103 KAR 1:130. Taxation of federal and certain nonfederal obligations.

RELATES TO: KRS 136.290, 136.300, 136.310, 136.320, 141.019, 141.900
STATUTORY AUTHORITY: KRS 131.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations to administer and enforce Kentucky's tax laws. KRS 141.019(1)(a) and 141.900(10)(a) and (12)(a) provide an exclusion from gross income when calculating Kentucky income tax for income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky. KRS 136.290, 136.300, 136.310, and 136.320 impose an ad valorem tax on the total value of the capital of federally or state chartered savings and loan associations, savings banks, and other similar institutions and domestic life insurance companies authorized to transact business in Kentucky, with property and payroll both within and without this state. This administrative regulation establishes the requirements relating to taxation of federal and certain nonfederal obligations in accordance with those statutes.

Section 1. Income Taxation. Interest income from United States government obligations upon which states are prohibited by federal law from imposing a tax shall be excluded from gross income when calculating Kentucky income tax liability. Only the interest income from exempt United States government obligations included in the taxpayer’s federal taxable income may be deducted from the taxpayer’s gross income for Kentucky income tax purposes.

Section 2. This section contains two (2) lists of certain agencies, authorized corporations, and banks of the United States government from which Kentucky taxpayers may receive interest income. These lists are not all-inclusive, nor are they intended to be conclusive of the taxable or exempt status of a particular obligation issued by or in conjunction with a listed department, agency, instrumentality, or other entity.
(1) The list in this subsection shall serve as examples of departments, agencies, and instrumentalities that issue United States government obligations from which interest income shall be exempt from state taxation.
(a) U.S. Treasury (Bonds);
(b) U.S. Treasury (Series EE and HH Savings Bonds and I Bonds);
(c) U.S. Treasury (Certificates of Indebtedness);
(d) U.S. Treasury (Bills);
(e) U.S. Treasury (Notes);
(f) U.S. Treasury (Note and Bond "Strips");
(g) Commodity Credit Corporation;
(h) Central Banks for Cooperatives and Banks for Cooperatives;
(i) Farm Credit Banks;
(j) Federal Land Bank Associations;
(k) Production Credit Associations;
(l) Farm Credit System Financial Assistance Corporation;
(m) Federal Deposit Insurance Corporation;
(n) Federal Financing Bank;
(o) Federal Home Loan Banks;
(p) Federal Savings and Loan Insurance Corporation;
(q) General Insurance Fund, Department of Housing and Urban Development, Rental Housing Insurance, War Housing Insurance Project, Rental Housing Project, Armed Services Housing, National Defense Housing Insurance, Neighborhood Conservation Housing Insurance;

(r) Guam (Bonds);
(s) Puerto Rico (Bonds);
(t) Virgin Islands (General Obligation Bonds and Public Improvement Bonds);
(u) American Samoa (Industrial Development Bonds);
(v) Student Loan Marketing Association (SLMA or "Sallie Mae");
(w) Tennessee Valley Authority (Bonds); or
(x) United States Postal Service.

(2) The list in this subsection shall serve as examples of organizations which issue obligations from which interest income shall be taxable for Kentucky income tax purposes.
(a) Bank Certificates of Deposit;
(b) Farmers Home Administration;
(c) Federal Home Loan Mortgage Corp. (FHLMC or "Freddie Mac");
(d) Federal National Mortgage Association (FNMA or "Fannie Mae");
(e) Government National Mortgage Association (GNMA or "Ginnie Mae");
(f) Inter-American Development Bank;
(g) International Bank for Reconstruction and Development (World Bank); or
(h) International Monetary Fund.

Section 3. Property Taxation. A claim by a taxpayer that property or capital subject to the ad valorem taxes imposed by KRS 136.290, 136.300, 136.310 or 136.320 is exempt under federal law shall be supported by specific statutory or binding case authority. In the absence of statutory or binding case authority, all intangible property shall be taxable. Securities merely guaranteed by the U.S. government shall be taxable as intangible property.

Section 4. Exempt federal obligations shall be classified as:
(1) Direct obligations of the United States such as U.S. Treasury bonds, U.S. Treasury notes or U.S. Treasury bills; or
(2) Direct obligations of U.S. government agencies.

Section 5. (1) The following list is provided as a general reference of obligations exempt from state ad valorem taxation imposed by KRS 136.290, 136.300, 136.310, or 136.320:
(a) Banks for Cooperatives;
(b) Central Banks for Cooperatives;
(c) Commodity Credit Corporation;
(d) Farmers Home Administration;
(e) Farmers Home Corporation;
(f) Federal Credit Union;
(g) Federal Savings and Loan Associations (Kentucky);
(h) Federal Deposit Insurance Corporation;
(i) Federal Farm Credit Corporation;
(j) Federal Home Loan Bank (Stocks and Bonds);
(k) Federal Housing Administration;
(l) Federal Intermediate Credit Banks;
(m) Federal Land Banks;
(n) Federal Maritime Board and Maritime Administration;
(o) Federal Reserve Banks;
(p) Federal Savings and Loan Insurance Corporation;
(q) General Insurance Fund;
(r) Guam Bonds;

(s) Municipal Obligations (Kentucky);
(t) National Farm Loan Association;
(u) Panama Canal Bonds;
(v) Production (Agricultural) Credit Association or Corporation;
(w) Puerto Rican Bonds;
(x) Student Loan Marketing Association;
(y) Tennessee Valley Authority;
(z) U.S. Housing Authority;
(aa) U.S. Postal Service Bonds; or
(bb) Virgin Island Bonds.

(2) The following list is provided as a general reference of obligations that are taxable entities for state ad valorem taxation imposed by KRS 136.290, 136.300, 136.310, or 136.320:
(a) Federal Home Loan Bank Deposits;
(b) Federal Home Loan Mortgage Corporation Bonds;
(c) Federal National Mortgage Corporation Bonds;
(d) Government National Mortgage Corporation Bonds; or
(e) Retail Repurchase Agreements. (33 Ky.R. 1190; Am. 1790; eff. 2-2-2007; 45 Ky.R. 1299; eff. 2-1-2019.)