

**131.570 Notification of debtor -- Hearing -- Transfer of refund -- Payment of excess to taxpayer.**

- (1) Upon determining that a pending individual income tax refund is subject to setoff as authorized under this section, the debtor shall be notified in writing by the Department of Revenue of the claim made against such refund by the named claimant agency, and of the Department of Revenue's intention to set off the refund against the debt to the claimant agency. The notice shall provide that the debtor within thirty (30) days from the date of the notice may request a hearing before the claimant agency as provided by statute. No issues at such hearing may be considered that have been litigated previously and the debtor, after being given due notice of rights of appeal, must exercise such rights in a timely manner. The decision of the claimant agency shall be subject to appeal as all other decisions rendered by the claimant agency. No funds shall be transferred to a claimant agency until the debtor's appeal rights have been exhausted.
- (2) Any excess of the pending refund amount over the total claim filed against such refund shall be promptly issued to the taxpayer by the Department of Revenue.
- (3) In the event funds transmitted to a claimant agency are subsequently determined by the claimant agency to be in excess of the liquidated debt, such claimant agency shall promptly refund the excess to the taxpayer.
- (4) In the event the Department of Revenue erroneously transfers funds to a claimant agency, the claimant agency shall immediately upon notification thereof reimburse the Department of Revenue for the amount erroneously transmitted to such agency. The Department of Revenue shall promptly refund to the taxpayer the appropriate amount of such returned funds with interest as provided in KRS 131.183(2).

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 149, effective June 20, 2005. -- Created 1984 Ky. Acts ch. 405, sec. 9, effective July 13, 1984.