

**247.920 Alcohol production exemption certificate.**

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The Department for Energy Development and Independence shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the Department for Energy Development and Independence, and shall afford to the applicant and to the Department for Energy Development and Independence an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
  - (a) The certificate was obtained by fraud or misrepresentation;
  - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
  - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Department for Energy Development and Independence. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Department for Energy Development and Independence. The applicant or holder and the Department for Energy Development and Independence shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.

- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky Board of Tax Appeals as provided in KRS 131.340.
- (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Department for Energy Development and Independence and the Department of Revenue.
- (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Department for Energy Development and Independence and to the Department of Revenue.
- (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 601, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 152, sec. 10, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 663, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 2, sec. 9, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 277, sec. 9, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 325, sec. 34, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 331, sec. 41, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 210, sec. 3, effective July 15, 1980.