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REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (New Administrative Regulation)

4 103 KAR 5:200. Valuation of multi-unit rental housing subject to government restriction on use.

5 RELATES TO: KRS 131.130, 132.191, 132.420, Ky. Const. §172, §174

6 STATUTORY AUTHORITY: KRS 131.130, 132.191

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department  
8 to promulgate administrative regulations necessary to administer and enforce Kentucky’s tax laws.  
9 KRS 132.191(5)(d) requires the Department of Revenue to promulgate an administrative  
10 regulation to implement criteria for the valuation and assessment of property used as multi-unit  
11 rental housing that is subject to government restriction on use for ad valorem taxation purposes  
12 based on an income approach methodology. This administrative regulation establishes a uniform  
13 system for assessing the value of this class of property when using an annual net operating income  
14 approach to value or a ratio of restricted rent to market rent approach to value.

15 Section 1. Definitions. (1) “Department” is defined by KRS 132.010(1).

16 (2) “Direct capitalization” means capitalization of the net operating income, that was developed  
17 using the owner’s income and stabilized operating expenses based on an actual history of the  
18 property, when available, and an altered capitalization rate.

19 (3) “Government restriction on use” is defined by KRS 132.010(35).

20 (4) “Low income” is defined by KRS 132.010(36).

21 (5) “Multi-unit rental housing” is defined by KRS 132.010(37).



1 (6) "PVA" means the Property Valuation Administrator.

2 (7) "Ratio of restricted rent to market rent" means the percentage derived from dividing the  
3 annual gross rental income of a multi-unit rental housing property that is subject to government  
4 restriction on use by the annual gross rental income of a similar multi-unit rental housing property  
5 that is not subject to government restriction on use.

6 Section 2. Assessment of multi-unit rental housing that is subject to government restriction on  
7 use. (1) When using an annual net operating income approach to value multi-unit rental housing  
8 that is subject to government restrictions, a PVA shall determine the assessed value of that class  
9 of property by using the direct capitalization approach to value or the ratio of restricted rent to  
10 market rent approach to value.

11 (2) An owner of a multi-unit rental housing that is subject to government restrictions shall report  
12 the following information to the PVA of the county in which the property is located by March 1  
13 of each calendar year:

14 (a) The full address of the property and the business name of the property;

15 (b) The name and address of the property owner;

16 (c) The total number of rental units located at the address of the property;

17 (d) The number of:

18 1. Studio apartments;

19 2. One (1) bedroom apartments;

20 3. Two (2) bedroom apartments;

21 4. Three (3) bedroom apartments;

22 5. Four (4) or more bedroom apartments;

23 6. Townhouses; and



1 7. Any other types of units;

2 (e) The name and full address of the person or business responsible for paying the ad valorem  
3 property tax on the real property;

4 (f) If the real property was subject to governmental restrictions on its use as of January 1 of the  
5 tax year;

6 (g) If the property is currently subject to a foreclosure action; and

7 (h) Income, occupancy, and expense information for the three (3) years prior to January 1 of the  
8 current tax year including:

9 1. All tenant rental income, including any rental subsidies;

10 2. All other income directly generated from the use of the property;

11 3. Total bad debt;

12 4. The average annual vacancy rate of the property;

13 5. Annual payroll;

14 6. Annual administrative expenses;

15 7. Annual operating and maintenance expenses, such as utilities, repairs, cleaning, and  
16 groundskeeping;

17 8. Annual property insurance costs; and

18 9. Any other information reasonably necessary to determine the fair cash value of the property.

19 (3) The owner shall report the information required by this section on "Assessment of Multi-  
20 Unit Rental Housing Subject to Government Restrictions on Use," Form 62A320. This form and  
21 all required supporting documents and information shall be filed within sixty (60) days of:

22 (a) the property in question becoming subject to government restriction on use,

23 (b) all government restrictions on use of the property being lifted, or



1 (c) the owner or owner's agent for service being served with civil summons regarding a  
2 foreclosure action upon the property.

3 (4) If the property owner fails to file "Assessment of Multi-Unit Rental Housing Subject to  
4 Government Restrictions on Use," Form 62A320, and all required supporting documents and  
5 information with the county PVA within the deadlines established in this section, the property  
6 owner may be subject to a penalty of \$100. The penalty under this subsection shall be paid by the  
7 owner of the property to the department within thirty (30) days of submitting the "Assessment of  
8 Multi-Unit Rental Housing Subject to Government Restrictions on Use," Form 62A320.

