

**131.565 Definition of "state agency" -- Establishment of claim by state agency pursuant to statutory provision or administrative regulation.**

- (1) For purposes of this section, "state agency" or "state agencies" shall include the Court of Justice as defined in KRS 45.241.
- (2) No state agency shall request the withholding of any individual income tax refund unless there is specific provision in statute or administrative regulation for debtor appeal and hearing rights for that particular debt.
- (3) State agencies having the statutory and regulatory provisions described in subsection (2) of this section shall establish claims against Kentucky individual income tax refunds by notifying the commissioner of revenue in writing by a date established by the Department of Revenue and, by dates agreed to by the Department of Revenue and each state agency, shall furnish a list of all liquidated debts due the agency for which withholding is required for individual income tax refunds due to be paid to the debtor of the claimant agency. This list shall be submitted in such form and contain such information as may be required by the commissioner of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency shall send thirty (30) days' prior written notification to the debtor of the intention to submit the claim to the Department of Revenue for setoff as provided in KRS 131.570.
- (4) The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the Department of Revenue.
- (5) No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.
- (6) Each state agency requesting the withholding of any individual income tax refund shall indemnify the Department of Revenue against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.
- (7) Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the Department of Revenue, reimburse the Department of Revenue for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.
- (8) The Department of Revenue may decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the Department of Revenue.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 148, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 118, sec. 4, effective July 13, 2004. -- Created 1984 Ky. Acts ch. 405, sec. 8, effective July 13, 1984.