

### **103 KAR 30:235. Sales to the federal government.**

RELATES TO: KRS 139.010, 139.200, 139.260, 139.270, 139.310, 139.330, 139.470, 139.720, 139.990

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations to administer and enforce Kentucky's tax laws. This administrative regulation establishes requirements for application of the sales tax to transactions involving the federal government.

Section 1. The term "federal government" as used in this administrative regulation shall mean federal agencies, instrumentalities, or corporations which are exempt from all state taxation under the Federal Constitution or statutes, and shall not include an agency, corporation or instrumentality that is simply regulated by or receives funds or grants from the federal government.

Section 2. The exemption applies only to sales made directly to the federal government for use in the government function. Any official or employee who uses a position to make a tax-free purchase for personal use or that of any other person shall be subject to the penalties provided in KRS 139.990 and other applicable laws.

Section 3. Sellers and retailers shall include sales made directly to the federal government in the gross receipts entered on line one (1) of the retailer's Kentucky Sales and Use Tax Return (Form 51A102). Sellers or retailers may deduct these sales on line six (6) of the return. Sellers or retailers claiming a deduction for sales to the federal government shall maintain in their records a copy of the exemption authorization letter issued to the federal agency and a copy of the invoice upon which an official, or an employee exercising comparable authority, of the federal government has signed and acknowledged in writing that delivery of the property was actually made to the federal government.

Section 4. Contractors may not claim the exemption when purchasing property to be used in fulfilling contracts with the federal government. As provided by 103 KAR 26:070, sales of property to contractors for use in fulfilling contracts with the federal, state, or local governments for erecting, remodeling, or repairing structures or improvement on or to real estate are subject to tax.

Section 5. All federal government agencies seeking exemption under authority of this administrative regulation shall apply to the Division of Sales and Use Tax for a tax exemption authorization letter. The application (Form 51A125) may be obtained from the Division of Sales and Use Tax, 501 High Street, Frankfort, Kentucky 40620 or from one (1) of the department's field offices.

(3 Ky.R. 716; eff. 7-6-1977; TAm eff 6-22-2016; 44 Ky.R. 1103, 1497; eff. 2-2-2018; Crt eff. 6-7-2019.)