

160.6153 Procedure when allocation on taxpayer's return varies from school district boundary information provided by superintendents -- Adjustment -- Exceptions -- Reallocation agreement.

- (1) If the department determines that the allocation among districts as submitted by the taxpayer on the return varies from the school district boundary information submitted to the department pursuant to KRS 160.6152, the department shall:
 - (a) Make a proposed administrative adjustment to correct the erroneous allocation going forward;
 - (b) Determine whether the erroneous allocation was used on prior returns and if it was, make a proposed administrative adjustment going back a maximum of one (1) year from the date the erroneous allocation was discovered; and
 - (c) Retain taxes collected and still on hand for distribution to the impacted districts that are related to the erroneous allocation until the proposed administrative adjustment becomes final.
- (2) Within ten (10) days of the discovery of the erroneous allocation, the department shall notify the taxpayer and the impacted school districts in writing of the allocation discrepancy, including the dollar amount at issue, the proposed administrative adjustment to be made, and the process for agreeing to or filing an exception to the proposed administrative adjustment.
- (3) The proposed administrative adjustment shall become final upon the earlier of the receipt by the department of written acceptance of the administrative adjustment by all impacted school districts or the expiration of forty-five (45) days from the date of the notice with no exception having been filed.
- (4)
 - (a) Exceptions to the proposed administrative adjustment shall be filed with the commissioner of the department, within forty-five (45) days from the date of the notice, and shall include a supporting statement setting forth the basis of the exception. A copy of any exception filed shall also be mailed to the impacted utility services provider and any other impacted school district.
 - (b) After the exception has been filed, the impacted school district may request a conference with the department. The request shall be granted in writing stating the time and date of the conference. Other impacted school districts and the impacted utility services provider may also attend any conference. Additional conferences may be held upon mutual agreement.
 - (c) After considering the exceptions filed by the impacted school district, including any information provided during any conferences, a final administrative ruling shall be issued by the department. The final administrative ruling shall be mailed to all impacted school districts as well as the impacted utility services provider.
 - (d) The impacted school district filing the exception may request in writing a final ruling at any time after filing exceptions and a supporting statement, and the department shall issue the ruling within thirty (30) days after the request is received by the department.

- (e) After a final ruling has been issued, the school district may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the school district is located.
- (5) The method and timing of the implementation of a final administrative ruling that requires a reallocation of previously distributed tax receipts shall be determined by agreement of the impacted school districts, provided that any agreement allowing for adjustments to be made over time in the future shall not extend beyond four (4) years.
 - (a) The department shall, upon request of the impacted school districts, assist in the development of an agreement.
 - (b) An agreement that requires distribution changes that vary from the district boundary information shall be provided to the department so that distributions can be made in accordance with the agreement.
 - (c) If the impacted school districts fail to reach an agreement regarding the reallocation of previously distributed tax receipts, the department shall adjust distributions going forward for four (4) years so that at the expiration of four (4) years, the district that should have received the original distribution has recouped all of the funds distributed erroneously, and the district that erroneously received the funds has repaid all of the funds distributed erroneously.

Effective: March 6, 2006

History: Amended 2006 Ky. Acts ch. 6, sec. 22, effective March 6, 2006. -- Created 2004 Ky. Acts ch. 79, sec. 7, effective July 1, 2005.