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Emily B Caudill  
REGULATIONS COMPLIER

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 Office of Sales and Excise Taxes

4 (New Administrative Regulation)

5 103 KAR 41:220. Applications, stamp orders, returns, reports, and statements to be filed  
6 electronically -- Waiver

7 RELATES TO: KRS 138.135, 138.143, 138.146, 138.195

8 STATUTORY AUTHORITY: KRS 131.130, ~~(1), (3)~~; 131.250

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the  
10 Department of Revenue to promulgate administrative regulations for the administration and  
11 enforcement of all tax laws of this state. This administrative regulation requires electronic filing  
12 for applications, reports, returns, and related statements for cigarettes and tobacco products in  
13 accordance with KRS 138.135, 138.143, 138.146, and 138.195.

14 Section 1. For the purpose of facilitating the administration of the taxes it administers, the  
15 department may require any license application, cigarette tax stamp order, tax return, report, or  
16 statement to be electronically filed. Pursuant to KRS 131.250, the following information shall be  
17 filed electronically as directed by the department for periods beginning on or after January 1, 2020:

18 (1) Manufacturer reports required under the provisions of KRS 138.135;

19 (2) Floor stock returns required under the provisions of KRS 138.143;

20 (3) Purchases of tax evidence required under the provisions of KRS 138.146; and

21 (4) Licenses, monthly reports, and returns required under the provisions of KRS 138.195.

1       Section 2. Waiver. A person required to electronically file under the provisions of this  
2 administrative regulation may apply for a waiver from this requirement by submitting a request  
3 for consideration to the department according to the provisions of KRS 131.250.

103 KAR 41:220

APPROVED BY AGENCY:

*Daniel Bork*

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

*JULY 12, 2019*

\_\_\_\_\_  
Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on August 22, 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 August 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](mailto:Lisa.Swiger@ky.gov)(email).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 41:220

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 new administrative regulation requires electronic filing for applications, reports, returns, and related statements for cigarettes and tobacco products in accordance with KRS 138.135, 138.143, 138.146 and 138.195.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide taxpayers with guidance to file electronically and utilize the new e-file program. This will substantially increase compliance. It will also aid in compliance with the Tobacco Master Settlement Agreement and allow for more efficient use of the Department's resources.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed regulatory language conforms with KRS 13A, 131.130, 131.131, and 131.250.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed regulation mandates the use of electronic filing and provides a mechanism for the taxpayer to request a waiver of the requirement.

(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: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 200+ tobacco licensed businesses and tobacco manufactures will be affected.

(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: Entities will now have to file required documents electronically online and will need internet access and compatible computer hardware to comply. Many licensees are currently filing electronically and have already taken steps necessary to comply with this regulation. Others will have the option to seek a waiver of the electronic filing requirement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There may be a minimal cost to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Faster and easier compliance with the Department of Revenue. Anyone who accesses the regulation will benefit from the information contained therein. Entities will be able to streamline their tobacco reporting and licensing requirements and provide entities with a more efficient filing process.

(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 regulation. 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 administrative regulation.

(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 administrative regulation.

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

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 41:220

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 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 revenues are expected to be generated by the provisions of this administrative regulation. This language establishes the electronic filing guidelines for tobacco licensed businesses and manufacturers.

(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.

(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: