

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 2:030. Policies and circulars relating to inheritance tax.

RELATES TO: KRS 131.130~~[(4)]~~

STATUTORY AUTHORITY: KRS 131.130~~[(4)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. The Department of Revenue has many policies and circulars that predate the enactment of KRS Chapter 13A and conflict with, or are redundancies of, current tax laws. This administrative regulation formally rescinds the previously issued policies and circulars relating to taxes administered by the Department's Office of Sales and Excise Taxes.

Section 1. These policies merely restate or summarize the requirements or provisions of the inheritance and estate tax statutes of KRS Chapter 140 as well as other pertinent parts of KRS Chapters 6, 21, 61, 131, 161, 164, 304, 342, 395, and 411. The following policies are hereby formally rescinded and shall be null, void, and unenforceable:

- (1) Revenue Policy 92P010 (6/1/83), relating to deferred payment of inheritance tax (KRS 131.183 and 140.222);
- (2) Revenue Policy 92P015 (12/1/86), relating to deferred payment of inheritance tax when beneficiary dies (KRS 140.222, 140.224 and 395.195);
- (3) Revenue Policy 92P020 (6/1/83), relating to the statutory limit for collection of inheritance tax (KRS 140.160 and 140.210);
- (4) Revenue Policy 92P025 (9/1/87), relating to filing requirement (KRS 140.160(2), 140.190, 140.210(2), and 140.220);
- (5) Revenue Policy 92P026 (9/1/87), relating to filing requirements (KRS 140.010, 140.190, and 140.210);
- (6) Revenue Policy 92P029 (12/1/92), relating to interest for late payments of inheritance tax (KRS 131.010, 131.175, and 140.210);
- (7) Revenue Policy 92P030 (12/1/92), relating to penalty for undervaluation of assets (KRS 131.010, 131.180, 140.210, and 140.991);
- (8) Revenue Policy 92P031 (12/1/92), relating to penalties for late filing and late payment of inheritance tax (KRS 131.010, 131.180, 140.160, 140.210, and 140.991);
- (9) Revenue Policy 92P035 (8/16/95), relating to valuation of real estate (KRS 131.110 and 140.165);
- (10) Revenue Policy 92P040 (Revised 12/1/86), relating to power of appointment-taxation of remainder interest (KRS 140.040 and 140.110 (1));
- (11) Revenue Policy 92P050 (Revised 7/13/90), relating to power of appointment in donor's and donee's estates (KRS 140.040 and 140.080(1)(a));
- (12) Revenue Policy 92P060 (6/1/83), relating to assessment of real property for inheritance tax purposes (KRS 140.165. and 140.330);
- (13) Revenue Policy 92P080 (Revised 7/10/90), relating to qualified real estate (KRS 140.300(4)(c) and case law);
- (14) Revenue Policy 92P090 (6/1/83), relating to qualified real estate (KRS 140.300(4)(b) and case law);
- (15) Revenue Policy 92P100 (6/1/83), relating to qualified real estate (KRS 140.320);

(16) Revenue Policy 92P110 (6/1/83), relating to qualified real estate (KRS 140.300 and 140.320);

(17) Revenue Policy 92P115 (12/1/86), relating to conveyance of "Qualified Real Estate" (KRS 140.300 through 140.360);

(18) Revenue Policy 92P116 (12/1/86), relating to conveyance of "Qualified Real Estate" (KRS 140.300 through 140.360);

(19) Revenue Policy 92P117 (12-1-86), relating to conveyance of "Qualified Real Estate" (KRS 140.300 through 140.360) rescinded in 103 KAR 2:020 (May, 2007);

(20) Revenue Policy 92P120 (Revised 7/10/90), relating to taxability of jointly held property (KRS 140.050 and case law);

(21)[(20)] Revenue Policy 92P130 (Revised 11/20/90), relating to taxability of jointly held government bonds (KRS 140.050, and case law);

(22)[(21)] Revenue Policy 92P140 (6/1/83), relating to taxability of bequest of inheritance tax (KRS 140.010 and case law);

(23)[(22)] Revenue Policy 92P150 (6/1/83), relating to taxability of partnership property located in another state (KRS 140.010 and case law);

(24)[(23)] Revenue Policy 92P160 (Revised 6/30/88), relating to partnership property located in Kentucky owned by a nonresident decedent (KRS 140.010 and case law);

(25)[(24)] Revenue Policy 92P165 (12/1/86), relating to credit life insurance (KRS 140.030(2), 140.090(1), and case law);

(26)[(25)] Revenue Policy 92P166 (9/1/87), relating to assignment of life insurance proceeds (KRS 140.090(1) and case law);

(27)[(26)] Revenue Policy 92P167 (9/1/87), relating to paid-up life insurance policies (KRS 140.030(2) and 304.1-030);

(28)[(27)] Revenue Policy 92P170 (6/1/83), relating to remainder interests (KRS 140.010);

(29)[(28)] Revenue Policy 92P180 (1/29/88), relating to trusts (KRS 140.020 and case law);

(30)[(29)] Revenue Policy 92P190 (6/1/83), relating to transfer with retained possession, enjoyment or income therefrom (KRS 140.020);

(31)[(30)] Revenue Policy 92P200 (Revised 12/1/86), relating to transfers in contemplation of death (KRS 140.020);

(32)[(31)] Revenue Policy 92P210 (Revised 9/1/87), relating to Life estates-wills (KRS 140.100 and case law);

(33)[(32)] Revenue Policy 92P220 (12/1/86), relating to wrongful death (KRS 140.010, 140.090(1), KRS 411.130);

(34)[(33)] Revenue Policy 92P235 (11/14/88), relating to Kentucky public employee's retirement plans (KRS 6.525, 21.470, 61.690, 140.063(1)(c), 161.700, and 164.2871);

(35)[(34)] Revenue Policy 92P245 (9/1/87), relating to deferred compensation (KRS 140.010, 140.020, and case law);

(36)[(35)] Revenue Policy 92P250 (6/1/83), relating to federal civil service retirement plan annuities (KRS 140.063);

(37)[(36)] Revenue Policy 92P255 (11/1/97), relating to death benefits (KRS 61.705, 140.090(1), 161.655, and 342.720);

(38)[(37)] Revenue Policy 92P260 ((12/1/86), relating to deduction of interest on federal estate taxes (KRS 140.090);

(39)[(38)] Revenue Policy 92P261 (9/1/87), relating to deductions (KRS 140.010 and 140.090(1));

(40)[(39)] Revenue Policy 92P262 (9/1/87), relating to deductions (KRS 140.090(1));

(41)[(40)] Revenue Policy 92P263 (9/1/87), relating to deduction of interest on installment obligations (KRS 140.090(1)(h) and 395.195);

~~(42)~~~~(41)~~ Revenue Policy 92P264 (11/14/88), relating to deduction of selling expenses (KRS 140.090(1)(h) and 395.195);

~~(43)~~~~(42)~~ Revenue Policy 92P265 (12/1/86), relating to exemption of annuities payable to a beneficiary (KRS 140.063);

~~(44)~~~~(43)~~ Revenue Policy 92P270 (6/1/83), relating to casualty losses (KRS 140.090);

~~(45)~~~~(44)~~ Revenue Policy 92P280 (6/1/83), relating to power of appointment-minor beneficiary (KRS 140.040 and 140.080);

~~(46)~~~~(45)~~ Revenue Policy 92P290 (6/1/83), relating to power of appointment in donee's estate (KRS 140.040 and case law);

~~(47)~~~~(46)~~ Revenue Policy 92P300 (6/1/83), relating to power of appointment in donee's estate (KRS 140.040, 140.090, and case law);

~~(48)~~~~(47)~~ Revenue Policy 92P310 (6/1/83), relating to classification of beneficiaries-remarried daughter-in-law (KRS 140.070);

~~(49)~~~~(48)~~ Revenue Policy 92P311 (9/1/87), relating to classification of beneficiaries-spouse of stepchild (KRS 140.070);

~~(50)~~~~(49)~~ Revenue Policy 92P330 (Revised 11/20/90), relating to classification of beneficiaries great-nieces, great nephews, nieces, and nephews by marriage (KRS 140.070);

~~(51)~~~~(50)~~ Revenue Policy 92P335 (9/1/87), relating to nonresident beneficiaries (KRS 140.010, 140.070, and 140.080);

~~(52)~~~~(51)~~ Revenue Policy 92P336 (Revised 7/13/90), relating to exemption for the mentally disabled (KRS 140.080(1));

~~(53)~~~~(52)~~ Revenue Policy 92P340 (Revised 12/1/86), relating to contested wills (KRS 140.010 and 140.090(1));

~~(54)~~~~(53)~~ Revenue Policy 92P345 (3/1/88), relating to federal income tax refund or liability (KRS 140.010 and 140.090(1));

~~(55)~~~~(54)~~ Revenue Policy 92P350 (Revised 12/1/96), relating to previously-taxed property (KRS 140.095); and

~~(56)~~~~(55)~~ Revenue Policy 92P360 (6/20/89), relating to confidentiality of tax returns (KRS 131.190(1) and 140.160).

Section 2. Revenue Circular 92C200 (revised 7/1/89), Relating to Custody and Control of Securities, Deposits or Other Property by Financial Institutions (KRS 140.250), is no longer valid as KRS 140.250 was repealed in 2000 Ky. Act Ch. 151, sec. 7 effective July 13, 2000. Accordingly, Revenue Circular 92C200 is hereby rescinded and shall be null, void, and unenforceable.

Section 3. Revenue Policy 92P070 (Revised 12/1/86), Relating to Contested Wills, merely restates or summarizes the requirements or provisions of the inheritance and estate tax statutes of KRS Chapter 140, 394, and case law. Accordingly, Revenue Policy 92P070 is hereby rescinded and shall be null, void, and unenforceable.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: June 6, 2019

FILED WITH LRC: June 7, 2019 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 25, 2019 at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may

be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 2:030 to add one additional rescinded policy, Revenue Policy 92P117, to the comprehensive list of rescinded policies and circulars contained in this administrative regulation.

(b) The necessity of this administrative regulation: Amending this administrative regulation will allow a taxpayer or interested party to find all rescinded policies and circulars pertaining to inheritance tax in one location.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(1) grants the Department of Revenue the authority to promulgate administrative regulations as it deems necessary for the administration of Kentucky's tax laws.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: See (1)(b).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any taxpayer or taxpayer representative wishing to reference a list of rescinded policies pertaining to inheritance tax.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no actions required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs associated with these changes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will have a comprehensive list of certain rescinded policies one location.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no additional costs associated with this amendment. Any applicable cost will be absorbed by the current department budget.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Currently budgeted department funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied. The updating of this administrative regulation will impact any taxpayer utilizing the guidance within equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Finance and Administration Cabinet, Department of Revenue will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(1).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for government agencies because of amending this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: