139.260 Presumption that all gross receipts and tangible personal property, digital property, and services sold for delivery in this state are taxable -- Burden of proof. (Effective until August 1, 2026)

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

(1) (a) Except as provided in paragraph (b) of this subsection, tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:

1. Purchased for resale according to the provisions of KRS 139.270;
2. Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
3. Purchased according to administrative regulations promulgated by the department governing a direct pay authorization; or

(b) Tangible personal property to a purchaser claiming an agriculture exemption under KRS 139.480(4) to (9), (11), (13) to (15), (23) to (30), or (33) unless the person obtains from the purchaser an agriculture exemption license number or a fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption that contains an agriculture exemption license number in accordance with KRS 139.270;

(2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

(3) A service included in KRS 139.200(2)(g) to (ax) unless the person takes from the purchaser a certificate to the effect that the service is:

(a) Purchased for resale according to KRS 139.270;

(b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or

(c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.

Effective: March 24, 2023

History: Amended 2023 Ky. Acts ch. 92, sec. 9, effective March 24, 2023. -- Amended 2022 Ky. Acts ch. 58, sec. 2, effective March 30, 2022; and ch. 212, sec. 5, effective January 1, 2023. -- Amended 2020 Ky. Acts ch. 91, sec. 6, effective April 15, 2020. -- Amended 2019 Ky. Acts ch. 151, sec. 21, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 171, sec. 39, effective April 14, 2018; and ch. 207, sec. 39, effective April 27, 2018. -- Amended 2011 Ky. Acts ch. 33, sec. 3, effective July 1, 2011. -- Amended 2009 Ky. Acts ch. 73, sec. 7, effective July 1 2009. -- Amended 2007 Ky. Acts ch. 141, sec. 19, effective July 1, 2007. -- Amended 2005 Ky. Acts ch. 85, sec. 413, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 124, sec. 13,

effective July 1, 2004. -- Amended 1988 Ky. Acts ch. 135, sec. 1, effective July 15, 1988. -- Created 1960 Ky. Acts ch. 5, Art. I, sec. 26, effective February 5, 1960.

Legislative Research Commission Note (3/24/2023). 2023 Ky. Acts ch. 92, sec. 57, provides that the amendments to this statute in that Act apply retroactively to January 1, 2023, and notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to those amendments.

Legislative Research Commission Note (6/27/2019). Section 82 of 2019 Ky. Acts ch. 151 states that the amendments to this statute made in Section 21 of that Act apply to transactions occurring on or after July 1, 2019.

Legislative Research Commission Note (4/27/2018). Pursuant to 2018 Ky. Acts ch. 207, sec. 152, the amendments made to this statute in that Act apply to transactions occurring on or after July 1, 2018.