



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 Office of Income Taxation

4 (Repealer)

5 103 KAR 16:381. Repeal of 103 KAR 16:380

6 RELATES TO: KRS 141.040, 141.120, 141.900

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 141.900(12)(h) excludes the "safe harbor lease" or finance lease  
11 provisions of IRC §168(f)(8), which was repealed effective January 1, 1987, in determining  
12 Kentucky corporate net income for property placed in service after 1980, and before 1987.  
13 This administrative regulation provides a detailed explanation of transactions that are  
14 excluded when computing Kentucky taxable net income for corporation income tax  
15 purposes, but refers to a repealed section of the Internal Revenue Code. Therefore, this  
16 administrative regulation is no longer needed.

---

17 Section 1. 103 KAR 16:380: Finance lease property, safe harbor lease property, or  
18 qualified lease property, is hereby repealed.

103 KAR 16:381

APPROVED:

Daniel Bork/lcs  
DANIEL BORK, COMMISSIONER  
Department of Revenue  
Finance and Administration Cabinet

Sept 14, 2018  
DATE APPROVED BY AGENCY

---

---

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation will be held on October 24, 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 October 31, 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 16:381

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 repeals 103 KAR 16:380 regarding the exclusion of certain lease property from corporate taxable income. The Internal Revenue Code section referenced in this regulation has been repealed, and "safe harbor leases" no longer exist.

(b) The necessity of this administrative regulation: This regulation is necessary to remove outdated or repealed guidance to avoid taxpayer confusion. Also, KRS 13A requires a regulation that will no longer be updated or considered effective by the promulgating agency to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13A requires a regulation that will no longer be updated or considered effective by the promulgating agency to be repealed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will ensure that the Department of Revenue is in compliance with KRS 13A.

(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: None.

(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: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

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

(a) Initially: None.

(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: N/A

(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 change.

(8) State whether or not this administrative regulation establishes any fees or directly or

indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering was not applied for this regulation because it is only repealing existing regulations that are no longer needed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 16:381

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? No state or local government agency outside the Department of Revenue will be impacted by the repeal of this regulation. This regulation repeals 103 KAR 16:380 because it is obsolete.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A requires that an agency repeal administrative regulations that they do not foresee updating in the future. 103 KAR 16:380 provides guidance for excluding items from corporate income tax that are no longer identified in the Internal Revenue Code, and therefore outdated.

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. There will be no effect on expenditures and revenues for state or local government agencies as a result of repealing of this administrative regulation.

(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?  
None

(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? None

(d) How much will it cost to administer this program for subsequent years? None

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: