

**Division of Road  
Fund Audits**

# **Audit Assistance Manual**



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# International Fuel Tax Agreement (IFTA) Audit Assistance

*Branch Manager: Kim Jenkins (502-782-4058)*

The International Fuel Tax Agreement (IFTA) is an agreement among the United States and Canadian provinces to simplify the reporting of fuel used by interstate/inter-jurisdictional motor carriers. Upon application, the carrier's base jurisdiction shall issue credentials, which shall allow the IFTA licensee to travel in all IFTA member jurisdictions.

Additional information may be obtained from International Fuel Tax Association, Inc., at:

[www.iftach.org](http://www.iftach.org)

## **Record Retention Requirements**

- Each licensee shall maintain a complete record of all motor fuel purchased, received, or used in the conduct of its business. The fuel records shall contain at least the following information:
  - ◆ Date of each receipt of fuel
  - ◆ Name and address of the person from whom purchased or received
  - ◆ Name of the purchaser of the fuel
  - ◆ Number of gallons of fuel received
  - ◆ Type of fuel
  - ◆ Vehicle or equipment into which the fuel was placed
  - ◆ If applicable, complete records on power takeoff use of motor fuel (vehicles using fuel for purposes other than transport)
- Each licensee shall maintain detailed distance records that show operations on an individual-vehicle basis. The distance records for each qualified motor vehicle shall contain at least the following information:
  - ◆ Both taxable and nontaxable usage of fuel
  - ◆ Distance traveled for taxable and nontaxable use
  - ◆ Beginning and ending date of each trip
  - ◆ Trip origination and destination
  - ◆ Route traveled on trip
  - ◆ Trip beginning and ending odometer readings
  - ◆ Total mileage of each trip
  - ◆ Distance recaps for each qualified motor vehicle for each jurisdiction in which the qualified motor vehicle is operated.
- In order for a licensee to obtain credit for a tax-paid fuel purchase, a receipt, invoice, a credit card receipt, automated vendor-generated invoice, or transaction listing shall be maintained by the licensee. An acceptable receipt or invoice for tax-paid fuel purchased shall not have been altered or indicate erasures and shall contain at least the following information:
  - ◆ Date of purchase of fuel
  - ◆ Name and address of the person from whom purchased
  - ◆ Number of gallons purchased

- ◆ Type of fuel
  - ◆ Price per gallon of the fuel purchased or the total amount of the sale
  - ◆ Unit number of the motor vehicle into which the motor fuel was placed
  - ◆ Purchaser's name (In the case of a lease agreement, receipts are acceptable in either name, provided the records firmly indicate the legal connection to the reporting party.)
- A licensee shall not apply for credit for withdrawal from licensee-owned, tax-paid bulk fuel storage unless the following detailed records are kept:
- ◆ Date of withdrawal
  - ◆ Number of gallons withdrawn
  - ◆ Fuel type
  - ◆ Unit number of the motor vehicle or equipment into which the fuel was placed
  - ◆ Purchase and quarterly beginning and ending inventory records to substantiate that tax was paid on the bulk purchase
- A licensee with bulk fuel shall:
- ◆ Account separately for tax-paid fuel purchased as storage or bulk from fuel purchased over the road.
  - ◆ Retain a copy of each delivery ticket and receipt for storage or bulk fuel.
  - ◆ Maintain bulk fuel inventory reconciliations. Records shall be maintained to distinguish fuel placed in a qualified motor vehicle from other uses.
  - ◆ Maintain support for each tax-paid purchase by receipt, invoice, credit card receipt or automated vendor-generated invoice or transaction listing.
  - ◆ Identify the vehicle by the registration plate number or unit number on over-the-road fuel receipts, since only a vehicle identified with the fuel tax licensee's operation may be reported for mileage or fuel consumption.
- A separate total shall be compiled for each of the following fuel types used by a fuel tax licensee:
- ◆ Gasoline
  - ◆ Diesel
  - ◆ Kerosene
  - ◆ Gasohol
  - ◆ Liquid petroleum gas
  - ◆ Compressed natural gas
  - ◆ Bio-Diesel
  - ◆ Other
- Each licensee shall retain the information required for a period of four years from the date of filing the tax report based on these records, except when a *Consent of Extension of Statutory Limitation of Time for Assessment* has been filed with the Division of Road Fund Audits to extend the four year statutory period limitation.
- If the records required to be maintained are insufficient, incomplete, or unavailable for the auditor to complete an audit, the auditor may examine any other records of the licensee that might assist in establishing the tax liability of the licensee.

- Both the lessor and lessee involved in the short or long-term lease of motor vehicles shall maintain sufficient records, including copies of the leases and any supplemental agreements, to allow determination at any time of the entity responsible for reporting or payment of the taxes.
- Records may be retained on any computerized or condensed record storage system if the system has been pre-approved by the Transportation Cabinet's Division of Road Fund Audits.
- If a licensee chooses to use an on-board electronic data recording system in lieu of or in addition to trip reports for tax reporting, the devices, record keeping, data collection, reporting, and licensee responsibility shall comply with Section P600 of the *IFTA Procedures Manual*, which can be found at:

<http://www.iftach.org/manuals/2012/PM/Procedures%20Manual%20Complete%20January%202013.pdf>

- A licensee subject to an IFTA who operates exclusively in intrastate commerce and for which all of the mileage traveled is taxable may choose to maintain quarterly odometer readings on an individual motor vehicle basis rather than the more detailed distance records.
- A licensee subject to an IFTA applying for a refund pursuant to Section 11 of [601 KAR 1:200](#) shall, in addition to the other requirements, maintain the following records:
  - ◆ Proof of power-take-off exemption percentage including how the percentage was calculated
  - ◆ Listing of bulk fuel storage which includes:
    - Location of bulk fuel storage
    - Capacity of bulk fuel storage
    - Whether tanks are designated for "on" or "non" highway use
  - ◆ Kentucky Revenue Cabinet Motor Fuels Tax Refund Permit Number and Kentucky Revenue Cabinet Sales and Use Tax Number, if applicable
  - ◆ Equipment listing for each motor vehicle on which the refund is being requested including:
    - Vehicle type
    - Use of power-take-off
    - Vehicle unit number
    - Vehicle identification number and
    - Type of fuel used in each vehicle

# Kentucky Weight Distance Tax (KYU)

## Audit Assistance

*Branch Manager: Mark Eccles (502-782-4068)*

The Kentucky Weight Distance Tax (KYU) is a mileage tax for vehicles having a combined gross weight or licensed weight in excess of 59,999 pounds, excluding farm licensed vehicles. For each qualified vehicle operating on the public highways within Kentucky, the weight distance tax is computed by the rate of \$0.0285 (2.85 cents) per mile as outlined in [KRS 138.660](#). Tax returns and remittance covering the taxes owed are due on the last day of the next calendar month following each quarter.

### **Record Retention Requirements**

All records, including driver's logs, shall be maintained for a period of five years from the due date of the report or the date that the report was filed, whichever is later.

It is the licensee's responsibility to maintain mileage information on each qualified motor vehicle. An acceptable source document to verify mileage is "Individual Vehicle Mileage Record" (IVMR). IVMR's shall contain the following:

- Date of trip (starting and ending)
- Trip origin and destination, along with intermediate stops (including both city and state)
- Routes of travel
- Beginning and ending odometer or hubometer readings
- Total miles
- Mileage by jurisdiction
- Unit number
- Licensee's name

In addition to IVMRs, licensee shall maintain monthly/quarterly mileage recaps and fuel receipts.

An alternative method to using IVMRs is to have a computer software program in place that routes trips and allocates miles to each jurisdiction. Supporting documentation to this system requires:

- A monthly/quarterly recap showing the unit number
- Date of trip
- Origin and destination (with intermediate stops)
- Mileage for each jurisdiction

- Total miles
- Driver's logs
- Fuel receipts

\*\*\*\*\*If IVMRs are not maintained, DO NOT THROW AWAY DRIVER'S LOGS\*\*\*\*\*

# Kentucky Intrastate Tax (KIT)

## Audit Assistance

*Branch Manager: Mark Eccles (502-782-4068)*

The Kentucky Intrastate Tax (KIT) is a fuel consumption tax as prescribed by [KRS 138.660](#). "KIT license" is defined as the Kentucky intrastate tax license issued by the Kentucky Transportation Cabinet to intrastate motor carriers subject to the taxes imposed by KRS 138.660(1) and (2). The laws governing KIT are found in [KRS 138.665](#) through [KRS 138.7291](#) and are supplemented by the following Administrative Regulations:

- [601 KAR 1:200](#) Administration of Taxes
- [601 KAR 1:201](#) Record-keeping and Audit Requirements of Taxes Imposed in [KRS 138.655](#) through [KRS 138.7291](#)

### **Record Retention Requirements**

All records, including driver's logs, shall be maintained for a period of four years from the due date of the report or the date that the report was filed, whichever is later.

In addition to the normal records that an operating entity is required to maintain, a Kentucky IFTA or KIT licensee is required to maintain the following records:

- Fuel Records
  - ◆ Over the Road Purchases

The licensee shall maintain complete records of all fuel purchased, received, or used in the conduct of its business. Separate totals shall be compiled for each fuel type: (diesel/kerosene, gasoline, gasohol, liquefied petroleum gas (LPG), and compressed natural gas (CNG/LNG), and reported separately on the quarterly return. The fuel records shall contain:

    - Date of purchase
    - Name and address of seller
    - Number of gallons purchased
    - Type of fuel purchased
    - Price per gallon or liter, or total amount of sale
    - Unit number of the vehicle or equipment into which the fuel was placed
    - Purchaser's name (in the case of a lessee/lessor agreement, receipts shall be accepted in either name, provided a legal connection can be made to the reporting party)

Acceptable fuel receipts include an invoice, a credit card receipt, automated vendor generated invoice or transaction listing, or verifiable microfilm. Receipts that contain alterations or erasures shall not be accepted.
  - ◆ Bulk Fuel Purchases/Withdrawals

A licensee who maintains a bulk motor fuel storage facility may obtain credit for tax paid on fuel withdrawn from that storage facility. The following records shall be maintained:

    - Date of withdrawal
    - Number of gallons or liters withdrawn



- Fuel type
- Vehicle unit number of the vehicle into which the fuel was placed
- Purchase and inventory records to substantiate that tax was paid on all taxable fuel disbursements

*It is the licensee's responsibility to reconcile fuel purchases with the licensee's general ledger.*

#### ➤ Mileage Records

The KIT licensee is responsible for maintaining detailed distance records of all inter-jurisdictional and intrastate operations of qualified motor vehicles. These detailed distance records shall show operations on an individual vehicle basis. The licensee's records shall support the information reported on the quarterly tax report. Mileage shall be kept by fuel type. An acceptable source document is a trip report, which shall include:

- ◆ Date of trip (starting and ending)
- ◆ Vehicle unit number and fleet number
- ◆ Distance traveled for taxable and non-taxable use
- ◆ Trip origin and destination (including city & state), with intermediate stop points
- ◆ Routes of travel
- ◆ Trip beginning and ending odometer readings
- ◆ Total trip miles or kilometers and
- ◆ Mileage by jurisdiction for each qualified motor vehicle
- ◆ Licensee's name
- ◆ Quarterly distance recaps for each qualified motor vehicle

If driver's logs are the primary source document for mileage records, they shall be retained for the required 4 year period.

