

103 KAR 26:010. Nontaxable service enterprises.

RELATES TO: KRS 139.010, 139.200

STATUTORY AUTHORITY: KRS 131.130, 139.010

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. This administrative regulation establishes sales and use tax requirements for nontaxable service enterprises.

Section 1. (1) Persons engaged in the business of rendering nontaxable services shall be classified as consumers, not retailers, of the tangible personal property, digital property, and taxable services specifically enumerated in KRS 139.200, which they use incidentally in rendering the service. Tax shall apply to the sale of tangible personal property, digital property, and taxable services specifically enumerated in KRS 139.200 to consumers.

(2) The list in this subsection shall serve as general examples of nontaxable service enterprises:

- (a) Advertising agencies;
- (b) Automobile detailers;
- (c) Banks;
- (d) Barbers;
- (e) Beauty shop operators;
- (f) Shoe shiners;
- (g) Taxidermists;
- (h) Tire repairers; and
- (i) Similar enterprises.

Section 2. (1) Persons rendering nontaxable professional services shall be classified as consumers, not retailers, of the tangible personal property, digital property, and taxable services specifically enumerated in KRS 139.200, which they use incidentally in rendering their services.

(2) The list in this subsection shall serve as general examples of persons rendering nontaxable professional services:

- (a) Accountants;
- (b) Architects;
- (c) Audience research service providers;
- (d) Cable television service providers;
- (e) Construction information service providers;
- (f) Doctors;
- (g) Engineers; and
- (h) Lawyers.

Section 3. If a person engaged in the business of rendering nontaxable services also regularly engages in the business of selling tangible personal property, digital property or taxable services to consumers, that person shall be classified as a retailer with respect to these sales, and shall obtain permits, file returns, and remit tax on those sales.

Section 4. Persons rendering services specifically enumerated in KRS 139.200 are retailers subject to sales tax.

Section 5. (1) This administrative regulation shall replace Revenue Policies 51P440, 51P441, and 51P442.

(2) Revenue Policies 51P440, 51P441, and 51P442 are hereby rescinded and shall be null, void, and unenforceable. (SU-21-2; 1 Ky.R. 144; eff. 12-11-74; 33 Ky.R. 2343; 3150; eff. 5-4-2007; TAm eff. 5-20-2009; TAm eff. 8-3-2017; 46 Ky.R. 67; eff. 10-4-2019.)