103 KAR 44:090. Policies and circulars relating to motor vehicle usage tax.

RELATES TO: KRS 138.450 to 138.470
STATUTORY AUTHORITY: KRS 131.130(1)
NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. The department has issued policies and circulars, a number of which predate KRS Chapter 13A, that conflict with current tax laws or are redundant in light of other relevant legal authority, resulting in needless uncertainty as to the validity of the information expressed in those policies and circulars. This administrative regulation formally rescinds the previously-issued policies and circulars relating to taxes administered by the department's Office of Sales and Excise Taxes.

Section 1. The following policies and circulars merely restate or summarize the requirements or provisions of the motor vehicle usage tax statutes of KRS Chapter 138 and applicable administrative regulations cited below, and are hereby formally rescinded and shall be null, void, and unenforceable:
(1) Policies:
(a) Revenue Policy 71P015 (revised 12/1/86), relating to which price must be used for motor vehicle usage tax purposes when a price increase has occurred on the manufacturer's suggested retail price between the order date and the delivery date of a vehicle (KRS 138.450, 138.460, and 103 KAR 44:060);
(b) Revenue Policy 71P016 (revised 12/1/86), relating to the applicable usage tax due on equipment and accessories mounted on a truck chassis (KRS 138.450(9));
(c) Revenue Policy 71P025 (revised 12/1/86), relating to the tax exempt transfer of a vehicle which has been transferred from a proprietorship to a corporation, back to a proprietorship within six (6) months from the date the business is incorporated (KRS 138.470(8));
(d) Revenue Policy 71P030 (revised 12/1/94), relating to credit for tax previously paid when registering a motor vehicle that was previously registered in another state (KRS 138.460(6));
(e) Revenue Policy 71P070 (revised 6/1/83), relating to the tax treatment of transactions involving repossessed vehicles that are held for resale (KRS 138.470(13));
(f) Revenue Policy 71P120 (revised 6/1/83), relating to the collection of usage tax when registering a vehicle in the names of both spouses when only one spouse qualifies for the military exemption (KRS 138.470(4) and (6)); and
(g) Revenue Policy 71P130 (revised 6/1/83), relating to credit for sales tax paid on the purchase of a motorcycle collected at time of purchase against the usage tax paid at time of registration (KRS 138.460(6)); and
(2) Circulars:
(a) Revenue Circular 71C169 (revised 4/15/83), relating to usage tax on forced registrations (KRS 138.470(5) and 186.145); and
(b) Revenue Circular 71C183 (revised 4/15/83), relating to sales tax credit on initial motorcycle registration (KRS 138.460(6)).

Section 2. The following policies and circulars are no longer accurate due to subsequent regulatory or statutory changes and are hereby formally rescinded and shall be null, void, and unenforceable:
(1) Policies:
(a) Revenue Policy 71P010 (revised 12/1/86), relating to the computation of usage tax using the value of the vehicle on the date of registration or the date appearing on the transfer docu-

ment (KRS 138.460 and 138.470(6));

(b) Revenue Policy 71P020 (revised 3/31/94), relating to credit for tax paid in another state by one (1) spouse, ex-spouse, parent, child, stepparent, stepchild, grandparent or grandchild allowed against the Kentucky usage tax when the other spouse, ex-spouse, parent, child, stepparent, stepchild, grandparent or grandchild registers an out-of-state motor vehicle in his or her name (KRS 138.460 and 138.470(6));

(c) Revenue Policy 71P071 (revised 11/30/92), relating to credit for tax previously paid when registering a motor vehicle that was previously registered in another state (KRS 138.460(6));

(d) Revenue Policy 71P080 (revised 6/1/83), relating to the reduction of the retail price of a used vehicle when more than one (1) used vehicle is traded-in on the vehicle being registered (KRS 138.450(10));

(e) Revenue Policy 71P085 (revised 12/1/86), relating to trade-credit allowed on used vehicles purchased in another state by a licensed Kentucky dealer that is registered in the dealer's name and subsequently traded to a Kentucky resident (KRS 138.450 and 138.470); and

(f) Revenue Policy 71P150 (revised 6/1/83), relating to transfers of used school buses (KRS 138.450 and 103 KAR 44:060); and

(2) Circulars:

(a) Revenue Circular 71C172 (revised 12/1/90), relating to trade-in allowance (KRS 138.450);

(b) Revenue Circular 71C176 (revised 4/15/83), relating to "For Sale and Transfer" registrations (KRS 138.460);

(c) Revenue Circular 71C179 (revised 12/1/86), relating to vehicles that have been repossessed by a financial institution and redeemed by the debtor (KRS 138.470(13)); and

(d) Revenue Circular 71C189 (revised 4/15/83), relating to tax credit given to a Kentucky resident for a similar tax paid to another state (KRS 138.460).

Section 3. The following policies are not covered by statute and are being rescinded and shall be null, void, and unenforceable:

(1) Revenue Policy 71P040 (revised 6/1/83), relating to two (2) names on the same registration when transferred into only one (1) of those names; and

(2) Revenue Policy 71P060 (revised 6/1/83), relating to when usage tax is applicable and when it is refundable on the transfer of stolen vehicles. (33 Ky.R. 2824; 3162; eff. 5-4-2007.)