



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 19:010. Computation of income; estates and trusts.

5 RELATES TO: KRS 141.010, 141.019, 141.020, 141.030, 141.081, 141.190[~~141.020~~]

6 STATUTORY AUTHORITY: KRS 131.130[~~Chapter 13A~~]

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Kentucky

8 Department of Revenue to promulgate administrative regulations to prescribe tax return filing

9 requirements for fiduciaries including estates and trusts. This administrative regulation outlines

10 procedure for computing estate and trust income for Kentucky income tax purposes including

11 instructions covering both resident and nonresident situations.

12 Section 1. General. All provisions of KRS Chapter 141 (and related administrative regulations)

13 that apply to individuals shall also apply to fiduciaries and returns filed by fiduciaries, except when

14 such provisions conflict with provisions dealing specifically with fiduciaries.

15 Section 2. Computation of Income. Taxable income of an estate or trust is net income as

16 defined in KRS 141.019[~~141.010(11)~~] except:

17 (1) The standard deduction permitted individuals in KRS 141.081[~~141.080~~] is not allowed;

18 (2) Federal estate tax paid on income accrued at the date of death of a decedent is deductible;

19 (3) Deductions that have been allowed on the Kentucky inheritance tax return or the Kentucky

20 individual income tax return cannot be claimed on the fiduciary income tax return; and

21 (4) Any deductions (or federal tax) related to nontaxable income are not allowed.

1 Section 3. Tax Credits. A trust is allowed a tax credit of two (2) dollars; an estate is allowed a
2 tax credit of ten (10)~~twenty (20)~~ dollars.

3 Section 4. Resident Estate or Trust. A resident estate or trust shall report and pay tax on all
4 taxable income except that portion of net income distributable or distributed during the taxable
5 year, and that portion of the net income from intangible personal property attributable to a
6 nonresident beneficiary.

7 Section 5. Resident Beneficiary. A resident beneficiary must report and pay tax on his share of
8 the distributed or distributable income from a resident or nonresident estate or trust.

9 Section 6. Nonresident Estate or Trust. A nonresident estate with gross income for the taxable
10 year from Kentucky sources of \$1,200 or more and a nonresident trust with gross income for the
11 taxable year from Kentucky sources of \$100 or more must pay tax on all taxable income except
12 that portion of net income distributable or distributed during the taxable year and that portion of
13 the net income from intangible personal property attributable to a nonresident beneficiary.~~and~~
14 ~~Nonresident Beneficiaries. A nonresident estate, trust, or beneficiary is subject to tax only on~~
15 ~~income received from real or tangible personal property located in Kentucky.]~~

16 Section 7. Nonresident Beneficiaries. Nonresident beneficiaries must pay tax on income
17 derived from:

18 (1) Kentucky sources;

19 (2) Activities carried on in Kentucky;

20 (3) The performance of services in Kentucky;

21 (4) Real or tangible property located in Kentucky; and

22 (5) From a partnership, S corporation, or other pass-through entity doing business in Kentucky.

103 KAR 19:010

APPROVED BY AGENCY:

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

Sept 14, 2018
Date

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 No. 103 KAR 19:010

Contact Person: Lisa Swiger
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Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation sets forth filing requirements for resident and nonresident fiduciaries (estates and trusts) and provides guidance for nonresident beneficiaries.

(b) The necessity of this administrative regulation: Fiduciaries are treated the same as individuals except where differences are set forth in statute. These differences are contained in various statutes, and this regulation assists taxpayers comply with the law by setting forth the requirements in one location for fiduciaries.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes allow the department to promulgate guidance in the form of regulations to assist taxpayers comply with the law. The various statutes addressing the taxation of fiduciaries forth filing requirements, describe taxable income, and authorize deductions and credits to arrive at taxable income.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Providing clarity in guidance assists taxpayers understand tax law and assists department personnel with efficient administration.

(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: Several statutory references have been updated due to the passage of HB 487/GA18, and an error in the amount of credit allowed an estate has been corrected per KRS 141.020(3)(a)(9). Prior guidance for nonresident estates, trusts, and beneficiaries has been significantly clarified and separated into two sections (6 and 7) instead of combined into one.

(b) The necessity of the amendment to this administrative regulation: Statutory references must be updated after the passage of HB 487/GA18, and the estate credit must be corrected. Ineffective guidance for nonresident fiduciaries and beneficiaries should be updated and clarified.

(c) How the amendment conforms to the content of the authorizing statutes: The requirements of the authorizing statutes are not clearly represented in this regulation as currently promulgated.

(d) How the amendment will assist in the effective administration of the statutes: Statutory reference updates and the correction of an error will assist taxpayers comply with the tax law. Clarifying requirements for nonresident fiduciaries and beneficiaries removes ambiguity and provides more effective guidance for taxpayers and department staff.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All fiduciaries (estates and trusts) and

beneficiaries of those entities are governed by the statutes described in this 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: None

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Less confusion once the regulation language is consistent with the statutory language.

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

(a) Initially: Current budget funding and staff will implement 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: Current departmental staff and funding.

(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 is needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees were established with this amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied. All fiduciaries and beneficiaries required to file returns affected by this regulation will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 19:010

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 government offices will be impacted other than the 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(1)

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? 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? No additional costs will be incurred in the first year of this regulation being in effect.

(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 (+/-): \$0

Expenditures (+/-): \$0

Other Explanation: