

103 KAR 27:050. Florists and nurserymen.

RELATES TO: KRS 139.010, 139.200, 139.310, 139.330

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation interprets the sales and use tax law as it applies to sales by florists and nurserymen.

Section 1. Sales of flowers, wreaths, bouquets, potted plants, shrubbery, and other such items of tangible personal property are subject to the sales and use tax.

Section 2. Where florists conduct transactions through a florists' telegraphic delivery association, the following rules will apply in the computation of tax liability:

- (1) On all orders taken by a Kentucky florist and telegraphed to a second florist in Kentucky for delivery in Kentucky, the sending florist will be liable for the tax;
- (2) In cases where a Kentucky florist receives an order pursuant to which he gives telegraphic instructions to a second florist located outside Kentucky for delivery of flowers to a point outside Kentucky, the tax will likewise be owing with respect to the total receipts of the sending florist from the customer who places the order;
- (3) In cases where Kentucky florists receive telegraphic instructions from other florists either within or outside of Kentucky for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in Kentucky, the tax will be due from and payable by the Kentucky florist who first received the order and gave the telegraphic instructions to the second florist.

Section 3. When a nurseryman or florist sells shrubbery, young trees or similar items, and as part of the transaction transplants them to the land of the purchaser for a lump sum or a flat rate, the vendor so selling and installing must make a segregation of that portion of the charge which is for tangible personal property sold and that portion of the charge which is for installation. Failure to segregate the charge will subject the entire amount of the transaction to the sales tax.

(SU-25; 1 Ky.R. 145; eff. 12-11-1974; TAm eff. 5-20-2009; TAm eff. 6-22-2016.)