

**FINANCE AND ADMINISTRATION CABINET**  
**Department of Revenue**  
**(Amendment)**

**103 KAR 27:140. Publishers of newspapers, magazines and periodicals.**

RELATES TO: KRS 139.010

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 assessment, collection, re-funding, administration, and enforcement of Kentucky tax laws. This administrative regulation interprets the sales and use tax law as it applies to sales of newspapers, magazines and periodicals.

Section 1. Newspapers. (1) Sales of newspapers by the publisher are sales of tangible personal property or digital property. The tax applies to the gross receipts of the publisher from such sales in all cases, unless the sale is for delivery or access outside of this state.

~~(2) Newstands, drug stores, street vendors, and other businesses selling to consumers are the retailers of newspapers sold by them. Proceeds from the sale thereof shall be included in the gross receipts of the retailer subject to the tax [where the publisher receives directly from the consumer the full retail sales price of the newspaper, unless the sale is for delivery outside of this state.~~

~~(2) The sales of newspapers by the publisher to carriers, newsboys, street vendors, and operators of newsstands and similar places are sales for resale the proceeds of which are not subject to the tax.~~

~~(3) Newsstands, drug stores and other places of business with a fixed location are the retailers of newspapers sold by them. Proceeds from the sale thereof shall be included in the gross receipts of the retailer subject to the tax].~~

Section 2. Magazines and Periodicals. (1) Sales of magazines, periodicals and all publications other than newspapers, whether made "over the counter," or by subscription, are subject to the sales or use tax. Subscription includes both hard copies and digital editions.

(2) Receipts from subscriptions for magazines, periodicals, and trade journals, ~~[which subscriptions are]~~ taken within the state of Kentucky, sent to a publication house outside of the state of Kentucky, and ~~[the publication is]~~ thereafter mailed directly or transferred electronically to the subscriber within the state of Kentucky, are subject to the sales tax. Where such publications are printed within the state of Kentucky and sold subject to delivery, or transferred electronically for access outside the state of Kentucky, such sales would not be subject to the sales tax.

(3) Persons who distribute trade publications, journals and the like free of charge to the reader thereof are regarded as consumers of publications which they distribute.

DANIEL P. 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 (phone), (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 is an amendment that updates regulatory language to clarify the previous guidance contained and to specify the types of property sold.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language, to clarify the previous guidance contained and to specify the types of property sold.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(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: The amendment will change this existing administrative regulation by adding an authorizing sentence to the "Necessity, Function and Conformity" section, adding "digital property" as a type of property sold, specifying sales made in interstate commerce are not subject to the tax, clarifying the tax treatment related to newsstands, drugstores, street vendors, and other businesses, removing the notation related to "fixed location", and updating language.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to remove outdated regulatory language to clarify the previous guidance contained and to specify the types of property sold.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(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: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(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 additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

## 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? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

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.

(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? No revenues are expected to be generated by updating this administrative regulation.

(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? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

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: