

**138.143 Floor stocks tax on cigarettes, snuff, and other tobacco products -- Rates -- Required returns -- Installment payments.**

- (1) Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer shall:
  - (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on March 31, 2009. Inventory of cigarettes in vending machines may be accomplished by:
    1. Taking an actual physical inventory;
    2. Estimating the cigarettes in vending machines by reporting one-half (1/2) of the normal fill capacity of the machines, as reflected in individual inventory records maintained for vending machines; or
    3. Using a combination of the methods prescribed in subparagraphs 1. and 2. of this paragraph;
  - (b) File a return with the department on or before April 10, 2009, showing the entire wholesale and retail inventories of cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on March 31, 2009; and
  - (c) Pay a floor stock tax at a proportionate rate equal to thirty cents (\$0.30) on each twenty (20) cigarettes in packages bearing a Kentucky tax stamp and unaffixed Kentucky tax stamps in their possession or control at 11:59 p.m. on March 31, 2009.
- (2) Every retailer and sub-jobber shall:
  - (a)
    1. Take a physical inventory of all units of snuff possessed by them or in their control at 11:59 p.m. on March 31, 2009;
    2. File a return with the department on or before April 10, 2009, showing the entire inventory of snuff possessed by them or in their control at 11:59 p.m. on March 31, 2009; and
    3. Pay a floor stock tax at a proportionate rate equal to nine and one-half cents (\$0.095) on each unit of snuff in their possession or control at 11:59 p.m. on March 31, 2009; and
  - (b)
    1.
      - a. Take a physical inventory of all other tobacco products possessed by them or in their control at 11:59 p.m. on March 31, 2009;
      - b. File a return with the department on or before April 10, 2009, showing the entire inventories of other tobacco products possessed by them or in their control at 11:59 p.m. on March 31, 2009; and
      - c. Pay a floor stock tax at a proportionate rate equal to seven and one-half percent (7.5%) on the purchase price of other tobacco products in their possession or control at 11:59 p.m. on March 31, 2009.
    2.
      - a. As used in this paragraph, "purchase price" means the actual amount paid for the other tobacco products subject to the tax

imposed by this paragraph.

- b. If the retailer or sub-jobber cannot determine the actual amount paid for each item of other tobacco product, the retailer or sub-jobber may use as the purchase price the amount per unit paid as reflected on the most recent invoice received prior to April 1, 2009, for the same category of other tobacco product.
  - c. To prevent double taxation, if the invoice used by the retailer or sub-jobber to determine the purchase price of the other tobacco product does not separately state the tax paid by the wholesaler, the retailer or sub-jobber may reduce the amount paid per unit by seven and one-half percent (7.5%).
- (3) (a) The taxes imposed by this section may be paid in three (3) installments. The first installment, in an amount equal to at least one-third (1/3) of the total amount due, shall be remitted with the return provided by the department on or before April 10, 2009. The second installment, in an amount that brings the total amount paid to at least two-thirds (2/3) of the total amount due, shall be remitted on or before May 10, 2009. The third installment, in an amount equal to the remaining balance, shall be remitted on or before June 10, 2009.
- (b) Interest shall not be imposed against any outstanding installment payment not yet due from any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who files the return and makes payments as required under this section.
- (c) Any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who fails to file a return or make a payment on or before the dates provided in this section shall, in addition to the tax, pay interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the return was required to be filed.

**Effective:** February 13, 2009

**History:** Amended 2009 Ky. Acts ch. 2, sec. 2, effective February 13, 2009. -- Created 2005 Ky. Acts ch. 168, sec. 82, effective May 31, 2005; and ch. 173, Part XXV, sec. 2, effective March 20, 2005.

**Legislative Research Commission Note (2/13/2009).** A reference to "paragraphs (a) and (b) of this subsection" in subsection (1)(a)3. of this statute has been changed in codification to "subparagraphs 1. and 2. of this paragraph" by the Reviser of Statutes under KRS 7.136(1) to correct an oversight in the drafting of 2009 Ky. Acts ch. 2, sec. 2, which inserted various subsection, paragraph, and subparagraph designations into this statute, but failed to change the existing internal reference.

**Legislative Research Commission Note (5/31/2005).** 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.