9 Section 3. Formula for assessing the value of multi-unit rental housing subject to government  
10 restriction on use under the direct capitalization approach to value. The formula used to determine  
11 the assessed value of multi-unit rental housing that is subject to government restriction on use  
12 under the direct capitalization approach to value shall be as follows:

13 (1) Actual income generated by the property shall be adjusted by deducting allowable operating  
14 expenses based on the actual history of the property. This result shall be the adjusted net income.

15 (2) The adjusted net income shall be divided by a capitalization rate that is determined under  
16 Section 4 of this regulation.

17 (3) The result of that calculation is the property's assessed value.

18 Section 4. Website subscription for capitalization rate data. (1) The department shall subscribe  
19 to [www.realtyrates.com](http://www.realtyrates.com) (or any successor organization) to access the most recent quarterly survey  
20 of the national average of capitalization rates for multi-family properties.

21 (1) The department shall publish the capitalization rate for use in the valuation of multi-unit





1 rental housing subject to government restriction on use for each assessment year on the  
2 department's website and shall provide the capitalization rate to all PVAs to use in assessing multi-  
3 unit rental housing subject to government restriction on use.

4 (2) The capitalization rate used by a PVA when assessing multi-unit rental housing subject  
5 to government restriction on use shall be fifty (50) to 150 basis points (one-half percent (0.5%) to  
6 one and one-half percent (1.5%)) above the average capitalization rate obtained through the  
7 national average of capitalization rates for multi-family properties published by  
8 [www.realtyrates.com](http://www.realtyrates.com) or a successor organization for the fourth quarter of the year immediately  
9 preceding the January 1 assessment date.

10 Section 5. Formula for assessing the value of multi-unit rental housing subject to government  
11 restriction on use under the ratio of restricted rent to market rent approach to value. (1) The assessor  
12 shall determine the value of the property using a direct capitalization of the net operating income  
13 and allowable operating expenses and utilizing a traditional capitalization rate.

14 (2) The gross rent produced by the subject property in its restricted state shall be compared to  
15 the gross rent produced by a comparable unrestricted property and expressed as a ratio.

16 (3) The ratio shall be applied to the value determined under Section 3 to determine the value  
17 of the subject property.

18 Section 6. Examples. (1) This section includes examples of the direct capitalization approach  
19 to value and the restricted rent to market rent method that may be used to determine the assessed  
20 value of multi-unit rental housing subject to government restriction on use. Both examples utilize  
21 the following information:

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History of Income and Expense Statements				
Property Name:	Bluegrass County Apartments			
Address	100 Main Street, Springville, Kentucky			
	Year	Year	Year	Three (3) Year
	2021	2022	2023	Average
<b>Income</b>				
Rental Income	560,000	590,000	560,000	570,000
Vacancy & Collection Loss	-40,000	-60,000	-50,000	-50,000
Other Income (Loss)	25,000	30,000	20,000	25,000
Bad Debt	-7,000	-10,000	-10,000	-9,000
Total Income	538,000	550,000	520,000	536,000
<b>Allowable Expenses (Actual)</b>				
Payroll & Related	110,000	115,000	120,000	115,000
Administrative	75,000	100,000	95,000	90,000
Utilities	45,000	45,000	45,000	45,000
Operating & Maintenance	45,000	5,000	25,000	25,000
Insurance	30,000	31,000	32,000	31,000
Other	15,000	15,000	15,000	15,000
Total Operating Expense	320,000	311,000	332,000	321,000
Net Operating Income (Loss)	218,000	239,000	188,000	215,000
<b>(Total Income Minus Total Allowable Expenses)</b>				



- 1 (2) Direct Capitalization. The rates within the following example shall be for example  
 2 purposes only and shall not be construed to be capitalization rates set by the department:

