

KENTUCKY SALES TAX FACTS

A REVENUE PUBLICATION FOR THE BUSINESS OWNER

DECEMBER 2016

Legislation—CMRS 911 Prepaid Service Charge—Beginning January 1, 2017, a commercial mobile radio service (CMRS) prepaid service charge shall be imposed on all retail transactions involving the purchase or sale of:

- a) prepaid cellular phones,
- b) prepaid calling cards for cellular phones,
- c) additional minutes or airtime for a prepaid cellular phone or
- d) additional minutes or airtime for a prepaid calling card for cellular phones.

The service charge is \$0.93 on each item sold at retail. When separately stated on the invoice, the charge is not subject to Kentucky sales tax per KRS 139.470(23). The service charge is to be paid by the purchaser and collected by the retailer at the time of purchase. The retailer will report and remit the service charges collected to the Department of Revenue on a monthly basis with the first return due by February 20, 2017. CMRS service charges will be reported to the Department via an electronic return filed in the E-file system. (See the article regarding electronic filing of returns for instructions on how to enroll an account in the E-File system.) The Division of Sales and Use Tax will distribute the funds collected to the Kentucky 911 Services Board monthly and administer all matters relating to the CMRS prepaid service charge.

Every retailer that is currently providing or is seeking to sell or provide prepaid wireless telecommunications service in Kentucky should register with the Department of Revenue as soon as possible to be ready to meet the filing requirements to collect this charge.

Electronic Filing of Tax Returns—The Department of Revenue has recently deployed a new system for filing online returns called E-File. The E-File system was developed to provide updated and enhanced functionality to users that already file sales and use tax returns online, and to extend electronic filing to other taxes such as transient room tax, waste tire fee, and the new CMRS 911 service charge.

The new KY E-File system is accessed through the Kentucky Business One Stop (KyBOS) portal at this website <http://onestop.ky.gov/Pages/default.aspx>. With your single user name and password for Business One Stop, you will be able to file for different taxes in one convenient place. To enroll your business to file returns in the new E-File system, users should follow these steps:

1. Click "One Stop Business Services" to sign in to your KyBOS account (First time users will be asked to create an account).
2. Link your business to your KyBOS account
 - a. From the dashboard, click "Link My Business" at the top of the screen.
 - b. Link the business to your account using the CBI (Commonwealth Business Identifier) number.
 - c. If you do not have the CBI number click the hyperlink "click here" and answer the questions to be provided your businesses CBI number immediately.
3. Request access to file returns
 - a. Enroll the sales tax account for Online Filing
 - b. From the dashboard, click on the business name or CBI number in the "My Businesses" tile

- c. Click "Manage/View Taxes"
- d. Click "Enroll for Online Filing" from the left hand menu
- e. Select the Effective Date from the calendar.

Once you have completed these steps your business can begin filing returns in the E-file system. The enhanced E-File will also allow you to amend sales and use and consumer's use tax returns that have previously been filed. Also, the transient room tax is available and required to be filed electronically. DOR is sending mailings to applicable accounts for the waste tire fee and CMRS 911 service charges as well.

Printing a Sales Tax Permit from the KY Business One Stop Account—To print a sales tax permit, users must create an account at the Kentucky Business One Stop (KyBOS) website and have linked their business to the account using the CBI number. See the previous article for instructions to link the business to your One Stop account. Once the business has been linked to the One Stop account, use the following procedures to print your sales tax permit:

1. From the dashboard screen click on the applicable business name under the "My Businesses" tile.
2. From the Business Summary screen click "Manage/View Taxes"
3. Under the Taxes tab, all tax accounts for the business are displayed. Click the "View" button beside the sales tax account.
4. Scroll to the bottom of the screen and click "Business Locations"
5. The business location address will be displayed. Click "Print" to print the sales tax permit.

Updated Revenue Website—The Department of Revenue has recently completed updates to its website. In addition to the new look, there are several improvements and added features for sales and use tax information. Sales tax account holders can locate the online filing and payment system from the home page by clicking the tile "E-File & Payments". Forms can be viewed, downloaded, or printed by clicking the "Form Search" tile also located on the home page. Form searches can be filtered by the tax type, form number, or form name.

From the home page access the sales tax page by clicking on "Business" and selecting "Sales and Use tax" from the drop down menu. Available information on this page includes sales and use tax statutes and regulations, forms, online filing and payment links, supplementary filing schedules, a link to the Sales Tax Facts newsletter archives, and contact information for the Division of Sales and Use Tax. Updates to the sales and use tax page include the Frequently Asked Questions for sales and use tax and the addition of FAQs for telecommunications tax and commercial mobile radio service (911) service charges. A link to sales and use tax topics and questions of interest will also be available soon.

Exemption for Machinery for New & Expanded Industry—KRS 139.480(10) exempts Machinery for New & Expanded Industry from sales and use tax. To claim this exemption, a manufacturer must present a fully completed Form 51A111, Certificate of

Exemption Machinery for New and Expanded Industry, to the seller at the time of purchase. The machinery purchased must meet the four qualifications specified in Kentucky Regulation 103 KAR 30:120:

- 1) It must be machinery
- 2) It must be used directly in the manufacturing process.
- 3) It must be incorporated for the first time into a plant facility established in this state.
- 4) It must not replace other machinery.

Regarding qualification #3, if the machinery has been used in this state at a different location the machinery is not eligible for this exemption at the new location.

If the machine purchased replaces other machinery, it may qualify for exemption only if the machinery manufactures a new product, performs a different function than the machinery it replaces, or has a greater productive capacity measured by units of production. The increase in units of production must be compared to the replaced machine capacity when originally incorporated into the manufacturing facility and the specifications of the new machinery at the time it is installed.

Sales To Farmers-Agricultural Exemption Certificates—KRS 139.480 provides an exemption from sales and use tax for certain purchases made for use in the business of farming. Per KRS 139.480(11)(a), farm machinery used exclusively and directly in the occupation of tilling the soil for the production of crops, raising and feeding livestock for sale, or producing milk for sale is exempt from sales tax. The purchaser must issue a fully completed Form 51A158 Farm Exemption Certificate to the retailer at the time of purchase to be granted the exemption.

KRS 139.480(14) and KRS 139.480(15) provide an exemption for the purchase of equipment, machinery, attachments and any materials incorporated into the construction, repair or renovation of on-farm facilities. The on-farm facilities must be used exclusively for grain or soybean storing, drying, processing, handling, or for raising poultry or livestock. The purchaser must issue a fully completed Form 51A159 On-Farm Facilities Certificate of Exemption to the retailer at the time of purchase to be granted this exemption.

103 KAR 30:091 Section 10 provides a list of items that are considered taxable. Examples include hand tools, lawn or garden equipment, and bedding materials. Bedding materials include but are not limited to chicken bedding, chicken litter, straw, sawdust, and wood shavings.

If the farming activity is limited to personal use or consumption rather than in the business of farming, the farming exemptions do not apply.

Diesel Exhaust Fluid—Sales of diesel exhaust fluid (DEF) are subject to Kentucky sales tax. If the DEF product is sold by the can, bottle or drum the sales tax should be added to the sales price. If it is being sold at the retail pump similar to a gas or diesel pump, then the sales tax may be included in the sales price and sold for one price if it is not practicable to separately itemize the sales tax (KRS 139.210). However, a statement should be posted at the pump indicating that the sales tax is included in the selling price. In addition, if DEF product is purchased from an out of state retailer for use within the state of Kentucky, the purchase is subject to the Kentucky use tax.

Annual Use Tax Reminder—According to the U.S. Commerce Department, on-line sales rose 14.69% in 2015. As on-line shopping continues to grow, more and more Kentucky residents will be liable for use tax on their purchases. The 6% use tax is imposed on tangible personal property and digital property that is stored, used or consumed in the state of Kentucky (KRS 139.310). Out of state retailers, including Internet or other remote sellers, may not be required to collect Kentucky tax but the purchaser is still responsible for the use tax on these purchases. Purchases such as clothing, jewelry, computers, downloaded software, downloaded music, ebooks, books, furniture, and fitness equipment from out of state sellers are examples of property subject to the 6% use tax. To report use tax, retail businesses should use line 23(a) of the sales and use tax return while Form 51A113, line 1, is where consumer's use tax account holders report purchases subject to use tax. For non-business purchases, consumers may report use tax liability on the individual income tax return. See the Department website for information on the use tax look-up table which provides an option to report estimated use tax owed on retail purchases based on Kentucky adjusted gross income when receipts are not readily available to calculate the actual unpaid use liability. The look-up table is only applicable for non-business purchases.

Seminars—A free sales and use tax seminar available to the public will be offered again in 2017. There has been good response to seminars held in 2015 and 2016 in Frankfort. If interested in attending a seminar in 2017, please contact the Division of Sales and Use Tax by phone, (502) 564-5170, or email DOR.WebResponseSalesTax@ky.gov. The department is also considering hosting seminars in different regions of the state based upon demand and response.

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

This newsletter is archived on the Department of Revenue website at www.revenue.ky.gov and future editions may be accessed at the website. To submit additional questions or suggestions for future topics, please write to:

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or call (502) 564-5170, Fax (502) 564-2041,
website www.revenue.ky.gov.

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