**FINANCE AND ADMINISTRATION CABINET**

**Department of Revenue**

**(Amendment)**

**103 KAR 41:090. Evidence of tax payment.**

RELATES TO: KRS 138.146

STATUTORY AUTHORITY: KRS 131.130(1)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130 authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of Kentucky tax laws. This administrative regulation interprets KRS 138.146 and outlines requirements of the Department of Revenue for affixing evidence of cigarette tax payment.

Section 1. Payment of cigarette tax shall be evidenced by [~~either~~ ]the affixing of a decal stamp [~~or a metered impression~~ ]to each individual package of cigarettes.

Section 2. The decal stamps shall be printed, manufactured, and distributed exclusively by the authority of the Department of Revenue or its appointed agents. The stamps may [~~can~~ ]be affixed either by manual or mechanical application. The privilege of using a machine for affixing decal stamps shall [~~must~~ ]be secured from the Department of Revenue in advance of use. The application shall [~~must~~ ]be filed, in writing, by the party desiring to use this method of affixing tax evidence.

Section 3. [~~The use of any type of metering device, affixing tax evidence by the application of an impression, shall be subject to the approval of the Department of Revenue. The person affixing the tax evidence shall declare in writing to the Department of Revenue his intentions of using this method of stamping, and request permission to purchase the required tax units from the department or its appointed agents. The setting and sealing of any tax meter register shall be performed exclusively by authorized employees or agents of the department. The privilege of using the metering device shall be withdrawn from any party failing to affix tax impressions in a manner satisfactory to the Department of Revenue.~~]

[~~Section 4.~~] The decal stamp [~~or metered impression~~ ]shall be affixed to either the top or bottom edge of all standard packages of twenty (20) cigarettes in [~~such~~ ]a manner that the tax evidence will be visible when the packages are displayed for sale by the retailer. On packages containing more or less than twenty (20) cigarettes, the tax evidence shall be affixed to any part of the outer wrapping affording ample space and providing for a ready inspection by agents of the department.

*103 KAR 41.090*
*THOMAS B. MILLER, Commissioner*

APPROVED BY AGENCY: July 7, 2026

FILED WITH LRC: July 9, 2026 at 3:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public comment on this administrative regulation shall be held on September 23, 2026, at 10:00 a.m. ET/9:00 a.m. CT 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 September 30, 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; Tobacco**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**
This administrative regulation clarifies the acceptable form and placement of the prima facie cigarette tax evidence required under KRS 138.146(3).

**(b) The necessity of this administrative regulation:**
This regulation is necessary to clarify the prima facie cigarette evidence form and proper method affixation.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**
KRS 131.130 allows the Department to promulgate administrative regulations for the administration of all Kentucky tax laws.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**
See 1(a).

**(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:**
This amendment removes an unacceptable form/method for the required prima facie cigarette tax evidence. The language removed is no longer utilized for the required prima facie cigarette tax evidence.

**(b) The necessity of the amendment to this administrative regulation:**
See 2(a).

**(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).

**(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:**
60 licensees who affix prima cigarette tax evidence.

**(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 will be no impact to tobacco licensees. No change in current business practices is necessary since this amendment is solely removing outdated language.

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

The Department does not anticipate additional costs to be incurred. No additional cost will be incurred.

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

This amendment provides clearer guidance on the acceptable form/method of affixing the required prima facie cigarette tax evidence.

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

**(a) Initially:**

**(b) On a continuing basis:**

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

Any costs would be absorbed in the current budget.

**(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:**

No fees are included in this administrative regulation.

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

No fees are included in this administrative regulation.

**(10) TIERING: Is tiering applied?**

{Explain why or why not} Tiering is not applied because this guidance applies to all licensees affixing the required prima facie cigarette tax evidence.

## 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, KRS 138.146, and 138.195

**(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 permits the Department to promulgate administrative regulations for the administration of all tax laws.

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

This amendment does not impact other state agencies.

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

**1. Expenditures:**

**For the first year:No additional expenditures are anticipated.**

**For subsequent years:No additional expenditures are anticipated.**

**2. Revenues:**

**For the first year:No additional revenues are anticipated.**

**For subsequent years:No additional revenues are anticipated.**

**3. Cost Savings:**

**For the first year:No cost savings are anticipated.**

**For subsequent years:No cost savings are anticipated.**

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

The amendment to this administrative regulation should not impact local agencies.

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

**1. Expenditures:**

**For the first year:No additional expenditures are anticipated.**

**For subsequent years:No additional expenditures are anticipated.**

**2. Revenues:**

**For the first year:No additional revenues are anticipated.**

**For subsequent years:No additional revenues are anticipated.**

**3. Cost Savings:**

**For the first year:No cost savings are anticipated.**

**For subsequent years:No cost savings are anticipated.**

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

This administrative regulation impacts licensees who affix prima cigarette tax evidence.

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

1. **Expenditures:**

   **For the first year:No additional expenditures are anticipated.**

   **For subsequent years:No additional expenditures are anticipated.**

2. **Revenues:**

   **For the first year:No additional revenues are anticipated.**

   **For subsequent years:No additional revenues are anticipated.**

3. **Cost Savings:**

   **For the first year:No cost savings are anticipated.**

   **For subsequent years:No cost savings are anticipated.**

**(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:**
There is no fiscal impact anticipated.

**(b) Methodology and resources used to reach this conclusion:**
This amendment removes outdated language that is not currently in practice.

**(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):**
There is no major economic impact anticipated with this amendment.

**(b) The methodology and resources used to reach this conclusion:**
This amendment removes outdated language that is not currently in practice.