

Kentucky Nonresident Income Tax Withholding Instructions

2023



KENTUCKY DEPARTMENT OF
REVENUE

NRWH

**Only use this instruction packet to prepare
Form 740NP-WH and Form PTE-WH.**

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Purpose of this Form—Form 740NP-WH is used by every pass-through entity required to file a return per KRS 141.206(4)(a), except publicly traded partnerships per KRS 141.0401(6)(a)18. and (b)14., to withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual partner, member, or shareholder. Withholding must be at the maximum rate of 4.5% (.045) provided in KRS 141.020.

A pass-through entity must complete this form and mail with payment to the Kentucky Department of Revenue by the 15th day of the fourth month following the close of the taxable year. A copy of Form PTE-WH, or approved substitute, must be attached. If the entity is filing Form 740-PTET for 2023, Form 740NP-WH is not required.

NOTE: The Kentucky legislature eliminated the withholding requirement for nonresident corporate partners, members, or shareholders and the composite return language effective for tax years beginning January 1, 2022. With the removal of the composite language from KRS 141.206, entities are required to file nonresident withholding returns.

“Individual” means an individual, estate, or trust. The tax imposed by KRS 141.020 upon individuals shall apply to estates and trusts and to all fiduciaries. **KRS 141.030(1)**

A **“Partnership or S corporation partner, member, or shareholder”** is **not** subject to withholding. A partnership or S corporation is classified as a pass-through entity per KRS 141.010(28) and is not classified as an individual.

For Kentucky purposes, a **single member LLC** is treated as a pass-through entity.

NOTE: Filing Form 740NP-WH on behalf of a nonresident individual will satisfy the individual’s nonresident filing requirement if the only Kentucky source income is through an ownership interest in a pass-through entity.

HELPFUL TIPS FOR ELECTRONIC FILING

Mandatory E-File and E-Pay if Gross Receipts ≥ \$1,000,000 —For tax years beginning on or after October 1, 2021, corporations and pass-through entities are required to file and submit payments electronically if their federal gross receipts are one million dollars (\$1,000,000) or greater. This applies to Forms 720, 720U, PTE, 725, and 740NP-WH.

A person, taxpayer, or tax preparer required to electronically file a return, report, or statement may request a waiver as authorized by KRS 131.250(2). Form 8948 (K-C): Request for Waiver of Electronic Filing Requirement must be submitted via e-mail to KRC.WEBResponseCorporationTax@ky.gov or DORWEBRESPONSEPASSTHROUGHENTITY@ky.gov for approval before filing on paper. A copy of the approved form must be attached to the paper-filed return.

To determine which forms are supported by your software, please consult with the company that develops your software.

SPECIFIC INSTRUCTIONS FOR FORM 740NP-WH

Item A—Enter the pass-through entity’s Federal Employer Identification Number.

Item B—Enter the pass-through entity’s Kentucky Nonresident Income Tax Withholding (NRWH) Account Number. **To obtain your valid Kentucky NRWH account number, please contact Registration at (502) 564-3306 prior to submitting the form.**

Item C—Enter the pass-through entity’s name, address, ZIP Code, and telephone number. Check the box to indicate a change of name.

Item D—Check the box to indicate the type of return the pass-through entity is filing.

SPECIFIC INSTRUCTIONS

Line 1—Enter the number of nonresident individuals, estates, and trusts included in this withholding on distributive share income report that are not exempt.

Line 2—Enter the number of nonresident individuals, estates, and trusts exempt from withholding on distributive share income per KRS 141.206.

Line 3—Enter the net distributive share income of the nonresident individuals, estates, and trusts included on Line 1.

Line 4—Enter the apportionment fraction from the pass-through

entity’s Schedule A or 100% (see Schedule A instructions).

Line 5 – Enter the amount of Line 3 multiplied by Line 4.

Line 6 – Enter the amount of Line 5 multiplied by 4.5% (.045).

Line 7—Enter the partners’, members’, or shareholders’ nonrefundable tax credits from Schedules K-1.

Line 8—Enter the amount of Line 6 less Line 7.

Note: The total income tax withheld on enclosed PTE-WH forms must equal Line 8.

Line 9—Enter the total estimated tax payments (Form 740NP-WH-ES Vouchers) made for the taxable year. Do not include the amount credited from the prior year.

Line 10—Enter extension payment (Form 740-NP-WH-EXT).

Line 11—Enter the amount credited to 2023 from Form 740NP-WH, Line 20 of the 2022 return.

Line 12—Enter the amount of tax paid on the original return. **This line is only used when filing an amended return.**

Line 13—Enter the total payments listed on Lines 9 through 12.

Line 14—Enter the tax overpayment on the original return. **This line is used only when filing an amended return.**

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Line 15—Enter the sum of the Estimated Tax Penalty from NRWH-P, Part III, Line 23 (INDNRWH).

Line 16—If the total of Lines 8, 14, and 15 is greater than Line 13, enter the difference on this line and enter the amount in the Tax Payment Summary.

Line 17—If the total of Lines 8, 14 and 15 is less than Line 13, enter the difference as a positive number on this line.

Line 18—If Line 17 reflects an overpayment, enter the portion of Line 17 to be credited to 2023 Interest.

Line 19—If Line 17 reflects an overpayment, enter the portion of Line 17 to be credited to 2023 Penalty.

Line 20—If Line 17 reflects an overpayment, enter the portion of Line 17 to be credited to 2024 NRWH.

Line 21—If Line 17 reflects an overpayment, enter the portion of Line 17 to be refunded (Line 17 less Lines 18 through 20).

INSTRUCTIONS FOR PTE-WH

A pass-through entity must complete a PTE-WH, or approved substitute form for each nonresident individual, estate, or trust partner, member, or shareholder. **A PTE-WH must be attached to Form 740NP-WH filed with the Kentucky Department of Revenue. For the entity to claim exemption on behalf of a partner, member, or shareholder, a PTE-WH must be filed with the exempt box checked and attached to Form 740NP-WH. To qualify for exemption from Nonresident Withholding per KRS 141.206(6)(a) the individual owner must have filed an appropriate tax return (Form 740 or 741) for the prior year with the department. Two copies of the PTE-WH must be furnished to each partner, member, or shareholder by the 15th day of the fourth month following the close of the taxable year.**

INSTRUCTIONS FOR THE FILING ENTITY

Check the box if an amended return and enter the taxable year ending.

Check the box if the partner, member, or shareholder is exempt from withholding and leave Lines 7 through 9 blank.
KRS 141.206

Line 1—Enter the pass-through entity's Federal Employer Identification Number (FEIN).

Line 2—Enter the pass-through entity's Kentucky Nonresident Income Tax Withholding (NRWH) Acct. No. **If the account number is not known, contact Registration at 502-564-3306 prior to submitting the form.**

Line 3—Enter the pass-through entity's name, address, and ZIP Code.

Line 4—Enter the partner's, member's, or shareholder's Social Security Number or FEIN.

Line 5—Enter the partner's, member's, or shareholder's name, address, and ZIP Code.

Line 6—Enter the KY distributive share income. If the exempt box is checked, skip Lines 7 through 9.

Line 7—Enter the amount on Line 6 multiplied by 4.5% (.045).

Line 8—Shareholder's allowable nonrefundable tax credits from Schedule K-1.

Line 9—Enter the amount on Line 7 less Line 8.

INSTRUCTIONS TO THE PARTNER, MEMBER, OR SHAREHOLDER

If a nonresident individual's, estate's, or trust's only KY source income is distributive share income from pass-through entities, the withholding on PTE-WH and the payment of tax by the pass-through entities will satisfy the nonresident individual's, estate's, or trust's Kentucky filing requirement per KRS 141.020 and 141.180.

INTEREST RATE

Pursuant to KRS 131.183, the 2024 tax interest rate has been set at ___ percent (___%). The rate charged by the Kentucky Department of Revenue on unpaid taxes is ___ percent (___%) and when interest is due on a refund, the rate is ___ percent (___%).

PAYMENT OPTION

Visit www.revenue.ky.gov for details on how to electronically pay your tax.

Form 740NPWH-V—If an electronic payment is not possible, this voucher is required when submitting a paper check for payment of Kentucky Nonresident Income Tax Withholding due on electronic and paper filed returns.

Mail with payment to Kentucky Department of Revenue, Frankfort, Kentucky 40619-0006.

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SPECIFIC INSTRUCTIONS FOR ESTIMATED PAYMENTS

Every pass-through entity required to withhold Kentucky income tax per KRS 141.206(4) or that files an income tax return should make a declaration and payments of estimated tax per KRS 141.206(5) if: a nonresident individual partner's, member's, or shareholder's estimated tax liability can reasonably be expected to exceed \$500. If the tax period is four months or less, no estimated payments are due.

Per KRS 141.206(4), every pass-through entity required to file a return per KRS 141.206(1), except publicly traded partnerships per KRS 141.0401(6)(a)18. and (b)14., should withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual partner, member, or shareholder. Estimated payments should be made at the tax rate of 4.5% (.045) per KRS 141.020.

Payment Dates—Per KRS 141.207(2), the payment of estimated tax required per KRS 141.206 shall be filed with the department by the pass-through entity in the same manner and at the same times as per KRS 141.305 for a nonresident individual partner, member, or shareholder.

Electronic Payments—For tax years beginning on or after October 1, 2021, corporations and pass-through entities are required to submit payments electronically. Visit www.revenue.ky.gov for details on how to electronically pay your tax. When making this type of payment, the 9-digit NRWH account number that starts with "04" is required along with the FEIN.

INDIVIDUAL PARTNER, MEMBER, OR SHAREHOLDER

If a pass-through entity's estimated tax for the taxable year can reasonably be expected to exceed \$500 for an individual partner, member, or shareholder, the following payment dates are applicable:

First installment	April 15	25% of Estimated Tax due
Second installment	June 15	25% of Estimated Tax due
Third installment	September 15	25% of Estimated Tax due
Fourth installment	January 15	25% of Estimated Tax due

Fiscal Year Filers—For pass-through entities filing on a fiscal year basis, the payment dates are the 15th day of the fourth month, 15th day of the sixth month, 15th day of the ninth month, and 15th day of the first month after the close of the fiscal year.

NOTE: If a payment date falls on a holiday or weekend, the applicable payment date is the next working day.

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YOUR RIGHTS AS A KENTUCKY TAXPAYER

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

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

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

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

RIGHTS OF TAXPAYER

Privacy

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

Assistance

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

Explanation

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

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

Protest and Appeal

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

Representation

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

Recordings

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

Consideration

You have the right to consideration of:

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

Guarantee

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

Damages

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

Interest

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

DEPARTMENT OF REVENUE RESPONSIBILITIES

The DOR has the responsibility to:

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

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

PROTEST AND APPEAL PROCEDURE

Protest

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

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

Conference

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

Final Ruling

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

Appeal

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

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

TAXPAYER OMBUDSMAN

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

Also, an important function of the Taxpayer Ombudsman is to confer with DOR employees when you have a problem or conflict that you have been unable to resolve. However, it is not the role of the Ombudsman to intercede in an audit, handle a protest, waive taxes, penalty or interest, or answer technical tax questions. To file a protest, see PROTEST AND APPEAL PROCEDURE. Please do not mail your protest to the Ombudsman.

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

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

WHERE TO GET ASSISTANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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