



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 15:050. Filing dates and extensions.

5 RELATES TO: KRS 131.081(11), 131.170, [~~136.100, 141.042,~~]141.160, 141.170[~~, 141.300~~]

6 STATUTORY AUTHORITY: KRS 131.130, 141.050[~~141.042, 141.050, 141.300~~]

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.081(11), 131.170, [~~141.042(7),~~

8]and 141.170 authorize the Department of Revenue to grant a taxpayer an extension of time to file

9 a tax return.[~~or to pay an installment of estimated income or limited liability entity tax.~~] This

10 administrative regulation establishes the procedures to be used by an individual, a corporation, a

11 pass-through entity or a fiduciary[~~or a noncorporate~~] entity to obtain an extension of time to file

12 an income or limited liability entity tax return.[~~or to pay an installment of estimated income tax~~

13 ~~for a taxable year.~~]

14 Section 1. Definitions. (1) "Corporation" means a corporation as defined by KRS 141.010(4),

15 [~~an S corporation as defined by KRS 141.010(25),~~] a limited liability company taxed as a

16 corporation, or other entity taxed as a corporation for Kentucky income tax purposes.

17 (2) "Date prescribed by KRS [~~136.100 or~~]141.160" means the 15th day of the fourth month

18 following the close of the taxable year.

19 (3) "Fiduciary" has the same meaning as KRS 141.010 (10).

20 (4) "General Partnership" is a partnership composed of only general partners, who are

21 personally liable for the partnership debts.

1 (5) "Pass-through entity" has the same meaning as KRS 141.010 (21). [~~"Noncorporate entity"~~
2 ~~means a partnership, a limited liability company treated as a partnership, a trust, a fiduciary, or~~
3 ~~other entity not taxed as a corporation for Kentucky income tax purposes.]~~

4 Section 2. An Extension of Time for Filing an Income or Limited Liability Entity Tax Return.

5 (1) Pursuant to KRS 131.081(11) and 141.170, a taxpayer may obtain an extension of time for
6 filing a Kentucky income or limited liability entity tax return by means of either a federal extension
7 or a Kentucky extension.

8 (2) Federal extension.

9 (a) A taxpayer granted an extension of time for filing a federal income tax return shall be
10 granted the same extension of the due date, except as otherwise provided in KRS 141.170(2)[time]
11 for filing a Kentucky income or limited liability entity tax return for the same taxable year if a
12 copy of the federal extension approval or the request for an automatic extension is attached to the
13 Kentucky income or limited liability entity tax return when it is filed.

14 (b) An extension of time for filing a Kentucky income or limited liability entity tax return
15 granted pursuant to this subsection shall be valid for the extension period granted by the Internal
16 Revenue Service, except as otherwise provided in KRS 141.170(2), in which a corporation shall
17 be granted an extension of seven (7) months.

18 (c) A copy of the federal extension shall not be mailed to the department [~~on or before the date~~
19 ~~prescribed by KRS 141.160,~~] except as provided in Section 3 of this administrative regulation.

20 (d) A corporation or pass-through entity shall write its Kentucky Account Number in the upper
21 right hand corner of any federal extension submitted.

22 (3) Kentucky extension. A taxpayer may file an application for extension with the department,
23 on or before the date prescribed by KRS 141.160 for filing the return.

1 (a) An individual, general partnership, or fiduciary~~[-or a noncorporate]~~ entity shall file Form
2 740EXT "Application for Extension of Time to File", Revenue Form 40A102.

3 1. An individual, general partnership, or fiduciary~~[-or a noncorporate]~~ entity shall state the
4 reason for the request on the application for extension. Inability to pay the tax liability shall not be
5 a valid reason.

6 2. An individual, general partnership, or fiduciary~~[-or a noncorporate]~~ entity shall be notified
7 by mail if the application for extension is denied. A copy of an approved application for extension
8 shall not be returned to the individual, general partnership, or fiduciary~~[-or a noncorporate]~~ entity.

9 3. In accordance with KRS 141.170, an individual, general partnership, or fiduciary~~[-or a~~
10 ~~noncorporate]~~ entity shall be granted an extension of time to file for six (6) months unless the
11 application for extension is denied.

12 4. In accordance with KRS 141.170, an individual outside the United States shall be granted
13 an extension of time to file for twelve (12) months unless the application for extension is denied.

14 5. A copy of the signed and dated application for extension shall be attached to the income tax
15 return when it is filed.

16 (b) A corporation, S-corporation, or pass-through entity shall file Form 720EXT "Extension of
17 Time to File Kentucky Corporation/LLET Return", Revenue Form 41A720SL.

18 1. A corporation shall be granted an extension of time to file for seven (7) months.~~[six (6)~~
19 ~~months.]~~

20 2. A pass-through entity shall be granted an extension of time to file for six (6) months.

