



MULTISTATE TAX

Kentucky enacts various indirect and income tax changes and establishes a tax amnesty program

Tax Alert

Overview

On April 13, 2022, Kentucky's legislature overrode the governor's veto to enact [House Bill 8](#) (H.B. 8). The legislation, among other things, expands the sales and use tax base by adding new taxable services, creates new excise taxes on vehicle sharing or renting and electric vehicle charging, reduces the individual income tax rate if certain budgetary conditions are met, updates Kentucky's Internal Revenue Code ("I.R.C.") conformity date for state income tax purposes, and establishes a tax amnesty program.

This Tax Alert summarizes some of the provisions of H.B. 8.

H.B. 8 enacts various indirect and income tax changes

New services subject to Kentucky sales and use tax

- Effective January 1, 2023, H.B. 8 amends Ky. Rev. Stat. §§ 139.200 and 139.310 by expanding the sales and use tax base to include several additional taxable services, including but not limited to: (1) marketing services; (2) telemarketing services; (3) lobbying services; (4) executive employee recruitment services; (5) web site design and development services; (6) web site hosting services; (7) private investigation services; (8) parking services; (9) labor and services to repair and maintain commercial refrigeration equipment and systems (when no tangible personal property is sold in that transaction) including service calls and trip charges; and (10) prewritten computer software access services.
- The legislation also amends Ky. Rev. Stat. § 139.340 such that a retailer is engaged in business in the state if the retailer engages in certain activities with respect to the sale of the services now subject to tax under this legislation.

New excise tax for providing a motor vehicle for sharing or renting

- Effective January 1, 2023, a new excise tax is imposed upon every person for the privilege of providing a motor vehicle for sharing or for

rent (with or without a driver) in Kentucky. The tax is directly imposed on the company, but it may be passed on to the user of the service.

- The tax is 6% of the gross receipts derived from: (1) rental of a shared vehicle by a peer-to-peer car sharing company; (2) rental of a vehicle by a motor vehicle renting company; (3) sales of transportation network company (“TNC”) services; (4) sales of taxicab services; and (5) sales of limousine services.
- For failure to remit the tax, the Department of Vehicle Regulation is authorized to void applicable certificates.
- Company officers/partners/managers shall be personally and individually liable, both jointly and severally, for the tax.

New excise tax for electric vehicle power distributed in Kentucky

- On or after January 1, 2023, an excise tax of three cents per kilowatt hour plus a surtax of three cents per kilowatt hour are imposed on electric vehicle power distributed in Kentucky by a dealer. The tax rates may be adjusted annually.
- The tax is added to the selling price charged to the customer at the charging station; however, the dealer is ultimately liable for the tax.
- Company officers/partners/managers shall be personally and individually liable, both jointly and severally, for the tax.
- H.B. 8 also imposes annual registration fees on the ownership of electric vehicles, electric motorcycles, and hybrid vehicles to be collected by the county clerk.

Income tax changes

- For the taxable year beginning January 1, 2023, the individual income tax rate will be reduced from 5% to 4.5% if certain budgetary conditions are met. The Department shall also implement an annual review process to determine whether requisite budgetary conditions are met for future individual income tax rate reductions.
- For taxable years beginning on or after January 1, 2022, H.B. 8 updates Kentucky’s conformity to the I.R.C. in effect on December 31, 2021, excluding any amendments made subsequent to that date, with certain narrow exceptions.

Tax amnesty program

- H.B. 8 establishes a 60-day tax amnesty program (“program”) to begin on October 1, 2022 and end on November 29, 2022, provided the Department is able to procure services from a third-party firm necessary to implement the program, otherwise the program will run for a similar 60-day period during calendar year 2023.
- The program is generally available to taxpayers owing:
 - Taxes, penalties, fees, or interest administered by the Department except for certain ad valorem taxes and federal taxes, penalties, fees, or interest referred to the Department from the federal government for collection purposes.
- Under the program, penalties and 50% of the applicable interest may be waived. Non-participation penalties may also apply.

- The program applies to tax liabilities for taxable periods ending or transactions occurring on or after October 1, 2011 and before December 1, 2021.

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