As prescribed by [601 KAR 1:201](#), "A taxpayer subject to an IFTA, KIT or KYU license who operates exclusively in intrastate commerce and for which all of the mileage traveled is taxable may choose to maintain quarterly odometer readings on an individual motor vehicle basis rather than the more detailed records..."

#### ➤ Record Retention Period

Adequate record keeping is vital for documenting licensee compliance and licensee claim for a refund or credit for tax-paid fuel. Every licensee shall maintain records to substantiate information reported on the quarterly tax report. These records shall be maintained for a period of four years from the due date of the report or the date that the report was filed, whichever is later. Failure to provide records demanded for the purpose of audit extends the statute of limitations until the records are provided.

#### ➤ Penalty for Failure to Maintain Records

Non-compliance with any record-keeping requirement may be cause for revoking the license, and the Division of Road Fund Audits may assess a fuel tax liability based on the best available information.

- A licensee subject to an IFTA applying for a refund pursuant to Section 11 of [601 KAR 1:200](#) shall, in addition to the other requirements, maintain the following records:
  - ◆ Proof of power-take-off exemption percentage including how the percentage was calculated
  - ◆ Listing of bulk fuel storage which includes:
    - Location of bulk fuel storage
    - Capacity of bulk fuel storage
    - Whether tanks are designated for "on" or "non" highway use
  - ◆ Kentucky Revenue Cabinet Motor Fuels Tax Refund Permit Number and Kentucky Revenue Cabinet Sales and Use Tax Number, if applicable
  - ◆ Equipment listing for each motor vehicle on which the refund is being requested including:
    - Vehicle type
    - Use of power-take-off
    - Vehicle unit number
    - Vehicle identification number and
    - Type of fuel used in each vehicle

## U-Drive-It Program Audit Assistance

Branch Manager: Tammi Jarboe (502) 782-4069

The U-Drive-It (UDI) program is an alternative method for payment of usage tax as prescribed by [KRS 138.460](#). Obtaining a UDI permit allows this tax to be deferred at the time of registration. UDI permit holders shall pay based on rental and lease receipts generated by use of the vehicle. The laws governing this program are found in [KRS 138.463](#) and are supplemented by the following four administrative regulations:

1. [601 KAR 1:140](#) Applications & Permits
2. [601 KAR 1:145](#) Tax Reporting
3. [601 KAR 1:146](#) Fair Market Values
4. [601 KAR 1:147](#) Records & Audits

Proper accounting systems to record all usage of the vehicles licensed under the UDI program are required. The permit holder shall account for all use of the vehicle and revenue generated from its operation on Kentucky highways.

### Items to Note

- The tax due the Kentucky Transportation Cabinet for vehicles rented or leased under this program is the direct obligation of the permit holder who registers the vehicle. The tax due may be passed on to the user of the vehicle. Any tax-exempt status of the renter or lessee is not applied to the permit holder.
- All transactions shall be taxed at the Fair Market Value (FMV) of the vehicle being rented or leased.
- Permit holders shall retain every void or damaged rental agreement.
- A permit holder who is also a motor vehicle dealer and operates a service or repair department in his or her dealership may register a motor vehicle to be used exclusively as a loaner or rental vehicle to the customers of this service or repair department. This program is administered by the Kentucky Department of Revenue, which may be contacted at (502) 564-4455.

### Record Retention Requirements

All records shall be retained by the permit holder for a period of six years from the date a tax return was filed in accordance with [KRS 138.463](#).

### Rental Operation Records

Rental operation records shall include:

- Pre-numbered rental agreements

- Original vehicle invoice (copy)
- Copies of all executed rental agreements

The rental agreement shall include:

- Rental agreement number
- Beginning date of rental
- Ending date of rental
- Vehicle identification (VIN, make, model, year)
- Beginning odometer reading
- Ending odometer reading
- Amount charged rental customer
- Details of customer charge
- Identification of person renting vehicle

Records for loaner program shall be the same but may be kept in a log. There shall be no charges to the customer for service loaner vehicles.

### **Lease Operation Records**

Lease operation records shall include a completed and signed copy of the lease agreement. The lease agreement shall include:

- Full name and address of lessee
- Beginning and ending date of lease
- Lease term
- Vehicle Identification (VIN, make, model, year)
- Certificate of title (copy)
- Lease calculation worksheets
- Early termination documentation
- Lease extension agreements
- Documentation of any alteration to the original lease agreement

# **International Registration Plan (IRP) Audit Assistance**

*Branch Manager: Tammi Jarboe (502) 782-4069*

A vehicle that may be included in an IRP fleet and defined in the IRP as an apportioned vehicle is any vehicle used or intended for use in two or more IRP jurisdictions, is used for the transportation of persons or property, and which is:

- A power unit having two axles and a gross weight or registered gross vehicle weight in excess of 26,000 pounds
- A power unit having three or more axles, regardless of weight
- Used in combination when the combined gross weight exceeds 26,000 pounds

Fleets shall meet basic requirements by:

- Maintaining an established place of business
- Maintaining operation records
- Accruing mileage in the base jurisdiction (see Sections 210 & 218 of the IRP for specific requirements)

Registrants with vehicles below 26,000 pounds may proportionally register their vehicles at their own option.

## **Record Retention Requirements**

An acceptable source document used to verify fleet mileage is some type of "Individual Vehicle Mileage Record(s)" (IVMRs) which shall contain the following information:

- Date of trip (starting and ending)
- Trip origin and destination
- Route of travel or beginning and ending odometer or hub odometer reading of the trip
- Total trip miles
- Mileage by jurisdiction
- Unit number or vehicle identification number (VIN), and may include at the discretion of the base jurisdiction the following additional information
- Vehicle fleet number
- Registrant's name
- Trailer number
- Driver's signature and/or name

These IVMRs may be supplemented by trip sheets, driver's logs, dispatch logs, or bills of lading. Computer printouts that are merely recaps are not acceptable. They shall be supported by IVMRs in order to be of value for audit. The operational records shall be presented in unit number order and in sequence by date. The mileage recaps used to complete the licensee's application shall be provided as well.

***\*\*\*Failure to present the requested mileage records could result in cancellation of licensee's apportion privileges. \*\*\****

**Be advised:** If driver's logs are licensee's only detailed record of origin and destinations, you shall keep them to support licensee's IRP application. DO NOT THROW THEM AWAY!

All records MUST be retained by the licensee for a period of five years after the close of the registration year. For example, for a registration expiring October 2009, source documents shall be retained through October 2014.

## **Protests**

***Contact: Randall Royer (502) 782-4043***

Protests of all Road Fund Audit tax assessments must be received in writing by the Office of Audits within 45 days from the date of the tax notice. All letters of protest shall provide documentation that supports the disputed basis and amount of appeal.

Protest procedures may be found under [601 KAR 1:201](#) section 5 for IFTA, KIT and KYU taxes, [601 KAR 1:147](#) section 4 for U-Drive-it, and [601 KAR 9:135](#) section 12 for IRP.

## **Appendix of current KAR regulations**

*These regulations are current as of April 14, 2014.*

### IFTA, KYU, and KIT regulations

601 KAR 1:200 Administration of taxes imposed in KRS 138.655 through 138.7291.

601 KAR 1:201 Recordkeeping and audit requirements of taxes imposed in KRS 138.655 through 138.7291.

### IRP regulations

601 KAR 9:135 Apportioned registration.

### U-Drive-It regulations

601 KAR 1:147 Auditing of U-drive-it permit holders



## **IFTA KYU and KIT regulations**

### **601 KAR 1:200. Administration of taxes imposed in KRS 138.655 through 138.7291.**

RELATES TO: KRS 138.655-138.7291, 186.650, 49 C.F.R. 390.21, 49 U.S.C. 317

STATUTORY AUTHORITY: KRS 138.725(1), 281.600, 49 U.S.C. 317

NECESSITY, FUNCTION, AND CONFORMITY: 49 U.S.C. 31705 and KRS 138.227 authorize the department to enter into the provisions of the International Fuel Tax Agreement (IFTA). If a motor carrier operates in interstate commerce, the motor fuel taxes imposed by Kentucky statutes that are subject to the provisions of IFTA are KRS 138.660(1) and (2). If the motor carrier operates exclusively in intrastate commerce, the taxes imposed by KRS 138.660(1) and (2) are not subject to the requirements of IFTA. The tax imposed by KRS 138.660(3) is not subject to the IFTA federal mandate. All three (3) of these taxes are administered under the provisions of KRS 138.655 through 138.7291. This administrative regulation establishes the administrative procedures for the implementation of the International Fuel Tax Agreement in Kentucky, establishes the differences between the requirements of IFTA and Kentucky state law, establishes if the provisions of IFTA preempt state law, and provides for uniformity in the interstate and intrastate administration of KRS 138.660(1) and (2) so as not to violate the interstate commerce clause of the United States Constitution.

Section 1. Definitions. (1) "Apportioned" means to divide and distribute fees to member International Registration Plan jurisdictions according to mileage operated.

(2) "Amended return" means a corrected tax return.

(3) "Base jurisdiction" or "base state" means the member jurisdiction where qualified motor vehicles are based for vehicle registration purposes and where:

(a) The operational control and operational records of the fuel tax licensee's qualified motor vehicles are maintained or can be made available; and

(b) Some travel is accrued by qualified motor vehicles within the fleet.

(4) "Ceased operation" means that the licensee no longer operates in Kentucky.

(5) "Combined licensed weight" means the greater of the registered weight of the vehicle or the maximum gross weight of the vehicle and load.

(6) "Fuel tax license" means either an IFTA license or a KIT license.

(7) "IFTA" means the International Fuel Tax Agreement.

(8) "IFTA license" means a motor fuel tax license issued in accordance with the IFTA Articles of Agreement and the IFTA Procedures Manual.

(9) "Jurisdiction" means a state of the United States, the District of Columbia, or a province or territory of Canada, or a state of the United Mexican States.

(10) "KIT license" means the Kentucky intrastate tax license issued by the Kentucky Transportation Cabinet to an intrastate motor carrier subject to the taxes imposed by KRS 138.660(1) and (2).

(11) "KYU license" means the Kentucky Highway Use License issued by the Kentucky Transportation Cabinet to a motor carrier subject to the tax imposed by KRS 138.660(3).

(12) "Motor carrier" is defined by KRS 138.655(5).

