnished space for Helen Bach to perform auto repair services. She provides her own tools, equipment, and supplies. She seeks out business from insurance adjusters and other individuals and does all the body and paint work that comes to the agency. She hires and discharges her own helpers, determines her own and her helpers' working hours, quotes prices for repair work, makes all necessary adjustments, assumes all losses from uncollectible accounts, and receives, as compensation for her services, a large percentage of the gross collections from the auto repair shop. Helen is an independent contractor and the helpers are her employees.

THE FINAL SAY - IRS DETERMINATION

If the matter of determining whether a taxpayer is an employee or an independent contractor is not resolved, it may be necessary to request a determination from the IRS. Although, Kentucky does not have a similar process, we accept the IRS determination and apply to any case that has not otherwise been resolved.

The IRS utilizes Form SS-8, Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding to make that determination for resolving federal tax matters. Firms or workers may file Form SS-8 to determine status of a worker for tax purposes. (See appendix)

Note: For the purpose of this form, the term "firm" means any individual, business enterprise, organization, state, or other entity for which a worker has performed services.

Additional information may be found in the instructions for Form SS-8.

Form SS-8
 (Rev. November 2006)
 Department of the Treasury
 Internal Revenue Service

**Determination of Worker Status
 for Purposes of Federal Employment Taxes
 and Income Tax Withholding**

OMB No. 1545-0004

Name of firm (or person) for whom the worker performed services		Worker's name	
Firm's address (include street address, apt. or suite no., city, state, and ZIP code)		Worker's address (include street address, apt. or suite no., city, state, and ZIP code)	
Trade name	Daytime telephone number ()	Worker's social security number	
Telephone number (include area code) ()	Firm's employer identification number	Worker's employer identification number (if any)	

Note. If the worker is paid by a firm other than the one listed on this form for these services, enter the name, address, and employer identification number of the payer. ▶

Disclosure of Information

The information provided on Form SS-8 may be disclosed to the firm, worker, or payer named above to assist the IRS in the determination process. For example, if you are a worker, we may disclose the information you provide on Form SS-8 to the firm or payer named above. The information can only be disclosed to assist with the determination process. If you provide incomplete information, we may not be able to process your request. See *Privacy Act and Paperwork Reduction Act Notice* on page 5 for more information. If you do not want this information disclosed to other parties, do not file Form SS-8.

Parts I-V. All filers of Form SS-8 must complete all questions in Parts I-IV. Part V must be completed if the worker provides a service directly to customers or is a salesperson. If you cannot answer a question, enter "Unknown" or "Does not apply." If you need more space for a question, attach another sheet with the part and question number clearly identified.

Part I General Information

- This form is being completed by: Firm Worker; for services performed _____ (beginning date) to _____ (ending date).
- Explain your reason(s) for filing this form (for example, you received a bill from the IRS, you believe you erroneously received a Form 1099 or Form W-2, you are unable to get worker's compensation benefits, or you were audited or are being audited by the IRS). _____
- Total number of workers who performed or are performing the same or similar services _____.
- How did the worker obtain the job? Application Bid Employment Agency Other (specify) _____
- Attach copies of all supporting documentation (contracts, invoices, memos, Forms W-2 or Forms 1099-MISC issued or received, IRS closing agreements, IRS rulings, etc.). In addition, please inform us of any current or past litigation concerning the worker's status. If no income reporting forms (Form 1099-MISC or W-2) were furnished to the worker, enter the amount of income earned for the year(s) at issue \$ _____.
 If both Form W-2 and Form 1099-MISC were issued or received, explain why. _____
- Describe the firm's business. _____
- Describe the work done by the worker and provide the worker's job title. _____
- Explain why you believe the worker is an employee or an independent contractor. _____
- Did the worker perform services for the firm in any capacity before providing the services that are the subject of this determination request?
 Yes No N/A
 If "Yes," what were the dates of the prior service? _____
 If "Yes," explain the differences, if any, between the current and prior service. _____
- If the work is done under a written agreement between the firm and the worker, attach a copy (preferably signed by both parties). Describe the terms and conditions of the work arrangement. _____

Part II Behavioral Control

- 1 What specific training and/or instruction is the worker given by the firm?
- 2 How does the worker receive work assignments?
- 3 Who determines the methods by which the assignments are performed?
- 4 Who is the worker required to contact if problems or complaints arise and who is responsible for their resolution?
- 5 What types of reports are required from the worker? Attach examples.
- 6 Describe the worker's daily routine such as, schedule, hours, etc.
- 7 At what location(s) does the worker perform services (e.g., firm's premises, own shop or office, home, customer's location, etc.)? Indicate the appropriate percentage of time the worker spends in each location, if more than one.
- 8 Describe any meetings the worker is required to attend and any penalties for not attending (e.g., sales meetings, monthly meetings, staff meetings, etc.).
- 9 Is the worker required to provide the services personally? Yes No
- 10 If substitutes or helpers are needed, who hires them?
- 11 If the worker hires the substitutes or helpers, is approval required? Yes No
If "Yes," by whom?
- 12 Who pays the substitutes or helpers?
- 13 Is the worker reimbursed if the worker pays the substitutes or helpers? Yes No
If "Yes," by whom?

Part III Financial Control

- 1 List the supplies, equipment, materials, and property provided by each party:
The firm
- The worker
- Other party
- 2 Does the worker lease equipment? Yes No
If "Yes," what are the terms of the lease? (Attach a copy or explanatory statement.)
- 3 What expenses are incurred by the worker in the performance of services for the firm?
- 4 Specify which, if any, expenses are reimbursed by:
The firm
- Other party
- 5 Type of pay the worker receives: Salary Commission Hourly Wage Piece Work
 Lump Sum Other (specify)
- If type of pay is commission, and the firm guarantees a minimum amount of pay, specify amount \$
- 6 Is the worker allowed a drawing account for advances? Yes No
If "Yes," how often?
- Specify any restrictions.
- 7 Whom does the customer pay? Firm Worker
If worker, does the worker pay the total amount to the firm? Yes No If "No," explain.
- 8 Does the firm carry worker's compensation insurance on the worker? Yes No
- 9 What economic loss or financial risk, if any, can the worker incur beyond the normal loss of salary (e.g., loss or damage of equipment, material, etc.)?

Part IV Relationship of the Worker and Firm

- 1 List the benefits available to the worker (e.g., paid vacations, sick pay, pensions, bonuses, paid holidays, personal days, insurance benefits)
- 2 Can the relationship be terminated by either party without incurring liability or penalty? Yes No
If "No," explain your answer.
- 3 Did the worker perform similar services for others during the same time period? Yes No
If "Yes," is the worker required to get approval from the firm? Yes No
- 4 Describe any agreements prohibiting competition between the worker and the firm while the worker is performing services or during any later period. Attach any available documentation.
- 5 Is the worker a member of a union? Yes No
- 6 What type of advertising, if any, does the worker do (e.g., a business listing in a directory, business cards, etc.)? Provide copies, if applicable.
- 7 If the worker assembles or processes a product at home, who provides the materials and instructions or pattern?
- 8 What does the worker do with the finished product (e.g., return it to the firm, provide it to another party, or sell it)?
- 9 How does the firm represent the worker to its customers (e.g., employee, partner, representative, or contractor)?
- 10 If the worker no longer performs services for the firm, how did the relationship end (e.g., worker quit or was fired, job completed, contract ended, firm or worker went out of business)?

Part V For Service Providers or Salespersons. Complete this part if the worker provided a service directly to customers or is a salesperson.

- 1 What are the worker's responsibilities in soliciting new customers?
- 2 Who provides the worker with leads to prospective customers?
- 3 Describe any reporting requirements pertaining to the leads.
- 4 What terms and conditions of sale, if any, are required by the firm?
- 5 Are orders submitted to and subject to approval by the firm? Yes No
- 6 Who determines the worker's territory?
- 7 Did the worker pay for the privilege of serving customers on the route or in the territory? Yes No
If "Yes," whom did the worker pay?
- 8 If "Yes," how much did the worker pay? \$
- 9 Where does the worker sell the product (e.g., in a home, retail establishment, etc.)?
- 9 List the product and/or services distributed by the worker (e.g., meat, vegetables, fruit, bakery products, beverages, or laundry or dry cleaning services). If more than one type of product and/or service is distributed, specify the principal one.
- 10 Does the worker sell life insurance full time? Yes No
- 11 Does the worker sell other types of insurance for the firm? Yes No
If "Yes," enter the percentage of the worker's total working time spent in selling other types of insurance %
- 12 If the worker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments, enter the percentage of the worker's time spent in the solicitation %
- 13 Is the merchandise purchased by the customers for resale or use in their business operations? Yes No
Describe the merchandise and state whether it is equipment installed on the customers' premises.

Sign Here  Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented are true, correct, and complete.

_____ Title ▶ _____ Date ▶ _____
Type or print name below signature.

Kentucky Revised Statutes

- KRS 131.010—Definitions for chapter
KRS 131.155—Department's authority to require certain taxpayers and other persons to remit taxes by electronic fund transfers
KRS 131.180—Uniform Civil Penalty Act
KRS 134.580—Refund of taxes, other than ad valorem and unconstitutional taxes
KRS 141.010—Definitions for chapter
KRS 141.020—Levy of income tax on individuals; rate of normal tax; tax credits; income of nonresidents subject to tax; election to pay tax imposed by KRS 141.023
KRS 141.023—Optional tax tables
KRS 141.050—Federal interpretations applicable, when; taxpayer record; subpoenas; forms; regulations
KRS 141.070—Credits allowed individuals for tax paid to other states
KRS 141.081—Optional standard deduction for individuals; exception
KRS 141.130—Liability for tax on discontinuation of business
KRS 141.235—Action interfering with collection or payment prohibited; limitation on refund of taxes
KRS 141.300—Declaration of estimated tax
KRS 141.310—Withholding of tax from wages paid by employer
KRS 141.315—Department to promulgate regulations governing certain type of wage payments
KRS 141.320—Remuneration by an employer deemed wages
KRS 141.325—Withholding exemptions -- Certificates.
KRS 141.330—Employers to file quarterly returns and make payments; liability; lien on property of employer
KRS 141.335—Annual withholding statement to be furnished employee
KRS 141.340—Liability of employer for tax payment; corporate officers personally liable
KRS 141.350—Credit of amount withheld against tax imposed by KRS 141.020 for same taxable year
KRS 141.355—Crediting of overpayment and refund of balance; withholding in excess of tax imposed by KRS 141.020, when considered overpayment
KRS 141.370—Tables for determining tax to be withheld
KRS 141.985—Interest on tax not paid by date due
KRS 141.990—Penalties

Note: Statutes reflected on the following pages constitute the statutes in effect as of December 31, 2008. For updates to reference, refer to www.lrc.ky.gov for all statutes and regulations.

Kentucky Administrative Regulations

Regulation 103 KAR 1:060 - Electronic Fund Transfer

Regulation 103 KAR 18:010 - Employers Required to Withhold

Regulation 103 KAR 18:020 - Withholding Return Adjustment

Regulation 103 KAR 18:050 - Withholding Statements; Form K-2

Regulation 103 KAR 18:060 - Miscellaneous Payroll Period

Regulation 103 KAR 18:070 - Supplemental Wages and Other Payments Subject to Withholding

Regulation 103 KAR 18: 080 - Two or More Employers

Regulation 103 KAR 18: 090 - Payroll Records

Regulation 103 KAR 18:110 - Withholding Methods

K-1

42A801 (3-2007)

KENTUCKY EMPLOYER'S INCOME TAX WITHHELD WORKSHEET

Keep top portion for your records.

Instructions on Reverse

Taxpayer Name	Account Number	Period Beginning	Period Ending	Due Date
1. Total number of employees for the period.....				
2. Total wages paid for the period				
3. Income tax withheld this period				
4. Adjustments or credits (explain on reverse; see instructions)				
5. Penalty \$ _____ + Interest \$ _____ = _____				
6. Total amount due (Make check payable to: Kentucky State Treasurer.)				

NEED HELP? Telephone assistance is available from 8:00 a.m. to 5:00 p.m. Monday through Friday. Assistance and forms are also available from taxpayer service centers.



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

Internet Access
www.revenue.ky.gov

Taxpayer Service Center Locations

Ashland	(606) 920-2037	Louisville	(502) 595-4512
Bowling Green	(270) 746-7470	Owensboro	(270) 687-7301
Corbin	(606) 528-3322	Paducah	(270) 575-7148
Florence	(859) 371-9049	Pikeville	(606) 433-7675
Frankfort	(502) 564-4581		
Hopkinsville	(270) 889-6521		

Mailing Address for Assistance

 Kentucky Department of Revenue
 Withholding Tax
 PO Box 181, Station 57
 Frankfort, KY 40602-0181

Detach return below and submit with payment on or before the due date.

K-1

KENTUCKY EMPLOYER'S RETURN OF INCOME TAX WITHHELD

Period Begin: _____
 Period End: _____
 Due Date: _____
 Account No.: _____

- Total number of employees for the period
- Total wages paid for the period
- Income tax withheld this period
- Adjustments or credits (explain on reverse)
- Penalty \$ _____ + Interest \$ _____ = _____
- Total amount due (Make check payable to: **Kentucky State Treasurer.**)

1	2	3	4	5	6	7	8	9	10	11	12

42A8019913

Kentucky Department of Revenue
 Frankfort, KY 40620-0004

DO NOT ATTACH CHECK TO RETURN

Check here if address change.

K-1 INSTRUCTIONS

Who Must File—Every employer making payment of wages subject to Kentucky income tax is required to file withholding reports. A return **must be filed** for each reporting period even if no Kentucky income tax was withheld or the employer had no employees during the period.

When and Where to File—Revenue Form K-1 together with payment of the total amount due (line 6) must be mailed to the Department of Revenue, Frankfort, Kentucky 40620-0004 on or before the due date or next business day if the due date falls on a weekend or legal holiday. **Do not submit photocopies.** Make check or money order payable to the **Kentucky State Treasurer.**

Address Changes—To have your address changed on our records, mark the box on the front of the return and write the correct address on the back of the return in the box.

Cancellation of Withholding Account—Mark the box above the signature box and enter the effective date of the cancellation. This date is the last day that there were employees. The withholding account will be cancelled but you still must file a return showing the final reconciliation (Form K-3) for any year in which there were employees. On the back of the return put the address to which the K-3 should be sent and a phone number where you can be reached.

Ownership Changes—If the entity has had a change in ownership that required a new federal identification number, a new application (Form 10A100) must be filed. This form can be obtained online at www.revenue.ky.gov, by contacting Taxpayer Registration at (502) 564-3306, or a taxpayer service center.

Amended Returns and Requests for Refunds—An amended return is available online at www.revenue.ky.gov, by contacting Taxpayer Assistance at (502) 564-7287, or by contacting a taxpayer service center. In many cases a phone call may eliminate the need to file an amended return.

Line 4—This line is to be used only if there has been an error in tax paid on a prior return that needs to be adjusted on this return. To correct these errors enter the amount of the underpayment or overpayment on this line. Explain the adjustment on the back of the return. You must include your phone number in the signature box.

Line 5, Penalty—Any employer who fails to withhold and remit taxes as required by Kentucky Revised Statutes Chapter 141 may be subject to penalties. The penalties are for (1) filing a return late and (2) late payment of the tax due and failure to withhold tax.

Both of these penalties are computed on the amount of the tax due on the return. Each is 2 percent of the tax due on the return for each 30 days or fraction thereof that the return or payment is late. The minimum amount of each penalty is \$10. The percentage of each penalty will not exceed 20 percent of the total amount of tax due. Both penalties can apply to a return.

In addition to the above civil penalties, criminal penalties for willful violations are provided by KRS 141.990.

Example: The August return is due September 15 but the return was filed on October 28. Tax due on the return was \$1,000.

Computation of late filing penalty:

Tax Due	\$1,000.00
The return was 43 days late	
so the penalty is 4% (2% x two 30-day periods)	x .04
Late filing penalty (Computed penalty is greater than the \$10 minimum)	\$ 40.00

Computation of late payment penalty:

Tax Due	\$1,000.00
The return was 43 days late	
so the penalty is 4% (2% x two 30-day periods)	x .04
Late payment penalty (Computed penalty is greater than the \$10 minimum)	\$ 40.00
Total penalties for the return are \$80.	

Note: For any jeopardy assessment or estimated assessment issued for periods after January 1, 2003, the minimum late file penalty will be \$100. This includes zero tax due returns that are filed late when a jeopardy or estimated assessment has been issued.

Line 5, Interest—Interest shall apply to the tax withheld or required to be withheld at the interest rate established under KRS 131.010(6) from the due date until the date the tax is paid to the Department of Revenue.

Line 6—The total amount due on returns that have no adjustments and are postmarked by the due date is the amount entered on line 3.

If there are prior period adjustments they will be added to or subtracted from line 3 depending on whether the adjustment is for an underpayment or an overpayment.

Any penalty and interest reported on line 5 must be added to the taxes reported on line 3.

Payment for the amount shown on this line should be made to **Kentucky State Treasurer.** Include the withholding account number and the period shown on the return on the check.

Statement of adjustments or credits entered on line 4 and account changes.

42A8019923

Request for cancellation. Effective date ___/___/___

I declare, under the penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

Signature Title Date
☎ Telephone Number ()

K-1E INSTRUCTIONS

Who Must File—Every employer making payment of wages subject to Kentucky income tax is required to file withholding reports. A return must be filed for each reporting period even if no Kentucky income tax was withheld or the employer had no employees during the period.

When and Where to File—Revenue Form K-1E below must be mailed to the Department of Revenue, Frankfort, Kentucky 40620-0004 on or before the last day of the month following the close of the quarter or next business day if the due date falls on a weekend or legal holiday. **Do not submit photocopies.** Any additional amount due must be remitted via EFT.

Address Changes—To have your address changed on our records, mark the box on the front of the return and write the correct address on the back of the return in the box.

Cancellation of Withholding Account—Mark the request for cancellation box on the back of the return and enter the effective date of the cancellation. This date is the last day that there were employees. The withholding account will be cancelled but you still must file a K-3E showing the final reconciliation for any year in which there were employees. On the back of the return put the address to which the K-3E should be sent and a phone number where you can be reached.

Ownership Changes—If the entity has had a change in ownership that required a new federal identification number, a new application (Form 10A100) must be filed. This form can be obtained online at www.revenue.ky.gov, by contacting Taxpayer Registration at (502) 564-3306, or a taxpayer service center.

Amended Returns and Requests for Refunds—An amended return is available online at www.revenue.ky.gov, by contacting Taxpayer Assistance at (502) 564-7287, or by contacting a taxpayer service center. In many cases a phone call may eliminate the need to file an amended return.

Line 2, Adjustments or Credits—This line is to be completed only if an error was made on a previous payment. If it is necessary to correct such an error for a previous period, enter the amount of the underpayment or overpayment on line 2. Explain adjustments on the back of the return. You must also include your phone number in the space provided.

Line 3, Penalty—Any employer who fails to withhold and remit taxes as required by Kentucky Revised Statutes Chapter 141 may be subject to penalties. The penalties are for (1) filing a return late; (2) late payment of the tax due and failure to withhold tax; and (3) failure to pay via EFT. All three penalties can apply to a return.

The late filing penalty is computed on the amount of tax liability less timely payments and credits for the period. The late payment penalty is computed on the amount of tax paid late. Each is 2 percent for each 30 days or fraction thereof that the return or payment is late. The minimum amount of each penalty is \$10. The percentage of each penalty will not exceed 20 percent. Any payment not remitted via EFT is subject to a 1/2 percent penalty.

Note: For any jeopardy assessment or estimated assessment issued for periods after January 1, 2003, the minimum late file penalty will be \$100. This includes zero tax due returns that are filed late when a jeopardy or estimated assessment has been issued.

In addition to the above civil penalties, criminal penalties for willful violations are provided by KRS 141.990.

Line 3, Interest—Interest shall apply to the tax withheld or required to be withheld at the interest rate established under KRS 131.010(6) from the due date until the date the tax is paid to the Department of Revenue.

Line 4, Payments Made During Period—Enter total payments remitted via EFT for this period prior to filing this return.

Line 5, Total Amount Due—Remit any additional amounts due via EFT. If no adjustments or credits have been made, line 5 should equal zero.

Reconciliation—Enter payments made for each month of the current quarter.

RECONCILIATION (Must be Completed)

Payments Made for Each Month in Current Quarter

	Dollars	Cents	
First	[Grid for Dollars and Cents]		Total number of employees for the period
Second	[Grid for Dollars and Cents]		Total wages paid for the period
Third	[Grid for Dollars and Cents]		

Request for cancellation. Effective date ___/___/___

42A801E9923



Statement of adjustments or credits entered on line 2 and account changes.

K-3 INSTRUCTIONS

Who Must File—Every employer making payment of wages subject to Kentucky income tax is required to file withholding reports. A return must be filed for each reporting period even if no Kentucky income tax was withheld or the employer had no employees during the period.

When and Where to File—Revenue Form K-3 together with payment of the total amount due (line 6) must be mailed to the Department of Revenue, Frankfort, Kentucky 40620-0004 on or before January 31 or next business day if the due date falls on a weekend or legal holiday. **Do not submit photocopies.** Make check or money order payable to the **Kentucky State Treasurer.**

Address Changes—To have your address changed on our records, mark the box on the front of the return and write the correct address on the back of the return in the box.

Cancellation of Withholding Account—Mark the request for cancellation box on the back of the return and enter the effective date of the cancellation. This date is the last day that there were employees. On the back of the return put a phone number where you can be reached.

Ownership Changes—If the entity has had a change in ownership that required a new federal identification number, a new application (Form 10A100) must be filed. This form can be obtained online at www.revenue.ky.gov, by contacting Taxpayer Registration at (502) 564-3306, or a taxpayer service center.

Amended Returns and Requests for Refunds—An amended return is available online at www.revenue.ky.gov, by contacting Taxpayer Assistance at (502) 564-7287, or by contacting a taxpayer service center. In many cases a phone call may eliminate the need to file an amended return.

Line 4—This line is to be used only if there has been an error in tax paid on a prior return that needs to be adjusted on this return. To correct these errors enter the amount of the underpayment or overpayment on this line. Explain the adjustment on the back of the return. You must include your phone number in the box on the back of the return.

Line 5, Penalty—Any employer who fails to withhold and remit taxes as required by Kentucky Revised Statutes Chapter 141 may be subject to penalties. The penalties are for (1) filing a return late and (2) late payment of the tax due and failure to withhold tax. Both of these penalties are computed on the amount of the tax due on the return. Each is 2 percent of the tax due on the return for each 30 days or fraction thereof that the return or payment is late. The minimum amount of each penalty is \$10. The percentage of each penalty will not exceed 20 percent of the total amount of tax due. Both penalties can apply to a return.

In addition to the above civil penalties, criminal penalties for willful violations are provided by KRS 141.990.

Example: The December return is due January 31 but the return was filed on March 15. Tax due on the return was \$1,000.

Computation of late filing penalty:

Tax Due	\$1,000.00
The return was 43 days late so the penalty is 4% (2% x two 30-day periods)	x .04
Late filing penalty (Computed penalty is greater than the \$10 minimum)	\$ 40.00

Computation of late payment penalty:

Tax Due	\$1,000.00
The return was 43 days late so the penalty is 4% (2% x two 30-day periods)	x .04
Late payment penalty (Computed penalty is greater than the \$10 minimum)	\$ 40.00
Total penalties for the return are \$80.	

Note: For any jeopardy assessment or estimated assessment issued for periods after January 1, 2003, the minimum late file penalty will be \$100. This includes zero tax due returns that are filed late when a jeopardy or estimated assessment has been issued.

Line 5, Interest—Interest shall apply to the tax withheld or required to be withheld at the interest rate established under KRS 131.010(6) from the due date until the date the tax is paid to the Department of Revenue.

Line 6—The total amount due on returns that have no adjustments and are postmarked by the due date is the amount entered on line 3. If there are prior period adjustments they will be added to or subtracted from line 3 depending on whether the adjustment is for an underpayment or an overpayment.

Any penalty and interest reported on line 5 must be added to the taxes reported on line 3.

Payment for the amount shown on this line should be made to **Kentucky State Treasurer.** Include the withholding account number and the period shown on the return on the check.

Annual Reconciliation—Complete this section. K-2s must be transmitted separately with Transmitter Report for Filing Kentucky Wage Statements, Form 42A806.

ANNUAL RECONCILIATION (Must be Completed)

Total number of employees for the year

000000

Total wages paid for the year

0000000000

Payments Made for Each Period

Jan. _____	Apr. _____	July _____	Oct. _____
Feb. _____	May _____	Aug. _____	Nov. _____
Mar. _____	June _____	Sept. _____	Dec. _____

Request for cancellation.

Effective date ____/____/____

Total Kentucky income tax withheld as shown on K-2s

0000000000

42A8039923



Statement of adjustments or credits entered on line 4 and account changes.

Please check this box if you wish to credit overpayment to the next return filed.

K-3E

42A803-E (3-2007)

**KENTUCKY EMPLOYER'S INCOME TAX WITHHELD WORKSHEET
ELECTRONIC FUNDS TRANSFER**

Keep top portion for your records.
Instructions on Reverse

Taxpayer Name	Account Number	Period Beginning	Period Ending	Due Date
1. Income tax withheld this period				
2. Adjustments or credits (explain on reverse; see instructions)				
3. Penalty \$ _____ + Interest \$ _____ = _____				
4. Payments made during the period				
5. Total amount due (Remit payment via EFT)				

RECONCILIATION

Payments Made for Each Month in Current Quarter	Total number of employees for the period
First	Total wages paid for the period
Second	Total number of employees for the year
Third	Total wages paid for the year

NEED HELP? Telephone assistance is available from 8:00 a.m. to 5:00 p.m. Monday through Friday. Assistance and forms are also available from taxpayer service centers.



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

Internet Access
www.revenue.ky.gov

Taxpayer Service Center Locations

Ashland (606) 920-2037	Louisville (502) 595-4512
Bowling Green (270) 746-7470	Owensboro (270) 687-7301
Corbin (606) 528-3322	Paducah (270) 575-7148
Florence (859) 371-9049	Pikeville (606) 433-7675
Frankfort (502) 564-4581	
Hopkinsville (270) 889-6521	

Mailing Address for Assistance



Kentucky Department of Revenue
Withholding Tax
PO Box 181, Station 57
Frankfort, KY 40602-0181

Do Not Submit K-2s With This Return. Mail K-2s With Transmitter Report (Form 42A806).
Detach return below and submit on or before the due date.

K-3E KENTUCKY EMPLOYER'S RETURN OF INCOME TAX WITHHELD
(Complete Annual Reconciliation on Reverse)

	Dollars	Cents
1. Income tax withheld this period		
2. Adjustments or credits (explain on reverse)		
3. Penalty \$ _____		
+ Interest \$ _____ = _____		
4. Payments made during period		
5. Total amount due (Remit payment via EFT)		

Period Begin: _____
Period End: _____
Due Date: _____
Account No.: _____

Check here if address change.

42A803E9913

Kentucky Department of Revenue
Frankfort, KY 40620-0004

42A803-E (3-2007)

I declare, under the penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

Signature _____ Title _____ Date _____

K-3E INSTRUCTIONS

Who Must File—Every employer making payment of wages subject to Kentucky income tax is required to file withholding reports. A return must be filed for each reporting period even if no Kentucky income tax was withheld or the employer had no employees during the period.

When and Where to File—Revenue Form K-3E must be mailed to the Department of Revenue, Frankfort, Kentucky 40620-0004 on or before January 31 or next business day if the due date falls on a weekend or legal holiday. **Do not submit photocopies.** Any additional amount due must be remitted via EFT.

Address Changes—To have your address changed on our records, mark the box on the front of the return and write the correct address on the back of the return in the box.

Cancellation of Withholding Account—Mark the request for cancellation box on the back of the return and enter the effective date of the cancellation. This date is the last day that there were employees. On the back of the return put a phone number where you can be reached.

Ownership Changes—If the entity has had a change in ownership that required a new federal identification number, a new application (Form 10A100) must be filed. This form can be obtained online at www.revenue.ky.gov, by contacting Taxpayer Registration at (502) 564-3306, or a taxpayer service center.

Amended Returns and Requests for Refunds—An amended return is available online at www.revenue.ky.gov, by contacting Taxpayer Assistance at (502) 564-7287, or by contacting a taxpayer service center. In many cases a phone call may eliminate the need to file an amended return.

Line 2, Adjustments or Credits—This line is to be completed only if an error was made on a previous payment. If it is necessary to correct such an error for a previous period, enter the amount of the underpayment or overpayment on line 2. Explain adjustments on back of return. You must also include your phone number in the space provided.

Line 3, Penalty—Any employer who fails to withhold and remit taxes as required by Kentucky Revised Statutes Chapter 141 may be subject to penalties. The penalties are for (1) filing a return late; (2) late payment of the tax due and failure to withhold tax; and (3) failure to pay via EFT. All three penalties can apply to a return.

The late filing penalty is computed on the amount of tax liability less timely payments and credits for the period. The late payment penalty is computed on the amount of tax paid late. Each is 2 percent for each 30 days or fraction thereof that the return or payment is late. The minimum amount of each penalty is \$10. The percentage of each penalty will not exceed 20 percent. Any payment not remitted via EFT is subject to a 1/2 percent penalty.

Note: For any jeopardy assessment or estimated assessment issued for periods after January 1, 2003, the minimum late file penalty will be \$100. This includes zero tax due returns that are filed late when a jeopardy or estimated assessment has been issued.

In addition to the above civil penalties, criminal penalties for willful violations are provided by KRS 141.990.

Line 3, Interest—Interest shall apply to the tax withheld or required to be withheld at the interest rate established under KRS 131.010(6) from the due date until the date the tax is paid to the Department of Revenue.

Line 4, Payments Made During Period—Enter total payments remitted via EFT for this period prior to filing this return.

Line 5, Total Amount Due—Remit any additional amounts due via EFT. If no adjustments or credits have been made, line 5 should equal zero.

Annual Reconciliation—Complete this section. K-2s must be transmitted separately with Transmitter Report for Filing Kentucky Wage Statements, Form 42A806.

Payments Made for Each Month in Current Quarter

	Dollars	Cents
First		
Second		
Third		
Total number of employees for the period		
Total wages paid for the period		

**ANNUAL RECONCILIATION
(Must be Completed)**

Total number of employees for the year

Total wages paid for the year

Total Kentucky income tax withheld as shown on K-2s

Request for cancellation. Effective date ___/___/___

42A803E9923



Statement of adjustments or credits entered on line 2 and account changes.

Please check this box if you wish to credit overpayment to the next return filed.

Revenue Form K-4
42A804 (4-05)

KENTUCKY DEPARTMENT OF REVENUE
EMPLOYEE'S WITHHOLDING EXEMPTION CERTIFICATE

Payroll No. _____

Print Full Name _____

Social Security No. _____

Print Home Address _____

EMPLOYEE:

File this form with your employer. Otherwise, Kentucky income tax must be withheld from your wages.

EMPLOYER:

Keep this certificate with your records. If the employee is believed to have claimed too many exemptions, the Department of Revenue should be so advised.

