

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Repealer)

4 103 KAR 15:041. Repeal of 103 KAR 15:040 and 103 KAR 15:090.

5 RELATES TO: KRS 131.183, 134.580, 141.210, 141.235

6 STATUTORY AUTHORITY: KRS 13A, 131.130

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. 103 KAR 15:040 summarizes and explains provisions of income tax law

10 pertaining to time limitations on assessments of additional taxes and the granting of tax refunds.

11 The information herein may be obtained from KRS 131.183, 134.580, 141.210 and 141.235(2)(a).

12 103 KAR 15:090 provides guidance for taxpayers that amortized intangible assets under two

13 different methods in 1991, 1992, and 1993, because Kentucky did not adopt certain changes to

14 Internal Revenue Code Section 197 in 1993. The entire amortization period of fifteen (15) years

15 has passed, and no asset basis variances should still exist on taxpayer books and records. Therefore,

16 these regulations are obsolete and no longer needed.

17 Section 1. The following regulations are hereby repealed:

18 (1) 103 KAR 15:040, Statute of limitations; assessments and refunds; and

19 (2) 103 KAR 15:090, Computing the amortization deduction for intangible assets.

103 KAR 15:041

APPROVED:

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

August 14, 2018
DATE APPROVED BY AGENCY

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 15:041

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 15:040 regarding the applicability of the statute of limitations for tax assessments and refunds; and 103 KAR 15:090 regarding amortizing intangible assets under Internal Revenue Code Section 197. The guidance in KRS 131.183, 134.580, 141.210, and 141.235 clearly sets forth the statute of limitation for tax assessments in statutory language, removing the need to promulgate 103 KAR 15:040 to provide guidance. For 103 KAR 15:090, the differences created by Kentucky's "uncoupling" from certain intangible asset carryback provisions contained in Internal Revenue Code Section 197 no longer exist due to the passage of time beyond the 15-year amortization period allowed for intangible assets in statute. Further, 103 KAR 15:090 was promulgated in 1995 because Kentucky did not adopt certain changes to Internal Revenue Code Section 197 in 1993, and has not been updated since its original filing in 1995. Since KRS 13A prohibits restating statutory language in a regulation, the department no longer has a need to promulgate these regulations and does not anticipate any future updates at this time.

(b) The necessity of this administrative regulation: KRS 13A requires a regulation that will no longer be updated or effective to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation is required per the provisions of KRS 13A to repeal regulations that are no longer needed or will no longer be updated in the future.

(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 15:041

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 this regulation. This regulation repeals 103 KAR 15:040 and 103 KAR 15:090 because there is now sufficient statutory language in place to provide the guidance that these regulations provided.

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 administrative regulations that will not be updated in the future, to be repealed. 103 KAR 15:040 was last updated in 1994. It has not been amended in 24 years. And the guidance it once provided is now clearly stated in KRS 131.283, 134.580, 141.210 and 141.235. For 103 KAR 15:090, the 15-year amortization period allowed for intangible assets in IRC Section 197 no longer exists due to the passage of time.

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: