

KENTUCKY SALES TAX FACTS

A REVENUE PUBLICATION FOR THE BUSINESS OWNER

JUNE 2007

2007 LEGISLATIVE UPDATES

STREAMLINED SALES TAX CHANGES

HB 360 was enacted to ensure that Kentucky remains in compliance with the national Streamlined Sales and Use Tax Agreement (SSUTA). The initial tax law changes bringing Kentucky into conformity became effective July 1, 2004. HB 495 was passed during the 2005 General Assembly to provide additional minor conforming changes.

These additional changes become effective July 1, 2007, and address various amendments to the SSUTA that Governing Board member states must comply with by Jan. 1, 2008. Some of the main provisions of the bill are:

- 1) Clarifies when third party payments received by a seller are included in the definition of gross receipts (KRS 139.050);
- 2) Adopts clarifying language on good faith standards for exemption administration (KRS 139.270);
- 3) Provides uniform definitions and taxability rules for bundled transactions that include the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable and the products are sold for one nonitemized price (new section of KRS 139);
- 4) Establishes relief from liability resulting from sellers relying on taxability software certified by the state (KRS 139.781 and KRS 139.795);
- 5) Incorporates uniform communications service definitions into the sales tax code under the categories of ancillary services and telecommunications services to provide greater guidance and preserve existing tax treatment for these services (KRS 139.195); and,
- 6) Creates a separate sales tax imposition on ring tones (defined in KRS 139.195) outside the definition of communications service to preserve the existing treatment of this product (KRS 139.200).

NEW AND REVISED SALES AND USE TAX REGULATIONS: (available for download at <http://www.lrc.ky.gov/kar/TITLE103>, or you may call (502) 564-5170 to request a hard copy.)

These materials became effective May 4, 2007.

- * Please note that Regulation 30:280 clarifies that water haulers must show proof of a nontaxable purchase by issuance of a resale certificate when purchasing water for transport and resale to their customers.

103 KAR:

- **26:010**—Service Enterprises in General
- **27:150**—Repairers and Reconditioners of Personal Property
- **27:220**—Miscellaneous Restaurant Transactions
- **27:230**—Automotive Body Shops or Suppliers
- **27:240**—Reporting of Sales Tax Relating to Equine Breeding Fees
- **28:010**—Admissions
- **28:030**—Producing, Fabricating and Processing
- **28:141**—Repeal of 103 KAR 28:140 (Access and other communications services)
- **28:170**—Sales of Dirt and Sod
- **30:140**—Energy and Energy-Producing Fuels
- **30:250**—Property Used in the Publication of Newspapers
- **30:260**—Pollution Control Facilities Exemption
- **30:270**—Oil and Gas Extraction Machinery
- **30:280**—Sales to Water Haulers
- **30:290**—Security Lighting
- **31:111**—Sales and Purchases for Resale

RECENTLY UPDATED SALES AND USE TAX FORMS:

- **51A111**—Certificate of Exemption Machinery for New and Expanded Industry (1/07)
- **51A127**—Out-of-State Purchase Exemption Certificate (4/07)
- **51A149**—Certificate of Exemption for Pollution Control Facilities (1/07)
- **51A151**—Enterprise Zone Sales and Use Tax Exemption Certificate for Qualified Businesses Machinery and Equipment (1/07)—reflects that only the Hopkinsville Enterprise Zone remains and lists the dates that the other Zones expired.
- **51A152**—Enterprise Zone Sales and Use Tax Exemption Certificate for Building Materials (1/07)—reflects that only the Hopkinsville Enterprise Zone remains and lists the dates that the other Zones expired.
- **51A242**—Application for Sales and Use Tax Refund for Motion Picture Production Company (1/07)

The following forms are no longer available or valid after 12/31/2006, but farmers may still claim the applicable exemptions through use of the recently updated On-Farm Facilities Certificate of Exemption (Form 51A159).

- **51A153**—Certificate of Exemption for On-Farm Chicken or Livestock Facilities
- **51A155**—Certificate of Exemption for Ratite Bird Production
- **51A156**—Certificate of Exemption for On-Farm Llama and Alpaca Production



DOR WEB SITE UPDATES:

- **The Streamlined Sales Tax link** is now located under Sales and Use Tax instead of the DOR home page.
<http://revenue.ky.gov/business/salesanduse.htm>
- The Sales and Use Tax home page contains helpful basic information regarding the statewide sales and use tax rate of 6 percent and a reminder that there is no local sales and use tax imposition in Kentucky.
- **Chapter 139 link** is now available directly from the Sales and Use Tax page.
<http://revenue.ky.gov/business/salesanduse.htm>
- **Applicable Sales and Use Tax Forms** are available. However, Sales and Use tax returns are not available electronically because the documents are designed to be scanned for processing purposes.
- Issues of **Sales Tax Facts** can be found at
<http://revenue.ky.gov/newsroom/publications.htm#S>.

NEW SALES TAX PERMIT ISSUANCE PROCESS

The Department of Revenue has modified the method of delivery and format of the sales tax permit. New permits will now be sent as part of a standard letter with a permit portion at the bottom of the letter that may be removed and posted as provided by KRS 139.250. The revised letter and form will make it easier and more convenient to issue new permits or replace old ones. The department will mail all new and replacement permits to the mailing address provided by the business. It is the responsibility of the seller to be sure that the permit portion of the letter is detached and displayed at the business location. Permit holders should retain their existing permit card until the business changes owners, changes address or goes out of business.

SALE OF MOTOR VEHICLES UPDATES

Effective Aug 1, 2006, the sales tax exemption (KRS 139.470) for sales of motor vehicles in Kentucky was amended to apply to vehicles:

- (1) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
- (2) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 - (a) Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 - (b) Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax.

Sales of vehicles to residents of states that do not qualify under subsection 1 above are subject to Kentucky sales tax. Those states are Arizona, California, Florida, Indiana, Massachusetts, Michigan, South Carolina and Washington. Kentucky car dealers, who make sales in this state to residents of any of these eight states, must collect Kentucky sales tax. The receipts and sales tax should be reported and paid with the dealer's regular sales and use tax return. In addition, 103 KAR 28:150 requires the filing of a Sales Tax Motor Vehicle Sales Supplementary Schedule (Form 51A135) to identify the receipts from sales of motor vehicles to a resident of one of the eight states listed that do NOT qualify for exemption of sales and use tax. The schedule may be downloaded from the department's web site at *<http://revenue.ky.gov/forms/cursalefrm.htm>*.

The Supplementary Schedule must be mailed separately from the sales tax return, to the address on Form 51A135 or faxed to (502) 564-2041, for each period the business is required to file a sales tax return as required by the department. The Supplementary Schedule is due on the same due date as the sales tax return. All taxable sales of motor vehicles to nonresidents in each reporting period shall be reported on one Supplementary Schedule. Sales tax payments should be submitted with the seller's sales tax return and NOT with the Supplementary Schedule.

EQUINE BREEDERS FILE SUPPLEMENTAL FORM

Effective Aug 1, 2005, KRS 230 was amended to provide that all receipts collected under KRS 139.531(1)(a) from sales and use tax on the fees paid for breeding a stallion to a mare will be deposited into a fund administered by the Kentucky Horse Racing Authority. Taxpayers who report sales tax on breeding fees must submit a supplemental sales tax form (Kentucky Sales and Use Tax Equine Breeders Supplementary Schedule, Form 51A132). Taxpayers may download the form at *<http://revenue.ky.gov/forms/cursalefrm.htm>*. The supplementary schedule must be mailed separately to the address on Form 51A132 for each period that sales of breeding fees are claimed on the sales tax return.

CLERKS' COLLECTION OF USE TAX

Pursuant to HB380, all county clerks shall collect use tax on recreational vehicles, such as travel trailers and camping trailers, manufactured homes, when sold as tangible property by a dealer and do not constitute real property at the time of sale, boats and other tangible property such as ATVs, UTVs, personal watercraft and off road motorcycles purchased at retail from out of state and offered for titling or first time registration in Kentucky. The tax will be collected by the county clerk unless the owner presents a receipt indicating 6 percent or greater state sales tax paid; claims exemption as an occasional sale; or provides a resale certificate or an exemption certificate. Out-of-state retailers currently registered to collect Kentucky tax should continue to do so. Taxpayers will benefit by being able to pay the use tax at the point of title or first registration, rather than receiving a tax bill after a manual review process that may include penalty and interest charges. This verification process will also benefit retailers by ensuring that tax is equally applied to all purchases of similar property. Collections are expected to begin in July 2007.

This newsletter is intended to provide practical information to assist persons in fulfilling their sales and use tax obligations to the commonwealth.

To submit additional questions or suggestions for future topics, please write to:
Kentucky Sales Tax Facts, Sales and Use Tax, Station 53,
P.O. Box 181, Frankfort, KY 40602-0181 or call (502) 564-5170, Fax (502) 564-2041,
Web site www.revenue.ky.gov.

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