

139.499 Exemption for certain data center equipment.

- (1) As used in this section:
- (a)
 1. "Approved company";
 2. "Authority";
 3. "Data center equipment";
 4. "Eligible costs";
 5. "Memorandum of agreement";
 6. "Preliminarily approved company";
 7. "Qualified data center project"; and
 8. "Term";have the same meaning as in KRS 154.20-220;
 - (b) "Certificate of exemption" means a completed form provided by the department stating at least:
 1. The name, address, and federal employer identification number of the approved company or preliminarily approved company;
 2. That the approved company or preliminarily approved company is exempt from sales and use tax on data center equipment purchased for use in a qualified data center project in the Commonwealth; and
 3. The date of expiration based on the term of the memorandum of agreement; and
 - (c) "Fiscal year" means a period beginning on July 1 and continuing until the following June 30.
- (2) The taxes imposed by this chapter shall not apply to the sale, purchase, use, storage, consumption, installation, repair, and replacement of data center equipment to or by a preliminarily approved company or an approved company in accordance with the memorandum of agreement with the preliminarily approved company or the approved company as provided in subsection (4) of this section.
- (3) (a) The exemption provided in subsection (2) of this section shall apply whether or not the seller is under contract to deliver, assemble, and incorporate the data center equipment into real estate for the qualified data center project.
- (b) An approved company or preliminarily approved company may provide the seller the certificate of exemption issued by the department to claim the exemption. The certificate may be executed by either:
1. An approved company or preliminarily approved company; or
 2. Jointly by a contractor and an approved company or preliminarily approved company in any case in which a contractor under contract with the approved company or preliminarily approved company purchases the data center equipment.
- (4) Upon notification that the authority has executed a memorandum of agreement with a preliminarily approved company, the department shall issue a certificate of exemption to the preliminarily approved company or the approved company.

- (5) (a) Upon notification that the authority has terminated the sales and use tax exemptions available to the preliminarily approved company or the approved company as provided in KRS 154.20-229, the department shall issue a notice of assessment to the approved company or preliminarily approved company.
- (b) The aggregate amount of sales and use tax recovered shall not exceed the sum of the aggregate value of tax not paid as a result of the tax exemption under this section together with interest required under KRS Chapter 131.
- (c) If the notice of assessment is issued to:
 - 1. A preliminarily approved company, notwithstanding KRS 139.620, the notice of assessment under paragraph (b) of this subsection shall be considered timely if the department issues the notice of assessment the later of:
 - a. One hundred eighty (180) days from the date the department is notified by the authority related to termination of the memorandum of agreement; or
 - b. The date on which a notice of assessment could otherwise be issued in a timely manner under KRS 139.620;
 - 2. An approved company, the notice of assessment shall be assessed on the open periods and subject to KRS 139.620; and
 - 3. A subsequent owner under KRS 154.20-229(8)(b)1., the notice of assessment shall include the tax assumed by the subsequent owner and the open periods for assessment shall be determined under subparagraphs 1. and 2. of this paragraph and depend solely on whether the subsequent owner is a preliminarily approved company or an approved company.
- (6) Beginning September 1, 2025, and on or before September 1 for each year thereafter, a preliminarily approved company shall report to the department annually:
 - (a) The name, address, and any other identifying information the department may require for the qualified data center project;
 - (b) The county in which the qualified data center project is located; and
 - (c) An itemized schedule of qualified data center equipment purchased during the fiscal year and the applicable sales and use tax that was not paid as a result of the sales and use tax exemption, including verification and certification by an independent third party unrelated to the preliminarily approved company.
- (7) Beginning November 1, 2025, and on or before November 1 of each year thereafter, the department shall report to the authority and the Interim Joint Committee on Appropriations and Revenue the data reported for data center project under subsection (6) of this section.
- (8) All information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

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History: Created 2024 Ky. Acts ch. 166, sec. 42, effective July 15, 2024.