Direct Capitalization Approach		
Property Name:	Bluegrass County Apartments	
Address	100 Main Street, Springville, Kentucky	
Income	Stabilized Pro Forma	
Rental Income	570,000	
Vacancy & Collection Loss	-50,000	
Other Income (Loss)	25,000	
Bad Debt	-9,000	
Total Income	536,000	
Allowable Expenses (Actual)		
Payroll & Related	115,000	
Administrative	90,000	
Utilities	45,000	
Operating & Maintenance	25,000	
Insurance	31,000	
Other	321,000	
Net Operating Income (Loss)	215,000	
Capitalization Rate	Low	High
Realtyrate.com 4 <sup>th</sup> Quarter 2023 (Example Only)	8.43%	8.43%



2023 House Bill 360 Adjustment (50 to 150 Basis Points)	0.50%	1.50%
Tax Rate Component (Including City Taxes)	1.15%	1.15%
Total Overall Capitalization Rate	10.08%	11.08%
Direct Capitalization		
Net Operating Income	215,000	215,000
Overall Capitalization Rate	10.08%	11.08%
Indicated Value by Income Approach	2,132,937	1,940,433
(Net operating income divided by overall capitalization rate)		
Indicated Assessment Rate (Rounded to nearest thousand)	2,133,000	1,940,000

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- 2 (3) Restricted Rent to Market Rent. The rates within the following example shall be for example
- 3 purposes only and shall not be construed to be capitalization rates set by the department.

Ratio of Restricted Rent to Market Rent		
Property Name:	Bluegrass County Apartments	
Address	100 Main Street, Springville, Kentucky	
Unrestricted Market Value	Percent of Stabilized Pro Forma	Stabilized Pro Forma
Potential Gross Income		
Market Rent		750,000
Vacancy & Collection Loss	4.00%	-30,000
Other Income (Loss)	-	-





Bad Debt	-	-
Effective Gross Income		720,000
Market Expenses (Rounded)	Percent of Effective Gross Income	
Payroll and Related	15.60%	112,300
Administrative	12.10%	87,100
Utilities	9.17%	66,000
Operating & Maintenance	9.10%	65,500
Insurance	3.80%	27,400
Other	8.60%	61,900
Net Operating Income (Loss)		299,800
(Total Income Minus Total Allowable Expenses)		
Capitalization Rate		
Realtyrate.com 4 <sup>th</sup> Quarter 2023 (Example only)		8.43%
Tax Rate Component (Including City Taxes)		1.15%
Total Overall Capitalization Rate		9.58%
Direct Capitalization		
Net Operating Income		299,800
Overall Capitalization Rate		9.58%



Indicated Value by Income Approach	3,129,436
(Net operating income divided by overall capitalization rate)	
Ratio of Average Annual Rent of Restricted to Unrestricted Properties	
Potential Gross Income – Unrestricted/Market Rent	750,000
Average Annual Rent – Restricted/Contract Rent	570,000
Ratio of Restricted Rent to Market Rent	76.0%
(Average Annual Rent/Potential Gross Income)	
Adjustment of Market Value by Ratio of Rent Comparison	
Capitalized Value of Annual Net Operating Income	3,129,436
Ratio of Restricted Rent to Market Rent	76.0%
Indicated Value per Ratio of Restricted Rent	2,378,372
Indicated Assessment (rounded to nearest thousand)	2,378,000

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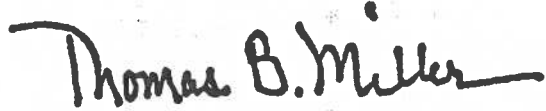
Section 7. Forms. The form referenced in this administrative regulation may be inspected, copied, or obtained, subject to applicable copyright law, at:

- (1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky, 40601;
- (2) A Kentucky Taxpayer Service Center, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or
- (3) The department's website at [www.revenue.ky.gov](http://www.revenue.ky.gov).



03 KAR 5:200

APPROVED BY AGENCY:

Handwritten signature of Thomas B. Miller in black ink.

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

08/14/2024

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Date



## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public comment on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. 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 October 31, 2024. 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), [Gary.Morris@ky.gov](mailto:Gary.Morris@ky.gov) (email).





## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

103 KAR 5:200

Contact Person: Gary Morris  
Phone: (502) 564-0424  
Email: [Gary.Morris@ky.gov](mailto:Gary.Morris@ky.gov)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the criteria for the valuation and assessment of multi-unit housing that is subject to government restriction on use under an annual net operating income approach to value or a ratio of restricted rent to market rent approach to value.

