

103 KAR 31:011. Methods of accounting for and remitting tax.

RELATES TO: KRS 139.010, 139.025, 139.200, 139.260, 139.340, 139.550, 139.710, 139.720
STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: To interpret the sales and use tax law as it relates to methods of accounting for and remitting the tax.

Section 1. Generally, all persons (e.g., corporations, partnerships, associations and proprietorships) are required to determine and report their gross receipts (or sales price in the case of the use tax) by the accrual accounting method. That is, all cash, credit, installment and conditional sales are to be included in the measure of the tax on the return for the month in which the sales transaction occurs, even though all or a part of the payments owing from customers on those sales are deferred under a credit, installment or conditional sale arrangement. However, if the retailer maintains his records on a cash basis and accounts for cash collections rather than sales transactions, he may elect to use that method in reporting his sales and use tax liability provided all cash collections for the reporting period are included in his return without deduction for amounts received from sales transactions occurring during any period preceding the reporting period. By electing the cash basis, the taxpayer has established the point of "sale" as the act of receiving payment and not the filing of the customer's order, the issuance of the billing to the customer or the delivery of the goods or services.

Section 2. Where sales transactions are regularly recorded on the cash basis described in Section 1 of this administrative regulation but adjustments are made at the end of the year to determine receipts on an accrual sale basis for income tax purposes, the cash reporting basis authorized in Section 1 of this administrative regulation may still be used by the retailer in reporting and paying the tax. However, the retailer must include in his last sales and use tax return filed for each year the year-end accrual adjustment made and any additional tax due must be remitted with the return. Any overpayment will be refunded or credited to the account of the permit holder.

Section 3. If a retailer elects to employ the cash basis of reporting authorized in Section 1 of this administrative regulation, the tax must be paid on the taxable ending accounts receivables when the business is discontinued or sold. However, if the buyer of the business (including the accounts receivable) by written agreement with the department agrees to report his sales and use tax liability on the cash basis authorized, his receipts from the accounts receivable purchased may be reported and the tax due thereon paid by him when collected.

Section 4. A retailer, after adopting a method of reporting his sales and use tax liability, shall not change that method without obtaining the written consent of the department. The department shall not consider authorizing a change from the accrual to the cash basis unless the taxpayer submits clear and convincing evidence that either the nature of the business or the general accounting procedures and practices of the business have changed significantly so as to warrant a change to the cash basis. No request to change from accrual to the cash basis shall be authorized if, in the opinion of the department, the real or ultimate purpose of the change is to reduce the taxpayer's current sales or use tax payments to the Commonwealth. (17 Ky.R. 1256; eff. 11-21-1990; TAm 6-9-2009, TAm eff. 6-22-2016.)