

103 KAR 31:200. Energy efficiency projects.

RELATES TO: KRS 139.010, 139.518, 139.720

STATUTORY AUTHORITY: KRS 131.130, 139.710

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) requires 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 139.518 establishes the sales and use tax refund provisions for energy efficiency products used at manufacturing plants. This administrative regulation establishes requirements for a sales and use tax refund relating to an energy efficiency project.

Section 1. Definitions.

- (1) "Energy efficiency project" is defined by KRS 139.518(1).
- (2) "Manufacturing" is defined by KRS 139.010(20).
- (3) "Plant facility" is defined by KRS 139.010(28).

Section 2. Efficiency Requirements. To determine if an energy efficiency project reduces the consumption of energy or energy-producing fuels in the manufacturing process at a plant facility in this state by at least fifteen (15) percent, the manufacturer shall:

- (1) Determine the total energy or energy-producing fuels consumed within all combined manufacturing at one (1) plant facility during the twelve (12) month period immediately after the new or replacement machinery or equipment is placed in service;
- (2) Subtract the total energy or energy-producing fuels amounts determined in subsection (1) from the total energy or energy-producing fuels amounts submitted with the application for preapproval as required in KRS 139.518(4); and
- (3) Divide any reduction in energy or energy-producing fuels calculated in subsection (2) by the total amount of energy or energy-producing fuels consumed within all combined manufacturing at the single plant facility submitted with the application for preapproval as required in KRS 139.518(4).

Section 3. Refund Application Requirements.

- (1) The applicant shall file a completed Application for Preapproval for Energy Efficiency Machinery or Equipment, Form 51A300, with the Department of Revenue along with energy and energy producing fuel consumption and units of production documentation within the timeframe required under KRS 139.518(4).
- (2) Requests for the sales and use tax incentive shall be filed within the timeframe required by KRS 139.518(6)(a). The following completed documentation demonstrating achievement of the fifteen (15) percent energy efficiency threshold shall be submitted:
 - (a) Application for Energy Efficiency Machinery or Equipment Sales and Use Tax Incentive, Form 51A351;
 - (b) Information Sharing and Assignment Agreement for Energy Efficiency Project Incentive, Form 51A350. This agreement shall be completed and signed by the manufacturer, the vendor, and the contractor as applicable; and
 - (c) Purchase invoices for the machinery and equipment for which a refund is being requested.
- (3) To be considered valid, all applications and other documents required shall be post-marked, electronically submitted, or if delivered by messenger, hand-stamped by the department by the date required.
- (4) The applicant 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 part or all of the records of all parties involved as necessary to verify the refund request and to ensure compliance with KRS 139.518.

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 40601;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8:00 a.m. to 4:30 p.m.;

or

(3) The department Web site at

(35 Ky.R. 452; 777; eff. 10-31-2008; 44 Ky.R.778, 1212; eff. 1-5-2018; Crt eff. 1-28-2020; 46 Ky.R. 1599, 2226; eff. 5-5-2020.)

<http://revenue.ky.gov>.