



May 22, 2019

Categories:

[Blogs](#)

[Tax Law Defined™ Blog](#)

Authors:

[Daniel G. Mudd](#)

Kentucky Tax Reform – Big Changes for the Business Community

Kentucky legislative sessions are always full of twists, turns, and surprises. The 2018 Regular Session was particularly surprising not just because “tax reform” legislation was passed, but also because of the unusual manner it was done. Although not a full-scale reform, two pieces of legislation, HB 366 and HB 487, which were drafted, argued, and passed in basically 48 hours’ time, arguably made the most significant changes to Kentucky’s tax structure in nearly a century. Below highlights many of the changes with the biggest impact on the business community.

Big Sales Tax Changes for Small Business & Consumers

As has become the trend in many other states, the General Assembly enacted several tax policy changes which reflect the national shift from a traditional production-based economy to a more service/consumption-based economy. One example will be felt by small businesses and consumers very soon. Beginning July 1, 2018, several services will now be subject to sales tax, including landscaping, dry cleaning, janitorial services, fitness, weight reducing and sports centers, vet and pet care, laundry and dry-cleaning, tanning salons, country clubs, bowling alleys, limos, extended warranties, and still more.

Sales tax will also now be charged on any repair and maintenance services provided to a consumer, such as HVAC, auto repair, etc.—although a business-to-business exception does exist—as well as on internet sales by “remote” sellers after Kentucky followed the lead of other states by enacting its own “Amazon” law.

Even Bigger Changes on the Corporate Business Front

In addition to Kentucky’s corporate (and personal) income tax rate being reduced to a flat 5 percent, there were several “corporate” tax

changes made, including some with retroactive effect.

Two significant changes go into effect as of January 1, 2018. First, Kentucky adopted “single sales factor” apportionment, which requires companies to only factor in its Kentucky sales for corporate income tax purposes, as opposed to its prior method which also factored in payroll and property. This move is generally favorable for manufacturing and capital-intensive businesses situated in Kentucky, but it may also capture many out-of-state businesses that don’t have a large physical presence in Kentucky. Second, Kentucky adopted “market sourcing” – meaning Kentucky will now look to the “market” where services, software and intangibles are received to determine which state gets to tax that revenue, rather than looking at where the underlying income producing activity occurred.

One huge policy change that snuck through in the “clean-up” bill, HB 487, was the move to mandatory combined “unitary” reporting beginning January 1, 2019. This changes the method used for multi-entity corporate families from a nexus-only based consolidation structure (i.e., filing one return for affiliated corporations having a certain percentage of ownership and presence in Kentucky) to a much broader tax platform. This change will significantly broaden the corporate tax base in Kentucky, and with it bring into Kentucky’s tax base many businesses which were previously able to “structure” themselves out of Kentucky’s corporate income tax grasp. While many large corporations will dislike this change, a company may still elect to file U.S. affiliated consolidated group returns instead for eight years at a time.

The General Assembly also removed or limited certain manufacturing-related tax benefits, including a sales tax exemption for pollution control facilities, the domestic production activities (DPAD) deduction, and an energy exemption. And although Kentucky will now generally conform to the changes made by Federal Tax Reform, that does not include the new 20 percent pass-through deduction or changes to bonus depreciation.

Unfortunately, Kentucky was unable to completely repeal its property tax on business inventory, but as a partial solution to this

anti-business inventory tax, a four-year phased-in income (and LLET) tax credit beginning in 2018 was included to remove some of this burden, while at the same time not harming localities that depend on this revenue.

Increased Taxpayer's Rights, Miscellaneous Changes & More to Come

Along with all of the big-ticket items above, several pro-taxpayer changes were also made, including extending the deadline to appeal a tax assessment, no longer requiring a taxpayer to pay or bond a tax assessment before appealing to the courts, and relaxing the due date for filing amended returns after an IRS tax audit. Other important changes include increasing the cigarette tax by fifty cents per pack, exempting customized software from state and local property tax, and temporarily suspending and capping the highly popular Angel Investment Tax Credit, Kentucky Investment Fund Act, and the Film Tax Credit Programs.

Given all of the above, expect significant guidance from the Department of Revenue later this year, as well as some clean-up legislation during the 2019 Regular Session to address any problems and unintended consequences of HB 366 and HB 487 which are already beginning to bubble up to the surface due to the speed and manner that these bills were passed.

For more information, please contact [Daniel Mudd](#) or any other member of Frost Brown Todd's tax team for *Tax Law Defined*[®].

This article was first published as a "Guest Post" for Greater Louisville Inc. [Click here](#) to view the original post.

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.