

1 AN ACT relating to taxation and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.878 is amended to read as follows:

4 (1) The following public records are excluded from the application of KRS 61.870 to
5 61.884 and shall be subject to inspection only upon order of a court of competent
6 jurisdiction, except that no court shall authorize the inspection by any party of any
7 materials pertaining to civil litigation beyond that which is provided by the Rules of
8 Civil Procedure governing pretrial discovery:

9 (a) Public records containing information of a personal nature where the public
10 disclosure thereof would constitute a clearly unwarranted invasion of personal
11 privacy;

12 (b) Records confidentially disclosed to an agency and compiled and maintained
13 for scientific research. This exemption shall not, however, apply to records the
14 disclosure or publication of which is directed by another statute;

15 (c) 1. Upon and after July 15, 1992, records confidentially disclosed to an
16 agency or required by an agency to be disclosed to it, generally
17 recognized as confidential or proprietary, which if openly disclosed
18 would permit an unfair commercial advantage to competitors of the
19 entity that disclosed the records;

20 2. Upon and after July 15, 1992, records confidentially disclosed to an
21 agency or required by an agency to be disclosed to it, generally
22 recognized as confidential or proprietary, which are compiled and
23 maintained:

24 a. In conjunction with an application for or the administration of a
25 loan or grant;

26 b. In conjunction with an application for or the administration of
27 assessments, incentives, inducements, and tax credits as described

- 1 in KRS Chapter 154;
- 2 c. In conjunction with the regulation of commercial enterprise,
3 including mineral exploration records, unpatented, secret
4 commercially valuable plans, appliances, formulae, or processes,
5 which are used for the making, preparing, compounding, treating,
6 or processing of articles or materials which are trade commodities
7 obtained from a person; or
- 8 d. For the grant or review of a license to do business.
- 9 3. The exemptions provided for in subparagraphs 1. and 2. of this
10 paragraph shall not apply to records the disclosure or publication of
11 which is directed by another statute;
- 12 (d) Public records pertaining to a prospective location of a business or industry
13 where no previous public disclosure has been made of the business' or
14 industry's interest in locating in, relocating within or expanding within the
15 Commonwealth. This exemption shall not include those records pertaining to
16 application to agencies for permits or licenses necessary to do business or to
17 expand business operations within the state, except as provided in paragraph
18 (c) of this subsection;
- 19 (e) Public records which are developed by an agency in conjunction with the
20 regulation or supervision of financial institutions, including but not limited to,
21 banks, savings and loan associations, and credit unions, which disclose the
22 agency's internal examining or audit criteria and related analytical methods;
- 23 (f) The contents of real estate appraisals, engineering or feasibility estimates and
24 evaluations made by or for a public agency relative to acquisition of property,
25 until such time as all of the property has been acquired. The law of eminent
26 domain shall not be affected by this provision;
- 27 (g) Test questions, scoring keys, and other examination data used to administer a

- 1 licensing examination, examination for employment, or academic examination
2 before the exam is given or if it is to be given again;
- 3 (h) Records of law enforcement agencies or agencies involved in administrative
4 adjudication that were compiled in the process of detecting and investigating
5 statutory or regulatory violations if the disclosure of the information would
6 harm the agency by revealing the identity of informants not otherwise known
7 or by premature release of information to be used in a prospective law
8 enforcement action or administrative adjudication. Unless exempted by other
9 provisions of KRS 61.870 to 61.884, public records exempted under this
10 provision shall be open after enforcement action is completed or a decision is
11 made to take no action; however, records or information compiled and
12 maintained by county attorneys or Commonwealth's attorneys pertaining to
13 criminal investigations or criminal litigation shall be exempted from the
14 provisions of KRS 61.870 to 61.884 and shall remain exempted after
15 enforcement action, including litigation, is completed or a decision is made to
16 take no action. The exemptions provided by this subsection shall not be used
17 by the custodian of the records to delay or impede the exercise of rights
18 granted by KRS 61.870 to 61.884;
- 19 (i) Preliminary drafts, notes, correspondence with private individuals, other than
20 correspondence which is intended to give notice of final action of a public
21 agency;
- 22 (j) Preliminary recommendations, and preliminary memoranda in which opinions
23 are expressed or policies formulated or recommended;
- 24 (k) All public records or information the disclosure of which is prohibited by
25 federal law or regulation;
- 26 (l) Public records or information the disclosure of which is prohibited or
27 restricted or otherwise made confidential by enactment of the General

