



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 1:130. Taxation of federal and certain nonfederal obligations.

5 RELATES TO: KRS 136.290, 136.300, 136.310, 136.320, 141.019, 141.900~~[141.010(10)(a),~~
6 ~~(12)(a)]~~

7 STATUTORY AUTHORITY: KRS 131.130~~(+)~~

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
9 Department of Revenue to promulgate administrative regulations to administer and enforce
10 Kentucky's tax laws. KRS 141.019(1)(a) and 141.900(10)(a)~~[141.010(10)(a)]~~ and (12)(a)
11 ~~provide~~~~provides~~ an exclusion from gross income when calculating Kentucky income tax for
12 income that is exempt from state taxation by the Kentucky Constitution and the Constitution and
13 statutory laws of the United States and Kentucky. KRS 136.290, 136.300, 136.310, and 136.320
14 impose an ad valorem tax on the total value of the capital of federally or state chartered savings
15 and loan associations, savings banks, and other similar institutions and domestic life insurance
16 companies authorized to transact business in Kentucky, with property and payroll both within and
17 without this state. This administrative regulation establishes the requirements relating to taxation
18 of federal and certain nonfederal obligations in accordance with those statutes.

19 Section 1. Income Taxation. Interest income from United States government obligations up-
20 on which states are prohibited by federal law from imposing a tax shall be excluded from gross
21 income when calculating Kentucky income tax liability. Only the interest income from exempt

1 United States government obligations included in the taxpayer's federal taxable income may be
2 deducted from the taxpayer's gross income for Kentucky income tax purposes.

3 Section 2. This section contains two (2) lists of certain agencies, authorized corporations, and
4 banks of the United States government from which Kentucky taxpayers may receive interest
5 income. These lists are not all-inclusive, nor are they intended to be conclusive of the taxable or
6 exempt status of a particular obligation issued by or in conjunction with a listed department,
7 agency, instrumentality, or other entity.

8 (1) The list in this subsection shall serve as examples of departments, agencies, and
9 instrumentalities that issue United States government obligations from which interest income shall
10 be exempt from state taxation.

11 (a) U.S. Treasury (Bonds);

12 (b) U.S. Treasury (Series EE and HH Savings Bonds and I Bonds);

13 (c) U.S. Treasury (Certificates of Indebtedness);

14 (d) U.S. Treasury (Bills);

15 (e) U.S. Treasury (Notes);

16 (f) U.S. Treasury (Note and Bond "Strips");

17 (g) Commodity Credit Corporation;

18 (h) Central Banks for Cooperatives and Banks for Cooperatives;

19 (i) Farm Credit Banks;

20 (j) Federal Land Bank Associations;

21 (k) Production Credit Associations;

22 (l) Farm Credit System Financial Assistance Corporation;

23 (m) Federal Deposit Insurance Corporation;

- 1 (n) Federal Financing Bank;
- 2 (o) Federal Home Loan Banks;
- 3 (p) Federal Savings and Loan Insurance Corporation;
- 4 (q) General Insurance Fund, Department of Housing and Urban Development, Rental Housing
- 5 Insurance, War Housing Insurance Project, Rental Housing Project, Armed Services Housing,
- 6 National Defense Housing Insurance, Neighborhood Conservation Housing Insurance;
- 7 (r) Guam (Bonds);
- 8 (s) Puerto Rico (Bonds);
- 9 (t) Virgin Islands (General Obligation Bonds and Public Improvement Bonds);
- 10 (u) American Samoa (Industrial Development Bonds);
- 11 (v) Student Loan Marketing Association (SLMA or "Sallie Mae");
-
- 12 (w) Tennessee Valley Authority (Bonds); or
- 13 (x) United States Postal Service.
- 14 (2) The list in this subsection shall serve as examples of organizations which issue obligations
- 15 from which interest income shall be taxable for Kentucky income tax purposes.
- 16 (a) Bank Certificates of Deposit;
- 17 (b) Farmers Home Administration;
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- 18 (c) Federal Home Loan Mortgage Corp. (FHLMC or "Freddie Mac");
- 19 (d) Federal National Mortgage Association (FNMA or "Fannie Mae");
- 20 (e) Government National Mortgage Association (GNMA or "Ginnie Mae");
- 21 (f) Inter-American Development Bank;
- 22 (g) International Bank for Reconstruction and Development (World Bank); or
- 23 (h) International Monetary Fund.

1 Section 3. Property Taxation. A claim by a taxpayer that property or capital subject to the ad
2 valorem taxes imposed by KRS 136.290, 136.300, 136.310 or 136.320 is exempt under federal
3 law shall be supported by specific statutory or binding case authority. In the absence of statutory
4 or binding case authority, all intangible property shall be taxable. Securities merely guaranteed by
5 the U.S. government shall be taxable as intangible property.

6 Section 4. Exempt federal obligations shall be classified as:

7 (1) Direct obligations of the United States such as U.S. Treasury bonds, U.S. Treasury notes
8 or U.S. Treasury bills; or

9 (2) Direct obligations of U.S. government agencies.

10 Section 5. (1) The following list is provided as a general reference of obligations exempt from
11 state ad valorem taxation imposed by KRS 136.290, 136.300, 136.310, or 136.320:

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- 12 (a) Banks for Cooperatives;
- 13 (b) Central Banks for Cooperatives;
- 14 (c) Commodity Credit Corporation;
- 15 (d) Farmers Home Administration;
- 16 (e) Farmers Home Corporation;
- 17 (f) Federal Credit Union;
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- 18 (g) Federal Savings and Loan Associations (Kentucky);
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- 19 (h) Federal Deposit Insurance Corporation;
- 20 (i) Federal Farm Credit Corporation;
- 21 (j) Federal Home Loan Bank (Stocks and Bonds);
- 22 (k) Federal Housing Administration;
- 23 (l) Federal Intermediate Credit Banks;

- 1 (m) Federal Land Banks;
- 2 (n) Federal Maritime Board and Maritime Administration;
- 3 (o) Federal Reserve Banks;
- 4 (p) Federal Savings and Loan Insurance Corporation;
- 5 (q) General Insurance Fund;
- 6 (r) Guam Bonds;
- 7 (s) Municipal Obligations (Kentucky);
- 8 (t) National Farm Loan Association;
- 9 (u) Panama Canal Bonds;
- 10 (v) Production (Agricultural) Credit Association or Corporation;
- 11 (w) Puerto Rican Bonds;

- 12 (x) Student Loan Marketing Association;
- 13 (y) Tennessee Valley Authority;
- 14 (z) U.S. Housing Authority;
- 15 (aa) U.S. Postal Service Bonds; or (bb) Virgin Island Bonds.
- 16 (2) The following list is provided as a general reference of obligations that are taxable entities
- 17 for state ad valorem taxation imposed by KRS 136.290, 136.300, 136.310, or 136.320:

- 18 (a) Federal Home Loan Bank Deposits;
- 19 (b) Federal Home Loan Mortgage Corporation Bonds;
- 20 (c) Federal National Mortgage Corporation Bonds;
- 21 (d) Government National Mortgage Corporation Bonds; or
- 22 (e) Retail Repurchase Agreements.

103 KAR 1:130

APPROVED:



DANIEL BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

10-12-2018

DATE APPROVED BY AGENCY

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation will be held on November 26, 2018 at 10:00 a.m. in Room 8A, 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 will be accepted through November 30, 2018. 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, Revenue 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 Number: 103 KAR 1:130

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 updates statutory references due to the passage of HB 487/GA2018 and provides guidance about the taxation of certain federal and nonfederal obligations under KRS Chapters 136 and 141.

(b) The necessity of this administrative regulation: This regulation is required to provide updated guidance and examples of certain federal and nonfederal obligations that are not taxable in Kentucky to taxpayers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapters 136 and 141 exempt federal and certain nonfederal obligations from income and ad valorem taxes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Clearly defining federal and nonfederal obligations not subject to taxation, as well as providing nonexclusive lists of those obligations, assist taxpayers to comply with the law and assists the department with verifying compliance fairly and objectively.

(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: See (1)(a).

(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: Businesses and individuals earning income from certain federal and nonfederal obligations, as well as financial organizations subject to ad valorem tax on those obligations, will be 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 actions are required due to the changes made herein. These changes only update the statutory citations to conform to HB 487/2018GA.

(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 costs to the entities identified. This amendment only corrects the statutory citations they may reference to find the guidance they need to comply with the provisions of HB 487.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Taxpayers will be able to find the relevant sections of the Kentucky Revised Statutes supporting the regulatory requirements set forth.

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

(a) Initially: Current department funding and staff will be utilized. No new funding will be needed or allocated for implementing this amendment.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The department's currently budgeted funding is used to support implementation and enforcement of this 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 fees or funding are required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No direct or indirect fees are established

(9) TIERING: Is tiering applied? Tiering was not applied, because all taxpayers are treated equally by the regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 1:130

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 Department of Revenue will implement this administrative regulation, but other governmental agencies that benefit from reduced borrowing rates may also benefit from this regulatory guidance.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 131,130(1), 136.290, 136.300, 136.310, 136.320, 141.019, 141.900

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? There will be no revenue generated by corrections to the statutory references made herein.

(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 direct costs can be determined as current staff and funds budgeted to the department are utilized to administer this amendment.

(d) How much will it cost to administer this program for subsequent years? There will be no costs in subsequent years as once these corrections are made, this regulation should remain in effect until future statutory changes are made.

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

Revenues (+/-): \$0

Expenditures (+/-): \$0

Other Explanation: