

139.4802 Restriction on notice or instruction to collect or remit sales and use tax on the sale, use, storage, or other consumption of currency or bullion currency -- Refund of tax paid -- Cause of action -- Damages -- Waiver of immunity. (Effective until July 15, 2026)

- (1) (a) On or after March 27, 2025, a violation shall occur when an official notice published by the secretary of the Finance and Administration Cabinet or the commissioner of the department instructs that taxpayers should continue to collect and remit sales and use tax on the sale, use, storage, or other consumption of currency or bullion currency under this chapter.
- (b) Any notice or instruction, published at any time, that states that on or after August 1, 2024, the sale, use, storage, or other consumption of currency or bullion currency under this chapter is taxable is void and unenforceable.
- (2) Notwithstanding KRS 49.220 and 139.770, on and after August 1, 2024, any person who paid sales tax under KRS 139.200 or use tax under KRS 139.310 on currency or bullion currency that is exempt from sales and use tax under KRS 139.480(37) may maintain an action for a refund of the tax paid, as an individual or by seeking certification as a class under Rule 23 of the Kentucky Rules of Civil Procedure, for a refund on behalf of the person and other persons similarly situated against the Commonwealth.
- (3) An action for a refund pursuant to subsection (2) of this section, or alleging a violation under subsection (1) of this section, may be brought in the Circuit Court of any county where the named plaintiff resides or where the currency or bullion currency transaction took place.
- (4) In addition to a refund of the sales or use tax, persons seeking a refund pursuant to subsection (2) of this section or alleging a violation under subsection (1) of this section who prevail shall be entitled to:
 - (a) Prejudgment and post-judgment interest;
 - (b) Temporary or permanent injunctive relief;
 - (c) Reasonable attorney's fees and costs; and
 - (d) For allegations of a violation under subsection (1) of this section, liquidated damages of one thousand dollars (\$1,000) for each day that the violation occurred, which shall be paid from the administrative budget of the Finance and Administration Cabinet, the department, or the Office of the Governor.
- (5) It is the intent of the General Assembly to waive sovereign, governmental, and qualified immunity for claims under this section, including immunity afforded to the Commonwealth pursuant to the Eleventh Amendment to the Constitution of the United States.
- (6) Any person who directs, instructs, or causes a violation of any provision of this section shall be personally, jointly, and severally liable for any awarded damages.

Effective: March 27, 2025

History: Created 2025 Ky. Acts ch. 100, sec. 1, effective March 27, 2025.

Legislative Research Commission Note (3/27/2025). 2025 Ky. Acts ch. 100, sec. 2, provides that subsection (2) of this statute shall be retroactive to August 1, 2024.