

1 AN ACT to relating to the collection and remittance of use tax by remote sellers.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 139.340 is amended to read as follows:

4 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
5 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
6 give to the purchaser a receipt therefor in the manner and form prescribed by the
7 department. The taxes collected or required to be collected by the retailer under this
8 section shall be deemed to be held in trust for and on account of the
9 Commonwealth.

10 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section
11 includes any of the following:

12 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
13 directly or indirectly, or through a subsidiary or any other related entity,
14 representative, or agent, by whatever name called, an office, place of
15 distribution, sales or sample room or place, warehouse or storage place, or
16 other place of business. Property owned by a person who has contracted with a
17 printer for printing, which consists of the final printed product, property which
18 becomes a part of the final printed product, or copy from which the printed
19 product is produced, and which is located at the premises of the printer, shall
20 not be deemed to be an office, place of distribution, sales or sample room or
21 place, warehouse or storage place, or other place of business maintained,
22 occupied, or used by the person;

23 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
24 operating in this state under the authority of the retailer or its subsidiary for
25 the purpose of selling, delivering, or the taking of orders for any tangible
26 personal property or digital property. An unrelated printer with which a person
27 has contracted for printing shall not be deemed to be a representative, agent,

1 salesman, canvasser, or solicitor for the person;

2 (c) Any retailer soliciting orders for tangible personal property or digital property
3 from residents of this state on a continuous, regular, or systematic basis in
4 which the solicitation of the order, placement of the order by the customer or
5 the payment for the order utilizes the services of any financial institution,
6 telecommunication system, radio or television station, cable television service,
7 print media, or other facility or service located in this state;

8 (d) Any retailer deriving receipts from the lease or rental of tangible personal
9 property situated in this state;

10 (e) Any retailer soliciting orders for tangible personal property or digital property
11 from residents of this state on a continuous, regular, systematic basis if the
12 retailer benefits from an agent or representative operating in this state under
13 the authority of the retailer to repair or service tangible personal property or
14 digital property sold by the retailer;~~[-or-]~~

15 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
16 either full-time or part-time, if the representative performs any activities that
17 help establish or maintain a marketplace for the retailer, including receiving or
18 exchanging returned merchandise; or

19 (g) Any retailer selling tangible personal property or digital property delivered
20 or transferred electronically to a purchaser in this state if:

21 1. The retailer sold tangible personal property or digital property that
22 was delivered or transferred electronically to a purchaser in this state
23 in two hundred (200) or more separate transactions in the previous
24 calendar year or the current calendar year; or

25 2. The retailer's gross receipts derived from the sale of tangible personal
26 property or digital property delivered or transferred electronically to a
27 purchaser in this state in the previous calendar year or current

1 *calendar year exceeds one hundred thousand dollars (\$100,000).*

2 ➔ Section 2. This Act takes effect August 1, 2018.