

601 KAR 1:146. Fair market rental or lease value of vehicles operated pursuant to a U-drive-it permit.

RELATES TO: KRS 138.462(2), (3), 138.463, 138.4631, 281.615-281.670

STATUTORY AUTHORITY: KRS 138.463(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 138.463(9) requires the fair market rental or lease value of a motor vehicle to be based on standards established by an administrative regulation promulgated by the Transportation Cabinet. This administrative regulation establishes the standards for use in determining the minimum amount of usage tax to be reported and paid on a rental or lease vehicle.

Section 1. Definitions.

- (1) "Lease" is defined by KRS 138.462(3).
- (2) "Rental" is defined by KRS 138.462(2).
- (3) "Renting" or "leasing" means a U-drive-it permit holder who:
 - (a) Rents or leases a vehicle as part of an established business to a retail customer wishing to rent or lease a vehicle; and
 - (b) Maintains the records required by 601 KAR 1:147, Section 2.
- (4) "Vehicle classification" means the motor vehicle classification system established by the National Automobile Dealers Association in its monthly NADA Official Used Car Guide.

Section 2. Fair Market Value Rental Amount of a Permit Holder.

- (1) If a U-drive-it permit holder is regularly engaged in the business of renting motor vehicles to retail customers, the Transportation Cabinet Division of Road Fund Audits shall audit the records of the permit holder to determine an average rental amount that establishes the fair market value rental amount for the permit holder.
- (2) The fair market value rental amount shall be used to assess the usage tax assessed pursuant to KRS 138.463 on an individual transaction of a U-drive-it permit holder regularly engaged in the business of renting vehicles to retail customers if:
 - (a) The transaction is for less than the fair market value of the rental of the motor vehicle; or
 - (b) The records required by 601 KAR 1:147, Section 2, for the transaction are missing or incomplete.

Section 3. Fair Market Value Established by Cabinet as Rental Amount.

- (1)
 - (a) The Transportation Cabinet Division of Road Fund Audits shall randomly select U-Drive-It permit holders regularly engaged in the business of renting vehicles to retail customers to determine the industry average fair market value rental amount for a specific vehicle classification.
 - (b) The value for a specific vehicle classification shall be the fair market value established by the cabinet as the rental amount for a specific vehicle classification.
- (2) The industry average fair market value established by the cabinet as the rental amount for a specific vehicle classification shall be used to assess the tax assessed by KRS 138.463 for the following:
 - (a) A transaction by a permit holder who is not regularly engaged in the business of renting vehicles to retail customers; or
 - (b) A vehicle used by a permit holder regularly engaged in the business of renting vehicles to retail customers who are not correctly reporting the U-drive-it usage tax on a monthly tax return.
- (3) The current industry average fair market value established by the cabinet is listed in Fair Market Value Transportation Cabinet Established Rental and Lease Amounts.

Section 4. Fair Market Value Lease Amount.

- (1) If a U-drive-it permit holder is regularly engaged in the business of leasing vehicles to retail customers, the Transportation Cabinet Division of Road Fund Audits shall audit the records of the permit holder to determine an average lease amount per \$1,000 value of the manufacturer's suggested retail price of the permit holder's lease vehicles.
- (2) The fair market value lease amount shall be used to assess the U-drive-it usage tax required by KRS 138.463 on an individual transaction of a U-drive-it permit holder regularly engaged in the business of leasing vehicles to retail customers if:
 - (a) The transaction is for less than the fair market value of the lease of the motor vehicle; or
 - (b) The records required to be maintained by 601 KAR 1:147, Section 2(2), are missing or incomplete.

Section 5. Fair Market Value Transportation Cabinet Established Lease Amount.

- (1)
 - (a) The Transportation Cabinet Division of Road Fund Audits shall survey the executed lease agreements of randomly selected U-drive-it permit holders regularly engaged in the business of leasing vehicles to retail customers to determine the industry average dollar lease amount per \$1,000 value of the manufacturer's suggested retail price of a vehicle.
 - (b) The value established as the industry average dollar lease amount per \$1,000 of the manufacturer's suggested retail price shall be the fair market value Transportation Cabinet established lease amount per \$1,000 of the manufacturer's suggested retail price.
- (2) The usage tax assessed pursuant to KRS 138.463 for a lease vehicle of a permit holder not regularly engaged in the business of leasing vehicles to retail customers shall be the greater of the following:
 - (a) The established fair market value lease amount per \$1,000 value of the manufacturer's suggested retail price of the vehicle; or
 - (b) The monthly lease amount assessed by the permit holder.
- (3) The established lease amount per \$1,000 value of the manufacturer's suggested retail price shall be listed in Fair Market Value Transportation Cabinet Established Rental And Lease Amounts.

Section 6. Incorporation by Reference.

- (1) "Fair Market Value Transportation Cabinet Established Rental And Lease Amounts", August 2012, is incorporated by reference.
 - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Division of Road Fund Audits, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, office hours are Monday through Friday, 8 a.m. to 4:30 p.m.
- (24 Ky.R. 1183; 1524; 2365; eff. 5-18-1998; 39 Ky.R. 1497; 1880; eff. 4-5-2013; Crt. eff. 2-18-2019.)