



Kentucky Sales Tax Facts

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Each edition of the Kentucky Revenue Cabinet's (KRC) sales and use tax newsletter seeks to provide taxpayers with assistance in the filing of returns and the application of sales tax laws and regulations. The contents of this informational bulletin shall not take precedence over any existing laws or regulations of the commonwealth. Your comments and suggestions are welcomed. Please help us serve you better.

Online Filing

Online filing is now ready and available to taxpayers that wish to file their sales and use tax returns electronically. By filing electronically, there will be no math errors, no postage, no worrying about the return being received timely, and no waiting on your paper return to arrive. Once you begin filing electronically, you will no longer receive a paper return in the mail. Taxpayers who file consumer's use tax returns are currently not able to file electronically.

Electronic returns will be available to be filed by approximately the 10th day of each month, quarter, or year. You will also be able to review previously filed returns for the past 12 months online. Payment may also be submitted electronically via E-check or credit card to further expedite the filing and payment process. To register, you may access online filing at KRC's Web site at www.revenue.ky.gov.

To find out more about this convenient and efficient method of reporting your sales and use tax, please call (502) 564-5170, or e-mail KRC.WEBResponseETax@mail.state.ky.us. Online filing and payment of withholding tax will be implemented in the near future.

Use Tax

Pursuant to KRS 139.330 use tax is due if you make out-of-state purchases for storage, use or other consumption in Kentucky and do not pay 6 percent state sales and use tax at the time of purchase. If you or your client has made purchases from out of the state or country, including mail order or Internet sales, of items such as office supplies, cleaning supplies, repair parts, promotional items, computer equipment, software, sporting goods, or magazine subscriptions, you may owe use tax to Kentucky. In addition, if items of tangible personal property purchased without the payment of tax are withdrawn from inventory for personal use, then you may owe use tax.

Please report your purchases subject to use tax on line 23(a) of the sales and use tax return. Failure to report use tax timely will result in the assessment of interest and possible penalties for use tax discrepancies. If you don't pay now, you may have to pay more later.



Filing Tips for Paper Returns

If you are filing your sales and use tax returns by paper, please consider the following tips:

- Enter total receipts, including tax, on line 1.
- Make sure numerals are complete, legible, and entered in the appropriate boxes. Failure to input legible numbers may result in the issuance of a tax notice.
- Itemize deductions on lines 2 through 19 (codes 020 through 190). Total deductions on line 20 may not exceed total receipts on line 1.
- Compute taxable receipts on line 22 by dividing line 21 by 1.06.
- Credits on line 28 can only be used if preapproved by KRC.
- Report total purchases subject to use tax on line 23(a). (See article on use tax elsewhere in this publication.)
- When submitting payment by check, please do not send the stub with the check.
- To file a no activity return, write zero (0) on lines 1, 20, and 23(a) and sign the signature block.
- To make a change to account information, such as a cancellation or change of address, please complete and return the account maintenance form (Form 51A205) enclosed.

Double-check your math computations.

Returns not prescribed by KRC are not acceptable for regular filing. Thus, be sure to use the paper return (Kentucky Sales and Use Tax Worksheet) mailed to you by KRC. If you are using a return created by a software provider, be sure your provider has been approved by KRC to create the sales and use tax return.

Enterprise Zone Update

Effective Dec. 31, 2003, the enterprise zones in Louisville and Hickman will expire. KRC is revising the enterprise zone exemption certificates (Forms 51A151 and 51A152) to remind both purchasers and vendors of these changes. Qualified businesses in the Louisville and Hickman enterprise zones will no longer be able to buy machinery and equipment exempt from sales and use tax effective Jan. 1, 2004. Likewise, building material purchases for installation in the enterprise zone in Louisville or Hickman will be taxable as of Jan. 1, 2004. For a sale to qualify as exempt for use in the Louisville or Hickman zone, there must be either the transfer of title or possession of the property to the customer on or before Dec. 31, 2003. In addition, the appropriate exemption form must be provided to the supplier.

Streamlined Sales Tax Project (SSTP) Update

During the 2003 legislative session, the Kentucky General Assembly enacted House Bill 293. This legislation is commonly referred to as the Kentucky Streamlined Sales and Use Tax Act. This bill conforms Kentucky sales and use tax laws to the Streamlined Sales and Use Tax Agreement. The purpose of the national effort for streamlined sales and use taxes is to simplify and create uniformity among all the states that impose a sales tax to substantially reduce the burden of tax collection. Amended statutory definitions relating to sales and use tax will be effective July 1, 2004, and will affect the taxability of certain items. For example, prescription drugs will be exempt whether purchased by a physician or a hospital. Bottled water will become an exempt food. Prewritten computer software delivered electronically will be taxable as the sale of tangible personal property. These are just a few changes that result from HB 293.

More information will be shared as we get closer to the July 1, 2004, implementation date. Information will be distributed with the sales and use tax returns or posted on KRC's Web site before the changes take effect. If you require further information or assistance with the SSTP changes, please call (502) 564-5170 or e-mail KRCWEBResponseSalesTax@mail.state.ky.us.

Truck Part Direct Pay Authorization

Effective Jan. 1, 2004, as a result of HB 293 enacted into law as KRS 139.480(32), truck repair and replacement parts will be exempt from sales and use tax. In addition to the statute, administrative regulation 103 KAR 26:110 is being promulgated to administer the truck repair and replacement part exemption. The exemption applies to the direct purchase of repair and replacement parts for vehicles that must be (a) licensed for highway use at a declared weight with any towed unit of 44,001 pounds or greater, (b) driven exclusively in interstate routes involving more than one state, and (c) for the conveyance of property or passengers for hire.

A motor carrier wishing to apply for this exemption must complete an application for truck part direct pay authorization (Form 51A160). The application may be downloaded from KRC's Web site, under sales and use tax forms. KRC will issue approved applicants a truck part direct pay authorization letter to provide to all vendors from whom the motor carrier purchases repair and replacement parts. At the end of calendar year 2004, and each subsequent year for which the exemption is claimed, the truck part direct pay holder must file an annual report summarizing the repair and replacement part activity in Kentucky. For further information about this exemption, you may call (502) 564-5170 or e-mail KRCWEBResponseSalesTax@mail.state.ky.us.

Other Sales Tax Reminders

Transient Room Tax, Restaurant Tax—The transient room tax imposed under KRS 91A.390 authorizes local governments to impose a tax up to 3 percent on accommodations providers. If a business chooses to pass the transient room tax on to its customers, then this fee is part of gross receipts subject to sales tax pursuant to KRS 139.050 on motels, hotels, inns,

and similar accommodations providers. The amount of transient room tax should be included in the line 1 total receipts on the sales and use tax return. Likewise, the restaurant tax imposed under KRS 91A.400 authorizes some local governments to impose a tax up to 3 percent on restaurants. Any restaurant tax passed on to the consumer and collected by a restaurant also constitutes gross receipts subject to sales tax and should be included in the line 1 total receipts.

Construction Contracts with Exempt Entities—When a construction firm enters into a construction contract with an exempt entity, the entity's sales tax exemption status is not extended to purchases made by the contractor. If a nonprofit entity wishes to take advantage of its exempt status by making purchases directly, KRC recommends that the exempt entity initially advertise separate competitive bids for materials and labor and any materials purchased by the exempt entity should be delivered to the exempt entity's job site. In addition, the exempt entity must prepare and submit its own purchase order for materials and payment must be made directly by the exempt entity to the vendor.

Sales of Business Assets—When a company terminates its business, it is important to remember to cancel the sales and use tax permit. To cancel the permit, complete Form 51A205 (copy enclosed with the return) and enclose it with the final return. The sale of a business or business assets may also be subject to sales tax and should be reported on the sales and use tax return. Sales tax applies to all retail sales of tangible business assets held or used by a seller in the course of any selling activity for which a seller's permit is required. Examples include sales of motels, restaurants, bars, grocery stores, clothing stores, etc.

Auction Sales—Auctioneers conducting an auction in Kentucky for the sale of tangible personal property are retailers pursuant to KRS 139.110. Therefore, persons engaged in this activity are subject to sales tax on gross receipts from sales at auction. If an auction includes a buyer's premium, the buyer's premium is considered a part of the sales price of the property and is subject to sales tax under KRS 139.130.

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 Branch, 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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