(13) (a) "Qualified motor vehicle" means a motor vehicle operated by a motor carrier that is used, designed, or maintained for the transportation of persons or property and that meets at least one (1) of the following criteria:

1. A single vehicle having two (2) axles and a gross vehicle weight or a registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms;

2. A single vehicle having three (3) or more axles, regardless of weight; or

3. A vehicle used in combination, if the weight of the combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle weight or registered gross vehicle weight.

(b) A qualified motor vehicle does not mean:

1. A recreational vehicle;
2. A motor vehicle registered pursuant to KRS 186.050(4) or under another jurisdiction's law as a farm vehicle; or
3. A motor vehicle used to transport persons for hire.

(14) "Quarterly reporting period" means a period of time consistent with the calendar quarterly periods of January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(15) "Tax-paid fuel" means motor fuel purchased either in bulk or over-the-road by a motor carrier on which the motor fuel taxes imposed by a jurisdiction are paid at purchase.

Section 2. Governing IFTA Documents. The following IFTA documents prepared and adopted by the membership of the International Fuel Tax Association shall govern the administration of Kentucky's collection of the taxes imposed by KRS 138.660(1) and (2) unless otherwise specified in this administrative regulation:

- (1) International Fuel Tax Agreement Articles of Agreement;
- (2) International Fuel Tax Agreement Procedures Manual; and
- (3) International Fuel Tax Agreement Audit Manual.

Section 3. Fuel Tax License. (1)(a) A motor carrier that operates a qualified motor vehicle in interstate commerce and has Kentucky as the base jurisdiction for the operation of its qualified motor vehicles shall apply each year to the Division of Motor Carriers for an IFTA license or license renewal.

(b) A motor carrier that operates exclusively in intrastate commerce may apply for an IFTA license.

(c) An applicant for an IFTA license shall submit to the division Kentucky Training Application, TC Form 95-1.

(d)1. An incomplete or deficient Kentucky Trucking Application, TC Form 95-1, shall be returned to the applicant within thirty (30) days of submission to the cabinet.

2. The applicant shall correct any filing deficiencies and resubmit the form to the cabinet within thirty (30) days of receipt.

(2)(a) A motor carrier that operates all of its qualified motor vehicles exclusively in intrastate commerce and that does not apply for an IFTA license pursuant to subsection (1) of this section shall apply each year for a KIT license or its renewal.

(b) An applicant for a KIT license shall submit Kentucky Trucking Application, TC Form 95-1.

(c)1. An incomplete or deficient Kentucky Trucking Application, TC Form 95-1 shall be returned to the applicant within thirty (30) days of submission to the cabinet.

2. The applicant shall correct any filing deficiencies and resubmit the form to the cabinet within thirty (30) days of receipt.

(3) A fuel tax license shall expire on December 31 of the year in which the license was issued.

(4)(a) The original or a legibly reproduced copy of a fuel tax license issued by the Kentucky Transportation Cabinet or an IFTA license issued by another jurisdiction shall be carried in each qualified motor vehicle when operating on any public highway of Kentucky.

(b) An IFTA license issued by Kentucky authorizes a qualified motor vehicle for motor fuel tax purposes to be operated in any IFTA jurisdiction.

(5)(a) The Transportation Cabinet shall issue two (2) decals per qualified motor vehicle to a holder of a fuel tax license.

(b)1. Unless the qualified motor vehicle is being operated on a trip permit pursuant to KRS 138.665 and Section 10 of this administrative regulation, a fuel tax decal issued by the Transportation Cabinet or a decal issued by another IFTA jurisdiction denoting proof of issuance of an IFTA license shall be displayed on the lower rear exterior portion of both sides of the cab of each qualified motor vehicle.

2. The decal shall be located so as to be totally visible and the view of the decal shall not be obstructed by any part of the truck.

(c) A decal shall not be transferred between qualified motor vehicles.

(d) A new decal shall be issued each calendar year.

(6) Each fuel tax licensee that does not have a U.S. Department of Transportation motor carrier identification number or an Interstate Commerce Commission motor carrier identification number shall submit a Kentucky Trucking Application, Form TC 95-1, to apply for an interstate or intrastate motor carrier identification number.

(a)1. An incomplete or deficient Kentucky Trucking Application, TC Form 95-1 shall be returned to the applicant within thirty (30) days of submission to the cabinet.

2. The applicant shall correct any filing deficiencies and resubmit the form to the cabinet within thirty (30) days of receipt.

(b) The intrastate motor carrier identification number assigned to a KIT licensee shall be displayed on each qualified motor vehicle operated by the KIT licensee as required in 49 C.F.R. Part 390.21, except the KIT identification number shall be preceded by the letters "USDOT" and followed by the letters "KY".

(c) A fuel tax licensee shall display the name of the motor carrier on each of its qualified motor vehicle in accordance with the provisions of 49 C.F.R. part 390.21.

(7)(a) Each fuel tax licensee shall immediately report any change in the principal business address, legal status, or business name to the Transportation Cabinet.

(b) All motor carrier operations shall be conducted in the name in which the fuel tax license is issued or the duly assumed business name of the licensee as it appears on the license.

(c) A licensee shall use the name utilized in the application for the license in all documents relating to its operation. Both this name and the fuel tax license number shall be used in correspondence with the Transportation Cabinet.

Section 4. KYU License. (1) A motor carrier subject to the tax imposed by KRS 138.660(3) shall apply for a KYU license prior to operating on the highways of Kentucky.

(2) An applicant for a KYU license shall submit a Kentucky Trucking Application, TC Form 95-1.

(3)1. An incomplete or deficient Kentucky Trucking Application, TC Form 95-1 shall be returned to the applicant within thirty (30) days of submission to the cabinet.

2. The applicant shall correct any filing deficiencies and resubmit the form to the cabinet within thirty (30) days of receipt.

(4)(a) A KYU licensee shall assign a unique number to each individual motor vehicle subject to the tax in KRS 138.660(3).

(b) The unique vehicle identification number shall:

1. Be displayed on the front of the vehicle readily legible in daylight hours from a distance of 100 feet when the vehicle is not in motion;

2. Be in sharp contrast to the background of the vehicle; and

3. Not be placed higher than the bottom of the windshield or lower than the bottom of the front bumper.

(5) A KYU licensee shall display the KYU number on each motor vehicle subject to the tax imposed by KRS 138.660(3) and operated in the same manner as required by to 49 C.F.R. Part 390.21.

(6)(a) A KYU licensee shall immediately report any change in the principal business address, legal status, or business name to the Transportation Cabinet.

(b) All motor carrier operations subject to KRS 138.660(3) shall be conducted in the name in which the KYU license is issued or the duly assumed business name of the licensee as it appears on the license.

(c) A KYU licensee shall use the name utilized in the application for the license in all documents relating to the licensee's operations. Both this name and the KYU license number shall be used in correspondence with the Transportation Cabinet.

(7)(a)1. A KYU licensee shall register each vehicles subject to the tax imposed by KRS 138.660(3) with the Transportation Cabinet.

2. The registration shall be reported on Vehicle Additions or Deletions Subject to Kentucky Weight Distance (KYU) Tax, TC Form 95-38 or electronically at <http://transportation.ky.gov/dmc/>.

(b) If the licensee sells, leases, or buys a vehicle subject to the tax imposed by KRS 138.660(3), the KYU licensee shall immediately file Vehicle Additions or Deletions Subject to Kentucky Weight Distance (KYU) Tax, TC Form 95-38, with the Transportation Cabinet showing the addition to or deletion from its fleet.

Section 5. Leasing of Motor Vehicles. The following shall apply to a lessor, lessee, independent contractors, and household goods agents:

(1)(a) A lessor that is regularly engaged in the business of leasing or renting a motor vehicle without a driver to a licensee or other lessee shall be deemed to be the licensee.

(b) The lessor shall be issued a license if an application has been:

1. Properly filed; and

2. Approved pursuant to the provisions of Sections 3 and 4 of this administrative regulation.

(2) If a motor carrier uses independent contractors under leases of thirty (30) days or more, the lessor and lessee shall have the option of designating which party is to report and pay the fuel use tax imposed by KRS 138.660(1) and (2) and the fuel taxes imposed by other jurisdictions.

(3) If the lessee assumes responsibility for reporting and paying motor fuel taxes pursuant to subsection (2) of this section, the base jurisdiction for IFTA purposes shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes by the lessor.

(4) If a motor carrier rents a motor vehicle for a period of less than thirty (30) days from a lessor described in subsection (1) of this section, the lessor shall pay the fuel use taxes unless the lessor has a:

(a) Written rental contract that designates the lessee as the party responsible for reporting and paying the fuel use tax; and

(b) Copy of the lessee's IFTA fuel tax license that is valid for the term of the rental.

(5) If the motor carrier uses independent contractors under leases of thirty (30) days or less, the trip lessor shall report and pay all fuel taxes.

(6) If the motor carrier is a household goods carrier using independent contractors, agents, or service representatives, under intermittent leases, the party liable for all motor fuel taxes shall be:

(a) The lessee if the qualified motor vehicle is being operated under the lessee's jurisdictional operating authority. The base jurisdiction for purposes of IFTA shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes by the lessor or lessee; or

(b) The lessor who is the independent contractor, agent, or service representative if the qualified motor vehicle is being operated under the lessor's jurisdictional operating authority. The base jurisdiction for purpose of IFTA shall be the base jurisdiction of the lessor, regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes.

(7) The lease shall be made available by either the lessee or the lessor upon request of the Transportation Cabinet.

Section 6. Bonding Requirements. (1) The Transportation Cabinet shall require the bond for a payment of the taxes imposed by KRS 138.660 if the licensee meets one (1) of the following criteria:

(a) The licensee has failed to timely file a report required by Section 7 of this administrative regulation for three (3) quarters of sixteen (16) consecutive quarters;

(b) The licensee has failed to remit all of the tax due for a taxable quarter;

(c) An audit of the licensee indicates a recordkeeping or other administrative problem; or

(d) The licensee has had a KYU, KIT, or IFTA license revoked, suspended, or canceled.

(2) A licensee required to post a bond pursuant to this section shall deposit with the Transportation Cabinet one (1) of the following:

(a) A surety bond;

(b) Bonds or other obligations of the United States, Canada, or the Commonwealth of Kentucky made payable to the Commonwealth of Kentucky;

(c) Automatically renewable time certificates of deposit issued by a bank doing business in the Commonwealth of Kentucky and insured by the Federal Deposit Insurance Corporation, made in the name of licensee, payable to the Commonwealth of Kentucky and containing the provision that interest earned shall be payable to the licensee, but that the certificates shall only be canceled by written authorization from the Transportation Cabinet; or

(d) A cash bond submitted in the form of a cashier's check, money order, or other certified funds payable to the Commonwealth of Kentucky.

(3) The licensee shall be the principal obligor, and the Commonwealth of Kentucky shall be the obligee.

(4) A licensee shall file proof of the bond required pursuant to subsection (1) of this section, by submitting a notarized form TC 95-201.

Section 7. Tax Payment and Reporting. (1) The Transportation Cabinet shall by the last day of each quarterly reporting period mail the appropriate tax report form to each fuel tax licensee.

(a) A Kentucky-based IFTA licensee shall be mailed IFTA Quarterly Fuel Use Tax Return IFTA 100-MN and IFTA Quarterly Fuel Use Tax Schedule, IFTA-101.

(b) A KIT licensee shall be mailed the Highway Quarterly Tax Return, TC Form 95-103.

(c) A fuel tax licensee or a KYU tax licensee with no operations during the reporting quarter shall file a tax reporting form.

(2)(a) The Transportation Cabinet shall provide or make available to each KYU licensee the KRS 138.660(3) quarterly tax report forms, including Kentucky Weight Distance Tax Form, TC Form 95-101.

(b) A KYU licensee shall comply with the provisions of KRS 138.685.

(3)(a) If filing a motor fuel tax report, an IFTA licensee shall apply the overpayment generated in one (1) jurisdiction to the motor fuel taxes owed to another jurisdiction, remitting the net amount owed to the Transportation Cabinet.

(b) IFTA licensees shall present one (1) check to the Transportation Cabinet to pay the motor fuel taxes due pursuant to KRS 138.660(1) and (2) as well as the motor fuel taxes due all other IFTA jurisdictions.

(c) If a fuel tax licensee has been required to file a bond pursuant to Section 6 of this administrative regulation, the check to pay the motor fuel taxes due shall be certified.

(d) The requirement for a certified check for KYU licensees shall be waived pursuant to KRS 138.665 unless the motor carrier is notified by the Transportation Cabinet to the contrary. The cabinet may require a certified check from a motor carrier if the motor carrier:

1. Is required to post a bond for its fuel taxes pursuant to Section 6 of this administrative regulation;

2. Has not established a record of consistent and continued compliance with KRS 138.655 through 138.7291; or

3. Is operating on the highways of Kentucky without a KYU license.

(4) A computer-generated tax return shall not be used in place of Transportation Cabinet forms unless the licensee receives advance written approval of the format from the Division of Motor Carriers, Tax Branch. The format submitted for approval shall provide the same information as the Kentucky Weight Distance Tax Form, TC Form 95-101 and be substantially the same format.

Section 8. Tax Recordkeeping. Each fuel tax licensee or KYU licensee shall maintain records as established in 601 KAR 1:201.

Section 9. Assessment. (1)(a) If a fuel tax licensee fails, neglects, or refuses to file a tax report when due, the Transportation Cabinet shall, on the basis of the best information available to the cabinet, determine the fuel tax liability of the licensee for each jurisdiction and the tax liability of the license as established in KRS 138.660(3).

(b) If a motor carrier fails, neglects, or refuses to obtain either a fuel tax license or a KYU license, the Transportation Cabinet shall, on the basis of the best information available to the cabinet, determine the KRS 138.660(1) and (2) or (3) tax liability of the motor carrier for Kentucky.

(2)(a) The motor carrier shall be notified of additional tax assessments by mail.

(b) In the absence of protest, payment including interest from the original due date shall be made within forty-five (45) days from the date of the notice of tax due.

(3)(a) A written protest may be filed by the motor carrier or other persons representing the motor carrier and shall include a supporting statement and documents that identify the specific adjustments requested or the portions of the assessment being protested and setting forth the reasons the protest is being made (KRS 131.110(1)).

(b) The protest shall be submitted to or presented at the Transportation Cabinet Building, Division of Road Fund Audits, 4th floor, 200 Mero Street, Frankfort, Kentucky 40622 within forty-five (45) days from the date of the notice of tax due.

(4) If an IFTA license motor carrier elects to exercise the right under Section 1450.200 of the IFTA Articles of Agreement for Further Requests for Appeal, the cabinet shall consider this a protest of the assessment by the taxpayer and place the taxpayer into protest status.

(5) If an IFTA member jurisdiction elects to exercise the right under Section 1360.100 of the IFTA Articles of Agreement to reaudit the motor carrier, the cabinet shall consider this a protest of the assessment by the taxpayer.

(6) If the supporting statements and documentation are not sufficient to change the assessment results, the motor carrier may request an information gathering or protest conference with the Division of Road Fund Audits.

(7)(a) Within sixty (60) days of the taxpayer submitting complete additional information or within sixty (60) days of a protest conference being held, the Division of Road Fund Audits shall issue a final ruling to the taxpayer that includes the final assessment and the procedures to follow if the taxpayer chooses to appeal to the Kentucky Board of Tax Appeals, KRS 131.110.

(b) Upon agreement by both parties, the sixty (60) day time period shall be altered by an agreed waiver that specifies the new time period for completion.

(8) If the motor carrier does not request a conference, the cabinet shall issue a final ruling to the taxpayer stating the final assessment results and detailing the procedures for an appeal to the Kentucky Board of Tax Appeals.

(9) Within thirty (30) days from the date of the final ruling, a written protest may be filed with the Kentucky Board of Tax Appeals by the taxpayer or other persons representing the taxpayer as established in KRS 131.110.

Section 10. Trip Permits. (1) A motor carrier who does not have a required license may operate on Kentucky's highways using a temporary trip permit issued pursuant to KRS 138.665.

(2) Application for a temporary trip permit shall be made by applying to the Division of Motor Carriers. The application may be made in person, in writing, or by telephone or facsimile communication.

(a) The address for written requests is P.O. Box 2007, Frankfort, Kentucky 40602.

(b) The location for in person requests is Transportation Cabinet Building, Division of Motor Carriers, 2nd floor, 200 Mero Street, Frankfort, Kentucky 40622.

(c) The telephone number of the Division of Motor Carriers is (502) 564-4540.

(d) The telephone number for the facsimile machine in the Division of Motor Carriers is (502) 564-4138.

(3) The application for a temporary trip permit shall contain the following information:

(a) The name and address of the applicant;

(b) The year, make, and serial number or vehicle identification number of the motor vehicle for which the application is being made; and

(c) The combined gross weight of the motor vehicle.

Section 11. Fuel Tax Refunds or Credits. (1) A fuel tax licensee shall be allowed to carry forward a motor fuel tax credit for eight (8) quarters.

(2) A refund request from a fuel tax licensee shall be presented in writing and detail the reason for the requested refund.

(3)(a) A full credit shall be allowed to IFTA and KIT licensees for tax-paid fuel purchases placed in a qualified motor vehicle.

(b) Any excess of fuel tax paid over tax liability in any member jurisdiction shall be credited in full to tax liability in other member jurisdictions or to the IFTA licensee's account ledger.

(4)(a) A motor fuel tax refund to an IFTA licensee shall not be made unless the motor fuel tax liability, including an audit assessment, has been satisfied for all member jurisdictions.

(b) If a fuel tax licensee's refund request is determined to be properly due, the refund shall be paid within ninety (90) days after receipt of a request for payment from a fuel tax licensee.

(5)(a) A fuel tax licensee may apply within two (2) quarters to the Transportation Cabinet for refund of the fuel tax imposed by KRS 138.660(1) or (2) if the fuel:

1. Is consumed on the public highways;
2. Is from the same tank that is permanently attached to the power unit of the qualified motor vehicle;
3. Serves to power the operation of the qualified motor vehicle on the highways; and
4. Is used for:
  - a. A mixer;
  - b. Pumps;
  - c. A load lift;
  - d. A refrigeration unit; or
  - e. Similar power take-off equipment.

(b) The application for the refund of fuel established in paragraph (a) of this subsection shall be made on Application for Fuel Tax Refund for Use of Power Take-off Equipment, Form TC 95-214 to substantiate the non-highway use of the fuel.

Section 12. Tax Penalties and Interest. (1) The penalty for the late payment of the motor fuel tax imposed by KRS 138.660(3) shall be as established in KRS 138.715.

(2) The interest on the late payment of any of the taxes administered pursuant to this administrative regulation shall be as established in KRS 138.715.

(3) The taxes, penalties, and interest identified in KRS 138.675 shall also include the motor fuel taxes, penalties, and interest owed to other IFTA jurisdictions.

(4) The penalties and interest due for the overpayment of a refund shall begin to accrue fifteen (15) days after the motor carrier is notified of the overpayment.

Section 13. License Cancellation, Refusal, and Reinstatement. (1) If a motor carrier fails to comply with the provisions of KRS 138.655 through 138.7291 or this administrative regulation, the fuel tax license or KYU license shall be canceled in accordance with the provisions of KRS 138.675.

(2) A license shall not be issued and shall be cancelled for the following reasons:

- (a) Improper use of license or decal;
- (b) Failure to file a tax return when due;
- (c) Failure to pay all of the taxes owed;
- (d) Failure to produce records after written request for the records;
- (e) Failure to maintain records in the required manner;
- (f) Notification from another IFTA jurisdiction of motor fuel tax violations in that jurisdiction;

or

(g) A similar action or inaction by the licensee; or

(h) If a motor carrier has applied for new authority for the purpose of avoiding its former authority's tax liability.

(3) A motor carrier shall be notified of the pending license cancellation or license refusal and offered the opportunity for an administrative hearing pursuant to Section 14 of this administrative regulation.

(4) If a license is canceled by the Transportation Cabinet, the motor carrier shall immediately return the license.

(5) If a motor carrier desires to have a canceled license reinstated, the carrier shall:

- (a) Prove to the Transportation Cabinet that sufficient records are being and shall be maintained to file accurate tax reports;
- (b) Submit quarterly tax reports for all missed reporting periods;



- (c) Pay all taxes, penalties, and interest owed;
- (d) Provide a bond pursuant to Section 6 of this administrative regulation; and
- (e) Provide evidence of liability insurance, operating authority, and other items of KRS Chapter 281 applicable to the motor carrier.

Section 14. Appeal Procedure. (1) An appeal of a nontax action by the Transportation Cabinet related to KRS 138.655 through 138.7295 shall be in writing and directed to the Transportation Cabinet Building, Office of Legal Services, 6th floor, 200 Mero Street, Frankfort, Kentucky 40622.

(2) An administrative hearing shall be conducted in accordance with the provisions of KRS Chapter 13B.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "International Fuel Tax Agreement Audit Manual", January 2007 edition, International Fuel Tax Association;
- (b) "Vehicle Additions or Deletions Subject to Kentucky Weight Distance (KYU) Tax", TC Form 95-38, December 2009;
- (c) "Kentucky Highway Use Bond", TC Form 95-201, April 2010;
- (d) "Kentucky Trucking Application", TC Form 95-1, April 2010;
- (e) "IFTA Quarterly Fuel Use Tax Return" IFTA-100-MN, April 2006;
- (f) "Kentucky Weight Distance Tax Form", TC Form 95-101, March 2010;
- (g) "Application for Fuel Tax Refund for Use of Power Take-off", TC Form 95-214, April 2010;
- (h) "Highway Quarterly Tax Return", TC Form 95-103, December 2007;
- (i) "International Fuel Tax Agreement Procedures Manual", January 2008 edition, International Fuel Tax Agreement;
- (j) "International Fuel Tax Agreement Articles of Agreement", revised January 2010, International Fuel Tax Agreement; and
- (k) "IFTA Quarterly Fuel Use Tax Schedule", IFTA-101, August 1998.

