

## **200 KAR 5:390. Registration to collect Kentucky sales and use tax.**

RELATES TO: KRS 45A.067, 139.200, 139.310, 139.540, 139.550

STATUTORY AUTHORITY: KRS 45A.067(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A. 067(2) requires a person contracting with the Commonwealth to register with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and KRS 45A.067(5) requires the secretary of the Finance and Administration Cabinet to promulgate an administrative regulation to establish the procedure for ensuring compliance with this requirement. This administrative regulation establishes the registration procedure for ensuring compliance.

Section 1. (1) Any person awarded a contract with the Commonwealth to provide goods or services subject to sales and use tax pursuant to KRS 139.200 and 139.310 shall submit to the contracting agency, prior to execution of a contract:

(a) A copy of the appropriate sales and use tax permit or permit update form, using Form 51A101(a), (b), (c), or (d), which are incorporated by reference in 103 KAR 3:020, for the person and each of its affiliates if they are registered with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139; or

(b) Form 10A100, Kentucky Tax Registration application, which is incorporated by reference in 103 KAR 3:010, for the person and each of its affiliates, if not registered.

(2) If a person or an affiliate is not registered but an application for registration is made, any contract awarded to the person shall be conditional upon the registration process being completed.

(3) The person and each of its affiliates shall remain registered for the duration of any contract awarded.

Section 2. Failure to submit the required documentation or to remain registered and in compliance with the sales and use tax filing and remittance requirements of KRS 139.540 and 139.550 throughout the duration of the contract shall constitute a material breach of the contract and the contract may be terminated, unless the secretary of the Finance and Administration Cabinet, or his designee, makes a written determination that continuation of the procurement is necessary to protect substantial interests of the Commonwealth. (35 Ky.R. 676, Am. 1151, eff. 12-5-2008; Crt eff. 2-12-2020.)