

### **139.350 Exception in the case of bad debts.**

- (1) A retailer may deduct as a bad debt the amount found to be worthless and charged off for income tax purposes provided the retailer is reporting and remitting the tax on the accrual basis. The retailer may take the deduction on the return for the period during which the bad debt is written off as uncollectable in the retailer's books and records and is eligible to be charged off for income tax purposes. For purposes of this section, "charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectable, or declaring as uncollectable the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.
- (2) In determining the basis for calculating bad debt recovery, the definition of "bad debt" as provided in 26 U.S.C. sec. 166 shall be used, except "bad debt" shall not include financing charges or interest, sales or use taxes charged on the purchase price, uncollectable amounts on property that remains in the possession of the retailer until the full purchase price is paid, expenses incurred in attempting to collect any debt, or repossessed property.
- (3) Notwithstanding KRS 131.183, any deduction taken for bad debts shall not include interest.
- (4) A retailer may obtain a refund of tax on the amount of bad debt that exceeds the amount of taxable sales for the period during which the bad debt is written off. Notwithstanding KRS 131.183, the refund claim must be made within four (4) years from the due date of the return on which the bad debt could first be claimed.
- (5) If any bad debt accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the return filed for the period in which the collection is made and the amount of the tax due shall be paid with the return.
- (6) If a retailer's filing responsibilities have been assumed by a certified service provider as provided by KRS 139.795, the certified service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.
- (7) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the property or service and the sales tax on it, proportionally, and secondly to interest, service charges, and any other charges.

**Effective:** July 1, 2004

**History:** Amended 2003 Ky. Acts ch. 124, sec. 18, effective July 1, 2004. -- Created 1960 Ky. Acts ch. 5, Art. I, sec. 34, effective February 5, 1960.