(b) The necessity of this administrative regulation: KRS 132.191 provides that the Department of Revenue shall promulgate an administrative regulation to adopt forms, penalties, and procedures to carry out the criteria established under KRS 132.191(5) for the valuation and assessment of multi-unit rental housing that is subject to government restriction on use employing an annual net operating income approach.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation implements the criteria established under KRS 132.191(5) when the annual net operating income approach methodology used for the valuation and assessment of multi-unit rental housing that is subject to government restriction on use and establishes a penalty for the non-compliance by a property owner of reporting requirements under KRS 132.191(5)(c) and Section 2 of this administrative regulation.

(d) How this administrative regulation currently assists or will assist in effective administration of the statutes: This administrative regulation establishes a uniform methodology that may be used in the assessment of multi-unit rental housing that is subject to government restriction on use under the criteria established in KRS 132.191(5).

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

- (a) How the amendment will change the existing administrative regulation:
- (b) The necessity of the amendment to this administrative regulation:
- (c) How the amendment conforms to the content of the authorizing statutes:
- (d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact all property valuation administrators (PVAs) and all owners of multi-unit rental housing situated in the Commonwealth of Kentucky subject to government restriction on use. There are 120 PVAs and approximately 1,400 impacted property owners.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: The property owners will need to provide the required income and expense information to the PVA of the county in which the property is located. This will allow the PVA to follow the procedure detailed in this administrative regulation to derive an assessed value that may be used for the property in question.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to the PVAs. There may be minimal costs to the property owners who must furnish the income and expense information to the PVA.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Owners of multi-unit rental housing subject to government restriction on use will have greater clarity on the income and market comparison methodology that may be used to develop the assessed values for their properties. PVAs will have a standardized method to follow when using these processes to assess these types of properties which will establish uniformity in the assessments.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Current staff and budgeted funding will absorb any cost associated with implementation.

(b) On a continuing basis: The Department of Revenue should not incur additional costs on a continuing basis as a result of this regulation.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The implementation of enforcement of this administrative regulation will be done with existing funds and personnel primarily through the Department of Revenue.

(7) 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: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees. However, KRS 132.191(5)(c)(3) authorizes the Department of Revenue to determine the amount of penalty for owners who fail to comply with reporting requirements, up to \$200. This administrative regulation sets the penalty amount at \$100 to be imposed upon any owner of multi-unit rental housing subject to government restriction on use who does not timely notify the PVA of any change to the property or the necessary income and expense information necessary for the PVA to develop an assessed value for the property.

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation establishes a consistent and uniform method that may be used to assess all multi-unit rental housing subject to government restriction on use.



## FISCAL IMPACT STATEMENT

103 KAR 5:200

Contact Person: Gary Morris  
Phone: (502) 564-0424  
Email: [Gary.Morris@ky.gov](mailto:Gary.Morris@ky.gov)

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the actions taken by the administrative regulation. KRS 131.130(1), KRS 132.191(5)(d).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? None.

(3) Identify affected local entities (for example: cities, counties, fire departments, or school districts: All local property tax districts, for example: cities, counties, fire departments, health departments, and school districts.

(a) Estimate the following for the first year:

Expenditures: There will not be any significant increase or decrease in expenditures at the state or local level due to this administrative regulation.

Revenues: There will not be any significant increase or decrease in revenues at the state or local level due to this administrative regulation.

Cost Savings: There will not be any significant cost savings for state or local agencies due to this regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? None.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Calculating real property tax rates involves the total assessment amount of all real property in a county. Using the income and market comparison process to assess one, or several, multi-unit rental housing properties that are subject to government restriction on use, and the subsequent increase or decrease in the assessment, may impact on the real property tax rates imposed by local jurisdictions or for state ad valorem tax purposes.



(b) Methodology and resources used to determine the fiscal impact: Kentucky revised statutes that specify the calculation of property tax rates, including KRS 132.010 and 132.017 governing property tax rate calculations for various local taxing districts were considered when determining the fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse impact to the entities identified in questions (2) – (4). (\$500,000 or more, in aggregate) Not applicable due to an impact below the threshold of \$500,000.)

(b) The methodology and resources used to reach this conclusion: See response to (5) above.

