

103 KAR 31:170. Disaster Area Relief Sales and Use Tax Refunds.

RELATES TO: KRS 139.519, 139.720, 139.770

STATUTORY AUTHORITY: KRS 131.130(1), 139.519(7)(a), 139.710

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. KRS 139.710 authorizes the department to administer the provisions of KRS Chapter 139, relating to the assessment, collection, refund, and administration of sales and use taxes. KRS 139.519 establishes the tax refund provisions for sales and use tax paid on building materials purchased for the purpose of repairing or replacing a building damaged or destroyed by a disaster within a disaster area. This administrative regulation establishes the requirements for disaster area relief sales and use tax refunds.

Section 1. Definitions.

- (1) "Building materials" is defined by KRS 139.519(1)(a).
- (2) "Disaster" is defined by KRS 139.519(1)(b).
- (3) "Disaster area" is defined by KRS 139.519(1)(c).
- (4) "Qualifying construction" means:
 - (a) Construction that repairs the portion of a building damaged by a disaster in a disaster area; or
 - (b) Construction that replaces a building damaged by a disaster in a disaster area.

Section 2. Refund Application Requirements.

- (1) A request for a refund shall be filed with the Department of Revenue after completion of the qualifying construction and in accordance with the provisions of KRS 139.519(4)(a).
- (2) To be considered valid, a refund request shall be postmarked, electronically submitted, or if delivered by messenger, hand-stamped by the department by the date required in subsection (1) of this section and shall include the following completed information:
 - (a) Application for Kentucky Disaster Relief Sales and Use Tax Refund, Form 51A600;
 - (b) Information Sharing and Assignment Agreement for Disaster Relief Refund Claims, Form 51A601;
 - (c) Expenditure Report for Building Materials Disaster Relief Refunds, Form 51A602;
 - (d) Copies of contractor invoices to the legal building owner, if applicable;
 - (e) Related sample sales receipts of building materials purchased from each vendor;
 - (f) Photographs of disaster damage and related construction;
 - (g) Other applicable documents that the applicant believes will support the refund claim; and
 - (h) One of the following types of documentation:
 1. Confirmation letter that the legal building owner is eligible for assistance from the Federal Emergency Management Agency (FEMA), United States Department of Homeland Security because of property damage from the disaster; or
 2. A copy of the insurance claim filed for the building damage sustained in the disaster.
- (3) Any request for a refund filed with the Department after the three (3) year period established in KRS 139.519(4)(a) shall be denied.

Section 3. Record Keeping Requirements. The legal owner of the building and other applicable parties shall keep adequate and complete records supporting the refund request for a period not less than four (4) years as provided for in KRS 139.720. The department

may audit the records of all parties involved as necessary to verify the refund request and to ensure compliance.

Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

- (1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;
- (2) At a Kentucky Taxpayer Service Center during business hours; or
- (3) On the department website at <http://revenue.ky.gov>.

(38 Ky.R. 2107; 39 Ky.R. 458; eff. 10-5-2012; 44 Ky.R. 1110, 1500; eff. 2-2-2018; Crt eff. 6-7-2019.)