

103 KAR 31:190. Alternative fuel, gasification, and renewable energy facility refunds on construction costs.

RELATES TO: KRS 139.517, 139.720, 154.27-010, 154.27-070

STATUTORY AUTHORITY: KRS 131.130(1), 139.517(4)(d), 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 taxes. KRS 139.517 establishes the sales tax incentive for alternative fuel, gasification and renewable energy facilities. This administrative regulation establishes requirements for a sales and use tax refund relating to the construction, retrofit, or upgrade of an alternative fuel, gasification, or renewable energy facility.

Section 1. Definitions.

- (1) "Activation date" is defined in KRS 154.27-010(1).
- (2) "Alternative fuel facility" is defined by KRS 154.27-010(3).
- (3) "Approved company" is defined in KRS 154.27-010(5).
- (4) "Authority" is defined in KRS 154.27-010(6).
- (5) "Construction period" is defined in KRS 154.27-010(14).
- (6) "Eligible project" is defined in KRS 154.27-010(16).
- (7) "Facility" is defined in KRS 154.27-010(20).
- (8) "Gasification facility" is defined in KRS 154.27-010(22).
- (9) "Renewable energy facility" is defined in KRS 154.27-010(26).
- (10) "Retrofit" is defined in KRS 154.27-010(28).
- (11) "Upgrade" is defined in KRS 154.27-010(32).

Section 2. Refund Application Requirements.

- (1) The approved company shall file requests for refunds with the Department of Revenue annually within the sixty (60) day deadlines provided for in KRS 139.517(4) and according to the activation date requirements of KRS 154.27-070.
- (2) Refund requests shall be postmarked, electronically submitted, or if delivered by messenger, hand-stamped by the department by the date required to qualify for consideration and shall include the following:
 - (a) Application for Kentucky Alternative Fuel, Gasification, and Renewable Energy Facility Sales and Use Tax Refund, Form 51A301;
 - (b) Information Sharing and Assignment Agreement for Designated Refund Claims, Form 51A290. This agreement shall be completed and signed by the approved company, the subcontractor or contractor (purchaser), and the vendor as applicable;
 - (c) Expenditure Report for Alternative Fuel, Gasification, and Renewable Energy Facility Refunds, Form 51A302, from each purchaser detailing all tangible personal property used in the construction, retrofitting, or upgrading of an eligible project and the total corresponding Kentucky sales and use tax paid; and
 - (d) Sample invoices between each purchaser and vendor.
- (3) Failure to file the request for a refund within the sixty (60) day deadlines shall result in the forfeiture of the refund for that year and the amount forfeited shall not be subject to a refund request for any subsequent years.

Section 3. Record-keeping Requirements. The approved company shall keep adequate and complete records supporting its refund request for periods 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 with KRS 139.517.

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) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>.

(35 Ky.R. 1952; 2005; eff. 4-3-2009; TAm 6-22-2016; 44 Ky.R. 777; eff. 1-5-2018; Crt eff. 6-7-2019.)