1 Assembly, including any information acquired by the Department of
2 Revenue in tax administration that is prohibited from divulgence or
3 disclosure under Section 5 of this Act;

- 4 (m) 1. Public records the disclosure of which would have a reasonable
5 likelihood of threatening the public safety by exposing a vulnerability in
6 preventing, protecting against, mitigating, or responding to a terrorist act
7 and limited to:
- 8 a. Criticality lists resulting from consequence assessments;
 - 9 b. Vulnerability assessments;
 - 10 c. Antiterrorism protective measures and plans;
 - 11 d. Counterterrorism measures and plans;
 - 12 e. Security and response needs assessments;
 - 13 f. Infrastructure records that expose a vulnerability referred to in this
14 subparagraph through the disclosure of the location, configuration,
15 or security of critical systems, including public utility critical
16 systems. These critical systems shall include but not be limited to
17 information technology, communication, electrical, fire
18 suppression, ventilation, water, wastewater, sewage, and gas
19 systems;
 - 20 g. The following records when their disclosure will expose a
21 vulnerability referred to in this subparagraph: detailed drawings,
22 schematics, maps, or specifications of structural elements, floor
23 plans, and operating, utility, or security systems of any building or
24 facility owned, occupied, leased, or maintained by a public agency;
25 and
 - 26 h. Records when their disclosure will expose a vulnerability referred
27 to in this subparagraph and that describe the exact physical

1 location of hazardous chemical, radiological, or biological
2 materials.

3 2. As used in this paragraph, "terrorist act" means a criminal act intended
4 to:

5 a. Intimidate or coerce a public agency or all or part of the civilian
6 population;

7 b. Disrupt a system identified in subparagraph 1.f. of this paragraph;
8 or

9 c. Cause massive destruction to a building or facility owned,
10 occupied, leased, or maintained by a public agency.

11 3. On the same day that a public agency denies a request to inspect a public
12 record for a reason identified in this paragraph, that public agency shall
13 forward a copy of the written denial of the request, referred to in KRS
14 61.880(1), to the executive director of the Kentucky Office of Homeland
15 Security and the Attorney General.

16 4. Nothing in this paragraph shall affect the obligations of a public agency
17 with respect to disclosure and availability of public records under state
18 environmental, health, and safety programs.

19 5. The exemption established in this paragraph shall not apply when a
20 member of the Kentucky General Assembly seeks to inspect a public
21 record identified in this paragraph under the Open Records Law;

22 (n) Public or private records, including books, papers, maps, photographs, cards,
23 tapes, discs, diskettes, recordings, software, or other documentation regardless
24 of physical form or characteristics, having historic, literary, artistic, or
25 commemorative value accepted by the archivist of a public university,
26 museum, or government depository from a donor or depositor other than a
27 public agency. This exemption shall apply to the extent that nondisclosure is

- 1 requested in writing by the donor or depositor of such records, but shall not
2 apply to records the disclosure or publication of which is mandated by another
3 statute or by federal law;
- 4 (o) Records of a procurement process under KRS Chapter 45A or 56. This
5 exemption shall not apply after:
- 6 1. A contract is awarded; or
 - 7 2. The procurement process is canceled without award of a contract and
8 there is a determination that the contract will not be resolicited; and
- 9 (p) Communications of a purely personal nature unrelated to any governmental
10 function.
- 11 (2) No exemption in this section shall be construed to prohibit disclosure of statistical
12 information not descriptive of any readily identifiable person.
- 13 (3) No exemption in this section shall be construed to deny, abridge, or impede the
14 right of a public agency employee, including university employees, an applicant for
15 employment, or an eligible on a register to inspect and to copy any record including
16 preliminary and other supporting documentation that relates to him. The records
17 shall include, but not be limited to, work plans, job performance, demotions,
18 evaluations, promotions, compensation, classification, reallocation, transfers, lay-
19 offs, disciplinary actions, examination scores, and preliminary and other supporting
20 documentation. A public agency employee, including university employees,
21 applicant, or eligible shall not have the right to inspect or to copy any examination
22 or any documents relating to ongoing criminal or administrative investigations by
23 an agency.
- 24 (4) If any public record contains material which is not excepted under this section, the
25 public agency shall separate the excepted and make the nonexcepted material
26 available for examination.
- 27 (5) The provisions of this section shall in no way prohibit or limit the exchange of

1 public records or the sharing of information between public agencies when the
 2 exchange is serving a legitimate governmental need or is necessary in the
 3 performance of a legitimate government function.

4 ➔Section 2. KRS 96.895 is amended to read as follows:

5 (1) As used in this section, unless the context requires otherwise:

6 (a) "Book value" means original cost unadjusted for depreciation as reflected in
 7 the TVA's books of account;

8 ~~(b) "Department" means the Department for Local Government;~~

9 ~~(c)~~ "Fund" means the regional development agency assistance fund established in
 10 subsection (4) of this section;

11 ~~(c)~~~~(d)~~ "Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren,
 12 Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland,
 13 Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman,
 14 Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe,
 15 Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren,
 16 Wayne, Webster, or Whitley Counties;

17 ~~(d)~~~~(e)~~ "Regional development agency" or "agency" means a local industrial
 18 development authority established under KRS 154.50-301 to 154.50-346 that
 19 is designated by a fiscal court to receive a payment pursuant to this section;

20 ~~(e)~~~~(f)~~ "TVA" means the Tennessee Valley Authority; and

21 ~~(f)~~~~(g)~~ "TVA property" means land owned by the United States and in the
 22 custody of the TVA, together with improvements that have a fixed situs on the
 23 land, including work in progress but excluding temporary construction
 24 facilities, if these improvements either:

- 25 1. Were in existence when title to the land on which they are situated was
- 26 acquired by the United States; or
- 27 2. Are allocated by the TVA or determined by it to be allocable to power.

1 However, manufacturing machinery as interpreted by the Department *of*
2 Revenue for franchise tax determination; ash disposal systems; and coal
3 handling facilities, including railroads, cranes and hoists, and crushing
4 and conveying equipment, shall be excluded.

5 (2) Book value shall be determined, for purposes of applying this section, as of the June
6 30 used by the TVA in computing the annual payment to the Commonwealth that is
7 subject to redistribution by the Commonwealth.

8 (3) Except for payments made directly by the TVA to counties, the total fiscal year
9 payment received by the Commonwealth of Kentucky from the TVA, as authorized
10 by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated
11 thirty percent (30%) to the general fund of the Commonwealth and seventy percent
12 (70%) among counties, cities, and school districts, as provided in subsections (6)
13 and (7) of this section.

14 (4) (a) The regional development agency assistance fund is hereby established in the
15 State Treasury.

16 (b) The fund shall be administered by the Department *for Local Government* for
17 the purpose of providing funding to agencies that are designated to receive
18 funding in a given fiscal year by the fiscal court of each fund-eligible county
19 through the Regional Development Agency Assistance Program established in
20 KRS 96.905.

21 (c) The fund shall only receive the moneys transferred from the general fund
22 pursuant to subsection (5) of this section.

23 (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close
24 of the fiscal year shall not lapse but shall be carried forward into the
25 succeeding fiscal year. Any interest earnings of the fund shall become a part
26 of the fund and shall not lapse.