HOW TO CLAIM YOUR WITHHOLDING EXEMPTIONS

1. If SINGLE, and you claim an exemption, enter "1," if you do not, enter "0" _____
2. If MARRIED, one exemption each for you and spouse if not claimed on another certificate.
 - (a) If you claim both of these exemptions, enter "2" _____
 - (b) If you claim one of these exemptions, enter "1" _____
 - (c) If you claim neither of these exemptions, enter "0" _____
3. Exemptions for age and blindness (applicable only to you and your spouse but not to dependents):
 - (a) If you or your spouse will be 65 years of age or older at the end of the year, and you claim this exemption, enter "2"; if both will be 65 or older, and you claim both of these exemptions, enter "4" _____
 - (b) If you or your spouse are blind, and you claim this exemption, enter "2"; if both are blind, and you claim both of these exemptions, enter "4" _____
4. If you claim exemptions for one or more dependents, enter the number of such exemptions _____
5. National Guard exemption (see instruction 1) _____
6. Exemptions for Excess Itemized Deductions (Form K-4A) _____
7. Add the number of exemptions which you have claimed above and enter the total _____
8. Additional withholding per pay period under agreement with employer. See instruction 1 _____ \$

I certify that the number of withholding exemptions claimed on this certificate does not exceed the number to which I am entitled.

Date _____

Signed _____

Form **K-4E**
42A804-E (2-09)
Commonwealth of Kentucky
DEPARTMENT OF REVENUE

Special Withholding Exemption Certificate

(For use by employees who anticipate no tax liability for the current year.)

2009

Date _____

Type or Print Full Name _____

Social Security Number _____

Expires (see instructions) _____

Home Address (Number and Street) _____

City, State and ZIP Code _____

Employee—File this certificate with your employer. Otherwise Kentucky income tax must be withheld from your wages.

Employer—Keep this certificate with your records. This certificate may be used instead of Form K-4 by those employees qualified to claim the exemption.

Employee's Certification—I certify under the penalties of perjury that I anticipate no Kentucky income tax liability and that my modified gross income combined with my spouse's modified gross income, if married, will not exceed the threshold amount for my family size for this year.

Signature _____

Date _____

INSTRUCTIONS

1. NUMBER OF EXEMPTIONS—Do not claim more than the correct number of exemptions. However, if you have unusually large amounts of itemized deductions, you may claim additional exemptions to avoid excess withholding. You may also claim an additional exemption if you will be a member of the Kentucky National Guard at the end of the year. If you expect to owe more income tax for the year than will be withheld, you may increase the withholding by claiming a smaller number of exemptions or you may enter into an agreement with your employer to have additional amounts withheld. If you claim more than 10 exemptions this information is sent to the Department of Revenue.

2. CHANGES IN EXEMPTIONS—You may file a new certificate at any time if the number of your exemptions **INCREASES**.

You must file a new certificate within 10 days if the number of exemptions previously claimed by you **DECREASES** for any of the following reasons.

(a) You are divorced or legally separated from your spouse for whom you have been claiming an exemption or your spouse claims his or her own exemption on a separate certificate.

(b) The support of a dependent for whom you claimed exemption is taken over by someone else, so that you no longer expect to furnish more than half the support for the year.

(c) Your itemized deductions substantially decrease and a Form K-4A has previously been filed.

OTHER DECREASES in exemption, such as the death of a spouse or a dependent, do not affect your withholding until the next year, but require the filing of a new certificate by December 1 of the year in which they occur.

3. DEPENDENTS—To qualify as your dependent (line 4 on reverse), a person (a) must receive more than one-half of his or her support from you for the year, and (b) must not be claimed as an exemption by such person's spouse, and (c) must be a citizen of the United States, or a resident of the United States, Canada, or Mexico, or (d) must have lived with you for the entire year as a member of your household or be related to you as follows:

- your child, stepchild, legally adopted child, foster child (if he lived in your home as a member of the family for the entire year), grandchild, son-in-law, or daughter-in-law;
- your father, mother, or ancestor of either, stepfather, stepmother, father-in-law, or mother-in-law;
- your brother, sister, stepbrother, stepsister, brother-in-law, or sister-in-law;
- your uncle, aunt, nephew, or niece (but only if related by blood).

4. PENALTIES—Penalties are imposed for willfully supplying false information or willful failure to supply information which would reduce the withholding exemption.

www.revenue.ky.gov



INSTRUCTIONS

Who May Claim the Exemption from Withholding of Income Tax—The 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 eligible to claim this exemption, the employer will not withhold Kentucky income tax from wages. **Employer:** Do not accept if the employee's wages exceed the income requirements as shown below.

Liability for Estimated Tax—If income tax is not withheld by the employer as a result of this certificate and an income tax liability occurs, estimated tax may be required. An estimated tax penalty will be applicable if 70 percent of the tax due is not prepaid and the liability is more than \$500.

Income Filing Requirements—The 2009 filing threshold amount based upon federal poverty level is expected to be \$10,830 for a family size of one (single, or married living apart from your spouse for the entire year), \$14,570 for a family of two (single with one dependent child or a married couple), \$19,310 for a family of three (single with two dependent children or a married couple with one dependent child) and \$22,050 for a family of four or more (single with three or more dependent children or a married couple with two or more dependent children). Modified gross income is equal to your federal adjusted gross income plus any interest income

from other states municipal bonds and pension income from a qualifying lump-sum distribution, if your and your spouse's combined modified gross income is expected to be less than the threshold amount for your family size, then you and your spouse may complete this certificate. **If the anticipated wages exceed these requirements, this certificate must not be filed.**

Multiple Employers—An employee, employed by more than one employer, may claim the exemption from withholding with each employer, provided that the total of the anticipated income does not exceed the threshold amount for the current taxable year.

Expiration and Requirement of Revocation of the Exemption—This certificate will expire on the last day of the fourth month following the close of the taxable year. This exemption certificate must be revoked within 10 days if it is reasonable to anticipate that a Kentucky income tax liability will occur. If this exemption certificate is discontinued or revoked, a new Employee's Withholding Exemption Certificate (Form K-4) must be filed with the employer.



INSTRUCTIONS

Under the provisions of Public Law 105-261, pay and compensation earned at Fort Campbell, Kentucky, military base is exempt from Kentucky income tax if you are 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 one hundred eighty-three (183) days of the taxable year in this state.

Employees—If you are not a "resident" of Kentucky, complete Form 42A807 and file with your employer. Otherwise Kentucky income tax must be withheld from your wages. The address portion of the form must contain the physical location where you live. A *post office box number is unacceptable* and will invalidate this certificate.

It is **your responsibility** to notify your employer to revoke this certificate 10 days after a move or change of address to Kentucky.

Penalties—Criminal and civil penalties may be imposed for intentionally supplying false information or intentional failure to supply information which causes your employer to under-withhold.

Employers—Keep Copy A for your files. Mail Copy B with your name and federal or Kentucky identification number to the Kentucky Department of Revenue, P.O. Box 181, Station 57, Frankfort, Kentucky 40602-0181, within 30 days of receipt. After the employee files a complete Form 42A807, you are authorized to discontinue withholding Kentucky income tax from wages earned at Fort Campbell, Kentucky. If the employee moves or otherwise changes his/her address to Kentucky, begin withholding Kentucky income tax as required by KRS 141.310 with the first payroll period ending after you receive notice of the change. Check the box in the upper right corner to indicate this certificate is revoked and enter date. Retain in your files for four years.

42A809
3-07



COMMONWEALTH OF KENTUCKY, DEPARTMENT OF REVENUE
FRANKFORT, KENTUCKY 40620

See Instructions on Reverse

CERTIFICATE OF NONRESIDENCE

(Please Type or Print)

Name of employee _____ Social Security No. _____

Home address _____
Number and street or rural route City, town, or post office State ZIP Code

I have not been a resident of Kentucky during the year. (Check block in front of applicable statement.) I work in Kentucky and reside in:

- Illinois, Indiana, Michigan, West Virginia, Wisconsin
- Virginia and commute daily to my place of employment in Kentucky. (Must commute daily to apply.)
- Ohio and I am not a shareholder-employee who is a "twenty (20) percent or greater" direct or indirect equity investor in a S corporation.

I hereby certify that the above information is true and complete. I further certify that at any time I change my status as a resident

of _____, I will notify my employer of such fact within ten days from date of change.

Name of current state of residence

Signature of employee Date

INSTRUCTIONS
To Be Filed With Employer

To The Employee:

You are exempt from income taxes on wages or salaries earned in Kentucky if: (1) You have not been a resident of Kentucky during the taxable year and you reside in Illinois, Indiana, Michigan, West Virginia, or Wisconsin or (2) you reside in Virginia and commute *daily* to your place of employment in Kentucky or (3) you reside in 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 you meet one of the above qualifications and are therefore exempt, your employer may cease withholding Kentucky income taxes. However, you must complete the front of this form and file it with your employer before he can stop withholding.

