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REGULATIONS COMPILER

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

(Amendment)

103 KAR 40:035. Alcoholic beverages and cannabis-infused beverages; tax exemptions.

RELATES TO: KRS 241.010, 243.710, 243.720, 243.884

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. This administrative regulation clarifies [~~To clarify~~]the application of taxes imposed pursuant to KRS Chapter 243 to alcoholic beverage sales and cannabis-infused beverage sales to federal agencies and instrumentalities, including sales which occur on federal military reservations.

Section 1. Definitions.

(1) “Alcoholic beverage” is defined by KRS 241.010(2)

(2) “Cannabis-infused beverage” is defined by KRS 241.010(13).

Section 2. Sales of alcoholic beverages or cannabis-infused beverages to agencies and instrumentalities of the federal government, including the military, shall not be [~~are not~~]subject to the case sales tax, the gallonage tax, or the wholesale sales tax levied under KRS Chapter 243.

103 KAR 40.035

APPROVED BY AGENCY:

Thomas B. Miller

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THOMAS B. MILLER, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

07/08/2026
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public comment on this administrative regulation shall be held on September 23, 2026, at 10:00 a.m. ET/9:00 a.m. CT in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

103 KAR 40:035
Contact Person: Gary Morris
Phone: (502) 564-0424
Email: DORTAXPOLICY@ky.gov

Subject Headings: Finance and Administration; Taxation; Alcoholic beverages

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation clarifies that sales of alcoholic beverages to agencies and instrumentalities of the federal government are not subject to the case sales tax, the gallonage tax, or the wholesale sales tax.

(b) The necessity of this administrative regulation: This regulation is necessary to clarify the case sales tax, gallonage tax, and wholesale sales tax exemptions for sales of alcoholic beverages to federal agencies or instrumentalities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130 allows the Department to promulgate administrative regulations for the administration of all Kentucky tax laws.

(d) How this administrative regulation currently assists or will assist in effective administration of the statutes: See 1(a).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment will add a definition for "alcoholic beverages" and "cannabis-infused beverage" and clarify that sales of cannabis infused beverages are included in the exemption for case sales tax, gallonage tax, and wholesale sales tax when sold to federal agencies or instrumentalities.

(b) The necessity of the amendment to this administrative regulation: See 2(a).

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c).

(d) How the amendment will assist in the effective administration of the statutes: See 2(a).

(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.} Cannabis-infused beverages became taxable during the 2025 Session.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Licensees who sell cannabis-infused beverages will be required to allow this exemption. Licensees that sell cannabis-infused beverages and federal agencies or instrumentalities.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Licensees who sell cannabis-infused beverages to federal agencies or instrumentalities will be required to allow the case sales tax, gallonage tax, and wholesale sales tax exemptions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The Department does not anticipate costs associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Federal agencies or instrumentalities that purchase cannabis-infused beverages will receive an exemption from the case sales tax, gallonage tax, and wholesale sales tax.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There are no costs anticipated to implement this amendment.

(a) Initially:

(b) On a continuing basis:

(7) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Any nominal costs would be absorbed in the current budget.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no fees associated with this amendment.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this amendment.

(10) TIERING: Is tiering applied? {Explain why or why not} Tiering is not applied because the exemptions will be applied equally to all federal agencies or instrumentalities.

FISCAL IMPACT STATEMENT

103 KAR 40:035
Contact Person: Gary Morris
Phone: (502) 564-0424
Email: DORTAXPOLICY@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 131.130

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 131.130 authorizes the Department to promulgate administrative regulations for the administration of all Kentucky tax laws.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This amendment does not impact other state agencies.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures: No additional expenditures are anticipated.
   For the first year:
   For subsequent years:
2. Revenues: No additional revenues are anticipated.
   For the first year:
   For subsequent years:
3. Cost Savings: No cost savings are anticipated.
   For the first year:
   For subsequent years:

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): The amendment to this administrative regulation should not impact local agencies.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures: No additional expenditures are anticipated.
   For the first year:
   For subsequent years:
2. Revenues: No additional revenues are anticipated.
   For the first year:
   For subsequent years:
3. Cost Savings: No cost savings are anticipated.
   For the first year:
   For subsequent years:

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Licensees who sell cannabis-infused beverages will required to allow the exemptions.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures: No additional expenditures are anticipated.
    For the first year:
    For subsequent years:
2. Revenues: No additional revenues are anticipated.
    For the first year:
    For subsequent years:
3. Cost Savings: No cost savings are anticipated.
    For the first year:
    For subsequent years:

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: There is no fiscal impact anticipated.

(b) Methodology and resources used to reach this conclusion: This amendment adds a definition and clarifies that the exemption for the case sales tax, gallonage tax, and wholesale sales tax sold to federal agencies or instrumentalities also applies to cannabis-infused beverages.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): There is no major economic impact anticipated with this amendment.

(b) The methodology and resources used to reach this conclusion: This amendment adds a definition and clarifies that the exemption for the case sales tax, gallonage tax, and wholesale sales tax sold to federal agencies or instrumentalities also applies to cannabis-infused beverages.