

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 27:030. Brokers, lienors and fiduciaries.

RELATES TO: KRS 139.010, 139.200

STATUTORY AUTHORITY: KRS 131.130(1)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate regulations for the administration of all tax laws. This administrative regulation interprets the sales and use tax law as it applies to sales by brokers, lienors, and fiduciaries.

Section 1. Brokers such as food or produce brokers, grain brokers, lumber brokers, and other brokers not having possession of tangible personal property for sale ~~shall be~~ not be retailers. Marketplace providers defined in KRS 139.010 shall not be considered brokers under this administrative regulation.

Section 2. Pawnbrokers selling tangible personal property ~~shall be~~ retailers and shall report and pay the tax on the gross receipts from the sale of ~~the~~ property. The sale of property forfeited to them by reason of the pawner's failure to redeem shall be included in the gross receipts.

Section 3. Lienors such as storage operators, mechanics, artisans, and others selling tangible personal property to enforce a lien thereon ~~shall be~~ retailers with respect to sales of the property to consumers and the tax ~~shall apply~~ to the gross receipts from ~~the~~ sales.

Section 4. Fiduciaries having possession of tangible personal property for the purpose of sale ~~shall be~~ retailers with respect to sales of the property to consumers and the tax ~~shall apply~~ to the gross receipts from ~~the~~ sales.

THOMAS B. MILLER, COMMISSIONER

PUBLIC HEARING AND COMMENT PERIOD: A public comment on this administrative regulation shall be held on August 26, 2026, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris, **Phone:** (502) 564-0424, **Email:** DORTAXPOLICY@ky.gov

Subject Headings: Finance and Administration; Taxation; Retail and Sales

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation amends 103 KAR 27:030 to exclude from the definition of brokers those entities operating under the definition of marketplace providers as defined in KRS 139.010 and makes amendments to be compliance with KRS Chapter 13A.

(b) The necessity of this administrative regulation:

This amendment clarifies the 2019 change to 139.010 that includes qualifying marketplace providers in the category of retailers.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 131.130(1) grants the Department of Revenue the authority to promulgate administrative regulations it deems necessary for the administration of Kentucky's tax laws.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

See (1)(b).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

See (1)(a).

(b) The necessity of the amendment to this administrative regulation:

See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes:

See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes:

See (1)(d) for how the amendment will assist in the effective administration of the statutes.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Any taxpayer or taxpayer representative seeking guidance on the proper sales tax treatment of brokers, lienors, or fiduciaries will find appropriate guidance in this regulation.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

There are no actions required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

There are no costs associated with this change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Taxpayers and taxpayer representatives will be able to locate current guidance regarding the treatment of marketplace providers.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no additional costs anticipated with this amendment. Current staff and budgeted funding will absorb any cost associated with implementation.

(b) On a continuing basis:

The Department of Revenue should not incur additional costs on an ongoing basis due to this amendment.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Current budgeted funding for the Department of Revenue will be used to implement and enforce this amendment to the regulation.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

This amendment does not establish any fees.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This amendment does not directly or indirectly increase any fees.

(10) TIERING: Is tiering applied?

Tiering is not applied. The updating of this administrative regulation will impact all affected taxpayers equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 131.130(1)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

KRS 131.130(1) allows the Department to promulgate regulations for administration of Kentucky tax laws.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Department of Revenue is the promulgating agency and the only agency impacted by this administrative regulation.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

The amendment to this administrative regulation will not impact local entities.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

The amendment to this administrative regulation is not anticipated to impact regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

The Department does not anticipate that the amendment to this regulation will have a fiscal impact.

(b) Methodology and resources used to reach this conclusion:

This amendment removes marketplace providers from the definition of brokers due to a statutory change.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

The amendment to this administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion:

This amendment updates language to comply with a statutory change.