

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 28:051. Leases and rentals.

RELATES TO: KRS 138.460, 138.463, 139.010, 139.105, 139.200, 139.210, 139.270, 139.280, 139.290, 139.310, 139.330, 139.340, 139.430, 139.471, 139.484, 139.600, 139.620
STATUTORY AUTHORITY: KRS 131.130(1), 139.710

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to make administrative regulations for the administration and enforcement of all tax laws in this state, and KRS 139.710 requires the department to administer the provisions of KRS Chapter 139, regarding sales and use taxes. This administrative regulation sets forth requirements for leases and rentals of tangible personal property or digital property relating to the sales and use tax law.

Section 1. Definitions.

- (1) "Department" is defined by KRS 139.010(6).
- (2) "Extended warranty services" is defined by KRS 139.010(15).
- (3) ~~{(1)}~~ "Primary property location" means the location as indicated by an address for the property provided by the lessee that is available to the lessor from the lessor's records maintained in the ordinary course of business, if use of this address does not constitute bad faith. This location shall not be altered by intermittent use of the property at different locations.
- (4) ~~{(2)}~~ "Transportation equipment" means any of the following:
 - (a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;
 - (b) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:
 1. Registered through the International Registration Plan; and
 2. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;
 - (c) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; and
 - (d) Containers designed for use on and component parts attached or secured on the items set forth in paragraphs (a) through (c) of this subsection.~~[section.]~~

Section 2. Registrants.

- (1) A person engaged in leasing or renting tangible personal property or digital property for use in Kentucky shall be ~~is~~ a retailer and shall:
 - (a) Complete a "Kentucky Tax Registration Application", Revenue Form 10A100; and
 - (b) Report and pay the applicable tax derived from the gross lease or rental receipts utilizing the "Sales and Use Tax Return", Revenue Form 51A102.
- (2) Each period for which a lease or rental is payable shall be considered a complete transaction in determining a retailer responsible for the tax pursuant to ~~in accordance with~~ KRS 139.010.

Section 3. Gross Receipts.

- ~~{(1)}~~ Gross receipts from the lease or rental of tangible personal property or digital property shall include:

- (1) ~~[(a)]~~ The total amount of payments, or consideration received by the lessor from the lessee;
 - (2) ~~[(b)]~~ Payments paid by the lessee to a third party for the benefit of the lessor which are required by the terms of the agreement; ~~[and]~~
 - (3) ~~[(c)]~~ All itemized charges for costs incurred by the lessor and passed on to the lessee as separate charges in the lease or rental agreement including finance or interest charges, property tax, and insurance charges; ~~and~~ ~~[.]~~
 - (4) Charges for extended warranty services if included as part of the lease agreement or sold separately.
- ~~[(2)] [Charges by a lessor to a lessee for a separately executed maintenance agreement, which is not a part of the lease or rental agreement, shall not be subject to tax.]~~

Section 4. Tax Responsibility.

- (1) The retailer or lessor ~~[retailer/lessor]~~ leasing or renting tangible personal property or digital property within Kentucky shall be required to collect the sales tax from the customer or lessee ~~[customer/lessee]~~.
- (2) Every out-of-state retailer leasing or renting tangible personal property or digital property for storage, use, or other consumption in this state shall be required to collect the use tax from the purchaser and remit the tax on gross lease or rental receipts to the department ~~[Department of Revenue]~~.
- (3) The lessee's responsibility for the use tax shall not be relieved until payment of the amount due has been made to the department ~~[Department of Revenue]~~ or to a retailer or lessor ~~[retailer/lessor]~~ authorized to collect the Kentucky tax.

Section 5. Resale.

- (1) A lessor may claim a resale exemption for tangible personal property or digital property purchased exclusively for lease or rental.
- (2) Parts and accessories purchased by the lessor which become part of the leased or rented property may also be purchased under a resale exemption. However, property purchased by a lessee to maintain leased or rented property of a lessor shall be subject to the sales and use tax.
- (3) Tangible personal property or digital property purchased for resale without payment of the tax and to be utilized exclusively for lease or rental, and so used, but subsequently used by the retailer or lessor ~~[retailer/lessor]~~ for some purpose other than lease or rental shall become subject to tax upon this subsequent use. The tax shall be measured by purchase price of the property and shall be in addition to the tax due on the lease or rental receipts.
- (4) Tangible personal property or digital property purchased in part for lease or rental and in part for use shall not be purchased from a seller or retailer under a resale exemption and shall be subject to tax.
- (5) A retailer who purchases tangible personal property or digital property for outright sale, but, while holding the property in the retailer's inventory, makes use of the property in the retailer's business through lease or rental shall be responsible for the applicable tax to the lease or rental receipts.
- (6) Tangible personal property or digital property purchased by a retailer engaged exclusively in leasing or renting the property may be eligible for a deduction from the retailer's gross lease or rental receipts for an amount equal to the purchase price of the property used exclusively for lease or rental if the retailer has paid the sales or use tax applicable to the purchase price of the property.