21 3. A copy of an approved application for extension shall not be returned to the corporation or
22 pass-through entity.

1 4. ~~[3.]~~ The extension shall become valid when mailed to the department on or before the date
2 prescribed by KRS 141.160 for filing the return.

3 5. ~~[4.]~~ The corporation or pass-through entity shall attach a copy of the signed and dated
4 application for extension to its Kentucky income tax and LLET return when it is filed. ~~["Kentucky
5 Corporation Income Tax And LLET Return", Revenue Form 71A720, when it is filed.]~~

6 (4) An extension of time for filing a unitary combined or elective consolidated ~~[mandatory
7 nexus-consolidated]~~ income tax return shall constitute an extension of time for filing for each
8 member of the ~~[affiliated-]~~ group.

9 (5) An extension of time for filing a corporation income tax return shall constitute an extension
10 of time for filing a limited liability entity tax return for the same taxable year.

11 Section 3. Payment of Tax. (1) An extension of time to file an income or limited liability entity
12 tax return shall not constitute an extension of time to pay the tax.

13 (2) A taxpayer shall determine if an amount of tax remains unpaid on or before the date
14 prescribed by KRS ~~[136.100 or]~~ 141.160 for filing the return.

15 (3) If tax remains unpaid, a payment ~~[check]~~ for the amount of the unpaid tax shall be submitted
16 to the department on or before the date prescribed by KRS ~~[136.100 or]~~ 141.160 for filing the
17 return along with the Kentucky extension ~~[or a copy of the federal extension].~~

18 (4) A group filing a unitary combined or elective consolidated income and limited liability
19 entity tax return and making a payment of tax with the application for extension shall file a
20 Kentucky extension to ensure the proper processing of payments.

21 ~~___ [A corporation shall write its Kentucky Account Number in the upper right hand corner of the~~
22 ~~federal extension submitted.~~

1 ~~—(5) An affiliated group filing a mandatory nexus consolidated income tax return and making a~~
2 ~~payment of tax with the application for extension shall file a Kentucky extension to ensure the~~
3 ~~proper processing of payments.]~~

4 Section 4. Interest and Penalties. (1) Statutory interest shall be paid from the date prescribed
5 by KRS [~~136.100 or~~]141.160 for filing the return until the tax is paid.

6 (2) If the envelope bearing the return is postmarked on or before the filing date, the late filing
7 penalty prescribed by 131.180 shall not apply.

8 Section 5.~~[Extension of Time to Pay Estimated Income Tax. (1) A request for an extension of~~
9 ~~time to pay an installment of estimated tax prescribed by KRS 141.042 and 141.300 shall be~~
10 ~~submitted to the Department of Revenue, 501 High Street, Frankfort, Kentucky 40601.~~

11 ~~—(2) The request shall state a basis for the extension.~~

12 ~~—(3) An extension of time to pay an installment of estimated tax shall be granted for thirty (30)~~
13 ~~days under exceptional circumstances.~~

14 ~~—(4) Interest shall be paid from the due date of the installment of estimated tax until the tax is~~
15 ~~paid.~~

16 ~~—Section 6.]~~ The forms and materials listed herein may be obtained or inspected, subject to
17 applicable copyright law, from 8:00 a.m. until 4:30 p.m. at the Kentucky Department of Revenue,
18 501 High Street, Frankfort, Kentucky 40601, on the department Web site at <http://revenue.ky.gov>,
19 or at a Kentucky Department of Revenue Taxpayer Service Center during their hours of operation.

103 KAR 15:050

APPROVED BY AGENCY:



DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet



Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation will be held on June 26, 2019 at 1:00 p.m. in Room 9B, State Office Building, 501 High Street, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments will be accepted through June 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Revenue Tax Policy/Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3874 (fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 15:050

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: Amends KRS 15:050 to update statutory and entity references per changes made in HB 354 of the 2019GA.

(b) The necessity of this administrative regulation: To provide the most accurate and up to date information for Kentucky taxpayers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By ensuring that statutory revisions are incorporated into affected regulations and passed down to those affected by the change.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Correcting outdated or incorrect statutory references and language in regulations helps to decrease call volume to the department and confusion regarding the deficient information.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Anyone wishing to know the department's policy for granting an extension of time to file a tax return or pay an installment of tax due.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no required actions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs required to comply with this change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be less taxpayer and staff confusion by outlining the correct process to obtain an extension of time to file or pay an installment of tax due.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no additional cost to the department by filing this update.

(a) Initially: No additional costs outside current department funding will be used.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental budgetary funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees were established with this amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied. All taxpayers wishing to request an extension of time to file with the department will all be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 15:050

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.081, 131.130, 131.170, and 141.050.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by the revisions made to this administrative regulation. They are only conforming to the statutory changes made in HB 354/2019GA as they relate to filing an extension of time to file taxes.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): \$0

Expenditures (+/-): \$0

Other Explanation: