

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 30:250. Property used in the publication of newspapers.

RELATES TO: KRS 139.010, 139.200, 139.260, 139.270, 139.280, 139.290, 139.310, 139.330, 139.470(9)~~[(40)]~~, 139.480(10)

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 manufacturing activities relating to the publication of newspapers.

Section 1. Definitions. (1) "Manufacturing" is defined in KRS 139.010(20).

(2) "Plant facility" is defined in KRS 139.010(28)~~[(24)]~~.

Section 2. Requirements for Exemption. The storage, use, or other consumption of tangible personal property for use in the manufacturing process of newspaper publication shall be exempt from the sales and use tax in accordance with KRS 139.470(9), ~~[according to the provisions of KRS 139.170, 139.470(10),]~~ 139.480(10), and 103 KAR 30:120.

Section 3. Manufacturing Process. The manufacturing process within a plant facility commences with the movement of raw materials from storage into a continuous, unbroken, integrated process, and ends when the finished product is packaged and ready for sale. The manufacturing process shall include the following newspaper publication operations performed at a plant facility in a continuous, unbroken, integrated process:~~[-operations flow:]~~

(1) Prepress operations:~~[-]~~

(a) Type-setting that transforms the text and images from the final preprint edit format into a design, layout, or paste-up format ready for printing whether performed electronically, digitally, by hard copy ~~[hardcopy]~~ layout, or by other printing technology now in existence or later devised; and

(b) The production of printing plates made photo mechanically or digitally;

(2) Press room and printing process:~~[-]~~

(a) Printing and collating the hard copy newspaper pages in accordance with the preprint design;

(b) Examples of conventional printing processes shall include:

1. Letterpress;
2. Flexography;
3. Lithography; or
4. Gravure; and

(3) Mail room operations, including addressing, labeling and packaging for distribution.

Section 4. Nonmanufacturing Process. The following operations shall not constitute activities performed within the manufacturing process of newspaper publication:

(1) Photography and reporting, except for development of negatives and the production of prints at the newspaper plant facility;

(2) Newsroom activities. The list in this subsection shall serve as examples of newsroom activities:

- (a) Monitoring of news events or related research;
- (b) Composition of news stories, opinions, or editorials for editorial review;
- (c) Editing process; or
- (d) Layout and page design by editorial staff;
- (3) Selling and design of advertisements;
- (4) Library and research, including the use of servers, computers, and other equipment to compile and index information; or
- (5) Storage and loading dock operations, including the storage of paper or other raw materials or the conveyance of packaged newspapers for storage, loading, or distribution.

Section 5. Subscription charges for wire services for the transmission of unedited text shall be considered purchases of services not subject to the sales and use tax.

Section 6. (1) This administrative regulation shall replace Revenue Circular 51C012.

(2) Revenue Circular 51C012 is hereby rescinded and shall be null, void, and unenforceable.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: July 13, 2021

FILED WITH LRC: July 13, 2021 at 1:16 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 22, 2021, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. The hearing may be conducted by video teleconference at the discretion of the agency. An individual interested in being heard at this hearing shall provide written notification to the agency of the intention to attend the hearing at least five (5) business days prior to the date scheduled for the hearing.. If no notification of intent to attend the hearing is received by that date, the hearing will be cancelled. The 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 September 30, 2021. 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: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-0424, fax (502) 564-3875, email Gary.Morris@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to add the definition for “manufacturing”, add statutory references, add detail regarding manufacturing at a newspaper plant facility, and make updates in accordance with KRS Chapter 13A drafting requirements.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated language and make KRS Chapter 13A formatting changes and statutory corrections.

(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 further clarify 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: 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: Newspaper publishers.

(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 additional actions are required under this amendment.

(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 additional costs associated or required under this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Taxpayers will benefit from the updated guidance which will help them stay in good standing with the Department of Revenue.

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

(a) Initially: It is not anticipated that there will be any additional costs to implement this administrative regulation. The administrative costs to file this amendment have already been absorbed with current staff and budgeted funding.

(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 fiscal year budgetary 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 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 is the only government entity impacted by this amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the

action taken by the administrative regulation. KRS 131.130, 131.131, and 13A.

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 expenditures or revenues are expected to be generated for state or local agencies by 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 that is known.

(c) How much will it cost to administer this program for the first year? Current fiscal year budgetary funding for the Department of Revenue will absorb the administrative costs.

(d) How much will it cost to administer this program for subsequent years? No additional costs (not already budgeted to the Department) is known for subsequent years are expected at this time.

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

Revenues (+/-): + None.

Expenditures (+/-): None.

Other Explanation: