

Instructions for Form 228-S, Net Profits Occupational License Tax Return

The following instructions are provided to aid the licensee in the completion of Form 228S, Net Profits License Tax Return. They are not intended to be all inclusive and therefore should be used only as a supplement to the existing Rules and Regulations.

Who Must File Form 228S:

1. Corporations, partnerships, sole proprietorships, estates and trusts, or other businesses engaged in an occupation, trade, or profession with a business nexus in Fayette County, Kentucky.
2. Individuals having gross receipts from rental income that are greater or equal to \$50,000 a year are presumed to be in business.

A Tax Form Must Be Filed Even If:

- Your business activity resulted in a loss for that tax year. Complete the Form 228S according to the instructions provided.
- You were not actively engaged in business within Fayette County during the year. Check the box designated "No Activity" on Form 228S, sign and return to address on form.
- Your business activity ceased prior to the beginning of the tax year, but you have not provided written notification that operations ceased. Check the box designated "**No Activity**" and on Line C, enter the date your activity ceased, sign, and return to the address on the form.
- Your business was operational for a portion of the tax year but ceased operation prior to the completion of the fiscal period. Complete the tax form according to the instructions provided. Indicate date business operations ceased on Line C, then sign, and return to the address on the form.
- You applied for a tax number with the intention of starting a business but never transacted business within Fayette County, Kentucky, and do not intend to do so in the future. Check the box designated "**No Activity**" and "**Final Return**", sign and return to the address on the form.

When to File: Form 228S must be postmarked by the 15th day of the 4th month after the end of the fiscal year.

Where to File:

All returns should be mailed to the Tax Collection Office, Fayette County Public Schools, P.O. Box 55570, Lexington, Kentucky 40555-5570, along with your check made payable to the Fayette County Public Schools (FCPS).

Signature:

Corporation returns must be signed and dated by a corporate officer authorized to sign, Partnership returns must be signed by a general partner and a return being filed as a Sole Proprietor must be signed by that individual.

Automatic Extensions

An automatic extension of time for filing the Net Profit License Tax Return will be granted for a period not to exceed any extension granted by the Internal Revenue Service for the filing of the federal income tax return for the same year. Please submit a written request, file a copy of the federal Form 4868 or 7004 for the same year or use Form 228S - ENP.

An automatic extension of time for filing the Net Profit License Tax Return does not extend the time for payment of the license tax. A properly estimated payment (80% of total tax liability due) must be received with the extension on or before the original due date of return.

Any automatic extension shall be granted with the understanding that all prior filing and payment requirements have been fulfilled. If it becomes evident that prior filing and payment requirements have not been fulfilled; interest and penalty shall be assessed in full and in the same manner as though no extension had been granted.

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State Exemptions

- The following persons are exempt under Kentucky law from the Net Profits License Tax and are not required to file a return.
- A company that pays an ad valorem tax and a franchise tax pursuant to the provisions of KRS 136.120.
- Life insurance companies incorporating under the laws of and doing business in the Commonwealth of Kentucky under KRS 136.320 (4) (5).
- Banks, trusts companies, combined banks and trusts companies, combined trust, banking and title businesses and savings and loan associations, whether state or federally chartered.

Penalties for Failure to File and/or Pay

There is a five percent (5%) penalty per month or fraction of a month to a maximum of twenty-five percent (25%) for failure to file and/or pay a tax return by the due date pursuant to KRS 67.50. There is a minimum penalty due of twenty-five (\$25) for failure to file and/or pay a tax return by the due date.

Interest

Interest is computed at twelve percent (12%) per annum from the original due date of payment.

Refund Request

Claims for refund must be submitted within two (2) years from the filing of the tax return or due date of the tax return, or two (2) years from payment, whichever is later.

Licensee Information

For returns to be processed properly, please:

- File using Board of Education of Fayette County Form 228S, Net Profits Occupational License Tax Return.
- Complete worksheet on reverse side of Form 228S, Net Profits Occupational License Tax Return.
- Enter local account number assigned to your business.
- Enter the federal identification number or social security number under which your federal tax return was filed.
- Sign and date the return.
- Attach copies of the appropriate federal tax forms and all supporting documentation.

