103 KAR 16:352. Corporation income taxes policies and circulars.

RELATES TO: KRS 131.130(1), 141.010, 141.012, 141.040, 141.120, 141.160, 141.170, 141.200, 141.210, 141.206, 141.990

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations to administer and enforce Kentucky's tax laws. The Department of Revenue has many policies and circulars, a number of which predate the enactment of KRS Chapter 13A, that conflict with current tax laws. This administrative regulation rescinds corporation income taxes policies and circulars.

Section 1. The following corporation income taxes policies and circulars of the Department of Revenue are rescinded and shall be null, void, and unenforceable:

(1) Revenue Policy 41P010 - Cooperatives. This policy is being rescinded because it conflicts with KRS 141.160 and 141.170.

(2) Revenue Policy 41P020 - Short period return or change in tax period resulting from change in ownership. This policy is being rescinded because it restates KRS 141.140(1).

(3) Revenue Policy 41P030 - Six-year statute of limitations. This policy is being rescinded because it restates KRS 141.210(2).

(4) Revenue Policy 41P040 - Declaration of estimated tax penalty. This policy is being rescinded because it restates KRS 141.990(3).

(5) Revenue Policy 41P070 - Income and deductions. This policy is being rescinded because it is obsolete.

(6) Revenue Policy 41P071 - Claim of right. This policy is being rescinded because it was incorporated into 103 KAR 16:320.

(7) Revenue Policy 41P080 - Coal royalty income. This policy is being rescinded because it restates KRS 141.010(12)(d).

(8) Revenue Policy 41P100 - Deductibility of state taxes. This policy is being rescinded because it is obsolete due to the repeal of the New York Subsidiary Capital tax. 103 KAR 16:360, Deductibility of the New York Franchise Tax on Business Corporations, the Massachusetts Corporate Excise Tax, and West Virginia Business and Occupations Tax in Computing a Corporation’s Net Income, provides guidance on the deductibility of the New York Franchise Tax on Business Corporations which includes subsidiary capital in the tax base.

(9) Revenue Policy 41P110 - Deductibility of state taxes. This policy is being rescinded because guidance on the deductibility of the Massachusetts corporation excise tax is provided in 103 KAR 16:360, Deductibility of the New York Franchise Tax on Business Corporations, the Massachusetts Corporate Excise Tax, and West Virginia Business and Occupations Tax in Computing a Corporation’s Net Income.

(10) Revenue Policy 41P120 - Deductibility of state taxes. This policy is being rescinded because the Indiana gross receipts tax was repealed effective January 1, 2003, making this policy obsolete.

(11) Revenue Policy 41P121 - Deductibility of state taxes. This policy is being rescinded because guidance on the deductibility of the West Virginia Business and Occupations Tax is provided in 103 KAR 16:360, Deductibility of the New York Franchise Tax on Business Corporations, the Massachusetts Corporate Excise Tax, and West Virginia Business and Occupations Tax in Computing a Corporation’s Net Income.

(12) Revenue Policy 41P125 - Windfall profit tax. This policy is being rescinded because it restates KRS 141.010(13) and the provision of the Internal Revenue Code referred to in the policy has been repealed.

(13) Revenue Policy 41P130 - Taxation of income from activities on the outer continental shelf. This policy is being rescinded because it restates KRS 141.010(12), (13), (14), and 141.120 and the holding of a court decision.

(14) Revenue Policy 41P140 - Subpart F Income. This policy is being rescinded because it conflicts with KRS 141.010(12).

(15) Revenue Policy 41P150 - Expenses Related to Nonbusiness or Nontaxable Income. This policy is being rescinded because it was incorporated into 103 KAR 16:060.

(16) Revenue Policy 41P160 - First-Year Net Operating Loss. This policy is being rescinded because it restates KRS 141.012, which was repealed effective for taxable years beginning on or after January 1, 2006.

(17) Revenue Policy 41P170 - Sales Factor. This policy is being rescinded because it is obsolete. Guidance on the sales factor is provided by 103 KAR 16:270.

(18) Revenue Policy 41P180 - Property Factor. This policy is being rescinded because it is obsolete. Guidance on the property factor is provided by 103 KAR 16:290.

(19) Revenue Policy 41P190 - Net Rental Income. This policy is being rescinded because guidance on the treatment of net rental income in the property factor is provided by 103 KAR 16:290, Apportionment; Property Factor.

(20) Revenue Policy 41P200 - Partnership and Joint Venture Income Classified Business Income. This policy is being rescinded because it conflicts with KRS 141.206.

(21) Revenue Policy 41P210 - Business Apportionment Factor for Corporations Reporting Income on Completed Contract Method. This policy is being rescinded because it was incorporated into 103 KAR 16:340.

(22) Revenue Policy 41P220 - Separate Accounting. This policy is being rescinded because statements in the policy conflict with KRS 141.200(15). Parts of the policy not in conflict with KRS 141.200(15) were incorporated into 103 KAR 16:330.

(23) Revenue Policy 41P230 - Financial Organizations. This policy is being rescinded because it was incorporated into 103 KAR 16:150.

(24) Revenue Policy 41P240 - Homeowners Associations. This policy is being rescinded because it restates KRS 141.010 and 141.040.

(25) Revenue Policy 41P250 - Taxation of Foreign Sales Corporations and Domestic International Sales Corporations. This policy is being rescinded because it is obsolete. Updated guidance is provided in 103 KAR 16:370, Corporation Income Tax Treatment of Foreign Sales Corporations and Domestic International Sales Corporations.

(26) Revenue Policy 41P260 - Corporate Distributions, Liquidations and Reorganizations. This policy is being rescinded because it restates KRS 141.0101(10).

(27) Revenue Circular 41C020 - Safe harbor or finance leases. This circular is being rescinded because it is obsolete. Updated guidance is provided in 103 KAR 16:380, Safe Harbor or Finance Leases. (33 Ky.R. 1192; Am. 1603; 1791; eff. 2-2-2007.)