(2) This material may be inspected, copied, or obtained at the Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (22 Ky.R. 2504; Am. 23 Ky.R. 441; eff. 9-3-1996; 25 Ky.R. 1704; 2140; eff. 3-2-1999; 36 Ky.R. 2220; 37 Ky.R. 56; eff. 8-6-2010.)

**601 KAR 1:201. Recordkeeping and audit requirements of taxes imposed in KRS 138.655 through 138.7291.**

RELATES TO: KRS 138.655-138.7291, 186.650, 49 C.F.R. 390.21, 49 U.S.C. 317

STATUTORY AUTHORITY: KRS 138.725(1), 281.600, 49 U.S.C. 317

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to 49 U.S.C. 317.05 and KRS 138.227, Kentucky is required to conform to the provisions of the International Fuel Tax Agreement (IFTA). This administrative regulation sets forth the recordkeeping and audit requirements of IFTA and KRS 138.655 through 138.7291 and provides for uniformity in the interstate and intrastate administration of KRS 138.660(1) and (2) so as not to violate the interstate commerce clause of the United States Constitution.

Section 1. Definitions. (1) "Base jurisdiction" means the member jurisdiction where qualified motor vehicles are based for vehicle registration purposes and:

(a) Where the operational control and operational records of the fuel tax licensee's qualified motor vehicles are maintained or available; and

(b) Where some travel is accrued by qualified motor vehicles within the fleet.

(2) "Fuel tax license" means either an IFTA license or a KIT license.

(3) "IFTA" means the International Fuel Tax Agreement.

(4) "IRP" means the International Registration Plan.

(5) "IFTA license" means a motor fuel tax license issued in accordance with the IFTA "Procedures Manual."

(6) "Jurisdiction" means a state of the United States, the District of Columbia, or a province or territory of Canada.

(7) "KIT license" means the Kentucky intrastate tax license issued by the Kentucky Transportation Cabinet to intrastate motor carriers subject to the taxes imposed by KRS 138.660(1) and (2).

(8) "KYU license" means the Kentucky Highway Use License issued by the Kentucky Transportation Cabinet to motor carriers subject to the tax imposed by KRS 138.660(3).

(9) "Motor carrier" means as defined in KRS 138.655(5).

(10) "Over-the-road fuel" means fuel purchased from a retail distributor and placed directly into a qualified motor vehicle.

(11)(a) "Qualified motor vehicle" means a motor vehicle operated by a motor carrier that is used, designed, or maintained for the transportation of persons or property and that meets at least one (1) of the following criteria:

1. A single vehicle having two (2) axles and a gross vehicle weight or a registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms;

2. A single vehicle having three (3) or more axles, regardless of weight; or

3. A vehicle used in combination, when the weight of the combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle weight or registered gross vehicle weight.

(b) A qualified motor vehicle shall not include the following:

1. A recreational vehicle;

2. A motor vehicle registered pursuant to KRS 186.050(4) or under another jurisdiction's law as a farm vehicle; or

3. A motor vehicle used to transport persons for hire.

(12) "Quarterly reporting period" means a period of time consistent with the calendar quarterly periods of January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31.

(13) "Recreational vehicle" means a motor home, pickup truck with an attached camper, a bus or similar motor vehicle if used exclusively for personal pleasure by an individual and which is not used in connection with any business endeavor.

(14) "Tax-paid fuel" means motor fuel purchased either in bulk or over-the-road by a motor carrier on which the motor fuel taxes imposed by a jurisdiction are paid at the time of purchase.

(15) "Taxpayer means a Motor Carrier operating upon the roads of the Commonwealth subject to those taxes in KRS 138.660.

Section 2. Governing IFTA Documents. The following IFTA documents prepared and adopted by the membership of the International Fuel Tax Association shall govern Kentucky's recordkeeping requirements and audit provisions of the taxes imposed by KRS 138.660(1) and (2):

- (1) Articles of Agreement as revised July 1998;
- (2) Procedures Manual as revised July 1998; and
- (3) Audit Procedures Manual as revised July 1998.

Section 3. Tax Recordkeeping. (1) Each taxpayer shall maintain a complete record of all motor fuel purchased, received, or used in the conduct of its business. The fuel records shall contain at least the following information:

- (a) The date of each receipt of fuel;
- (b) The name and address of the person from whom purchased or received;
- (c) The name of the purchaser of the fuel;
- (d) The number of gallons of fuel received;
- (e) The type of fuel;
- (f) The vehicle or equipment into which the fuel was placed; and
- (g) If applicable, complete records on power takeoff use of motor fuel as set forth in subsection (14) of this section.

(2) Except as set forth in subsection (13) of this section, each taxpayer shall maintain detailed distance records that show operations on an individual-vehicle basis. The distance records for each qualified motor vehicle shall contain at least the following information:

- (a) Both taxable and nontaxable usage of fuel;
- (b) Distance traveled for taxable and nontaxable use; and
- (c) Beginning and ending date of each trip;
- (d) Trip origination and destination;
- (e) Route traveled on trip;
- (f) Trip beginning and ending odometer readings;
- (g) Total mileage of each trip; and
- (h) Distance recaps for each qualified motor vehicle for each jurisdiction in which the qualified motor vehicle is operated.

(3) In order for a taxpayer to obtain credit for a tax-paid fuel purchase a receipt or invoice, a credit card receipt or automated vendor-generated invoice or transaction listing shall be maintained by the taxpayer.. An acceptable receipt or invoice for tax-paid fuel purchased shall not have been altered or indicate erasures and shall contain at least the following information:

- (a) The date of purchase of fuel;
- (b) The name and address of the person from whom purchased;
- (c) The number of gallons purchased;
- (d) The type of fuel;
- (e) The price per gallon of the fuel purchased or the total amount of the sale;
- (f) Unit number of the motor vehicle into which the motor fuel was placed; and

(g) Purchaser's name. (In the case of a lease agreement, receipts are acceptable in either name, provided the records firmly indicate the legal connection to the reporting party.)

(4) A taxpayer shall not apply for credit for withdrawal from licensee-owned, tax-paid bulk fuel storage unless the following detailed records are kept:

- (a) Date of withdrawal;
- (b) Number of gallons withdrawn;
- (c) Fuel type;
- (d) Unit number of the motor vehicle or equipment into which the fuel was placed; and
- (e) Purchase and quarterly beginning and ending inventory records to substantiate that tax was paid on the bulk purchase.

(5)(a) A taxpayer shall account separately for tax-paid fuel purchased as storage or bulk from fuel purchased over the road;

(b) The licensee shall retain a copy of each delivery ticket and receipt for storage or bulk fuel;

(c) Bulk fuel inventory reconciliations shall be maintained. Records shall be maintained to distinguish fuel placed in a qualified motor vehicle from other uses;

(d) Each tax-paid purchase shall be supported by a receipt, invoice, credit card receipt or automated vendor-generated invoice or transaction listing; and

(e) Over-the-road fuel receipts shall identify the vehicle by the registration plate number or unit number, because only a vehicle identified with the fuel tax licensee's operation may be reported or mileage or fuel consumption.

(6) A separate total shall be compiled for each of the following fuel types used by a fuel tax licensee:

- (a) Gasoline;
- (b) Diesel;
- (c) Kerosene;
- (d) Gasohol;
- (e) Liquid petroleum gas;
- (f) Compressed natural gas; and
- (g) Other.

(7) Each taxpayer shall retain the information required by subsections (1) through (6) of this section for a period of four (4) years from the date of filing the tax report based on these records, except when a "Consent of Extension of Statutory Limitation of Time for Assessment" has been filed with the Division of Audit Review to extend the four (4) year statutory period limitation.

(8) Each taxpayer subject to a KYU license shall maintain the following records on operations within Kentucky of each motor vehicle that is subject to the tax imposed by KRS 138.660(3):

- (a) Type of motor vehicle;
- (b) Declared gross weight of the motor vehicle;
- (c) Weigh bills showing the actual weight of the loaded motor vehicle;
- (d) Except as provided in subsection (14) of this section, mileage operated by unit number in Kentucky as reported on trip sheets and driver logs that shall include the following:
  - 1. Beginning and ending odometer readings of each trip;
  - 2. Each route driven;
  - 3. Beginning and ending date of each trip;
  - 4. Trip origin and destination;
  - 5. Total trip miles;

- (e) Bills of lading; and
- (f) Off-highway mileage which includes periodical logs showing entering and leaving of public highways; and
- (g) Manual or computer-generated mileage recaps for Kentucky.

(9)(a) Each taxpayer subject to a KYU license shall retain the information required by subsection (8) of this section for a period of five (5) years from the date of filing the tax report based on these records, except when a "Consent of Extension of Statutory Limitation of Time for Assessment" has been filed for the Division of Audit Review to extend the five (5) year statutory period limitation.

(b) If the records required to be maintained in subsection (8) of this section are insufficient, incomplete, or unavailable for the auditor to complete an audit, the auditor may examine any other records of the taxpayer which might assist in establishing the tax liability of the taxpayer.

(10) Both the lessor and lessee involved in the short or long-term lease of motor vehicles shall maintain sufficient records, including copies of the leases and any supplemental agreements, to allow determination at any time of the entity responsible for reporting or payment of the taxes.

(11) Records may be retained on microfilm, microfiche, or other computerized or condensed record storage system if the system has been preapproved by the Transportation Cabinet's Division of Audit Review.

(12) If a taxpayer chooses to use an on-board electronic data recording system in lieu of or in addition to trip reports for tax reporting, the devices, recordkeeping, data collection, reporting and taxpayer responsibility shall comply with Section P600 of the IFTA Procedures Manual.

(13)(a) A taxpayer subject to an IFTA or KIT license who operates exclusively in intrastate commerce and for which all of the mileage traveled is taxable may choose to maintain quarterly odometer readings on an individual motor vehicle basis rather than the more detailed records set forth in subsection (2) of this section.

(b) A taxpayer subject to a KYU license who operates exclusively in intrastate commerce and for which all of the mileage traveled is taxable may choose to maintain quarterly odometer readings on an individual motor vehicle basis rather than the more detailed records set forth in subsection (8)(d) of this section.

(14) A taxpayer subject to an IFTA or a KIT license applying for a refund pursuant to Section 11 of 601 KAR 1:200 shall, in addition to the other requirements of this section, maintain the following records:

(a) Proof of power-take-off exemption percentage including how the percentage was calculated;

(b) Listing of bulk fuel storage which includes:

1. Location of bulk fuel storage;
2. Capacity of bulk fuel storage; and
3. Whether tanks are designated for "on" or "non" highway use;

(c) Kentucky Revenue Cabinet Motor Fuels Tax Refund Permit Number and Kentucky Revenue Cabinet Sales and Use Tax Number, if applicable;

(d) Equipment listing for each motor vehicle on which the refund is being requested including:

1. Vehicle type;
2. Use of power-take-off;
3. Vehicle unit number;

4. Vehicle identification number; and
5. Type of fuel used in each vehicle.

Section 4. Auditing. (1) For an audit, the taxpayer shall have available the following information if requested by the auditor:

(a) Records of all motor fuel purchased, received or used as identified in Section 3(1) of this administrative regulation;

(b) Detailed distance records that show operations on an individual vehicle basis as identified in Section 3(2) of this administrative regulation;

(c) For credit for tax-paid fuel purchases the records as identified in Section 3(3) of this administrative regulation;

(d) For credit for tax-paid bulk fuel storage the records as identified in Section 3(4) of this administrative regulation;

(e) Copies of Kentucky income tax returns for the periods under audit;

(f) Copies of IFTA or KIT returns, KYU returns, and IRP returns that represents Kentucky operations, or the documentation of another responsibility party for the payment of the related taxes.

(g) General ledger relating to each period under audit; and

(h) The related books of original entry.

(2)(a) The fuel tax audit of a taxpayer subject to an IFTA or a KIT license shall be performed in accordance with the provisions of the "IFTA Audit Procedures Manual" which is incorporated by reference in Section 5 of this administrative regulation.

(b) An audit of a taxpayer subject to a KYU license shall be performed by verifying the following:

1. The combined license weight of each motor vehicle operated by the motor carrier;
2. Odometer correctness;
3. Reports of each trip that adequately identifies the truck, trip mileage, and route driven;
4. Weight reports;
5. Continuity of trips;
6. Off-highway mileage;
7. Seasonal variations in the motor carrier's business;
8. Electronic data processing; and
9. Sampling of representative months of operation.

(3) At least thirty (30) days prior to conducting a routine audit, the Transportation Cabinet shall contact the taxpayer in writing advising of the approximate date that the audit is to be conducted and the time period the audit will cover.

(4) The auditor shall conduct and document a preaudit conference with the taxpayer (or designated representative) outlining the carrier's operation, the audit procedures, the records to be examined, the sample period, and the sampling procedures. The taxpayer and auditor shall determine at the preaudit conference who shall have the responsibility for the final acceptance of audit findings and who shall be involved in the closeout conference.

(5) The auditor shall conduct and document a close-out conference with the taxpayer (or designated representative) outlining preliminary findings to include proposed assessment, recommendations resulting from the review of the records and internal control, rights of appeal, and to whom the audit report should be addressed.

(6) The Transportation Cabinet shall furnish the taxpayer a letter of audit findings and recap schedules. If requested, the cabinet shall supply any other work papers to the taxpayer.

(7) A taxpayer shall be notified of additional tax assessments by mail. Payment, including interest from the original due date, in the absence of protest, shall be made within forty-five (45) days from the date of the notice of tax due.

(8) A penalty assessed under KRS 138.715 shall be applied to audit assessments based upon the percentage of the underpayment of the tax liability prior to the deduction of fuel tax purchase credits (if applicable) by the licensee.

Section 5. Protest of Assessments. (1) A written protest may be filed by the taxpayer, or other persons representing the taxpayer, and shall include a supporting statement and documents which identify the specific adjustments requested or the portions of the audit being protested and setting forth the reasons the protest is being made (KRS 131.110 (1)). The protest shall be filed with the Transportation Cabinet, Division of Audit Review within forty-five (45) days from the date of the notice of tax due.

(2) If an IFTA license taxpayer elects to exercise the right under Section 1450.200 of the IFTA Articles of Agreement for Further Requests for Appeal, the cabinet shall consider this a protest of the assessment by the taxpayer, and place the taxpayer into protest status.

(3) If an IFTA member jurisdiction elects to exercise the right under Section 1360.100 of the IFTA Articles of Agreement to reaudit the taxpayer, the cabinet shall consider this a protest of the assessment by the taxpayer.

(4) If the supporting statements and documentation are not sufficient to change the assessment results, the taxpayer may request an information gathering or protest conference with the Division of Audit Review.

(5) Within a reasonable period after the information gathering or protest conference is held, the cabinet shall issue a final ruling to the taxpayer, stating the final assessment results and detailing the procedures for an appeal to the Kentucky Board of Tax Appeals (KRS 131.110).

(6) If the taxpayer does not request a conference, the cabinet shall issue a final ruling to the taxpayer, stating the final assessment results and detailing the procedures for an appeal to the Kentucky Board of Tax Appeals (KRS 131.110).

(7) Within thirty (30) days from the date of the final ruling by the cabinet, a written protest may be filed by the taxpayer, or other persons representing the taxpayer, with the Kentucky Board of Tax Appeals (KRS 131.110).

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "International Fuel Tax Agreement", (July 1998 edition), International Fuel Tax Association;  
(b) Form TC 95-214, "Fuel Tax Refund for Power Takeoff", (June 1996 edition), Transportation Cabinet.

(2) This material may be inspected, copied, or obtained at the Transportation Cabinet, State Office Building, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

## **IRP regulations 601 KAR 9:135. Apportioned registration.**

RELATES TO: KRS 131.110(1), 131.340, 186.020(1), (3), 186.040, 186.050(13)(a), 186.051(2), 186.180, 186.240(2), 49 U.S.C. 31704

STATUTORY AUTHORITY: KRS 186.050(13), 186.051(3), 49 U.S.C. 31704

NECESSITY, FUNCTION, AND CONFORMITY: 49 U.S.C. 31704 requires each state to participate in the International Registration Plan. KRS 186.051(3) requires the Transportation Cabinet to promulgate an administrative regulation establishing a system of staggered registration time periods for commercial motor vehicles. KRS 186.050(13)(a) requires the Transportation Cabinet to promulgate an administrative regulation concerning the registration of commercial motor vehicles pursuant to the Articles of the International Registration Plan. This administrative regulation establishes the procedures required to register a commercial motor vehicle under the provisions of the International Registration Plan; clarifies if a vehicle licensed pursuant to KRS 186.050(13) is required to be licensed as established in other sections of KRS 186.050; and establishes the recordkeeping standards required for apportionable vehicles, auditing of the records by the Transportation Cabinet, and the appeal procedure if a disagreement occurs.

### Section 1. Definitions. (1) "Apportionable vehicle":

(a) Means a power conveyance that is used or intended for use in two (2) or more International Registration Plan Jurisdictions that is used for the transportation of persons for hire, or designed, used, or maintained primarily for the transportation of property and:

1. Has two (2) axles and gross vehicle weight or registered gross vehicle weight in excess of 26,000 pounds (11,793.401 kilograms);
2. Has three (3) or more axles, regardless of weight; or
3. Is used in combination for a vehicle with a gross weight in which the combination exceeds 26,000 pounds (11,793.401 kilograms); and

(b) Does not mean a recreational vehicle; a vehicle displaying restricted plates; a bus used for the transportation of chartered parties; a government-owned vehicle, except a truck or truck-tractor or a power conveyance in a combination of vehicles having a gross vehicle weight of 26,000 pounds (11,793.401 kilograms) or less. The vehicle types excluded by this paragraph are usually registered pursuant to a plan at the option of the registrant.

(2) "Base jurisdiction" means the member jurisdiction selected in accordance with the International Registration Plan to which an applicant applies for apportioned registration, or the member jurisdiction that issues apportioned registration to a registrant under the plan.

(3) "Established place of business" means a physical structure located within the base jurisdiction:

- (a) Owned, leased, or rented by the fleet registrant;
- (b) Designated by a street number or road location;
- (c) Open during normal business hours;
- (d) In which is located:
  1. A person conducting the fleet registrant's business; and
  2. The operational records of the fleet necessary for audit.

(4) "Fleet" means one (1) or more apportionable vehicles designated by a registrant for distance reporting as established in the International Registration Plan.



(5) "International Registration Plan" or "IRP" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.

(6) "Jurisdiction" means a country, state, province, territory, possession, or federal district of a country.

(7) "Operational records" means source documents that evidence distance travelled by a fleet in a member jurisdiction such as fuel reports, trip sheets, and driver logs, including those that are generated through on-board recording devices and maintained electronically as required by the IRP Audit Procedures Manual.

Section 2. Application for Apportioned Registration. (1) The operator of an apportionable vehicle operating in more than one (1) licensing jurisdiction shall apply for apportioned registration in the jurisdictions of operation that are members of the IRP unless a trip permit has been purchased for each trip into the jurisdiction.

(2) A vehicle, or combination of power unit and trailer having a gross vehicle weight of 26,000 pounds or less and two (2) axle vehicles may be apportioned registered at the option of the registrant.

(3) If Kentucky is the base jurisdiction for an operator of an apportionable vehicle, the operator's established place of business shall apply for the apportioned registration in Kentucky.

Section 3. Apportioned Mileage Reporting and Recordkeeping. (1)(a) The fleet miles required to be reported on Kentucky IRP Apportioned Registration Application Schedule B, TC 95-303B shall be the fleet miles traveled from July 1 through June 30 of the year immediately preceding the registration year.

(b) If the registration year begins on a date in July, August, or September, the reporting period shall be the previous twelve (12) month period.

(c) The following table is provided for illustration purposes:

First Month of Registration Year	Reporting Period
January, 1975	July 1, 1973 - June 30, 1974
February, 1975	July 1, 1973 - June 30, 1974
March, 1975	July 1, 1973 - June 30, 1974
April, 1975	July 1, 1973 - June 30, 1974
May, 1975	July 1, 1973 - June 30, 1974
June, 1975	July 1, 1973 - June 30, 1974
July, 1975	July 1, 1973 - June 30, 1974
August, 1975	July 1, 1973 - June 30, 1974
September, 1975	July 1, 1973 - June 30, 1974
October, 1975	July 1, 1974 - June 30, 1975
November, 1975	July 1, 1974 - June 30, 1975
December, 1975	July 1, 1974 - June 30, 1975

(d) The mileage shall be distributed by jurisdiction. Miles travelled in a jurisdiction by an apportioned power unit, whether or not a member of the International Registration Plan, and whether the vehicle is empty or loaded, shall be reported.

(e) The mileage reported for a motor vehicle power unit that was added to, or deleted from the apportioned fleet during the mileage reporting period shall be the miles generated while it was part of the apportioned fleet.

(f) Mileage shall include the following:

1. Loaded and unloaded trips;
2. Intrastate and interstate trips; and
3. Miles operated under trip permits.

(2)(a) An apportioned registrant shall maintain operational records for the current registration year and the three (3) registration years immediately prior to the current year.

(b) The information shall be retained in an individual vehicle mileage record.

(c) The individual vehicle mileage record shall contain the following information:

1. Registrant's name and fleet number;
2. Beginning and ending date of trip;
3. Trip origin and destination;
4. Route of travel for trip;
5. Beginning and ending odometer or hubometer reading of each trip;
6. Total trip miles and mileage;
7. Mileage by jurisdiction for each trip;
8. Vehicle unit number and vehicle identification number; and
9. Driver's name or signature.

Section 4. Proof of Insurance and Certificate of Apportioned Registration. (1) The applicant shall apply to the appropriate county clerk for a certificate of apportioned registration for each vehicle in the fleet, and a vehicle to be apportioned registered.

(2) The county clerk's fee shall be collected as established in KRS 186.040 and 186.050.

(3) A vehicle owned by a non-Kentucky registrant that is properly titled in a foreign jurisdiction and leased to a Kentucky based-motor carrier shall be registered in the name of the Kentucky based-motor carrier with copies of the foreign title, lease agreement, and the owner's commercial driver's license.

(4) The applicant shall submit proof of insurance to the county clerk at the time of application for the certificate of apportioned registration.

Section 5. Registration Fees. (1)(a) The applicant shall submit an application for apportioned registration to the Department of Vehicle Regulation.

(b) Original or renewal application shall be made by using:

1. Kentucky IRP Apportioned Registration Supplemental Application Schedule C, TC 95-303C; and
2. Kentucky IRP Apportioned Registration Application Schedule B, TC 95-303B.

(c) After the Department of Vehicle Regulation has approved an application, the department shall compute the apportioned registration fee due each jurisdiction under the International Registration Plan.

(d) The applicant shall return to the department, either in person or by mail or electronic payment, the bill and a certified check, cashier's check, personal check, business check, or money order made payable to the Kentucky State Treasurer.

(e) If the applicant is required to post a bond as established in 601 KAR 1:200, Section 6, or has had a personal or business check returned for insufficient funds to the Transportation Cabinet by the applicant's bank, the cabinet shall require the applicant to make payment by cash, certified check, money order, or cashier's check.

(2) The required tax and fee shall be accompanied by proof of payment of the federal heavy vehicle use tax.

(3)(a) The Department of Vehicle Regulation shall issue an IRP apportioned license plate and IRP cab card to the registrant for each IRP registered vehicle.

(b) The originally issued IRP license plate shall have a decal, indicating the expiration month and year.

(c) After the yearly renewal the registrant shall be issued a new decal designating the year of expiration and a new IRP cab card.

(d) The IRP cab card shall list the jurisdictions in which the registrant has apportioned his registration fees.

(e) The original IRP cab card shall be carried in the cab of the vehicle continuously.

Section 6. Supplemental Applications. (1) An applicant needing to add or delete a vehicle from a fleet shall file Kentucky IRP Apportioned Registration Supplemental Application, Schedule C, TC 95-303C with the department. This form shall be used to provide notice of:

- (a) A vehicle addition;
- (b) A vehicle deletion;
- (c) A vehicle transfer; or
- (d) A gross weight increase.

(2)(a) A vehicle deletion notice shall be accompanied by the apportioned registration plate and the IRP cab card.

(b) At the end of the registration month, a registrant may apply for a refund of the fees that apply to the unexpired months of the registration year.

(3)(a) If a vehicle is added by a registrant at the same time another vehicle with the same weight within the fleet is deleted, the Kentucky registration tax shall be transferred from the deleted to the added vehicle.

(b) The Kentucky transfer fee of three (3) dollars shall be collected as established in KRS 186.180.

(c) The registrant shall be notified of the transfer fee owed to other jurisdictions.

(4) If the declared gross weight of the vehicle is increased, the increased fees shall be prorated from the date the increased weight is allowed.

Section 7. Adding Jurisdictions to IRP Registrations. (1) If the operation of a registrant is expanded to include an additional jurisdiction that participates in the IRP, the registrant shall amend the mileage schedule by filing IRP Apportioned Registration Application, Schedule B, TC 95-303B with the department to reflect an estimate of miles to be operated in the new jurisdiction.

(2) The mileage percentages for an added jurisdiction shall be computed by adding to the actual mileages previously reported.

(3) Percentages approved on the original application shall not be changed during the registration year.

(4)(a) If an additional jurisdiction is added during the registration year, each vehicle in the fleet shall be changed to reflect operation in the additional jurisdiction.

(b) If an IRP cab card is damaged, lost, or destroyed, the Department of Vehicle Regulation shall send a replacement card to the registrant.

(c) Upon receipt of the new cab cards, the registrant shall return the outdated IRP cab cards to the department.

Section 8. Conversion to Apportioned Registration. (1) If a vehicle is registered in Kentucky as a commercial or limited activity vehicle, and the registrant intends to convert to an apportioned registration, the registrant shall purchase an apportioned registration from the county clerk of residence.

(2) The current commercial or limited activity license plate shall be submitted to the Department of Vehicle Regulation with the application for apportioned registration.

(3)(a) The applicant shall be given credit for the remainder of the value of current Kentucky registration.

(b) This credit shall be applied toward fees due to other IRP jurisdictions and collected by Kentucky on the apportioned registration.

(4) All fees due to other jurisdictions and a fee due to Kentucky shall be paid in accordance with Section 5 of this administrative regulation before the apportioned credentials are issued.

Section 9. Replacement of Credentials. (1) The owner of a vehicle registered pursuant to KRS 186.050(13) may obtain a duplicate of a lost IRP cab card from the Department of Vehicle Regulation by:

(a) Filing Affidavit for Replacement or Non-exchange, TC 96-167; and

(b) Paying a fee of three (3) dollars as established in KRS 186.180.

(2) A registration plate issued pursuant to KRS 186.050(13) that is lost shall be reported as lost or stolen to the area state police post or local law enforcement agency and the Department of Vehicle Regulation.

(3)(a) A new certificate of apportioned registration shall be issued by the department after review and acceptance of the completed forms. A new license plate reissued by the department shall bear a different number from that of the lost plate.

(b) The original copy of the surrendered certificate of apportioned registration shall be maintained by the department.

(4) The department shall cancel the registration corresponding to the number of the lost plate.

(5) A person finding a lost registration plate shall return it to the Department of Vehicle Regulation or to a county clerk.

Section 10. Apportioned Registration of Leased Vehicles. Apportioned registration of a leased vehicle shall be accomplished in one (1) of the following ways:

(1) (a) If the owner or lessor is the registrant, the vehicle shall be registered in the name of the owner or lessor.

(b) The allocation of registration fees shall be based on the operational records of the owner or lessor.

(c) The apportioned license plate and IRP cab card shall be the property of the lessor.

(2) If the lessee is the registrant, the vehicle shall be registered by the lessee:

(a) In the lessee's name;

(b) In the lessor's name; or

(c) In both the owner or lessor's name and that of the lessee.

(3) The allocation of registration fees shall be based on the operational records of the lessee.

(4) The apportioned license plate and IRP cab card shall be the property of the lessee.

Section 11. Audit of Apportioned Registrants. (1) As required by the IRP, the cabinet's Division of Road Fund Audits shall perform an audit of fifteen (15) percent of the apportioned registrants based in Kentucky every five (5) years.

(2) An audit shall be performed in accordance with the IRP Audit Procedures Manual.

(3) The Division of Road Fund Audits shall notify the apportioned registrant in writing of the date, time, and location of the audit. Thirty (30) days advance notice shall be given to the registrant.

(4) Failure of the registrant to make the records required by Section 3 of this administrative regulation available upon request shall:

(a) Result in a penalty assessment as established in the IRP Audit Procedures Manual; or

(b) Cancellation of apportioned registration as established in the IRP.

(5)(a) An auditor shall conduct and document a pre-audit conference with the registrant outlining:

1. Operation;

2. Audit procedures;

3. Records to be examined;

4. Sample period; and

5. Sampling procedures.

(b) The motor carrier and auditor shall determine at the pre-audit conference who has responsibility for final acceptance of the findings and the persons to be involved in the close-out conference.

(6) An auditor shall conduct and document a close-out conference with the registrant outlining preliminary findings that shall include:

(a) Applicable penalty and interest;

(b) Recommendations;

(c) Rights of appeal; and

(d) To whom the audit report should be addressed.

(7)(a) The Transportation Cabinet shall furnish the registrant a letter of audit findings and recap schedules.

(b) If requested, the cabinet shall supply other work papers to the registrant.

(8) If an audit indicates that additional tax is owed, the Transportation Cabinet shall issue a tax due statement.

(9) Within forty-five (45) days of the date of the tax due statement, the registrant shall:

(a) Pay the supplemental tax; or

(b) Protest in writing to the Transportation Cabinet, Division of Road Fund Audits.

Section 12. Protest or Appeal of Audit Results. (1)(a) A written protest may be filed by a taxpayer, or a person representing a taxpayer, and shall include a supporting statement, and documents that identify the specific adjustments requested, or the portion of the audit protested, and shall establish the reason for the protest as required by KRS 131.110(1).

(b) A protest shall be filed with the Transportation Cabinet, Division of Road Fund Audits within forty-five (45) days from the date of the tax due statement.

(2) If the supporting statements and documentation are not sufficient to change the assessment results, the taxpayer may request an information gathering, or protest conference with the Division of Road Fund Audits in writing by using regular mail, facsimile, or electronic mail.

(3) Within sixty (60) days from the date the taxpayer submits additional information, or within sixty (60) days of a protest conference, the Division of Road Fund Audits shall issue a final ruling to the taxpayer.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky IRP Apportioned Registration Application, Schedule B", TC Form 95-303B, November 2006;

(b) "Kentucky IRP Apportioned Registration Supplemental Application, Schedule C", TC Form 95-303C, June, 2008;

(c) "Affidavit for Replacement or Non-Exchange", TC Form 96-167, April, 1992;

(d) "International Registration Plan with Official Commentary", January 1, 2013; and

(e) "Kentucky IRP Apportioned Registration Policies and Procedures Manual", May, 2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, as follows:

(a) For the items incorporated by reference in paragraphs (a), (b), (c), (e), and (f) of this subsection, at the Department of Vehicle Regulation, Division of Motor Carriers, 200 Mero Street, Third Floor, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) For the item incorporated by reference in paragraph (d) of this subsection, at the Office of Audits, Division of Road Fund Audits, 200 Mero Street, Fourth Floor, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (14 Ky.R. 1710; eff. 3-10-88; Am. 18 Ky.R. 2367; eff. 3-7-92; 24 Ky.R. 398; 909; eff. 11-4-97; 25 Ky.R. 425; 875; 1042

## U-Drive-IT regulations

**601 KAR 1:147. Auditing of U-drive-it permit holders** RELATES TO: KRS 131.340, 138.462, 138.463, 138.4631, 186.005, 186.281, 281.615-281.670

STATUTORY AUTHORITY: KRS 138.463(5), 186.281(2)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 138.463 requires the Transportation Cabinet to establish standards for fair market rental or lease value and assess, collect, and audit the monthly U-drive-it usage tax. This administrative regulation establishes the recordkeeping requirements for a permit holder and the audit procedures of the Transportation Cabinet.

Section 1. Definitions. (1) "Lease" is defined by KRS 138.463(3).

(2) "Rental" is defined by KRS 138.462(2).

Section 2. Recordkeeping. (1) Rental records.

(a) A holder of a U-drive-it permit who rents a vehicle shall:

1. Use a consecutive, preprinted numbering system for a rental agreement;

2. For each motor vehicle included in the permit holder's rental fleet, retain a copy of the original manufacturer's invoice or a document that shows the manufacturer's suggested retail price of the motor vehicle plus the cost of options included on the motor vehicle; and

3. Retain a copy of the rental agreement including a void or damaged agreement.

(b) The following information shall be included on a rental agreement:

1. Rental agreement number;

2. Beginning date of the rental;

3. Ending date of the rental;

4. Identification of the specific rental vehicle that includes the following:

a. Vehicle identification number;

b. Make;

c. Model; and

d. Year;

5. Odometer reading of the rental vehicle at the beginning of the rental agreement;

6. Odometer reading of the rental vehicle at the end of the rental agreement;

7. Amount charged for the rental agreement;

8. Method of calculation of the rental amount charged that includes mileage charges and number of days used; and

9. Identification of the person renting the vehicle.

(c) If applicable, the following shall be attached to an original rental agreement:

1. Replacement vehicle information; and

2. Information that will alter the original rental agreement.

(d) The record of a rental transaction shall be maintained for a period not less than six (6) years after the due date of the U-drive-it tax return.

(2) Lease records. A holder of a U-drive-it permit who leases a vehicle shall retain a copy of the leasing agreement and other information required by this subsection.

(a) A lease agreement shall include the following information:

1. Complete name and address of the lessee;

2. Beginning date of the lease;

3. Ending date or term of the lease;

4. Identification of the lease vehicle that includes the following:

- a. Vehicle identification number;
- b. Make;
- c. Model;
- d. Year; and
- e. Manufacturer's suggested retail price;
- 5. Final lease termination calculation and date;
- 6. Monthly payment amount subject to the tax imposed by KRS 138.463;
- 7. Down payment or trade-in information;
- 8. Dated signature of the lessee and the lessor; and
- 9. Date of first lease payment, if different from agreement beginning date.
- (b) The following, if applicable, shall be attached to the lease agreement:
  - 1. Certificate of title of the leased vehicle;
  - 2. A lease amount calculation worksheet;
  - 3. A lease extension agreement;
  - 4. Documentation of a lease early termination; and
  - 5. Information that would alter the original lease agreement.
- (c) The record of a lease transaction shall be maintained for a period not less than six (6) years after the due date of the U-drive-it tax return.

Section 3. Audits of Permit Holders. (1) The Division of Road Fund Audits shall notify the permit holder of the date, time, and location of the audit. At least fifteen (15) days' advance notice shall be given to the permit holder.

(2) The audit period shall not exceed four (4) or six (6) years as established in KRS 138.463(6).

(3) A permit holder who fails to make available the required records, or sufficient alternative records, requested by the auditor shall receive a tax assessment or have the permit cancelled pursuant to KRS 138.463(7).

(4)(a) A missing or incomplete record shall result in an assessment based on KRS 138.460 or 138.463, whichever is appropriate as determined by the audit.

(b) In computing the assessment for a specific transaction, a permit holder shall receive credit for a tax previously remitted to the Transportation Cabinet for that transaction.

(5) If an audit is conducted, the auditor shall conduct and document a pre-audit telephone conference with the permit holder outlining:

- (a) The operation;
- (b) Audit procedures;
- (c) Records to be examined;
- (d) Sample period; and
- (e) Sampling procedures.

(6) The permit holder and auditor shall determine during the pre-audit telephone conference which parties shall be:

- (a) Responsible for the final acceptance of audit findings; and
- (b) Involved in the fieldwork close-out conference.

(7) If the audit is conducted, the auditor shall conduct and document a fieldwork close-out conference with the permit holder outlining preliminary findings to include:

- (a) Recommendations;
- (b) Right of appeal; and
- (c) To whom the audit report shall be addressed.



(8) The Transportation Cabinet shall furnish the permit holder with a letter of audit findings and recap schedules. If requested, the cabinet shall supply detailed work papers to the permit holder that serve as backup material to the recap schedules.

(9) If an audit indicates that additional tax is owed, the Transportation Cabinet shall issue a Notice of Tax Due statement.

(10) Within forty-five (45) days of the notice of tax due statement, a permit holder shall pay the tax due, or protest in writing pursuant to Section 4 of this administrative regulation.

Section 4. Protest or Appeal of Audit Results. (1)(a) A written protest may be filed by a taxpayer or a person representing a taxpayer.

(b) A protest shall include:

1. A supporting statement that includes the grounds upon which the protest is made as required by KRS 131.110(1); and

2. Documents that identify the adjustment requested, or the portion of the audit protested.

(c) A protest shall be filed with the cabinet's Division of Road Fund Audits within forty-five (45) days from the date of the notice of tax due statement.

(2) If the supporting statements and documents are not sufficient to change the assessment results, the taxpayer may request an information gathering, or protest conference, with the Division of Road Fund Audits in writing by regular mail, facsimile, or electronic mail.

(3) The Division of Road Fund Audits shall issue a final ruling to the taxpayer within sixty (60) days from the date the taxpayer submits additional information, or within sixty (60) days of the protest conference. (24 Ky.R. 1185; Am. 1525; 2366; eff. 5-18-98; 40 Ky.R. 128; eff. 10-1-13.)

## **Sample documentation**

Individual Vehicle Mileage Record (IMVR)

Daily Trip Sheet

Daily Report

Importance of Routing Information

Map/Mileage Calculations



### Daily Trip Sheet

[illegible]

**Notes** (if you need more room turn over and write on the back)

## NAME \_\_\_\_\_ DATE \_\_\_\_\_

TRACTOR NO. \_\_\_\_\_ TRAILER NO. \_\_\_\_\_

(mark x in box if not satisfactory)

- Mechanic's Signature (in full)

Date \_\_\_\_\_

Time Start \_\_\_\_\_ a.m./p.m.

Time End \_\_\_\_\_ a.m./p.m.

**Total Time** \_\_\_\_\_

**I certify that these entries are true and correct:**

- Driver's Signature (in full)**

DATE \_\_\_\_\_

DRIVER/CONTRACTOR SIGNATURE

## **Importance of routing information**

**Attached is a copy of a trip going from Knoxville TN to St. Louis MO**

Without the actual routes listed on your drivers trip sheets there are several ways to get from point A to point B, with minimum mileage or time difference.

Each route will allocate different miles to different jurisdictions.

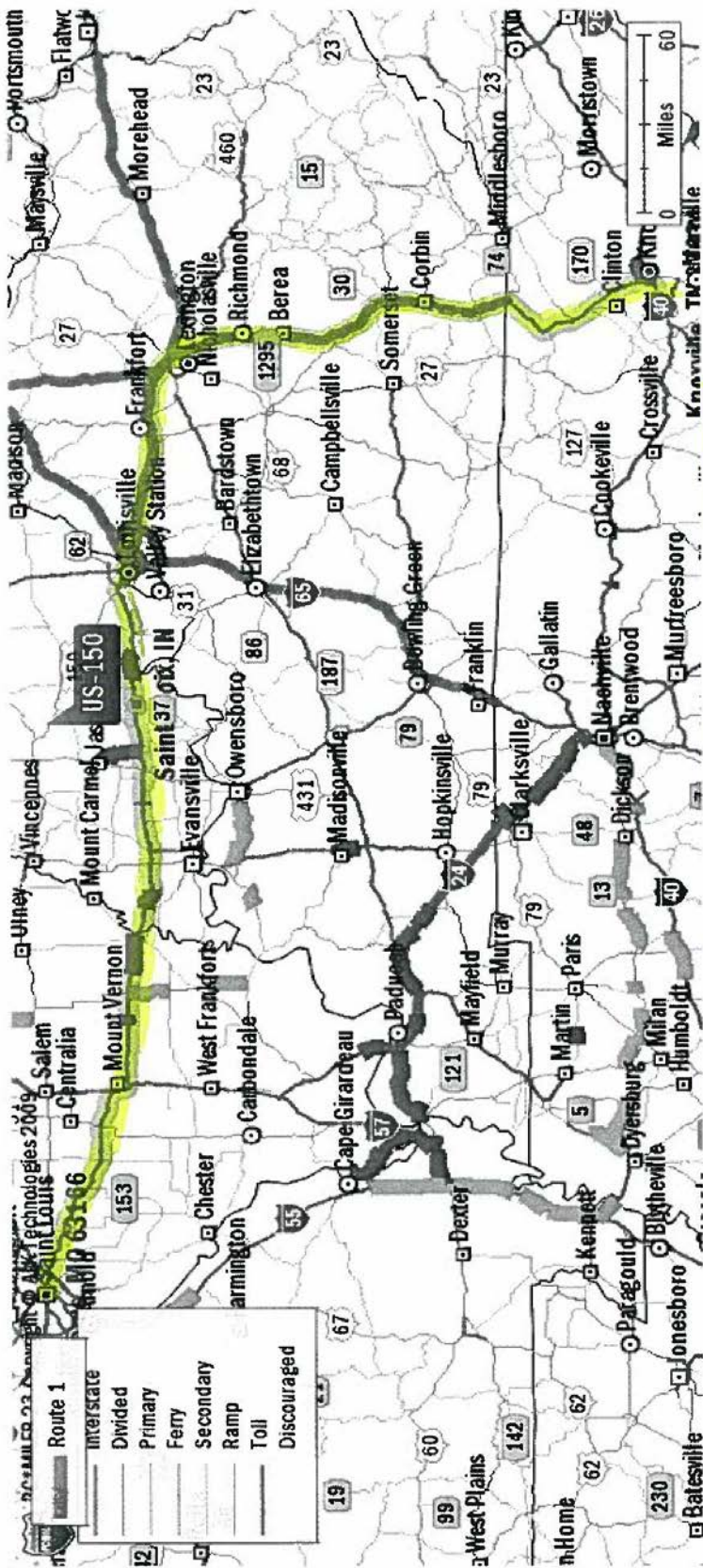
Using a routing program DOES NOT make you compliant...This is to be used ONLY as a tool for miles allocation. However if you do not put the proper routes into the program, then the mileage program will only give you the results of what you entered...or didn't enter.



Knoxville TN & St. Louis Mo.

IL	164	
KY	93	
MO	1	
TN	212	
	<u>470</u>	Total Miles





*Nashville TN to St. Louis MO.*

IL = 130

IN = 128

KY = 192

MO = 1

TN = 71

522 Total Miles