

136.120 Public service corporation property tax -- Classification -- Assessment -- Certification.

(1) (a) The following public service companies shall pay a tax on their operating property to the state, and to the extent the operating property is subject to local taxation, shall pay a local tax to the county, incorporated city, and taxing district where its operating property is located:

1. Railway companies;
2. Sleeping car companies;
3. Chair car companies;
4. Dining car companies;
5. Gas companies;
6. Water companies;
7. Bridge companies;
8. Street railway companies;
9. Interurban electric railroad companies;
10. Express companies;
11. Electric light companies;
12. Electric power companies;
13. Commercial air carriers;
14. Air freight carriers;
15. Pipeline companies;
16. Privately owned regulated sewer companies;
17. Municipal solid waste disposal facilities, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling;
18. Railroad car line companies, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car; and
19. Every other like company or business performing any public service.

(b) The following companies shall not be subject to the provisions of paragraph (a) of this subsection:

1. Bus line companies;
2. Regular and irregular route common carrier trucking companies;
3. Taxicab companies;
4. Providers of communications service as defined in KRS 136.602; and
5. Providers of multichannel video programming services as defined in KRS 136.602.

- (2) (a) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property.
- (b) Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services.
- (c) Operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.
- (3) (a) The Department of Revenue shall:
 - 1. Have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has previously been assessed by the department;
 - 2. Allocate the assessment as provided by KRS 136.170; and
 - 3. Certify operating property subject to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180.
- (b) All of the property assessed by the department pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien on the property shall attach as of the assessment date.
- (c) In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the department shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the department under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Effective: January 1, 2008

History: Amended 2006 Ky. Acts ch. 169, sec. 7, effective January 1, 2008. -- Amended 2005 Ky. Acts ch. 85, sec. 301, effective June 20, 2005; and 168, sec. 120, effective December 31, 2005. -- Amended 1991 1st Extra. Sess. Acts Ch. 12, Sec. 50, effective February 26, 1991. -- Amended 1990 Ky. Acts ch. 437, sec. 5, effective July 13, 1990; and ch. 476, Pt. V, sec. 352, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 264, sec. 12, effective January 1, 1984. -- Amended 1976 Ky. Acts ch. 169, sec. 1. -- Amended 1965 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 2. -- Amended 1962 Ky. Acts ch. 29, sec. 6. -- Amended 1960 Ky. Acts ch. 186, Art. II, sec. 2. -- Amended 1942 Ky. Acts ch. 80, secs. 1 and 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 842a-3, 4077, 4082.

Legislative Research Commission Note (12/31/2005). 2005 Ky. Acts ch. 168, sec. 169, provides that Section 123 of this Act, relating to unit valuation, takes effect on December 31, 2005. This reference to the effective date in Section 169 of the Act should have been to Section 120 of the Act (KRS 136.120), which relates to unit

valuation, rather than to Section 123 (KRS 91.200), which relates to city license taxes. This error occurred when several sections of HB 272 were renumbered during the preparation of a House Committee Substitute and the corresponding changes to sections of the bill setting out the effective dates were not made. This change has been made by the Statute Reviser under the authority of KRS 7.136.

Legislative Research Commission Note (7/14/00). 2000 Ky. Acts ch. 446 (Senate Bill 323), sec. 2, purports to amend this statute, and the General Assembly version of that bill was signed by both presiding officers and by the Governor. The Journals of the House of Representatives and Senate will reflect, however, that House Floor Amendment 1 was adopted by the House on March 27, 2000, but was not transmitted to the Senate for its concurrence when the bill was returned to that body. Thus, the bill signed did not pass both chambers of the General Assembly in the same form and did not become law. Ky. Const. secs. 46 and 88; see also Mason's Manual of Legislative Procedure sec. 737, at 508-509 (1989 ed.). Because the General Assembly's own official records establish this constitutional deficiency, the provisions of 2000 Ky. Acts ch. 446 have not been codified into the Kentucky Revised Statutes. See KRS 7.131(2).

Legislative Research Commission Note. (7/13/90) The Act amending this section prevails over the repeal and reenactment in House Bill 940, Acts Ch. 476, pursuant to Section 653(1) of Acts Ch. 476.