

103 KAR 27:120. Photographers, photo finishers, and x-ray labs.

RELATES TO: KRS 139.010, 139.260

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of Kentucky tax laws. This administrative regulation interprets the sales and use tax law as it applies to photographers, photo finishers, and x-ray laboratories.

Section 1. Photographers. (1) Photographers are primarily engaged in the business of rendering a nontaxable professional service in the taking, development, printing, and provision of an original photograph. The photographer is the consumer of all tangible personal property and digital property used in the performance of his or her professional service, and the tax shall apply at the time of the sale of the property to the photographer. This treatment shall apply to digital photography and print-based photography.

(2) In making additional prints, however, the photographer is producing and selling tangible personal property, and the tax shall apply to the selling price of the prints. The tax shall not apply to sales of property to the photographer which become an ingredient or component part of the prints to be sold pursuant to KRS 139.260.

Section 2. Photo Finishers. (1) The tax shall apply to charges for printing pictures or making enlargements from negatives furnished by the customer but not to charges for developing the negatives if the charges are separately stated. Tax shall not apply to charges for tinting or coloring pictures furnished to the finisher by the customer.

(2) Tax shall apply to sales to photo finishers of all tangible personal property and digital property consumed by them in developing negatives, finishing pictures, and coloring or tinting pictures furnished by customers. Property resold to the customer, such as sensitized paper upon which prints are made and frames and mounts sold along with finished pictures, may be purchased by the photo finisher exempt from the tax pursuant to KRS 139.260.

Section 3. X-Ray Laboratories. (1) Developers of x-ray film for the purpose of diagnosis are the consumers of materials and supplies used in the production thereof. The tax shall apply to the sale of these materials and supplies to the laboratories developing x-ray film for the purpose of diagnosis.

(2) The tax treatment described in subsection (1) of this section shall apply if the laboratory is a "lay laboratory" or is operated by a physician, surgeon, dentist, or hospital. (SU-75-1; 1 Ky.R, 230; eff. 1-8-1975; TAm eff. 6-22-2016; Crt eff. 1-28-2020; 46 Ky.R. 1923, 2391; eff. 6-2-2020.)