

103 KAR 25:050. Factors and agents.

RELATES TO: KRS 139.010, 139.200, 139.310, 139.340

STATUTORY AUTHORITY: KRS 131.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of Kentucky tax laws. This administrative regulation interprets the sales and use tax law as it applies to transactions involving factors and agents.

Section 1. Definitions.

- (1) "Factors" and "agents" means persons, excluding marketplace providers, to whom products are consigned, entrusted, or delivered by a principal owner for the purpose of selling.
- (2) "Marketplace providers" is defined by KRS 139.010.
- (3) "Principal owner" means a person who has the primary and ultimate ownership of the products for sale.
- (4) "Products" means tangible personal property, digital property, and services subject to sales tax according to the provisions of KRS 139.200.

Section 2. Factors and Agents are Retailers.

(1) Factors and agents shall:

- (a) Be considered the retailers of products sold;
- (b) Include the retail-selling price of the products in their gross receipts; and
- (c) Be liable for the sales and use tax thereon unless the principal owner:
 1. Holds a retail permit under KRS Chapter 139;
 2. Reports the retail-selling price of the products in its gross receipts; and
 3. Remits the sales and use tax thereon.

(2) The delivery in this state of products by a factor or agent of a principal owner that is a retailer not doing business in this state as provided in KRS 139.340 shall be considered a retail sale by the factor or agent. The factor or agent shall include the retail-selling price of the products in their gross receipts and shall be liable for the sales and use tax thereon except under the principal owner stipulations provided in subsection (1) of this section.

(SU-36; 1 Ky.R. 144; eff. 12-11-1974; TAm eff. 5-20-2009; TAm eff. 6-22-2016; Crt eff. 1-28-2020; 46 Ky.R. 1277; 2023; eff. 4-1-2020.)