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[REDACTED]

STATE: H90

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF REVENUE

TO: [REDACTED]  
[REDACTED]  
BEREA [REDACTED]

DATE: 10/04/2013

RE: RECENT LEGISLATIVE CHANGES IN KENTUCKY TAX ENFORCEMENT LAWS

THE TAXPAYER BILL OF RIGHTS PROVIDES IN KRS 131.081(1) THAT THE DEPARTMENT SHALL PROVIDE INFORMATION TO TAXPAYERS TO ENHANCE THEIR "UNDERSTANDING OF AND COMPLIANCE WITH KENTUCKY TAX LAWS, INCLUDING THE APPLICATION OF NEW TAX LEGISLATION TO TAXPAYER ACTIVITIES AND AREAS OF RECURRENT TAXPAYER NONCOMPLIANCE..."

YOU ARE RECEIVING THIS LETTER AS NOTICE THAT THE 2013 KENTUCKY GENERAL ASSEMBLY ENACTED HOUSE BILL 440 AMENDING KRS 131.1817. THESE LEGISLATIVE CHANGES BECAME EFFECTIVE JULY 1, 2013 AND ALLOW THE DEPARTMENT OF REVENUE TO, IN CONJUNCTION WITH THE APPROPRIATE AGENCY, BOARD, COMMISSION OR TRANSPORTATION CABINET TO:

- \* DENY OR REVOKE YOUR PROFESSIONAL LICENSE.
- \* DENY OR REVOKE YOUR DRIVER'S LICENSE.
- \* DENY YOUR ABILITY TO REGISTER YOUR MOTOR VEHICLE.
- \* REVOKE YOUR EXISTING MOTOR VEHICLE REGISTRATION.

CURRENTLY, DEPARTMENT RECORDS INDICATE THAT YOU HAVE NOT FILED THE TAX RETURNS OR PAID THE TAX LIABILITIES LISTED ON THE FOLLOWING SCHEDULE IN THE AMOUNT OF \$7,060.01. DELINQUENT TAX RETURNS THAT NEED TO BE FILED WILL HAVE A "\$0.0" IN THE "AMOUNT DUE" COLUMN SINCE THE DEPARTMENT CANNOT CALCULATE THE TOTAL DUE WITHOUT A RETURN BEING ON RECORD.

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STATE: H90

RE: [REDACTED]

UNPAID LIABILITIES MAY CONTAIN BOTH FINAL, DUE AND OWING LIABILITIES AND LIABILITIES THAT ARE STILL WITHIN THE PROTEST AND APPEAL STAGE. WHILE THIS LETTER DOES NOT CONSTITUTE OFFICIAL NOTICE PRIOR TO REFERRAL, YOU ARE ENCOURAGED TO CONTACT THE DEPARTMENT OF REVENUE'S DIVISION OF COLLECTIONS AT THE TELEPHONE NUMBER BELOW TO MAKE ARRANGEMENTS TO RESOLVE THE DEFICIENCIES BEFORE YOUR LICENSE OR VEHICLE REGISTRATION ARE DENIED OR REVOKED.

SINCERELY,

DIVISION OF COLLECTIONS  
P. O. BOX 491  
FRANKFORT, KENTUCKY 40602-0491  
TELEPHONE: (502)564-4921, EXT. NO. 5828  
FAX: (502)564-9571

ATTACHMENT

However, this advice (located in the middle of a paragraph on page 2) is more difficult to find than the potential sanctions taxpayers may face (listed with bullet points on page 1). No letter will comply with the law as an official notice if it was not sent by certified mail.

**(2) A Valid Notice Must Provide Certain Information.**

In addition to being sent by certified mail, the notice must:

- (1) State the reason for the action;
- (2) [State] the amount of any overdue tax liability, including any applicable penalties and interest;
- (3) Explain any other area of noncompliance that must be satisfied to [prevent further action] ; and
- (4) List all licenses or registrations for which revocation will be sought.

KRS 131.1817(5)(b). A notice that complies with the law will advise a taxpayer that something important, such as a driver's license, is at stake and it will provide an opportunity to respond. If a notice does not satisfy the notice requirements above, then the notice is ineffective or the Department of Revenue may not be seeking to revoke a taxpayer's license or registration.

**Taxpayer Right to Appeal**

If a taxpayer's license or registration is revoked after a valid notice, the taxpayer has a right to appeal based upon a mistake in facts relied upon by the Department of Revenue or other agency that the taxpayer is a *delinquent taxpayer*. KRS 131.1817(5)(e).

In conclusion, taxpayers are advised that a letter from the Department of Revenue titled "RE: RECENT LEGISLATIVE CHANGES IN KENTUCKY TAX ENFORCEMENT LAWS" is not an official notice. The legislative changes briefly described in the letter require notice sent by certified mail and a determination that a taxpayer is a *delinquent taxpayer*. Affected taxpayers have a right to a hearing.

AppalReD Low Income Tax Clinic, P.O. Box 567, Richmond Kentucky 40476. (859) 624-1394.

## Can My Driver's License Be Revoked for Nonpayment of Income Taxes?

The Kentucky Department of Revenue recently distributed a letter with the eye-grabbing title "RE: RECENT LEGISLATIVE CHANGES IN KENTUCKY TAX ENFORCEMENT LAWS." The letter highlights amendments made to the Kentucky Revised Statutes (KRS) by legislation that became effective on July 1, 2013. As indicated in the Department of Revenue letter, KRS 131.081(1) generally directs the Department of Revenue to provide an education program to "enhance the understanding of and compliance with Kentucky tax laws . . . ." The letter sent to taxpayers specifically references KRS 131.1817. This statute provides that

Any *delinquent taxpayer* who:

- (a) Holds a license;
- (b) Is an attorney licensed to practice law in the Commonwealth;
- (c) Holds a driver's license; or
- (d) Owns a motor vehicle registered in the Commonwealth;

may have that license or driver's license suspended or revoked, and may be denied the ability to register his or her motor vehicle in the Commonwealth . . . .

KRS 131.1817(4) (Emphasis added). The statute can be used to enforce Kentucky tax debts but only in the case of a *delinquent taxpayer*. This generally means a person who has either failed to file a required tax return within 90 days of the applicable due date, or a person for whom all protest and appeal rights have expired. KRS 131.1817(1)(b). The term *delinquent taxpayer* does not include taxpayers covered by a current installment payment agreement.

### Department of Revenue Notice Requirements

#### (1) The Law Requires Notice by Certified Mail.

Before any taxpayer's license or registration can be revoked, *the law requires the Department of Revenue to provide notice by certified mail at least 20 days before submitting a taxpayer's name to an agency that will perform the revocation or other action.* KRS 131.1817(5)(a). The October, 2013 letter states the letter does not constitute official notice.