

103 KAR 28:030. Producing, fabricating and processing.

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 necessary for the administration and enforcement of all tax laws in Kentucky. This administrative regulation establishes sales and use tax requirements for the producing, fabricating or processing of property furnished by consumers.

Section 1. Tax shall apply to charges for producing, fabricating, processing, printing, or imprinting tangible personal property for consumers who furnish either directly or indirectly the materials used.

Section 2. "Producing," "fabricating," and "processing" shall include any labor which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property.

Section 3. Tangible personal property which is cut, threaded, shaped, bent, polished, welded, sheared, engraved, punched, drilled, machined, monogrammed, decoratively stitched, or in some other way has work performed on it to change it from its original state into something else with different characteristics shall be considered to have been fabricated. Examples of taxable charges shall include the items listed in this section:

(1) A piece of rod is bent into a "U" shape; the two (2) ends threaded to form a U-bolt. An entirely new item is made which doesn't resemble the original. This shall be considered fabrication and shall be taxable. Tax shall be applied to the total selling price of the fabricated article.

(2) Two (2) pieces of sheet steel are laid side by side and a single-bead weld is drawn along the two (2) edges to join them together. This shall be considered fabrication, and tax shall be applicable to the total selling price.

(3) If a gear with a worn hole is filled in or built up and a larger or smaller hole bored in it to fit a larger or smaller shaft, this shall be considered fabrication and the full amount charged shall be subject to tax.

(4) The total charge for manufacturing a part in the shop from stock shall be fully taxable.

(5) Decorative stitching, monogramming, or engraving added to any tangible personal property shall be considered fabrication and shall be subject to tax.

Section 4. "Producing," "fabricating," and "processing" shall not include labor which does not result in the creation or production of tangible personal property or which does not constitute a step in a process or series of operations resulting in the creation or production of tangible personal property, but which constitute merely the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced. This repair and reconditioning shall be governed by the provisions of 103 KAR 27:150.

Section 5. (1) This administrative regulation shall replace Revenue Policy 51P200.

(2) Revenue Policy 51P200 is hereby rescinded and shall be null, void, and unenforceable. (SU-28; 1 Ky.R. 704; eff. 5-14-1975; 33 Ky.R. 2347; 3154; eff. 5-4-2007; TAm eff. 6-22-2016; Crt eff. 11-6-2019.)