

### **138.130 Definitions for KRS 138.130 to 138.205.**

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

- (1) "Department" means the Department of Revenue.
- (2) "Manufacturer" means any person who manufactures or produces cigarettes, snuff, or other tobacco products within or without this state.
- (3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.
- (4) "Sale at retail" means a sale to any person for any other purpose other than resale.
- (5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. "Cigarettes" shall not mean reference cigarettes.
- (6) "Reference cigarettes" means cigarettes made by a manufacturer specifically for a state public university to be held by the university until sale or transfer to a laboratory, hospital, medical center, institute, college or university, manufacturer, or other institution. A reference cigarette package shall carry a marking labeling the contents as research cigarettes to be used only for tobacco-health research and experimental purposes, which shall not be offered for sale, sold, or distributed to consumers.
- (7) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, other tobacco products, or snuff, and distribution in any manner or by any means whatsoever.
- (8) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.
- (9) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular.
- (10) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes, other tobacco products, or snuff purchased by the wholesaler directly from the manufacturer on which the tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes, other tobacco products, or snuff.
- (11) "Nonresident wholesaler" means any person who purchases cigarettes, other tobacco products, or snuff directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.
- (12) "Sub-jobber" means any person who purchases cigarettes, other tobacco products, or snuff from a wholesaler licensed under KRS 138.195 on which the tax imposed

by KRS 138.140 has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes, other tobacco products, or snuff available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes, other tobacco products, or snuff for resale in the regular course of business.

- (13) "Vending machine operator" means any person who operates one (1) or more cigarette, other tobacco products, or snuff vending machines.
- (14) "Transporter" means any person transporting untax-paid cigarettes, other tobacco products, or snuff obtained from any source to any destination within this state, other than cigarettes, other tobacco products, or snuff transported by the manufacturer thereof.
- (15) "Unclassified acquirer" means any person in this state who acquires cigarettes, other tobacco products, or snuff from any source on which the tax imposed by KRS 138.140 has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.
- (16) "Other tobacco products" means:
  - (a) Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;
  - (b) Cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco; or
  - (c) Shorts, dry snuff, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking. "Other tobacco products" does not include cigarettes as defined in subsection (5) of this section, reference cigarettes, or moist snuff taxed under the provisions of KRS 138.140(5).
- (17) "Wholesale sale" means a sale made for the purpose of resale in the regular course of business.
- (18) "Cigarette paper" means paper or a similar material suitable for use by consumers to wrap or roll tobacco into the form of a cigarette.

**Effective:** July 1, 2007

**History:** Amended 2007 Ky. Acts ch. 84, sec. 1, effective July 1, 2007. -- Amended 2006 Ky. Acts ch. 6, sec. 7, effective June 1, 2006; ch. 251, sec. 48, effective April 25, 2006; and ch. 252, Pt. XXXIII, sec. 1, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 346, effective June 20, 2005; and ch. 168, sec. 80, effective June 1, 2005. -- Amended 1982 Ky. Acts ch. 386, sec. 2, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 233, sec. 19, effective June 17, 1978. -- Amended 1962 Ky. Acts ch. 92, sec. 1. -- Amended 1950 Ky. Acts ch. 215, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4281e-1.

**Legislative Research Commission Note (6/1/2006).** This section was amended by 2006 Ky. Acts chs. 6, sec. 7; 252, Pt. XXXIII, sec. 1, and 251, sec. 48, which specifically amends this statute as it appears in Section 1 of Part XXXIII of 2006 Regular Session HB 380/EN. These do not appear to be in conflict and have been codified together.