



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 17:140. Individual income tax - reciprocity - nonresidents.

5 RELATES TO: KRS 141.070

6 STATUTORY AUTHORITY: KRS 131.130(1), 141.050(4)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
8 Department of Revenue to promulgate administrative regulations to administer and enforce
9 Kentucky's tax laws. This administrative regulation establishes reciprocity requirements for

10 Kentucky residents, and residents of states with which Kentucky has negotiated reciprocal
11 agreements under the provisions of 141.070.

12 Section 1. In accordance with KRS 141.070, reciprocal agreements with other states exempting
13 specific income from tax shall apply only to the specific types of income listed. Income from other
14 sources may require the filing of a nonresident income tax return.

15 Section 2. The agreements shall provide the same exemption for the listed income from
16 withholding tax.

17 Section 3. A list of states that Kentucky has negotiated reciprocal agreements and the type of
18 income exemption available are listed in this section:

19 (1) Illinois.

20 (a) Reciprocity with Illinois shall be in accordance with the reciprocity agreement titled
21 "Agreement between Director of Revenue for the State of Illinois and the Commissioner of

1 Revenue of the Commonwealth of Kentucky".

2 (b) Residents of Illinois shall be exempt from Kentucky income tax on wages and salaries.

3 (2) Indiana. Residents of Indiana shall be exempt from Kentucky income tax on wages,
4 salaries, and commissions.

5 (3) Michigan.

6 (a) Reciprocity with Michigan shall be in accordance with the reciprocity agreement titled
7 "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of
8 Michigan".

9 (b) Residents of Michigan shall be exempt from tax on income earned from personal services
10 in Kentucky. Personal services shall include salaries and wages.

11 (4) Ohio.

12 (a) Except as provided in paragraphs (b) and (c) of this subsection, reciprocity with Ohio shall
13 be in accordance with the reciprocity agreement titled "Reciprocal Income Tax Agreement
14 between Commonwealth of Kentucky and State of Ohio".

15 (b) Except as provided in paragraph (c) of this subsection, residents of Ohio shall be exempt
16 from Kentucky income tax on salaries and wages.

17 (c) Effective for calendar years beginning on or after January 1, 2007, the reciprocity
18 agreement with Ohio shall not apply with respect to wages which an S corporation pays to a
19 shareholder-employee if the shareholder-employee is a "twenty (20) percent or greater" direct or
20 indirect equity investor in the S corporation.

21 (5) Virginia.

22 (a) Reciprocity with Virginia shall be in accordance with the reciprocity agreement titled
23 "Reciprocal Income Tax Agreement between Commonwealth of Kentucky and Commonwealth of

1 Virginia".

2 (b) Virginia residents commuting daily to work in Kentucky shall be exempt from income tax
3 on salaries and wages.

4 (6) West Virginia.

5 (a) Reciprocity with West Virginia shall be in accordance with the reciprocity agreement titled
6 "Reciprocal Income Tax Agreement between State of West Virginia and Commonwealth of
7 Kentucky".

8 (b) Residents of West Virginia shall be exempt from Kentucky income tax on salaries and
9 wages.

10 (7) Wisconsin.

11 (a) Reciprocity with Wisconsin shall be in accordance with the reciprocity agreement titled
12 "~~Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of~~
13 ~~Wisconsin~~".

14 (b) Residents of Wisconsin shall be exempt from tax on income earned from personal services
15 in Kentucky. Personal services shall include salaries and wages.

16 Section 4. For a person domiciled in one (1) of the states listed in Section 3 of this
17 administrative regulation, but who maintains a place of abode and spends more than 183 days in
18 Kentucky during the year, reciprocity shall not apply and that person shall be considered a
19 Kentucky resident for tax purposes.

20 Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

21 (a) Agreement between Director of Revenue for the State of Illinois and the Commissioner of
22 Revenue of the Commonwealth of Kentucky, January 28, 1971;

23 (b) Reciprocal Income Tax Agreement between State of Indiana and Commonwealth of

1 Kentucky, January 1, 1965.

2 (c) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of
3 Michigan, February 16, 1968;

4 (d)(e) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State
5 of Ohio, January 7, 1972;

6 (e)(d) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and
7 Commonwealth of Virginia, September 2, 1964;

8 (f)(e) Reciprocal Income Tax Agreement between State of West Virginia and
9 Commonwealth of Kentucky, April 9, 1965; and

10 (g) Reciprocal Income Tax Agreement between Commonwealth of Kentucky and State of
11 Wisconsin, June 21, 1965.

12 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
13 the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601[40602],
14 Monday through Friday, 8 a.m. to 5 p.m.

103 KAR 17:140

APPROVED BY AGENCY:

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

August 14, 2018
Date

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 8A, 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) 564-3874 (fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 17:140

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 amends 103 KAR 17:140 to add references to the Indiana and Wisconsin reciprocity agreements with Kentucky for non-resident income tax filers. These agreements have been in place since 1965 and may have been inadvertently overlooked when this regulation was originally drafted.

(b) The necessity of this administrative regulation: To provide the most accurate and up to date information for Kentucky taxpayers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By ensuring that statutory guidelines are incorporated into affected regulations as mandated, and provided as guidance for those affected by the statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Correcting outdated or incorrect language in regulations help to decrease taxpayer assistance efforts by the department and confusion for taxpayers.

(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: Anyone wishing to know if all or part of their income is taxable in Kentucky under a reciprocity agreement with their current state of residence.

(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: There are no required actions for this correction.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost required with this correction.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will likely be a minimal benefit of impact for this correction. These agreements have been in place since 1965, so it is likely that those using this guidance are already aware of this.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no additional cost to the department by filing this update.

(a) Initially: No additional costs outside current department funding will be used.

(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 budgetary 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 nonresident filers living in a reciprocity state will be treated equally as per the agreements with their current state of residency.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 17:140

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 141.050.

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 revenue will be generated by the correction made to this administrative regulation.

(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 (+/-):

Expenditures (+/-):

Other Explanation: