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Emily B Caudill
REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 41.100. Segregation of cigarettes.

5 RELATES TO: KRS 138.146

6 STATUTORY AUTHORITY: KRS 131.130(1)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
8 Department of Revenue to promulgate administrative regulations for the administration and
9 enforcement of Kentucky tax laws. This administrative regulation interprets KRS 138.146 as it
10 applies to the segregation of cigarettes and the maintaining of records by persons licensed as
11 cigarette dealers under KRS 138.195.

12 Section 1. Inventories of cigarettes held by persons licensed under KRS 138.195 must be
13 maintained in the following manner:

14 (1) Untax-paid cigarettes must be stored in a separate area from cigarettes bearing tax evidence.
15 Kentucky tax evidence, or that of another state must be affixed to all packages within the required
16 time pursuant to KRS 138.146(2) unless the cigarettes are distributed within the same period of
17 time into states not using tax evidence. Any receipt and distribution records deemed necessary by the
18 Department of Revenue must be established and maintained by all licensees authorized to receive
19 untax-paid cigarettes.

20 (2) Cigarettes stamped with the tax evidence of another state must be stored in a separate and
21 distinct area from cigarettes bearing Kentucky tax evidence. These tax paid cigarettes must be

1 either shipped by the wholesaler directly into the state for which the packages were stamped or

2 transferred to persons licensed to receive and distribute cigarettes for resale into the said state.

103 KAR 41:100

APPROVED BY AGENCY:

Daniel Bork

DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 10, 2019
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 27, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. 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 December 31, 2019. 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: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 41:100

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance on the segregation of cigarettes and maintaining of records by persons licensed as cigarette dealers under KRS 138.195.

(b) The necessity of this administrative regulation: The amendment is necessary to clarify the regulatory language for better compliance by taxpayers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 13A, KRS 131.130, and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to provide clarity of the intent of the authorizing statutes to the persons or entities regulated by it.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds an authorizing statement to the NECESSITY, FUNCTION and CONFORMITY STATEMENT to conform with KRS 13A requirements, and adds a reference to statutory language in Section 1 that clarifies that cigarettes must have the tax paid prior to shipping into another state.

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(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 (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 65 licensed cigarette wholesalers are affected by this administrative regulation.

(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 the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No new actions are required by the regulated entities listed in question 3. The process being clarified in (2)(a) is already in place.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional expenses are known.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amended regulation will allow for more clarity to the taxpayers allowing for better compliance.

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

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(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 additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 41:100

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A, KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No new revenues are expected to be generated by the provisions of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None that is known.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect. Any costs will be incurred as normal operating expenditures of the Department of Revenue.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation: