

160.637 Administrative costs -- Department of Revenue collection procedure.

- (1) "Requesting school districts" shall mean those school districts for which the Department of Revenue is requested to act as tax collector under the authority of KRS 160.627(2).
- (2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the Department of Revenue, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.
- (3) The following shall apply only when the Department of Revenue is acting as tax collector under the authority of KRS 160.627(2):
 - (a) When the department is initially requested to be the tax collector under KRS 160.627(2), the department shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the department ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the department. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the department has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the department.
 - (b) The Department of Revenue shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the department in collecting the excise tax. The expenses, which shall be deducted by the Department of Revenue from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the department to school districts on a basis proportionate to the number of returns processed by the Department of Revenue for each district compared to the total processed by the Department of Revenue for all districts.
 - (c) All funds received by the department under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the department for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.
 - (d) The department may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the Department of Revenue to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(5), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS

134.580(6), within four (4) years of payment.

- (e) KRS 160.621 notwithstanding, when the department is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.
- (f) Beginning August 1, 1982, any school district which requests the department to collect taxes under the authority of KRS 160.627(2) shall inform the department of this request not less than one hundred fifty (150) days prior to January 1.
- (g) The department shall not be required to collect taxes authorized in KRS 160.621 of an individual when the department is not pursuing collection of that individual's state income taxes. The department shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.
- (h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.
- (i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the Department of Revenue with respect to the performance of its duties under KRS 160.621.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 85, sec. 597, effective June 20, 2005; and ch. 112, sec. 3, effective June 20, 2005. -- Amended 1990 Ky. Acts ch. 177, sec. 5, effective July 13, 1990; and ch. 476, Pt. V, sec. 470, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 324, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 111, sec. 92, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 105, sec. 4, effective March 24, 1982. -- Amended 1976 Ky. Acts ch. 127, sec. 17. -- Amended 1972 Ky. Acts ch. 203, sec. 25. -- Created 1966 Ky. Acts ch. 24, Part III, sec. 18.

Legislative Research Commission Note (6/20/2005). This section was amended by 2005 Ky. Acts chs. 85 and 112, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (7/13/90). The Act amending this section prevails over the repeal and reenactment in House Bill 940, Acts Ch. 476, pursuant to Section 653(1) of Acts Ch. 476.