



## City of Kent Business Tax Rules

NUMBER: 3-28-001

EFFECTIVE DATE: January 1, 2022

SUBJECT: SQUARE FOOTAGE TAX

APPROVED:

  
Paula Painter, CPA  
Finance Director

### OVERVIEW:

Pursuant to Kent City Code (KCC) Section 3.29.160, the Finance Director, acting on behalf of the City of Kent, hereby adopts this Business Tax Rule to supplement Chapter 3.28 of the Kent City Code. This rule is designed to educate, inform, and assist taxpayers in filing tax returns, determining the amount of tax due, and meeting all other taxpayer requirements established through Chapter 3.28 of the Kent City Code. In the event of a conflict between this business tax rule and an ordinance of the City of Kent, the ordinance prevails.

### 1. INTRODUCTION:

This rule explains the application of the square footage tax established pursuant to KCC 3.28.050(B). The square footage tax only applies to businesses with an office, warehouse, outdoor warehouse, or other place of business in Kent. This tax complements the gross receipts business and occupation tax.

Examples included in this rule identify a number of facts and then state a conclusion; they should be used only as a general guide. The tax results of all situations must be determined after a review of all the facts and circumstances.

### 2. DEFINITIONS:

The definitions provided in KCC 3.28.030 and KCC 3.28.050 apply throughout this rule.

#### **Business Warehouse:**

A building or structure, or any part thereof, in which goods, wares, merchandise or commodities are received or stored, whether or not for compensation, in furtherance of engaging in business.

#### **Other Business Floor Space:**

The floor space of an office or place of business, other than a business warehouse.

**Outdoor Warehouse:**

An area that is outdoors and is primarily used for the transloading of goods, wares, merchandise, or commodities on property for purposes of switching modes or vehicles of conveyance for the primary purpose of wholesaling, distributing, or reorganizing goods, wares, merchandise, or commodities en route to final destinations of sale or other transaction. Transloading generally involves the transfer of goods from one mode of transportation to another en route to an ultimate destination and, for purposes of the square footage tax, includes areas used for crossdocking, waylaying, temporary embarkment, and other similar activities.

**3. MEASURE OF TAX:**

The measure of the tax is the amount of square footage of business warehouses, outdoor warehouses, or other business facilities within Kent used to conduct business activities. Subject to the limitations described in this rule, the square footage tax is computed by applying the tax rates against the square footage of the business warehouse floor space, other business floor space, and outdoor warehouse space for each office, warehouse, outdoor warehouse, or other place of business leased, owned, occupied, or otherwise maintained within the city during the reporting period, calculated to the nearest square foot.

**4. MEASURING THE SQUARE FOOTAGE AREA – BUSINESS WAREHOUSE AND OTHER BUSINESS FLOOR SPACE:**

The square footage of a business warehouse and other business floor space is computed by measuring to the inside finish of permanent outer building walls and includes space used by columns and projects necessary to the building. Taxable square footage does not include stairs, elevator shafts, flues, pipe shafts, vertical ducts, heating or ventilation shafts, janitor closets, and electrical or utility closets.

**5. MEASURING THE SQUARE FOOTAGE AREA – OUTDOOR WAREHOUSE SPACE:**

The square footage of an outdoor warehouse shall only include those areas used for the receipt or storage of goods, wares, merchandise, or commodities that are being received and temporarily stored for transloading, whether or not for compensation, in furtherance of engaging in business. Such areas will typically include those areas where goods, wares, merchandise, and commodities, in transit to their ultimate destination, are parked, packaged, or stored after transloading, waylaying, or crossdocking. Square footage shall not include areas used only for employee, customer, or visitor parking, dock high loading areas used primarily for a business warehouse, buildings, areas used only for direct sales or rentals to consumers, landscaped areas, stormwater facilities, maneuvering areas and drive aisles, areas used only for garbage or

recycling pickup, rights-of-way, or other areas clearly not used for the temporary storage of goods, wares, merchandise, and commodities in transit. Outdoor areas used for storage of agricultural products or for ancillary storage of materials utilized in, or products resulting from, onsite manufacturing operations are not considered outdoor warehouses.

Outdoor warehouse space is measured based on the amount of space used for outdoor warehousing and is not measured solely based on the size of the goods, wares, merchandise, or commodities that are being stored.

**6. MORE THAN ONE FACILITY:**

Persons with more than one office, warehouse, outdoor warehouse, or other place of business within the city must include all floor space for all locations within the City. Such amounts shall be reported on a single return. The thresholds described in subsection (12)(c) of this rule are determined based on the total square footage for all locations within the City.

**7. RENTAL OF SPACE:**

Except as provided in section 9 of this rule, when a person rents space to another person, the person occupying the rental space is responsible for the square footage tax on that rental space only if the renter has exclusive right of possession in the rental space and if the space is used by the renter for the purpose of engaging in business activities. Space rented for the storage of goods in a warehouse where no walls separate the goods, and where the exclusive right of possession in the space is not held by the person to whom the space is rented, shall be included in the warehouse business floor space of the person that operates the warehouse business, and not by the person renting the warehouse space. It is incumbent on the landlord to maintain documentation showing that the renter has exclusive right of possession in the space and, therefore, owes the square footage tax in lieu of the landlord.

**8. MORE THAN ONE USE – FACILITIES CONTAINING BOTH WAREHOUSE AND OTHER BUSINESS FLOOR SPACE:**

Any person who maintains a facility in the City in which a portion of the facility is used for business warehouse purposes and a portion is used for other business purposes must report separately in both categories in the manner that most accurately reflects the respective tax liability of all space within the facility.

Specific considerations:

- a. Storage areas used to stock goods that will be transferred or sold, or raw materials that will be manufactured, must be reported in the Business Warehouse category, irrespective of whether the storage area

is physically separated from other uses of the facility by walls, partitions or other discernable features. Space that is used to conduct manufacturing or similar activities should be reported under the Other Business Floor Space category. If the same space is used for both storage and some other use at the same time, then the space is taxable based on the predominant character of the use of the space. The burden is on the taxpayer to demonstrate the predominant character of business use.

- b. The predominant character of a business that receives, stores, handles or provides logistical support for goods, wares, merchandise or commodities of others is that of a business warehouse, and the floor space used in the business shall be taxable as business warehouse floor space. Space within the facility that is used for administrative, clerical, or similar purposes may be reported under the other business floor space category, provided that it is separated from the business warehouse floor space by walls or similar partitions.
- c. Any person whose primary business activity is taxable under the Retailing or Retail Service gross receipts tax classifications, wherein the majority of retail customers pick up goods or receive services at the facility, and who uses less than 30 percent of the total square footage of the entire facility to receive or store goods, may elect to treat all of its square footage as other business floor space within the meaning of this rule. The foregoing does not apply if the predominant business activity is making wholesale sales or selling goods that will be shipped or delivered to the consumer.
- d. Examples:
  - i. A taxpayer maintains a 100,000 square-foot manufacturing facility in the City. 15,000 square feet of the facility are used to receive and store raw materials, 30,000 square feet are used to store finished products, 5,000 square feet are used for office space, and 50,000 square feet are used as the manufacturing area. The taxpayer must report 45,000 as business warehouse floor space and the remaining 55,000 square feet as other business floor space.
  - ii. A taxpayer operates three convenience stores in the City, each in a 5,000 square-foot facility. 750 square feet of each facility are used to store goods. The taxpayer may report all 15,000 square feet as other business floor space and need not separately account for the 2,250 square feet as business warehouse floor space.

- iii. A taxpayer operates a 10,000 square-foot facility in the City in which 5,000 square feet are used for storage of goods to be transferred or sold within or outside of Kent city limits, and 5,000 square feet of the facility are used as a retail store area in which the same goods may be purchased on-site by retail customers. The taxpayer must report 5,000 square feet as business warehouse floor space and 5,000 square feet as other business floor space.

**9. SELF-STORAGE FACILITIES:**

The floor space of a self-storage business, wherein customers rent space to store their personal belongings, shall be taxable under the Other Business Floor Space category. Effective January 1, 2022, the self-storage business is responsible for remitting the tax and may not shift liability for the tax onto the renter of the self-storage unit, irrespective of whether the space is used by the renter for a business purpose.

**10. VACANT OR UNUSED SPACE:**

If any portion of a building or structure is used for a business purpose, then the entire square footage of the building or structure must be included in the measure of tax, unless the vacant or unused space is separated by walls or similar partitions from the remaining facility, has its own separate entryway into or out of the building or structure, and is not used at any time during the tax reporting period. Space that is held merely for the purpose of leasing, renting, or selling the property to others is not included in the measure of tax, provided that no other business activities are conducted within the space.

Outdoor warehouse space is taxable so long as the space is used for outdoor warehousing during the reporting period, irrespective of whether the space is used for all or only a portion of the reporting period.

**11. CHANGES IN FLOOR SPACE – NEW BUSINESS – CLOSING BUSINESS:**

- a. A person who opens or closes their business location in Kent during the tax reporting period, or whose business space within Kent otherwise changes during the tax reporting period, shall prorate the tax due based on a ratio of days that the space was occupied to total days of the tax reporting period. This ratio is computed based on a 90-day calendar quarter or 360-day calendar year.
- b. When a business is in the process of opening or closing a facility, the space is deemed taxable so long as it is used for a business purpose, which includes, but is not limited to, making or soliciting sales; storing raw materials, inventory, goods, wares, or merchandise; conducting activities on tangible personal property that belongs to others or that

will be sold by the business, such as repairing, altering, processing or manufacturing; providing services to or for customers; performing clerical or administrative tasks; or any other activity by which the taxpayer receives an economic benefit from the use of the space.

c. Example:

During Quarter 1, 2021, a business occupies business warehouse floor space of 15,000 square feet for the first 30 days and then 30,000 square feet for the remaining 60 days. The daily square footage tax rate for business warehouse floor space is \$0.001 (i.e. \$0.09 / 90 days). The tax due is computed as follows:

$$(15,000 \times 30 \text{ days} \times \$0.001) + (30,000 \times 60 \text{ days} \times \$0.001) = \$2,250$$

## 12. LIMITATIONS:

The square footage tax does not apply to residential dwelling units, and no square footage tax is due under the following circumstances.

- a. Offices, warehouses or other places of business are entirely located outside of Kent city limits.
- b. The square footage tax amount that would otherwise be due for the reporting period is equal to or less than the gross receipts tax due to the City for the same reporting period.
- c. The taxpayer's total floor area of all facility space maintained within the City is equal to or less than 4,000 taxable square feet of business warehouse space, 12,000 taxable square feet of other business floor space, and 261,360 (six acres) square feet of outdoor warehouse space. This is a threshold and not an exemption. If the square footage exceeds the threshold, then the square footage tax must be computed based on the total taxable square footage. Persons with square footage beneath the threshold amount must still report their square footage on the return.

Specific considerations:

- For business warehouse floor space and other business floor space, if the square footage exceeds either threshold then square footage tax is due on the entire taxable business warehouse floor space and other business floor space within the City.
- For outdoor warehouse space, square footage tax is due only if the threshold has been exceeded for outdoor warehouse space.

d. Examples:

- i. The business warehouse floor space is 4,500 square feet and other business floor space is 6,000 square feet. The entire square footage is subject to tax because the threshold of 4,000 square feet of business warehouse space has been exceeded.
- ii. The business owns two locations, each with business warehouse floor space of 2,500 square feet. The entire square footage for all facilities in Kent is subject to square footage tax because the threshold of 4,000 square feet of business warehouse space has been exceeded.
- iii. The other business floor space is 12,500 square feet and business warehouse space is 1,000 square feet. The entire square footage is subject to square footage tax because the threshold of 12,000 square feet of other business floor space has been exceeded.
- iv. The business warehouse floor space is 10,000 square feet and the outdoor warehouse space is 50,000 square feet. Square footage tax is due on the business warehouse floor space, but it is not due on the outdoor warehouse space since the taxable threshold of 261,360 square feet has not been met.

**13. EXEMPTIONS:**

If the facility supports a business activity that is wholly exempt from the city business and occupation tax pursuant to KCC 3.28.090, then the floor space is likewise exempt from the square footage tax. Some exemptions in KCC 3.28.090 are applicable only to the gross receipts tax, in which cases the square footage tax still applies.

Specific considerations:

- a. Taxpayers who conduct both exempt and taxable activities shall measure their taxable square footage based on the amount of space used to conduct taxable activities.
- b. If a taxpayer is unable to determine the amount of floor space dedicated to taxable activities versus exempt activities, then the taxpayer shall calculate their taxable square footage based on the percentage of taxable gross income to total gross income earned during the reporting period. Tax applies if the resulting square footage amount exceeds either of the square footage thresholds described in subsection (12)(c) of this rule.

- c. The foregoing square footage tax exemption is limited to business activities that are exempt from tax under KCC 3.28.090. Amounts that are deductible from tax under KCC 3.28.100 do not affect the computation of the square footage tax due.
- d. Examples:
  - i. The business engages in selling liquor and other products. It maintains a 50,000 square foot business warehouse in Kent. The products are comingled, and the business cannot identify the amount of floor space that is used to store liquor versus other products. Eighty percent of the gross income of the business is derived from liquor sales, whereas the remaining twenty percent is derived from selling other products. The business must report 10,000 square feet of business warehouse floor space on the return.
  - ii. Same facts as example i. above, except the amount of warehouse space used to store liquor can be distinctly segregated from the amount of warehouse space used to store other products. The amount of space used to store liquor is exempt from square footage tax, whereas the amount of space used to store other products is taxable.
  - iii. The business engages in renting self-storage facilities where customers are given 24-hour access to their storage unit and rent the space for 30 days or more. The total square footage of the business must be reported on the return since the exemption for rental of real estate provided in KCC 3.28.090(P) is limited only to gross income. The square footage, including the storage units, is taxable under the Other Business Floor Space category.
  - iv. The business engages in providing recycling services. It collects recyclable materials in Kent, processes the materials at a facility in Kent, and resells the materials. The amount of square footage dedicated toward the collection and processing activity is exempt from square footage tax, since this business activity is subject to the utility tax. The amount of square footage dedicated toward the selling activity, including storing materials prior to sale, is subject to the square footage tax.
  - v. The business engages in selling furniture at retail and wholesale. It maintains a 20,000 square foot facility in Kent, where it stores goods that will primarily be sold outside of Kent. The entire 20,000 square feet must be included in the measure of square footage tax, irrespective of the fact that all or a portion of the gross receipts will be deductible from the gross receipts tax.