To The Employer:

Upon receipt of this form, properly completed, you are authorized to discontinue the withholding of Kentucky income tax from the wages of (1) an employee who resides in Illinois, Indiana, Michigan, West Virginia, or Wisconsin, and has not resided in Kentucky during the taxable year, or (2) an employee who resides in Virginia and commutes *daily* to his place of employment in Kentucky or (3) an employee who resides in Ohio and is not a shareholder-employee who is a "twenty (20) percent or greater" direct or indirect equity investor in a S corporation. The completed form is to be retained in *your* file. If the employee moves or otherwise changes his residence to a state other than those mentioned above, begin withholding Kentucky income tax, as required by KRS 141.310, with the first payroll period ending after you receive notice of status change from the employee.

10A100 (6-08)

KENTUCKY TAX REGISTRATION APPLICATION

Commonwealth of Kentucky
DEPARTMENT OF REVENUE

Need Help? Call (502) 564-3306 or visit www.revenue.ky.gov

- Incomplete or illegible applications will delay processing and will be returned.
- Print or type the application using blue or black ink only.
- Please see instructions for questions regarding completion of the application.

MAIL or FAX completed application to: **KENTUCKY DEPARTMENT OF REVENUE**
P. O. BOX 299, STATION 20
FRANKFORT, KENTUCKY 40602-0299
FAX: (502) 227-0772

FOR OFFICE USE ONLY	
CRIS	
NAICS	
Coded	Date Entered
Date Coded	Date Data Entered

SECTION A REASON FOR COMPLETING THIS APPLICATION (Must Be Completed)

- Effective Date** ____/____/____
 Opened new business
 Resumption of business
 Opened new location of current business (See Instructions)
 Applying for additional tax accounts
 Hired employees working in Kentucky
 Hired employees working out-of-state with a KY residence
 Updating information (See Instructions)
 State Government Vendor and/or Affiliates
 Other (Specify) _____
Change in Ownership
 Ownership change—Previous type _____
 Purchased an existing business (See Instructions)
- Previous Owner's Account Numbers (If Applicable):**
 Kentucky Withholding Tax _____
 Kentucky Corporation Income Tax _____
 Kentucky Limited Liability Entity Tax _____
 Kentucky Sales and Use Tax _____
 Kentucky Coal Severance Tax _____
 Federal ID Number (FEIN) _____
- Your Current Account Numbers (If Applicable)**
 Kentucky Withholding Tax _____
 Kentucky Corporation Income Tax _____
 Kentucky Limited Liability Entity Tax _____
 Kentucky Sales and Use Tax _____
 Kentucky Coal Severance Tax _____
 Federal ID Number (FEIN) _____

SECTION B BUSINESS / RESPONSIBLE PARTY / CONTACT INFORMATION (Must Be Completed)

- Legal Business Name** _____
- Doing Business As (See Instructions)** _____
- Federal Employer Identification Number (FEIN)** -
- Business Location—Street Address (DO NOT List a P.O. Box as a Location Address)** _____
 City _____ State _____ Zip Code _____
- County (if in Kentucky)** _____
- 9. Location Telephone** (____) _____ - _____
- A. Describe the nature of your business activity in Kentucky, including any services provided.** _____
- B. Describe the nature of your business activity outside Kentucky, including any services provided.** _____
- C. If you make sales in Kentucky, list the products sold.** _____
- Accounting Period** Calendar Year (year ending December 31st) Fiscal Year (year ending ____/____ (mm/dd))
- Ownership Type**
 Sole Proprietorship Association Real Estate Investment Trust Other (See Instructions)
 General Partnership Homeowner's Association Estate
 Corporation Joint Venture Limited Partnership
 S corporation Trust Limited Liability Partnership (LLP or LLLP)
 Government Non-Profit (See Instructions) Limited Liability Company (LLC)
- If "LIMITED LIABILITY COMPANY" is Checked Above, How Will You be Taxed for Federal Purposes?**
 A. Partnership Single Member-Disregarded Entity, member taxed as:
 B. Corporation D. Individual
 C. S corporation E. Other (Specify) _____

14-17. OWNERSHIP DISCLOSURE—RESPONSIBLE PARTIES (REQUIRED FOR ALL OWNERSHIP TYPES)

Name (Last, First, MI)	Business Title	Residential Address, City, State, Zip Code	Social Security Number (REQUIRED)

- Contact's Name** _____
- Contact's Title** _____
- Contact's E-Mail Address** _____
 (By supplying your e-mail address you grant the Department of Revenue permission to contact you via the Internet.)
- Daytime Telephone** (____) _____ - _____ Extension _____ Fax (____) _____ - _____

YOU MUST ANSWER ALL QUESTIONS IN SECTION C.

SECTION C TELL US ABOUT YOUR BUSINESS OR ORGANIZATION (Must Be Completed)

22. A. Do you have or will you hire employees to work in Kentucky within the next 6 months? Yes No
 B. Will you employ Kentucky residents, who work outside Kentucky, on which you wish to voluntarily withhold? Yes No
(An employee is anyone to whom you pay wages, including part-time help and family members.)
 23. If your business is a corporation or limited liability company choosing taxation as a corporation for Federal purposes, will the Kentucky officers receive compensation other than dividends? Yes No

If you answered "YES" to EITHER question 22 or 23, you must complete SECTION D.

24. Will you make retail and/or wholesale sales in Kentucky? Yes No
 25. Will you repair, install replacement parts, produce, fabricate, process, print or imprint tangible personal property? Yes No
 26. Will you rent/lease tangible personal property to others, including related companies? Yes No
 27. Will you charge taxable admissions? Yes No
 28. Will you rent temporary lodging to others? Yes No
 29. Will you sell for or are you a manufacturer's agent soliciting orders for a nonresident seller not registered in Kentucky? Yes No
 30. Will you receive receipts from the breeding of a stallion to a mare in Kentucky? Yes No
 31. Will you make sales of motor vehicles to residents of AZ, CA, FL, IN, MA, MI, SC, or WA? Yes No
 32. Will you sell any of the following?

<table border="0"> <tr><td><input type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr> <tr><td><input type="checkbox"/> A. Coal or other minerals</td><td><input type="checkbox"/> E. Communication services</td></tr> <tr><td><input type="checkbox"/> B. Water utilities</td><td><input type="checkbox"/> F. Sewer services</td></tr> <tr><td><input type="checkbox"/> C. Natural, artificial, or mixed gas</td><td><input type="checkbox"/> G. Cable services</td></tr> <tr><td><input type="checkbox"/> D. Electricity</td><td><input type="checkbox"/> H. Satellite broadcast services</td></tr> </table>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> A. Coal or other minerals	<input type="checkbox"/> E. Communication services	<input type="checkbox"/> B. Water utilities	<input type="checkbox"/> F. Sewer services	<input type="checkbox"/> C. Natural, artificial, or mixed gas	<input type="checkbox"/> G. Cable services	<input type="checkbox"/> D. Electricity	<input type="checkbox"/> H. Satellite broadcast services	<table border="0"> <tr><td><input type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr> <tr><td><input type="checkbox"/> E. Communication services</td><td><input type="checkbox"/> F. Sewer services</td></tr> <tr><td><input type="checkbox"/> F. Sewer services</td><td><input type="checkbox"/> G. Cable services</td></tr> <tr><td><input type="checkbox"/> G. Cable services</td><td><input type="checkbox"/> H. Satellite broadcast services</td></tr> </table>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> E. Communication services	<input type="checkbox"/> F. Sewer services	<input type="checkbox"/> F. Sewer services	<input type="checkbox"/> G. Cable services	<input type="checkbox"/> G. Cable services	<input type="checkbox"/> H. Satellite broadcast services
<input type="checkbox"/> Yes	<input type="checkbox"/> No																		
<input type="checkbox"/> A. Coal or other minerals	<input type="checkbox"/> E. Communication services																		
<input type="checkbox"/> B. Water utilities	<input type="checkbox"/> F. Sewer services																		
<input type="checkbox"/> C. Natural, artificial, or mixed gas	<input type="checkbox"/> G. Cable services																		
<input type="checkbox"/> D. Electricity	<input type="checkbox"/> H. Satellite broadcast services																		
<input type="checkbox"/> Yes	<input type="checkbox"/> No																		
<input type="checkbox"/> E. Communication services	<input type="checkbox"/> F. Sewer services																		
<input type="checkbox"/> F. Sewer services	<input type="checkbox"/> G. Cable services																		
<input type="checkbox"/> G. Cable services	<input type="checkbox"/> H. Satellite broadcast services																		

If you answered "YES" to ANY of questions 24 through 32 (except 32 G or H), you must complete SECTION E and you may SKIP questions 33-34.

33. Are you a construction company/contractor that will bring into this state construction materials or supplies on which no Kentucky sales tax or equivalent has been paid? Yes No
 34. Will you make purchases from out-of-state vendors and not pay Kentucky sales or use tax to the seller on those purchases? (IF YOU ARE A PROFESSIONAL SERVICE BUSINESS, PLEASE SEE INSTRUCTIONS FOR IMPORTANT ADDITIONAL DETAILS) Yes No

If you answered "YES" to EITHER question 33 or 34, you must complete SECTION F.

35. Is your business/organization a corporation, s corporation, limited partnership (LP), limited liability partnership (LLP or LLLP), limited liability company (LLC), professional limited liability company (PLLC), association, homeowners' association, real estate investment trust (REIT), regulated investment company (RIC), real estate mortgage investment conduit (REMIC), or similar entity created with limited liability for the partners, members or shareholders? Yes No

If you answered "YES" to question 35, you MUST answer questions 36-43. Sole Proprietorships, General Partnerships, and nonprofit organizations with 501(C)(3) status with the IRS may SKIP questions 36-43.

36. Is your corporation/limited liability entity organized under the laws of Kentucky with our Secretary of State's Office? Yes No
 37. Will your corporation/limited liability entity have its commercial domicile in Kentucky? Yes No
 38. Will your corporation/limited liability entity own/lease any real or tangible personal property located in Kentucky? Yes No
 39. Will your corporation/limited liability entity have one or more individuals performing services in Kentucky? Yes No
 40. Will your corporation/limited liability entity maintain an interest in a pass-through entity doing business in Kentucky? Yes No
 41. Will your corporation/limited liability entity derive income from or attributable to sources within Kentucky, including income derived directly/indirectly from a trust/single member limited liability company doing business in Kentucky? Yes No
 42. Will your corporation/limited liability entity direct activities at Kentucky customers for the purpose of selling them goods or services? Yes No
 43. Will your corporation/limited liability entity own/lease any intangible property or receive payments from a related member as defined in KRS 141.205(1)(g) or an unrelated party for the use of intangible property in Kentucky such as royalties, franchise agreements, patents, trademarks, etc.? Yes No

If you answered "YES" to ANY of questions 36 through 43, you must complete SECTION G. You qualify for a corporation income tax and/or a limited liability entity tax account. Please see Instructions for further explanation.

44. Will you mine coal that you own or possess the mineral rights to, either by deed, lease, consent, etc.? Yes No
 45. A. Will you purchase coal for the purpose of processing and resale? Yes No
 B. Will you process refuse coal? Yes No
(Processing means cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose.)

If you answered "YES" to EITHER question 44 or 45, you must complete SECTION E and SECTION H.

10A100 (6-08)

Page 3

FOR OFFICE USE ONLY				
WH #	SU #	USE #	CP/LLE #	CT #

SECTION D EMPLOYER'S WITHHOLDING TAX ACCOUNT
Must be completed if you answered "YES" to EITHER question 22 or 23.

46. Number of Kentucky employees _____
47. Date wages first paid or will be paid (REQUIRED)
____/____/____ (mm/dd/yyyy)
48. Estimated annual withholding in Kentucky:
 \$0.00-\$399.99
 \$400.00-\$1,999.99
 \$2,000.00-\$49,999.99
 \$50,000.00 or more
49. Employer's Withholding Tax returns should be mailed to:
 Use the same address as listed on Page 1, Section B, Item 7
 c/o or Attn. _____
 Address _____
 City, State, Zip Code _____
50. County _____
51. Mailing Telephone Number (____) _____ - _____

SECTION E SALES AND USE TAX ACCOUNT
Must be completed if you answered "YES" to ANY of the questions 24 through 32 (except 32G or 32H).

52. Date sales began or will begin (REQUIRED)
____/____/____ (mm/dd/yyyy)
53. Accounting Method: Cash Accrual
54. Do you rent temporary lodging to others? (See Instructions)
 Yes No
55. Do you sell new tires for motor vehicles? (See Instructions)
 Yes No
56. Estimated gross monthly sales tax in Kentucky:
 \$0.00-\$1,199.99
 \$1,200.00 or more
57. Sales and Use Tax returns should be mailed to:
 Use the same address as listed on Page 1, Section B, Item 7
 c/o or Attn. _____
 Address _____
 City, State, Zip Code _____
58. County _____
59. Mailing Telephone Number (____) _____ - _____

SECTION F CONSUMER'S USE TAX ACCOUNT
Must be completed if you answered "YES" to EITHER question 33 or 34.

60. Date purchases began or will begin (REQUIRED)
____/____/____ (mm/dd/yyyy)
- * If you make a one-time purchase only, see the Instructions
62. County _____
63. Mailing Telephone Number (____) _____ - _____
61. Consumer's Use Tax returns should be mailed to:
 Use the same address as listed on Page 1, Section B, Item 7
 c/o or Attn. _____
 Address _____
 City, State, Zip Code _____

SECTION G CORPORATION INCOME AND/OR LIMITED LIABILITY ENTITY TAX ACCOUNT
Must be completed if you answered "YES" to ANY of the questions 36 through 43.

64. Date of incorporation or organization
____/____/____ (mm/dd/yyyy)
65. State of incorporation or organization

66. Date of qualification in Kentucky
____/____/____ (mm/dd/yyyy)
67. Corporation Income and/or Limited Liability Entity Tax returns should be mailed to:
 Use the same address as listed on Page 1, Section B, Item 7
 c/o or Attn. _____
 Address _____
 City, State, Zip Code _____
68. County _____
69. Mailing Telephone Number (____) _____ - _____

Section H and REQUIRED Signature(s) Section on Page 4 

SECTION H COAL SEVERANCE & PROCESSING TAX ACCOUNT
 Must be completed if you answered "YES" to EITHER question 44 or 45.

70. Date mining or processing operations began or will begin
 ___/___/___ (mm/dd/yyyy)
71. Coal Severance & Processing Tax returns should be mailed to:
 Use the same address as listed on Page 1, Section B, Item 7
 c/o or Attn. _____
 Address _____
 City, State, Zip Code _____
72. County _____
73. Mailing Telephone No. (____) _____ - _____

LIST THE MINE LOCATIONS THAT YOU OPERATE IN KENTUCKY:

74. Mine Name _____
75. Mine Location (County) _____
76. Contract Miner Name (If Applicable) _____
77. Surface Disturbance Mining Permit Number -
78. Do you operate additional mine locations? Yes No

If yes, attach a continuation page listing the information requested in questions 74 through 77 for each mine location.

79. Physical location address where business records are kept:
 Use the same address as listed on Page 1, Section B, Item 7
 c/o or Attn. _____
 Address _____
 City, State, Zip Code _____

IMPORTANT: THIS APPLICATION MUST BE SIGNED BELOW:

The statements contained in this application and any accompanying schedules are hereby certified to be correct to the best knowledge and belief of the undersigned who is duly authorized to sign the application.

Signed: _____ Signed: _____
 Title: _____ Title: _____
 Date: ___/___/___ (mm/dd/yyyy) Date: ___/___/___ (mm/dd/yyyy)

For information about registering for cigarette tax, minerals or natural gas severance tax, motor fuels tax, utility gross receipts license tax, telecommunications tax or any other tax administered by the Department of Revenue, please visit our Web site at www.revenue.ky.gov.

If you are applying for a withholding account and/or a sales and use tax account and would like to receive a packet to register for Electronic Funds Transfer (EFT), please call (502) 564-6020.

For assistance in completing the application, please call the Taxpayer Registration Section at (502) 564-3306, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., Eastern time, or you may contact one of the Kentucky Taxpayer Service Centers or use the Telecommunications Device for the Deaf. Each office is open Monday through Friday, 8:00 a.m. to 5:00 p.m., local time. For a list of Taxpayer Service Centers and phone numbers, see the Instructions.

MAIL completed application to: KENTUCKY DEPARTMENT OF REVENUE
 P.O. BOX 299, STATION 20
 FRANKFORT, KENTUCKY 40602-0299

or
 FAX to: (502) 227-0772

This form does not include registration for Unemployment Insurance or Workers' Compensation Insurance. Please contact the Business Information Clearinghouse toll free at (800) 626-2250 (outside Kentucky) or (502) 564-4252 (in Kentucky) to obtain information on these accounts or contact the offices directly at the numbers below.

Unemployment Insurance	(502) 564-2272	Workers' Compensation	(502) 564-5550
Secretary of State	(502) 564-2848	IRS—FEIN	(800) 829-4933



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.

42A806 (3-09)
Commonwealth of Kentucky
DEPARTMENT OF REVENUE

**TRANSMITTER REPORT FOR
FILING KENTUCKY WAGE STATEMENTS**



1. Withholding Account Name and Address	5. Number of Kentucky Statements
	6. Kentucky Taxable Wages
	7. Kentucky Income Tax Withheld
2. KY Withholding Account Number	8. Name and Address of Transmitter
3. Tax Year	
4. Phone Number (Include Area Code)	9. Contact Name for W-2/K-2 Submission

INSTRUCTIONS

Complete boxes (1) through (9) and mail with the W-2/K-2 Forms, CD, or diskette to:

**Kentucky Department of Revenue
W-2 Processing
501 High Street, Station 57
Frankfort, KY 40620**

Do NOT send a Transmitter Report if you have no W-2/K-2 Forms, CD, or diskette to submit.

If more than one Kentucky withholding account is reported on the CD or diskette, omit lines 1, 2, 5, 6 and 7, and attach a summary sheet showing name and address, Kentucky withholding tax account number, number of Kentucky statements, Kentucky taxable wages and Kentucky income tax withheld for each account.

**This Transmitter Report must be filled out and submitted with
your W-2/K-2 Forms, CD, or diskette by January 31
following the close of the calendar year.**

Photocopies of this Transmitter Report are acceptable.

Do not staple Forms W-2/K-2 together or to Form 42A806.

For your convenience, wage and tax statements may be filed electronically via Web filing. Visit the Department of Revenue's Web site for details.

www.revenue.ky.gov

22222		Void <input type="checkbox"/>	a Employee's social security number		For Official Use Only OMB No. 1545-0008	
b Employer identification number (EIN)			1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code			3 Social security wages		4 Social security tax withheld	
			5 Medicare wages and tips		6 Medicare tax withheld	
			7 Social security tips		8 Allocated tips	
d Control number			9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial		Last name	Suff.	11 Nonqualified plans		12a See instructions for box 12
f Employee's address and ZIP code			13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b	
			14 Other		12c	
					12d	
15	Employer's KY withholding tax ID number	16 KY wages, tips, etc.	17 KY income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
	KY					

Form **W-2** Wage and Tax Statement **2008**
 Copy A For Social Security Administration – Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable.

Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.
 Printing cost paid by KY Department of Revenue.
 Cat. No. 10134D

Do Not Cut, Fold, or Staple Forms on This Page — Do Not Cut, Fold, or Staple Forms on This Page

22222		Void <input type="checkbox"/>	a Employee's social security number		For Official Use Only OMB No. 1545-0008	
b Employer identification number (EIN)			1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code			3 Social security wages		4 Social security tax withheld	
			5 Medicare wages and tips		6 Medicare tax withheld	
			7 Social security tips		8 Allocated tips	
d Control number			9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial		Last name	Suff.	11 Nonqualified plans		12a See instructions for box 12
f Employee's address and ZIP code			13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b	
			14 Other		12c	
					12d	
15	Employer's KY withholding tax ID number	16 KY wages, tips, etc.	17 KY income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
	KY					

Form **W-2** Wage and Tax Statement **2008**
 Copy A For Social Security Administration – Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable.

Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.
 Printing cost paid by KY Department of Revenue.
 Cat. No. 10134D

42A808 (3-06)

Commonwealth of Kentucky
DEPARTMENT OF REVENUE

**Authorization to Submit Employees Annual
Wage and Tax Statements Via
Kentucky Department of Revenue Web Site**



<p>1. Check appropriate box:</p> <p><input type="checkbox"/> Initial request for PIN (personal identification number).</p> <p><input type="checkbox"/> Misplaced PIN.</p> <p><input type="checkbox"/> Request to change PIN due to security issue, i.e., new employee responsible for submitting W-2 information or PIN security has been compromised.</p> <p><input type="checkbox"/> FEIN changed, new PIN required.</p>
<p>2. Name, address and federal employer identification number of person, organization or firm requesting Web filing:</p> <p>Business Name _____ FEIN* _____</p> <p>Street Address _____ City/State/ZIP _____</p>
<p>3. Name, title and telephone number of contact person:</p> <p>Contact Name _____ Phone Number _____</p> <p>Title _____ E-mail Address** _____</p>
<p>4. Estimated number of wage and tax statements to be reported: _____</p>
<p>_____</p> <p align="center">Signature of Person Completing Authorization</p> <p align="right">_____</p> <p align="right">Date</p>

Please submit the request to:
 Kentucky Department of Revenue
 Withholding Tax Branch
 P.O. Box 181, Station 57
 Frankfort, KY 40602-0181
www.revenue.ky.gov

**If more than one FEIN is involved, please use the FEIN of the submitting/transmitting entity.*

***This gives Kentucky Department of Revenue permission to confirm the status to the employer using the confidential e-mail address provided on the form.*

Please Note: It is important to get your system/network administrator involved immediately to ensure that you have the proper capabilities. Kentucky Department of Revenue provides a secure Web site, but there are often limitations in your system or network. Please work with your system/network administrator early to ensure your success!

42A815 (8-06)
Commonwealth of Kentucky
DEPARTMENT OF REVENUE

**WITHHOLDING TAX
REFUND APPLICATION**



Name of Business	_____ ()	
	Enter Exact Name as it Appears on Your Account <i>(please print or type)</i>	Telephone Number <i>(include area code)</i>
Mailing Address	_____	
	P.O. Box or Number and Street	City or Town County State ZIP Code
	(1) Withholding tax account number under which tax was paid to the Kentucky State Treasurer _____ (2) Period(s) in which tax was reported and paid _____ (3) Explain the reason(s) for refund <i>(attach separate sheet if necessary)</i> _____ _____ _____ (4) Amount of tax refund requested _____ (5) Banking Information <i>(if electronic fund transfer (EFT) requested)</i> Name of Bank _____ Depositor Account Number (DAN) _____ Routing Transit Number (RTN) _____ Account Type ► <input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Other	
Instructions	(1) This application must be completed to receive the refund requested via EFT. (2) Only the taxpayer making payment of the tax directly to the Kentucky State Treasurer may file the application for refund. (3) Claims for refunds or credits must be filed within four years from the date the tax was paid to the State Treasurer. After the statute of limitations has expired, no claims for refunds or credits will be considered. (4) Mail completed application to the Kentucky Department of Revenue, Withholding Tax Section, P.O. Box 181, Station 57, Frankfort, KY 40602-0181.	

I, the undersigned, declare under the penalties of perjury that I have examined this refund application (including any attached schedules and statements) and to the best of my knowledge and belief, the statements contained herein are true, complete and correct, and that I am duly authorized to sign this application. The undersigned certifies that no tax liability of any kind is due or owing the Commonwealth of Kentucky by this applicant.

Signed _____ Title _____
 Name _____ Date _____
 (Print or Type)