Section 6. Lease with an Exemption Certificate. A lessor of tangible personal property or digital property shall not include within the measure of the tax gross receipts from a lease or rental if the lessor takes from the lessee a fully completed certificate of exemption as

evidence that the property leased will be used in an exempt manner under the sales and use tax law.

Section 7. Motor Vehicles.

(1) The lease or rental of motor vehicles, which are for use on the public highways and upon which any applicable tax levied under KRS 138.460 or KRS 138.463 has been paid, shall not be subject to the sales or use tax.

(2) Motor vehicles, which are not subject to the motor vehicle usage tax established in KRS 138.460 or the U-Drive-It tax, established in KRS 138.463, shall be subject to the sales and use tax unless another applicable exemption applies.

Section 8. Reciprocity.

(1) The sales and use tax law shall provide for credit against any Kentucky use tax for state sales tax paid in another state which imposes a sales tax substantially identical to that of Kentucky.

(2) Out-of-state lessors who have collected sales tax on a lump-sum basis for their state shall be able to receive credit for the amount paid to that other state up to the amount due to Kentucky.

(3) Kentucky shall tax any excess lease or rentals, relating to the lump-sum tax amounts.

(4) Reciprocity shall apply to any tax due to Kentucky on lease or rental receipts only if the reciprocal state has levied and is legally due the sales or use tax paid on the lease or rental receipts.

Section 9. Lease of Real, Tangible, Digital and Intangible Property.

(1) If lease or rental activity involves the lease or rental of real property, in combination with tangible personal property, digital property or intangible property, as in the lease or rental of a business operation or establishment, the total amount of the lease or rental shall be subject to the sales and use tax unless the amount applicable to the tangible personal property or digital property is separately stated.

(2) The amount separately stated for the tangible personal property and digital property shall not be less than the fair market lease or rental value for like property for a like rental or lease period.

(3) The lease or rental of tangible personal property and digital property between separate entities owned by the same or similar stockholders shall be subject to the tax unless otherwise exempted by the sales and use tax law.

(4) The tax shall be levied on the lease or rental amount charged or the fair market lease or rental amount, whichever is greater.

Section 10. General Sourcing Rules.

(1) The lease or rental of tangible personal property or digital property, other than property identified in subsection (5) of this section, shall be sourced pursuant to ~~to~~ ~~according to the provisions of~~ KRS 139.105(1).

(2) For a lease or rental that requires recurring periodic payments, the first periodic payment shall be sourced as follows pursuant to ~~to~~ ~~according to the provisions of~~ KRS 139.105(1). Periodic payments made subsequent to the first payment shall be sourced to the primary property location for each period covered by the payment. The primary property location shall not be altered by intermittent use at different locations. Intermittent use shall include business property that accompanies employees on business trips and service calls.

(3) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced the same as a retail sale pursuant to ~~in accordance with the provisions of~~ KRS 139.105(1).

(4) This subsection shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of

property for lease.

(5) The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, each periodic payment shall be sourced to the primary property location.

(b) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced ~~pursuant to~~~~[in accordance with the provisions of]~~ KRS 139.105(1).

(c) This subsection shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Section 11. Forms. The forms listed within this administrative regulation may be inspected, copied, or obtained, subject to applicable copyright law:

(1) At the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) At a Kentucky Taxpayer Service Center; or

(3) On the ~~department's~~~~[department]~~ Web site at <http://revenue.ky.gov>.

103 KAR 28:051

THOMAS B. MILLER, COMMISSIONER

APPROVED BY AGENCY: June 2, 2026

FILED WITH LRC: June 2, 2026 at 3:15 p.m.

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 28:051 to clarify that charges for extended warranty services as defined in KRS 139.010, whether sold as part of a lease agreement or sold separately, are now subject to sales and use tax. Amendments also include minor changes to make this administrative regulation compliant with KRS Chapter 13A.

(b) The necessity of this administrative regulation:

It clarifies the 2018 change to KRS 139.200 that adds extended warranty service charges to the sales tax base.

(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 extended warranty services related to rentals and leases 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:

The provider of extended warranty services as a part of a rental or lease will need to charge sales and use tax on their receipts. This has been the case since July 1, 2018.

(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 extended warranty charges related to leases and rentals.

(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 associated 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) authorizes the department to promulgate regulations for the 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 clarifies the current treatment of extended warranty services for rentals and leases for sales tax purposes.

(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 clarifies the sales tax treatment of extended warranty charges as they are currently enforced.