

JUNE 2025



# KENTUCKY DEPARTMENT OF REVENUE

## Kentucky *Sales Tax Facts*

### Updates from the 2025 Legislative Session

#### **Currency and Bullion—House Bill 2**

Retroactive to August 1, 2024, and in accordance with [KRS 139.480\(37\)](#), currency and bullion are not subject to sales and use tax. Both “currency” and “bullion” are defined in [KRS 139.480\(37\)](#).

The Department of Revenue (DOR) is issuing refunds to Kentucky taxpayers for sales and use tax paid on the purchase of bullion and collectible currency for tax periods beginning August 1, 2024. Under the longstanding administrative process to ensure consumers charged taxes on exempt transactions receive refunds of the over collected tax amounts ([KRS 134.580](#)), the retailer that sold the gold, other precious metals, or collectible currency must submit a refund request.

Individual consumers seeking a refund of the sales and use tax paid on their purchase of bullion or collectible currency for periods on or after August 1, 2024, should request the refund directly from the retailer they made the purchase from. Each retailer may have a specific refund process to handle these requests. Consumers should be prepared to show proof of their purchase amounts and the tax charged by supplying their purchase receipts.

Refund requests sent directly to the DOR by the consumer without submission through the retailer cannot be processed.

### **Inside This Issue...**

#### **Updates from the 2025 Legislative Session**

Currency and Bullion — House Bill 2 ..... 1-2

Qualified Data Center Projects  
— House Bill 775 ..... 2

Sales Tax Incentive for Qualifying  
Attractions — House Bill 775..... 3

Expansion of Sales Tax Incentive  
for Lodging Facility Projects  
— House Bill 775 ..... 3-4

Disaster Relief Declarations ..... 4

Litigation Update ..... 4-5

#### **Charges Included in Gross Receipts**

Tariffs ..... 5

Manufacturer Coupons ..... 5-6

*MyTaxes* Portal ..... 6



Retailers following the normal refund process must apply directly to the DOR for the applicable refunds by submitting a completed Sales and Use Tax Refund Application (Form 51A209). See further instructions at the link below:

<https://revenue.ky.gov/News/Pages/Instructions-on-Refunds-for-Sales-and-Use-Tax-Paid-for-Purchases-of-Bullion-and-Collectible-Currency.aspx>



### Qualified Data Center Projects—House Bill 775

House Bill 775 amended [KRS 154.20-220](#) to update the eligibility for the “qualified data center project” sales and use tax exemption found in [KRS 139.499](#).

Effective 6/27/2025, the minimum capital investment requirement for the qualified data center project sales and use tax exemption is based upon the population of the county where the project is located. The prior requirement that the project be located in a county with a population of 500,000 or more has been eliminated.

- For counties with a population of 100,000 or more, the minimum capital investment is \$450,000,000.
- For counties with a population greater than 50,000 but less than 100,000, the minimum capital investment is \$100,000,000.
- For counties with a population less than 50,000, the minimum capital investment is \$25,000,000.

The sales and use tax exemption for data center equipment ([KRS 139.499](#)) is for the sale, purchase, use, storage, consumption, installation, repair, and replacement of data center equipment. The term “data center equipment” includes a broad scope of items like servers, routers, connections, monitoring and security systems, fiber optic cabling and network equipment, computer software, and other tangible personal property essential for operating the data center. These items may be purchased exempt from sales and use tax following preliminary approval of the project. Excluded from the exemption are construction equipment and building and construction materials that are to be permanently incorporated as an improvement to real property, electricity used by the facility, and administrative office equipment.



To be eligible for the sales tax exemption, the data center must meet the requirements of and be approved by the Kentucky Economic Development Finance Authority (KEDFA) as described in KRS Chapter 154. Once the company receives approval or preliminary approval through KEDFA, the Department will issue the certificate of exemption to the approved company. The company may then issue the certificate to the equipment vendor individually or execute it jointly with a contractor for the purchase of data center equipment.

## Sales Tax Incentive for Qualifying Attractions—House Bill 775

The 2025 General Assembly also created an incentive program for up to 50% of the sales and use tax generated by the sale of admissions, tangible personal property, and services at “qualifying attractions.” A “qualifying attraction” is a series of live performances or exhibitions of musical, theatrical, cultural, or other artistic presentation, excluding sports events and tournaments, that are:

- Held at a qualifying venue within a consolidated local government or urban-county government over at least two consecutive days;
- Hosted by a sponsoring entity pursuant to an agreement with a facility operator that authorizes the sponsoring entity to conduct 1 or more series of entertainment events annually during at least 5 consecutive years; and
- Open to the public upon purchase of tickets, with attendance totaling at least sixty thousand (60,000).

To claim the incentive, the sponsoring entity must file an initial application with the Department of Revenue at least 60 days prior to the scheduled attraction demonstrating whether it qualifies for the incentive. The Department will notify the applicant within 30 days of receipt of the initial application of its preliminary approval or denial. Within 30 days following the end of the month when the sales tax was collected at the attraction, the sponsoring entity is required to file the refund claim for up to 50% of the total sales tax collected on all sales at the attractions including sales by third party vendors. The Department will allocate 50% of the approved incentive refund to the sponsoring entity, and the remaining 50% will be allocated to the facility operator. [KRS 139.5325](#)

The Department is currently developing the necessary forms and applications. The initial application is Form 51A930, which will be available on the DOR website after July 1, 2025.



## Expansion of Sales Tax Incentive for Lodging Facility Projects—House Bill 775

An amendment to [KRS 148.851](#) and [148.853](#) expanded the current tourism attraction project credit sales tax program provided in [KRS 139.536](#) to include “lodging facility projects” that are located in any of the 100 least-populated counties in the Commonwealth, are located within an enhanced incentive county, will create at least 50 new full time jobs in that county, and are located within ½ mile of a state resort park. The project must also be located in a county whose boundaries include the boundaries of a designated national forest or be located in a county whose boundaries are adjacent to or include water surrounding a national recreation area.

To qualify under the expanded “lodging facility project” definition, the facility must also:

- Have a capital investment and eligible costs of at least \$100,000,000;
- Contain accommodations for lodging with a minimum of 100 guest rooms, accommodations for relaxation (including a spa), more than 1 on-site dining facility, and more than 1 meeting or event space;

- Be open to the public at least 100 days each year (including the 1st year of operation); and
- In any year following the 3rd year of operation, attract a minimum of 25% of overnight visitors from out of state.

The incentive for the expanded “lodging project facility” under [KRS 139.536](#) is updated to allow for the incentive over a period of 20 years with the incentive not to exceed the lesser of the total amount of sales tax liability of the approved company or a percentage of the approved costs as specified by the agreement (not to exceed 50%).

## Disaster Relief Declarations

[KRS 139.519](#) provides for a refund of Kentucky sales and use tax paid for building materials permanently installed in the repair or replacement of structures damaged in counties covered under a federal disaster relief declaration. Under this statute, there are currently six active disaster declarations issued that allow property owners to apply for a refund of up to \$6,000 in sales tax paid on materials for each building damaged or destroyed in the affected areas. Below are the federal disaster declarations and affected counties issued in 2025:

- **May 23, 2025**, for severe storms, straight-line winds, and tornadoes that began on May 16, 2025. Those counties are Caldwell, Laurel, Pulaski, Russell, Trigg, and Union.
- **April 24, 2025**, for severe storms, straight-line winds, tornadoes, flooding, landslides and mudslides that began on April 2, 2025. Those counties are Anderson, Breckenridge, Bullitt, Butler, Calloway, Carroll, Christian, Clark, Daviess, Franklin, Garrard, Grayson, Hancock, Hardin, Hart, Henderson, Henry, Hopkins, Jefferson, Jessamine, LaRue, Lincoln, McCracken, McLean, Meade, Mercer, Muhlenberg, Nelson, Ohio, Oldham, Owen, Pendleton, Powell, Trimble, Warren, Webster and Woodford.
- **February 24, 2025**, for severe storms, straight-line winds, flooding, landslides and mudslides on February 14, 2025. Those counties are Breathitt, Clay, Estill, Floyd, Harlan, Johnson, Knott, Lee, Leslie, Letcher, Martin, Owsley, Perry, Pike, Simpson, and Woodford.



Retailers, especially those serving the public in these disaster areas, should be prepared to comply with requests for additional detail from homeowners or contractors working to repair and replace damaged buildings. To be eligible for the sales tax refunds, there must be documentation on receipts that the retailer charged and collected the sales tax.

Additional information and frequently asked questions about these refunds are available at the following site: <https://revenue.ky.gov/Business/Sales-Use-Tax/Documents/Disaster%20Relief%20-%20Sales%20and%20Use%20Tax%20FAQs%20-%20205-27-25.pdf>. If you have questions about the application and refund process, please call (502) 564-5170 and choose option 1.

## Litigation Update

The Kentucky Court of Appeals judgment in *Department of Revenue v. Hale, Inc. d/b/a Lotsa Pasta*, No. 2023-CA-1192-MR (rendered February 28, 2025) addressed the issue of whether salads and spreads made and sold by Lotsa Pasta are “prepared food” subject to Kentucky sales tax. KRS 139.485(2)(g) states that “prepared food” means:

1. *Food sold in a heated state or heated by the retailer;*
2. *Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal*



*foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food-borne illnesses; or*

3. *Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws”.*

In this case, the Appellate Court found that Lotsa Pasta engages in food manufacturing, which excludes the salads and spreads prepared in their manufacturing operations from the statute’s definition of “prepared food” and makes the products exempt from sales and use tax.

However, this finding is limited to the narrow circumstances of a single taxpayer. The longstanding guidance and treatment of products prepared in-store by grocers, convenience stores, delis, etc., as taxable prepared food remains in place. Salads and spreads that are made and sold by the retailer (grocers, delis, restaurants, etc.) by mixing or combining ingredients remain subject to sales and use tax.

Lotsa Pasta maintained that its products were not taxable prepared food because it prepared salads, spreads, and other items in bulk for later repackaging into various serving sizes. However, the Court ruled that items prepared in bulk still meet the prepared food definition of “two or more food ingredients mixed or combined by the retailer for sale as a single item” in KRS 139.485(2)(f).

## **Charges Included in Gross Receipts**

### **Tariffs**

Due to recent economic changes at the national level, the Kentucky Department of Revenue has seen an increase in questions regarding tariffs and the impact that they have on sales tax receipts. In general, charges for tariffs that are passed on to customers as part of a retail sale are subject to sales and use tax under the definition for gross receipts in [KRS 139.010\(17\)](#).

As stated in [KRS 139.010\(17\)](#) in part, Gross receipts means “the total amount or consideration including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, or otherwise.” The only taxes excluded from gross receipts in this definition are those imposed directly on the purchaser.

Therefore, charges for tariffs imposed on manufacturers or importers passed on to retail customers as part of a sale are subject to sales and use tax under the definition for gross receipts. The exemption for taxes imposed by the United States provided in [KRS 139.010\(18\)](#) excludes any manufacturer’s excise tax or importer’s import duty (tariff) from exempt treatment. Therefore, tariff charges included on a retail receipt, whether itemized or not, are subject to Kentucky sales and use tax.

### **Manufacturer Coupons**

Cash discounts provided by retailers to their customers are exempt from sales and use tax ([KRS 139.010\(17\)\(c\)](#)). A cash discount is a reduction in the sales price, for which the retailer is not reimbursed by the manufacturer. However, if the purchaser presents a coupon or rebate from a third party such as a manufacturer where the third party will reimburse the retailer, the

value of the coupon or rebate is included in the total sales price of the taxable property or service and is subject to sales and use tax as stated in [KRS 139.010\(17\)\(b\)](#).

### **MyTaxes Portal**

On March 14, 2025, the Department of Revenue implemented the new *MyTaxes* portal to replace the previous OneStop online filing system. Taxpayers looking to access information for Sales & Use, Waste Tire Fee, Transient, Telecom, Utilities Gross Receipts License Tax (UGRLT), Commercial Mobile Radio Service (CMRS), and Tobacco and Vapor Products Licensing should use the new portal at [mytaxes.ky.gov](https://mytaxes.ky.gov).

Previous OneStop users will find their accounts have already been migrated over to the new site. Notification emails were sent to One Stop users on March 4th and March 17th, containing their new User ID for the *MyTaxes* portal. Any previous One Stop user that did not receive the email containing the new user credentials may reach out to the Customer Contact Center at 502-764-5555.

New users can simply click "Register a New Account" on the webpage to get started. Once the new user account is created, the business tax accounts must be linked to the portal account to file tax returns. Users can request a Pin letter through the Portal and it will be mailed to them. Also, taxpayers looking for their Portal Pin may write a letter or email and send it to [portalhelp@ky.gov](mailto:portalhelp@ky.gov) or it can be faxed to 502-573-1545. For additional information on the new MyTaxes Portal, a list of FAQs, as well as some helpful guides and video tutorials, please visit <https://revenue.ky.gov/Pages/MyTaxes.aspx>.



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 [revenue.ky.gov](https://revenue.ky.gov) and future editions may be accessed at the website.

To submit additional questions or suggestions for future topics, please contact us at:

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