



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Repealer)

4 103 KAR 16:011. Repeal of 103 KAR 16:010, 103 KAR 16:210, 103 KAR 16:310 and 103 KAR  
5 16:360

6 RELATES TO: KRS 141.010

7 STATUTORY AUTHORITY: KRS 131.030

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the  
9 Department of Revenue to promulgate administrative regulations to administer and enforce

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10 Kentucky's tax laws. 103 KAR 16:010 provides guidance regarding a special income tax deduction  
11 provided for corporations for certain income from the disposal of coal. The regulation restates  
12 information contained in federal and Kentucky statutes, and the six (6) month holding period  
13 referenced in Section 1 is not permitted by either federal or Kentucky statute. 103 KAR 16:210  
14 only applied to tax years 2005 and 2006 when pass-through entities were taxed as corporations,  
15 and is now obsolete. The Domestic Production Activity Deduction ("DPAD") in the Internal  
16 Revenue Code was repealed with the Tax Cuts and Jobs Act of 2017, so the guidance in 103 KAR  
17 16:310 is now obsolete. 103 KAR 16:360 provides limited guidance to corporate taxpayers  
18 regarding the deductibility of income taxes in three other states. The department will use its  
19 authority under KRS 131.130(8) to issue informal guidance for the treatment of all state income  
20 taxes, not just those from New York, Massachusetts, and West Virginia. Furthermore, New York's  
21 tax laws have changed since the promulgation of this regulation, making it now deficient. As a

1 result, these administrative regulations are no longer needed and will not be amended in the future.

2 Section 1. The following regulations are hereby repealed:

3 (1) 103 KAR 16:010, Taxable income; coal royalty;

4 (2) 103 KAR 16:210, Calculation of gross income for corporations that are pass-through  
5 entities and treatment of certain deductions for their individual members, partners, and  
6 shareholders; and

7 (3) 103 KAR 16:310, Domestic production activity deduction;

8 (4) 103 KAR 16:360, Deductibility of the New York franchise tax on business corporations,  
9 the Massachusetts corporate excise tax, and West Virginia business and occupations tax in  
10 computing a corporations net income.

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103 KAR 16:011

APPROVED:

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

*August 14, 2018*  
DATE APPROVED BY AGENCY

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## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on September 25, 2018 at 10:00 a.m. in Room 11A, State Office Building, 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 September 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, 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 16:011

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 16:010, 103 KAR 16:210, 103 KAR 16:310 and 103 KAR 16:360. These regulations either no longer have statutory authority, or the statutes now contain sufficient language to provide guidance without these regulations. (See the NECESSITY, FUNCTION & CONFORMITY statement.)

(b) The necessity of this administrative regulation: KRS 13A requires that all regulations made inactive or ineffective by statute revision, or that will no longer be updated by the promulgating agency to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation seeks to repeal regulations that would be deficient and in violation of KRS 13A if not repealed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will insure 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: None.

(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 will be necessary to implement this repeal.

(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 is not applied since no regulated entities will be affected by the repeal of this administrative regulation.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 16:011

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? Only the Finance and Administration Cabinet, Department of Revenue, will be impacted.

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

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 government agencies as a result of repealing these administrative regulations.

(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: