

KENTUCKY SALES TAX FACTS

A REVENUE PUBLICATION FOR THE BUSINESS OWNER

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2005 Legislative Changes

The following list reflects significant changes directly affecting sales and use tax as a result of 2005 Legislation.

House Bill 267 Effective Changes

Sales and Use Tax Vendor Compensation—(*Effective for periods after June 30, 2005.*) KRS 139.570 is amended to limit the vendor compensation a taxpayer may receive for collecting and remitting sales and use tax to \$1,500 per month for timely filed tax returns.

Commercial Printers or Mailers—(*Effective July 1, 2005.*) KRS 139.340 is amended to provide that a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct-mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials. The commercial printers or mailers must: (1) maintain records relating to these sales to assist in the collection of the use tax owed; and (2) file reports as provided in KRS 139.730 if requested by the Department of Revenue (DOR). If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct-mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

Donated Goods—(*Effective Aug. 1, 2005.*) KRS 139.495 is amended to provide that an institution shall be entitled to a refund equal to 25 percent (up to \$1 million) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state. The institution must: (1) routinely sell donated items; (2) provide job training and employment to individuals with workplace disadvantages and disabilities; (3) spend at least 75 percent of its annual revenue on job training, job placement or other related community services; (4) submit a refund application to the department within 60 days after the new retail location opens for business; and (5) provide records of

capital construction costs for the new retail location and any other information the DOR deems necessary to process the refund.

Natural Gas—(*Effective June 1, 2005.*) KRS 139.200 is amended to extend sales tax to the distribution, transmission or transportation services for natural gas that is for storage, use or other consumption in this state, excluding those services furnished for natural gas that are classified as residential use as provided in KRS 139.470(8), or to a seller or reseller of natural gas. KRS 139.480(3) is also amended to include charges for related distribution, transmission and transportation for energy that are billed to the user and included in the cost of production when calculating the 3 percent cost of production for energy direct pay.

Repair and Replacement Parts for Charter Buses—(*Effective Aug. 1, 2005.*) Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281 are exempt from sales and use tax on repair and replacement parts for directly operating and maintaining a charter bus.

House Bill 272 Effective Changes

Nexus—(*Effective Aug. 1, 2005.*) KRS 139.340 is amended to broaden the nexus standard to encompass remote sellers who use a representative in Kentucky, either full time or part time, to facilitate remote sales. The bill language specifically addresses remote sellers who allow merchandise to be received and exchanged at an *affiliated store or any location* within Kentucky.

Equine Breeders—(*Effective June 1, 2005.*) KRS 230 is amended to provide that all receipts collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion to a mare will be deposited into a fund, which will be administered by the Kentucky Horse Racing Authority to enhance the

(continued on page 2)



House Bill 272 (continued from page 1)

breeding industry in the state. This fund will be used to provide rewards for breeders or owners of thoroughbred, standardbred and other horses. This fund will be divided 80 percent to thoroughbred breeders, 13 percent to standardbred breeders and 7 percent to other horse breeders. Taxpayers who report the sales tax on breeding fees will be contacted via special mailing to begin reporting breeding receipts on a supplemental sales tax form, beginning with the June return to be filed on or before July 20. (Please refer to April 2005 **Sales Tax Facts**.) This provision also expands the exemption on horses younger than two years old sold to nonresidents by eliminating the requirement that the horse be transported out of state.

Enterprise Initiative Act—(Effective Jan. 1, 2006.) A new section of KRS 154 is created to provide a statewide tax incentive program that allows eligible companies the opportunity to receive refunds of sales and use tax paid on the purchase of building materials and research and development materials. Only businesses primarily engaged in manufacturing, service or technology, or developing a tourism attraction are eligible to apply for the tax incentives. Companies seeking to participate in the incentive program must apply for eligibility through the Kentucky Economic Development Finance Authority. Applications may be submitted on or after Oct. 1, 2005; however, no approvals will be effective before Jan. 1, 2006. The plan gives preference to companies in existing enterprise zones, requiring them to invest a minimum of \$100,000. All other areas require a minimum investment of \$500,000. A yearly statewide cap of \$20 million for building materials and \$5 million for research and development on all approved projects is set. In addition, the existing enterprise zones and accompanying exemptions will continue until expiration.

Telecommunications—(Effective Jan. 1, 2006.) KRS 139.195 is amended to exclude switch access and pay phone receipts from communications services subject to sales tax. All other communications services as outlined in KRS 139.200 *remain* subject to sales tax unless specifically exempted. Effective Jan. 1, 2006, a new gross revenues tax of 1.3 percent will also apply to communication service providers. Additional information about the new 3 percent excise and 2.4 percent gross revenues taxes that will apply to multichannel video programming service will be forthcoming.

County Fair Admissions (HB 497)—(Effective June 20, 2005.) Gross receipts from the first \$50,000 in sales of admissions to county fairs held in Kentucky are exempt from sales and use tax.

Streamlined Sales and Use Tax Agreement (SSUTA) (HB 495)

Most of the tax law changes to conform Kentucky's tax code to the agreement went into effect July 1, 2004. However, effective July 1, 2005, KRS 139.472 is further amended to adopt the SSUTA definitions of mobility enhancing equipment (MEE) and durable medical equipment (DME). The sales tax exemption extends only to prescribed MEE. Previously itemized property such as crutches, walkers, wheelchairs and wheelchair lifting devices are no longer in the statute; however, these items, as well as other property meeting the definition of MEE, are exempt from sales and use tax with a prescription. In addition, the statute has been clarified to provide an exemption for the purchase and/or rental of hospital beds for private, noncommercial use. These changes represent a slight expansion of the medical item exemption under KRS 139.472 in the newly defined category of MEE as well as a preservation of the long-standing exemption for certain purchases of hospital beds. For updates on the progress of the national Streamlined Sales Tax Project, go to www.streamlinedsalestax.org.



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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