Answer following questions:

Line A: Nature of business

Line B: Date business started in Fayette County

Line C: If the organization was discontinued in the current year or a prior year enter the date business ceased operations.

If business was sold, indicate name of successor.

Line D: Indicate whether you had employees in Fayette County during current year.

Line E: Indicate whether authorities changed net income as originally reported for any prior year and if amended returns were filed.

Line F: Check box if business had no activity within Fayette County for current year.

Line G: Indicate the form of legal entity under which the business operates. The entity type should be the same as used for federal income tax purposes.

Line H: Check box if this form is an initial return, final return as noted on Line C or amended return.

Instructions for Form 228-S, Net Profits Occupational License Tax Return

Section 1 Calculation of License Tax Liability

- Line 1: Enter the adjusted net profit from worksheet on the reverse side of Form 228S.
- Line 2: Enter the average allocation percentage from Section 2, Line 4, Column C.
- Line 3: Multiply Line 1 by Line 2, enter the result.
- Line 4: Multiply Line 3 by .005, enter the result.
- Line 5: Enter any credits from estimated payments, prior year overpayments and payments made with extensions.
- Line 6: Deduct Line 5 from Line 4. This is the amount of license tax due. If Line 6 is less than zero, proceed to Line 8.
- Line 7: If the license tax is not paid by the due date of the return, interest is assessed at the rate of one percent per month or portion of month. Multiply the license tax due from Line 6 by the appropriate percentage.
- Line 8: If the license tax is not paid by the due date of the return or form is not filed by due date, penalty is assessed at the rate of five percent per month or portion thereof, not to exceed 25% with a minimum penalty of \$25.
- Line 9: Add Lines 6 through 8. This is the balance due.
- Line 10: If Line 6 is less than zero, enter the amount overpaid on Line 10. Indicate whether the overpayment is to be refunded or applied to future returns as a credit. **A refund or credit can only be claimed if an amount is showing on Line 5.**

Section 2 Calculation of Allocation Percentage

Section 2 must be completed by all licensees with business receipts and/or payroll both within and without Fayette County. Completion of the schedule allocates to the Fayette County Public Schools the proportionate part of the licensee's total business activity attributable to Fayette County.

Sales Factor

- Line 1, Column A: Enter the total sales revenue from the sale, lease, or rental of goods, services, or property received from all Fayette County sources during the period covered by the Net Profits Occupational License Tax Return.
- Line 1, Column B: Enter the total sales revenue from the sale, lease, or rental of goods, services, or property received from all sources during the period covered by the Net Profits Occupational License Tax Return.
- Line 1, Column C: Divide Column A by Column B and enter the result on Line 1, Column C. Carry out to at least six (6) decimal places.

Payroll Factor

- Line 2, Column A: Enter the total compensation paid or payable to employees for work done or services performed or rendered within Fayette County by residents of Fayette County during the tax period.
- Line 2, Column B: Enter the total compensation paid or payable to employees for work done or services performed in Fayette County in all business locations during the tax period.
- Line 2, Column C: Divide Column A by Column B and enter result on Line 2, Column C. Carry out to at least six (6) decimal places.

Average Allocation Percentage

- Line 3, Column C: Add Column C, Lines 1 and 2; then enter result.
- Line 4, Column C: Divide Line 3, Column C by the number of percents used on Lines 1 and 2, Column C. Enter the result on Line 4, Column C and Line 2 of Section 1.

Note: If one of the factors (sales or payroll) is missing, the remaining factor is the average allocation percentage. A factor is considered missing if:

With regard to the sales factor, a licensee's entire business operation did not have any sales (i.e. Section 2, Line 1 Columns A and B both equal zero).

With regard to the payroll factor, a licensee's entire business operation did not incur any expenditure for payroll (i.e. Section 2, Line 2, Columns A and B both equal zero).

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**Worksheet Information
Calculation of Adjusted Net Business Income**

Line 1: Enter the amount of non-employee compensation reported on Federal Form 1099 MISC (attach 1040 and 1099).

Line 2: Enter the net profit or (loss) per Federal Schedule C or C-EZ (attach a copy of Form 1040 and applicable schedules).

Line 3: Enter the net rental profit or (loss) per Federal Schedule E (attach a copy of Form 1040 and applicable schedules).

NOTE: For individuals, rental income or (loss) from the rental of real property should be reported on Line 3 only if the rental property constitutes a "business activity". Rental property is considered a "business activity" when the licensee's Fayette County rental activities produce gross receipts of \$50,000 or more per year.

Line 4: Enter the net farm profit or (loss) per Federal Schedule F (attach a copy of Form 1040 and applicable schedules).

Line 5: Enter 100% of the short term capital gains and long term capital gains carried over from Federal Form 4797 or Form 6252 to Federal Schedule D representing gain from the sale of property used in the trade or business. Enter the net gain or (loss) from the sale of property used in the trade or business per Federal Form 4797 (attach a copy of Federal Form 4797, Form 6252 and/or Schedule D).

Line 6: Enter the ordinary business income or (loss) per Federal Form 1065 (attach a copy of Form 1065 and all applicable schedules).

Line 7: Enter the taxable income or (loss) from Federal Form 1120 or 1120A (attach a copy of Form 1120 or 1120A and all supporting schedules) **OR** enter the ordinary income or (loss) per Form 1120S (attach a copy of Form 1120S and all applicable schedules).

Line 8: Add back any deductions taken on Federal Schedule C, E, F, Form 1065, 1120, 1120A or 1120S for state or local taxes or license fees based on income regardless of jurisdiction.

Line 9: Enter the total of income items listed below which are allocated to the partners or shareholders and are not included as income on Form 1065 or 1120S (attach a copy of Schedule K and rental schedules, if applicable).

Net income from rental real estate activities	Royalty income
Net income from other rental activities	Net short term capital gain
Portfolio income	Net long term capital gain
Interest income	Other portfolio income
Dividend income	Net gain under Section 1231 (other than due to casualty or theft)

Line 10: Add back any deduction taken on Federal Form 1120 for a net operating loss.

Line 11: Add back any deduction taken on Federal Form 1065 for partner's salaries.

Line 12: Add back any expenses taken for income that was deemed not subject to the license tax deducted on Line 16.

Line 13: Add back any deduction taken on Federal Form 1120S for contributions to KEOGH plans, Simplified Employee Pension Plans, and medical insurance premiums paid on behalf of shareholders.

Line 14: Add lines 1 through 13 and this is the total income.

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Line 15: Enter the total of items listed below that are allocated to the partners or shareholders and are not included as deductions on Form 1065 or 1120S (attach a copy of Schedule K and Rental Schedules, if applicable).

Net loss from rental real estate activities
Net loss from other rental activities
Portfolio loss
Deduction related to portfolio income
Section 179 expense
Section 179 expense

Net long-term capital loss
Net short-term capital loss
Net Sections 1231 (other than from casualty or theft)
Charitable contributions
Other allowable deductions per Schedule K (attach schedule)

NOTE: Contributions to KEOGH plans, Simplified Employer Pension plans, and medical insurance premiums whether paid on behalf of partners or shareholders are not deductible on the Net Profits License Tax Return.

Line 16: Enter any other adjustments not included elsewhere on the worksheet (**attach a full explanation, including amounts of all items**). Examples are interest on government securities, allowable expenses for which the licensee elected to take a credit against its federal income tax liability in lieu of a deduction for business expenses otherwise available to the licensee.

Line 17: Add Lines 15 and 16 and this is the total deductions.

Line 18: Line 14 less Line 17 is the Adjusted Net Profit. Enter result on Line 18 and Section 1, Line 1 of Form 228-S.