

**139.290 Property used by purchaser after giving certificate -- When retailer may deduct purchase price.**

- (1) If a retailer or seller who gives a resale certificate makes any use of the tangible personal property or digital property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the retailer or seller as of the time the property is first used by the retailer or seller, and the sales price of the property to the retailer or seller shall be deemed the measure of the tax.
- (2) If the sole use of the property by the retailer other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the retailer shall include in gross receipts the amount of the rental charged rather than the sales price of the property.
- (3) If a retailer sells tangible personal property or digital property before making any use thereof, other than retention, demonstration, or display while holding it for sale in the regular course of business, the retailer may take a deduction of the purchase price of the property if, with respect to its purchase, the retailer has reimbursed the vendor for the sales tax or has paid the use tax. If a deduction is taken by the retailer, no refund or credit shall be allowed to the vendor with respect to the sale of that property.

**Effective:** July 1, 2009

**History:** Amended 2009 Ky. Acts ch. 73, sec. 10, effective July 1, 2009. -- Amended 2003 Ky. Acts ch. 124, sec. 16, effective July 1, 2004. -- Amended 1985 (1st Extra. Sess.) Ky. Acts ch. 6, Pt. III, sec. 8, effective August 1, 1985. -- Created 1960 Ky. Acts ch. 5, Art. I, sec. 29, effective February 5, 1960.

**Legislative Research Commission Note.** 1985 (1st Extra. Sess.) Ky. Acts ch. 6, Pt. III, sec. 11, directed that the provisions of this section would be effective August 1, 1985.