

COMMONWEALTH OF KENTUCKY  
**DEPARTMENT OF REVENUE**  
FRANKFORT  
40620  
revenue.ky.gov

November 30<sup>th</sup>, 2022

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WATER DISTRICT  
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**RE: Residential Exemption for Utility Purchases**

To Utility Providers Impacted by House Bill (HB) 8, effective January 1, 2023

Utility providers may no longer utilize tariffs filed with the Public Service to determine the residential use exemption from sales tax. Beginning with the January 1, 2023, effective date, a utility customer is only eligible for the residential exemption for services received at his or her place of domicile defined under KRS 139.470(7)(b)(1) as *"where an individual has his or her legal, true, fixed, and permanent home and principal establishment, and to which, whenever the individual is absent, the individual has the intention of returning."*

Utility companies should examine their databases to determine if they have any customers with a residential coding for more than one service address. In such cases, utility companies must document the address that the customer declares as his or her place of domicile. In addition, utilities must obtain the declaration of domicile information for any accounts classified as residential whenever there is a change in account holders and whenever a new residential account is established.

**\*Utility providers should not contact existing account holders that have only one residential service address in the utility database. Also, separate additional meters at the same residential service address for detached garages and other buildings will also qualify for the residential use exemption unless the building is for commercial use or other non-residential use once the utility receives a completed Declaration of Domicile for that account.\***

The Department has developed two new exemption certificate forms for utility customers to declare their place of domicile. The 51A380 Declaration of Domicile is for use by the resident of the service address, whether as the owner or the tenant of the residence. The 51A381 Multi-unit Declaration of Domicile for Landlords or other Accountholders is for use by the landlord operating a multi-unit rental facility with a master meter. **Please note that a customer account with a master meter that serves only common areas or that serves common areas and multiple dwelling units is not eligible for the residential use exemption.**

The submittal of a 51A381 form must also include a completed 51A380 Declaration of Domicile for each unit in the facility. The 51A380 must be completed and signed by the individual tenant. **Landlords that operate a single-family rental unit only need to submit a completed 51A380 signed by the tenant.** The exemption forms are available on the Department of Revenue's website at this link: <https://revenue.ky.gov/Get-Help/Pages/Forms.aspx>. Please search by form number to locate the particular form.

If you need assistance with this process or have further questions regarding this matter, please contact the Division of Sales & Use Tax at 502 564-5170 or by email at [KRC.WebResponseSalesTax@Ky.gov](mailto:KRC.WebResponseSalesTax@Ky.gov)

Sincerely,

Kentucky Department of Revenue  
Division of Sales & Use Tax

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# Residential Utility Exemption Changes

 / Sales and Excise Taxes / Residential Exemption Changes

## Implementation of Changes to the Sales & Use Tax Residential Utility Exemption-KRS 139.470(7), effective 01/01/2023

The basis of the residential exemption for utilities shifts from reliance on tariff language filed with the Public Service Commission (PSC) to a customer declaration that the services are used at the location as the place of domicile.

**Could the Department of Revenue (DOR) continue to use the former determinations although they have been stricken from the language?**

No. DOR will administer the new language as enacted. In most cases, customers treated as exempt under the previous language in KRS 139.470(7) are expected to continue to receive the residential exemption. One exception to this general expectation is applicable to customers who are currently receiving a residential exemption for two or more locations. Beginning 01/01/2023, a utility customer is only eligible for the residential exemption for services used at his or her place of domicile, which is defined under KRS 139.470(7)(b)(1) as *"where an individual has his or her legal, true, fixed, and permanent home and principal establishment, and to which, whenever the individual is absent, the individual has the intention of returning."*

**Will DOR provide a new form/exemption certificate for residents to declare domicile?**

Yes, the new form for use by residents to declare their eligibility for the residential exemption is the Declaration of Domicile for Purchase of Residential Utilities, Form 51A380. Submit the completed form or provide the required information from the form in the format requested by each applicable utility provider. The form is available at 51A380 (1-23).

**On 01/01/2023, will utility companies begin charging sales tax on accounts classified as residential under the definitions in tariff filings accepted and approved by the PSC if a declaration of domicile has not yet been received from the resident?**

No. Since most accounts currently classified as residential are expected to retain residential treatment going forward, accounts should not default to non-residential status on 01/01/2023. However, utility companies should examine their databases to determine if they have customers with a residential coding for more than one address. In such cases, utility companies must document the single address that the customer declares as his or her place of domicile.

In addition, utilities must obtain the declaration of domicile information for any accounts they currently designate as residential when there is a change in account holders or if a new account is established. If there is uncertainty regarding the exempt status of a particular account, it will be the responsibility of the utility company to justify the residential treatment by obtaining a completed certificate of domicile from the customer.

**How will the declaration of domicile work for a multi-unit residential rental facility or mobile home park that is billed to an owner or operator of the facility rather than the resident?**

Since the residential exemption effective 01/01/2023 is based upon utilities purchased for, and declared by, the resident as used in his or her place of domicile, residents must declare their place of domicile to establish eligibility for the exemption. A property owner may collect and submit the Declaration of Domicile, Form 51A380 on behalf of the residential renters to the applicable utility companies providing services to the multi-unit residential rental facility for reclassification as a residential account.

The property owner or landlord must also complete a Multi-Unit Declaration of Domicile for Landlords, Form 51A381. The form is available at 51A381 (1-23). The Multi-Unit declaration must specify how many dwelling units are served by the master meter, and a separate and complete Declaration of Domicile must be included for each of the dwelling units. Multi-Unit declarations that do not include Declarations of Domicile from all dwelling units served by the master meter are not eligible for residential tax treatment. In addition, customer accounts with a master meter that serves only common areas or that serves common areas and multiple dwelling units are also not eligible for residential treatment.

**If an individual owns two or more homes, lives in one and rents the others, could the others qualify for exemption? Would the lessee(s) be required to submit a declaration of domicile?**

Yes, multiple properties owned by the same party may qualify for a residential exemption if each property is the place of domicile for different Kentucky residents and the utility service provider receives a certificate of domicile for each separately metered account.

**Will there be the same type of declaration of domicile exemption form for each utility service provider? Will each be required to receive these declarations from customers?**

Yes, the same general format should be used by each utility. Each retailer (utility service provider) must maintain its own records to document accounts that are classified as residential.

**How should sales tax refunds be processed for customers declaring domicile if the utility previously classified the account as non-residential and charged sales tax on their accounts?**

Effective 01/01/2023, customer accounts classified as non-residential may qualify for residential treatment if the utility service provider receives a new exemption certificate of domicile that the utility services relating to an account are purchased for and used in the place of domicile of the Kentucky resident. This exemption will apply for periods of service after the date the utility service provider receives the completed declaration for the customer account. Therefore, there should be no refund requests for periods beginning 01/01/2023 but before the utility receives a completed request for a residential exemption.

**How long will the declaration of domicile be effective?**

There is no expiration date for the certificate of domicile. It will remain effective as long as the facts stated on the form remain accurate. For example, if the account location changes ownership or if the renter at the location changes, then the certificate should be updated to reflect the new Kentucky resident using the location as his or her place of domicile.

**May a person claim the residential utility exemption on all utilities supplied to a primary residence with one meter servicing the home and another meter servicing an outbuilding?**

Yes, the residential utility exemption may apply under the following circumstances: a) the utility meters must serve a single location that is the declared place of domicile, b) the utility services through both meters must be exclusively for residential usage, and c) the resident must submit a fully completed Declaration of Domicile, Form 51A380, for each metered account.