

139.450 Presumption as to property shipped or brought into state -- Duty of retailers that do not collect tax to provide use tax liability notification to Kentucky customers -- Exemption.

- (1) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer for storage, use, or other consumption in this state.
- (2)
 - (a) Except as provided in subsection (8) of this section, every retailer that:
 1. Is making sales of tangible personal property or digital property from a place outside this state for storage, use, or other consumption in this state; and
 2. Is not required to collect the use tax under KRS 139.340;shall notify the purchaser that the purchaser is required to report and pay the Kentucky use tax directly to the department on purchases from that retailer unless the purchases are otherwise exempt under this chapter.
 - (b) The required use tax notification shall be readily visible and shall be included on the retailer's Internet Web site, retail catalog, and invoices provided to the purchaser, as provided in subsection (4) of this section.
 - (c) A retailer shall not advertise, state, display, or imply on the retailer's Internet Web site or retail catalog that there is no Kentucky tax due on the purchases made from the retailer.
- (3) The use tax notification required by subsection (2) of this section shall contain the following language:
 - (a) "The retailer is not required to and does not collect Kentucky sales or use tax.";
 - (b) "The purchase may be subject to Kentucky use tax unless the purchase is exempt from taxation in Kentucky.";
 - (c) "The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means."; and
 - (d) "The Commonwealth of Kentucky requires Kentucky purchasers to report all purchases of tangible personal property or digital property that are not taxed by the retailer and pay use tax on those purchases unless exempt under Kentucky law. The tax may be reported and paid on the Kentucky individual income tax return or by filing a consumer use tax return with the Kentucky Department of Revenue. These forms and corresponding instructions may be found on the Kentucky Department of Revenue's Internet Web site."
- (4) Except as provided in subsection (5) of this section, the retailer shall include the exact required use tax notification language provided in subsection (3) of this section on the:
 - (a) Internet Web site page necessary to facilitate an online sales transaction;
 - (b) Electronic order confirmation or, if an electronic order confirmation is not issued, the required use tax notification shall be included on the purchase order, invoice, bill, receipt, sales slip, order form, or packing statement; and

- (c) Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing statement.
- (5) If the retailer provides a prominent reference to a supplemental page in the retailer's catalog or on the retailer's Internet Web site, or provides a prominent electronic linking notice on the retailers' Internet Web site, that states, "See important Kentucky sales and use tax information regarding tax you may owe directly to the Commonwealth of Kentucky," and that supplemental page or electronic link contains the required use tax notification language as provided in subsection (3) of this section, the retailer is relieved from the requirements of subsection (4) of this section.
- (6) If the retailer is required to provide a similar use tax notification for another state in addition to the use tax notification required by this section, the retailer may provide a consolidated notification if the consolidated notification meets the requirements of this section.
- (7) Except for the notification requirement on invoices in subsection (4)(c) of this section, subsections (2) to (8) of this section shall also apply to online auction Web sites. For purposes of this section, "online auction Web site" means a collection of Internet Web pages that allows persons to display tangible personal property or digital property for sale that is purchased through a competitive process where participants place bids with the highest bidder purchasing the item when the bidding period ends.
- (8) Any retailer that made total gross sales of less than one hundred thousand dollars (\$100,000) to Kentucky residents or businesses located in Kentucky, and that reasonably expects that its Kentucky sales in the current calendar year will be less than one hundred thousand dollars (\$100,000), shall be exempt from subsections (2) to (8) of this section.

Effective: July 1, 2013

History: Amended 2013 Ky. Acts ch. 119, sec. 12, effective July 1, 2013. -- Amended 2009 Ky. Acts ch. 73, sec. 15, effective July 1, 2009. -- Amended 1990 Ky. Acts ch. 476, Pt. VII A, sec. 621, effective July 1, 1990. -- Amended 1968 Ky. Acts ch. 40, Part 1, sec. 8. -- Created 1960 Ky. Acts ch. 5, Art. 1, sec. 44.