27 (5) For fiscal years beginning on or after July 1, 2018, a portion of the total fiscal year

- 1 payment received by the Commonwealth that is allocated to the general fund shall
2 be transferred from the general fund to the regional development agency assistance
3 fund established in subsection (4) of this section. This portion shall be equal to:
- 4 (a) In fiscal year 2018-2019, two million dollars (\$2,000,000);
 - 5 (b) In fiscal year 2019-2020, four million dollars (\$4,000,000); and
 - 6 (c) In each fiscal year, beginning with the 2020-2021 fiscal year, six million
7 dollars (\$6,000,000).
- 8 (6) The payment to each county, city, and school district shall be determined by the
9 proportion that the book value of TVA property in such taxing district, multiplied
10 by the current tax rate, bears to the total of the book values of TVA property in all
11 such taxing districts in the Commonwealth, multiplied by their respective tax rates.
12 However, for purposes of this calculation, each public school district shall have its
13 tax rate increased by thirty cents (\$0.30).
- 14 (7) As soon as practicable after the amount of payment to be made to the
15 Commonwealth is finally determined by the TVA, the Department *of Revenue* shall
16 determine the book value of TVA property in each county, city, and school district
17 and shall prorate the payments allocated to counties, cities, and school districts
18 under subsection (3) of this section among the distributees as provided in subsection
19 (6) of this section. The Department *of Revenue* shall certify the payment due each
20 taxing district to the Finance and Administration Cabinet which shall make the
21 payment to such district.
- 22 (8) In each fiscal year, after the Department *of Revenue* has calculated the prorated
23 payment amount that is due to each county pursuant to subsection (7) of this
24 section, the Department *for Local Government* shall then make a written request to
25 the fiscal court of each fund-eligible county for the name and address of the agency
26 the fiscal court designates to receive a payment from the fund pursuant to
27 subsection (5) of this section.

- 1 (9) Within sixty (60) days of the date of the Department for Local
2 Government's~~department's~~ request, each fiscal court shall designate in writing one
3 (1) agency that shall receive a share of the total amount of funds transferred to the
4 fund in that fiscal year pursuant to subsection (5) of this section. Each agency's
5 share shall be calculated as the total amount of funds transferred to the fund in that
6 fiscal year divided by the total number of agencies designated to receive funds by
7 fiscal courts of fund-eligible counties. Once the amount is determined by the
8 Department for Local Government, the payment shall be paid by the Finance and
9 Administration Cabinet directly to the designated agency. No amount shall be taken
10 from the fund to pay administrative expenses by the Department for Local
11 Government.
- 12 (10) If a fiscal court does not respond to the Department for Local Government within
13 sixty (60) days of the date of the Department for Local
14 Government's~~department's~~ request, the payment otherwise due to an agency
15 designated by that fiscal court shall be reallocated equally among the agencies that
16 have been designated to receive payments by the other fiscal courts.
- 17 (11) All agencies receiving funds under this section shall provide a written report
18 annually, no later than October 1, to the fiscal court that designated it for payment
19 and to the Interim Joint Committee on Appropriations and Revenue. The report
20 shall describe how the funds were expended and the results of the use of funds in
21 terms of economic development and job creation.
- 22 (12) This section shall be applicable to all payments received after April 10, 2018, from
23 the TVA under Section 13 of the Tennessee Valley Authority Act as amended.

24 ➔Section 3. KRS 131.175 is amended to read as follows:

25 Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable
26 directly to the Department of Revenue, the sheriff or the county clerk, the commissioner
27 shall have authority to waive the penalty, but not interest, where it is shown to the

1 satisfaction of the department that failure to file or pay timely is due to reasonable cause.
 2 **For purposes of this section, any addition to tax provided in Sections 42 and 52 of this**
 3 **Act shall be considered as penalty.**

4 ➔Section 4. KRS 131.180 is amended to read as follows:

5 The provisions of this section shall be known as the "Uniform Civil Penalty Act."
 6 Penalties to be assessed in accordance with this section shall apply as follows unless
 7 otherwise provided by law:

8 (1) Any taxpayer who files any return or report after the due date prescribed for filing
 9 or the due date as extended by the department shall, unless it is shown to the
 10 satisfaction of the department that the failure is due to reasonable cause, pay a
 11 penalty equal to two percent (2%) of the total tax due for each thirty (30) days or
 12 fraction thereof that the report or return is late. The total penalty levied pursuant to
 13 this subsection shall not exceed twenty percent (20%) of the total tax due; however,
 14 the penalty shall not be less than ten dollars (\$10).

15 (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to
 16 pay the tax computed due on a return or report on or before the due date prescribed
 17 for it or the due date as extended by the department or, excluding underpayments
 18 determined **under Section 42 or 52 of this Act**~~pursuant to subsections (2) and (3)~~
 19 ~~of KRS 141.990~~, fails to have timely paid at least seventy-five percent (75%) of the
 20 tax determined due by the department shall, unless it is shown to the satisfaction of
 21 the department that the failure is due to reasonable cause, pay a penalty equal to two
 22 percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30)
 23 days or fraction thereof that the withholding, collection, or payment is late. The total
 24 penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of
 25 the tax not timely withheld, collected, or paid; however, the penalty shall not be less
 26 than ten dollars (\$10).

27 ~~(3) Any taxpayer who fails to pay any installment of estimated tax by the time~~

1 ~~prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3)~~
2 ~~of KRS 141.990, is determined to have a declaration underpayment shall, unless it~~
3 ~~is shown to the satisfaction of the department that the failure or underpayment is~~
4 ~~due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of~~
5 ~~the underpayment or late payment; however, the penalty shall not be less than~~
6 ~~twenty five dollars (\$25).~~

7 ~~(4)~~ If any taxpayer fails or refuses to make and file a report or return or furnish any
8 information requested in writing by the department, the department may make an
9 estimate of the tax due from any information in its possession, assess the tax at not
10 more than twice the amount estimated to be due, and add a penalty equal to five
11 percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the
12 return or report is not filed. The total penalty levied pursuant to this subsection shall
13 not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be
14 less than one hundred dollars (\$100) unless the taxpayer demonstrates that the
15 failure to file was due to reasonable cause as defined in KRS 131.010(9). This
16 penalty shall be applicable whether or not any tax is determined to be due on a
17 subsequently filed return or if the subsequently filed return results in a refund.

18 ~~(4)~~~~(5)~~ If any taxpayer fails or refuses to pay within sixty (60) days of the due date
19 any tax assessed by the department which is not protested in accordance with KRS
20 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax
21 for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but
22 not paid.

23 ~~(5)~~~~(6)~~ Any taxpayer who fails to obtain any identification number, permit, license, or
24 other document of authority from the department within the time required by law
25 shall, unless it is shown to the satisfaction of the department that the failure is due
26 to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee
27 required to be paid for the identification number, permit, license, or other document

1 of authority; however, the penalty shall not be less than fifty dollars (\$50).

2 ~~(6)~~~~(7)~~ If any tax assessed by the department is the result of negligence by a taxpayer
3 or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be
4 paid by the taxpayer or other person who was negligent.

5 ~~(7)~~~~(8)~~ If any tax assessed by the department is the result of fraud committed by the
6 taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so
7 assessed shall be paid by the taxpayer or other person who committed fraud.

8 ~~(8)~~~~(9)~~ If any check tendered to the department is not paid when presented to the
9 drawee bank for payment, there shall be paid as a penalty by the taxpayer who
10 tendered the check, upon notice and demand of the department, an amount equal to
11 ten percent (10%) of the check. The penalty under this section shall not be less than
12 ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who
13 tendered the check shows to the department's satisfaction that the failure to honor
14 payment of the check resulted from error by parties other than the taxpayer, the
15 department shall waive the penalty.

16 ~~(9)~~~~(10)~~ Any person who fails to make any tax report or return or pay any tax within
17 the time, or in the manner required by law, for which a specific civil penalty is not
18 provided by law, shall pay a penalty as provided in this section, with interest from
19 the date due at the tax interest rate as defined in KRS 131.010(6).

20 ~~(10)~~~~(11)~~ The penalties levied pursuant to subsection ~~(4)~~~~(5)~~ of this section shall apply
21 to any tax assessment protested pursuant to KRS 131.110 to the extent that any
22 appeal of the assessment or portion of it is ruled by the Kentucky Claims
23 Commission or, if appealed from, the court of last resort, as not protested, appealed,
24 or pursued in good faith by the taxpayer.

25 ~~(11)~~~~(12)~~ Nothing in this section shall be construed to prevent the assessment or
26 collection of more than one (1) of the penalties levied under this section or any
27 other civil or criminal penalty provided for violation of the law for which penalties

1 are imposed.

2 ~~(12)~~~~(13)~~ All penalties levied pursuant to this section shall be assessed, collected, and
 3 paid in the same manner as taxes. Any corporate officer or other person who
 4 becomes liable for payment of any tax assessed by the department shall likewise be
 5 liable for all penalties and interest applicable thereto.

6 → Section 5. KRS 131.190 is amended to read as follows:

7 (1) (a) No present or former commissioner or employee of the department, present or
 8 former member of a county board of assessment appeals, present or former
 9 property valuation administrator or employee, present or former secretary or
 10 employee of the Finance and Administration Cabinet, former secretary or
 11 employee of the Revenue Cabinet, or any other person, shall intentionally and
 12 without authorization inspect or divulge:

13 1. Any information acquired by him of the affairs of any person;~~[-, or -]~~

14 2. *Any* information regarding the tax schedules, returns, or reports required
 15 to be filed with the department or other proper officer;~~[-, or -]~~

16 3. Any information produced by a hearing or investigation, insofar as the
 17 information may have to do with the affairs of the person's business;

18 4. *Unappealed final rulings issued by the department;*

19 5. *Requests for guidance under KRS 131.130(8);*

20 6. *Private letter rulings; or*

21 7. *Alternative apportionment requests under KRS 141.120(12)(a) and*
 22 *any response thereto.*

23 (b) *Documents, data, and information subject to the prohibition established by*
 24 *this subsection shall not be subject to the Open Records Act, KRS 61.870 to*
 25 *61.884, the Kentucky Rules of Civil Procedure, or any other order issued by*
 26 *an administrative hearing officer or administrative board or commission.*

27 (2) The prohibition established by subsection (1) of this section shall not extend to:

- 1 (a) Information required in prosecutions for making false reports or returns of
2 property for taxation, or any other infraction of the tax laws;
- 3 (b) Any matter properly entered upon any assessment record, or in any way made
4 a matter of public record;
- 5 (c) Furnishing any taxpayer or his properly authorized agent with information
6 respecting his own return;
- 7 (d) Testimony provided by the commissioner or any employee of the department
8 in any court, or the introduction as evidence of returns or reports filed with the
9 department, in an action for violation of state or federal tax laws or in any
10 action challenging state or federal tax laws;
- 11 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
12 energy resources assessed under KRS 132.820, or owners of surface land
13 under which the unmined minerals lie, factual information about the owner's
14 property derived from third-party returns filed for that owner's property, under
15 the provisions of KRS 132.820, that is used to determine the owner's
16 assessment. This information shall be provided to the owner on a confidential
17 basis, and the owner shall be subject to the penalties provided in KRS
18 131.990(2). The third-party filer shall be given prior notice of any disclosure
19 of information to the owner that was provided by the third-party filer;
- 20 (f) Providing to a third-party purchaser pursuant to an order entered in a
21 foreclosure action filed in a court of competent jurisdiction, factual
22 information related to the owner or lessee of coal, oil, gas reserves, or any
23 other mineral resources assessed under KRS 132.820. The department may
24 promulgate an administrative regulation establishing a fee schedule for the
25 provision of the information described in this paragraph. Any fee imposed
26 shall not exceed the greater of the actual cost of providing the information or
27 ten dollars (\$10);

- 1 (g) Providing information to a licensing agency, the Transportation Cabinet, or
2 the Kentucky Supreme Court under KRS 131.1817;
- 3 (h) Statistics of gasoline and special fuels gallonage reported to the department
4 under KRS 138.210 to 138.448;
- 5 (i) Providing any utility gross receipts license tax return information that is
6 necessary to administer the provisions of KRS 160.613 to 160.617 to
7 applicable school districts on a confidential basis;~~[-or]~~
- 8 (j) **Providing documents, data, or other information to a third party pursuant**
9 **to an order issued by a court of competent jurisdiction; or**
- 10 (k) Providing information to the Legislative Research Commission under:
- 11 1. KRS 139.519 for purposes of the sales and use tax refund on building
12 materials used for disaster recovery;
- 13 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 14 3. KRS 141.437 for purposes of the ENERGY STAR home and the
15 ENERGY STAR manufactured home credits;
- 16 4. KRS 148.544 for purposes of the film industry incentives;
- 17 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
18 tax credits and the job assessment fees;
- 19 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 20 7. KRS 141.396 for purposes of the angel investor tax credit;
- 21 8. KRS 141.389 for purposes of the distilled spirits credit;~~[-and]~~
- 22 9. KRS 141.408 for purposes of the inventory credit; **and**
- 23 **10. Section 53 of this Act for purposes of the recycling and composting**
24 **credit.**
- 25 (3) The commissioner shall make available any information for official use only and on
26 a confidential basis to the proper officer, agency, board or commission of this state,
27 any Kentucky county, any Kentucky city, any other state, or the federal government,

1 under reciprocal agreements whereby the department shall receive similar or useful
2 information in return.

3 (4) Access to and inspection of information received from the Internal Revenue Service
4 is for department use only, and is restricted to tax administration purposes.
5 Information received from the Internal Revenue Service shall not be made available
6 to any other agency of state government, or any county, city, or other state, and shall
7 not be inspected intentionally and without authorization by any present secretary or
8 employee of the Finance and Administration Cabinet, commissioner or employee of
9 the department, or any other person.

10 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
11 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
12 as reported to the Department of Revenue under the natural resources severance tax
13 requirements of KRS Chapter 143A may be made public by the department by
14 release to the Energy and Environment Cabinet, Department for Natural Resources.

15 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
16 submissions for the 1989 tax year, the department may make public or divulge only
17 those portions of mine maps submitted by taxpayers to the department pursuant to
18 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
19 out parcel areas. These electronic maps shall not be relied upon to determine actual
20 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
21 required under KRS Chapters 350 and 352 shall not be construed to constitute land
22 surveying or boundary surveys as defined by KRS 322.010 and any administrative
23 regulations promulgated thereto.

24 ➔Section 6. KRS 131.250 is amended to read as follows:

25 (1) For the purpose of facilitating the administration of the taxes it administers, the
26 department may require any tax return, report, or statement to be electronically
27 filed.

- 1 (2) The following reports, returns, or statements shall be electronically filed:
- 2 (a) The return required by KRS 136.620;
- 3 (b) For tax periods beginning on or after January 1, 2007, the report required by
- 4 KRS 138.240;
- 5 (c) For tax periods beginning on or after August 1, 2010, the report required by
- 6 KRS 138.260;
- 7 (d) For taxable years beginning on or after January 1, 2010, the return filed by a
- 8 specified tax return preparer reporting the annual tax imposed by KRS
- 9 141.020, if the specified tax return preparer is required to electronically file
- 10 the return for federal income tax purposes;
- 11 (e) The annual withholding statement required by KRS 141.335, if the employer
- 12 issues more than twenty-five (25) statements annually;
- 13 (f) For tax periods beginning on or after July 1, 2005, the return required by KRS
- 14 160.615; and
- 15 (g) 1. For taxable years beginning on or after January 1, 2019, the returns
- 16 required by subsection (3) of Section 47 of this Act or KRS~~[141.200(3)~~
- 17 ~~or~~ 141.206(1), provided that the corporation or pass-through entity has
- 18 gross receipts of one million dollars (\$1,000,000) or more.
- 19 2. "Gross receipts" as used in this paragraph means gross receipts reported
- 20 by the corporation or pass-through entity on their federal income tax
- 21 return filed for the same taxable year as the return due under KRS
- 22 Chapter 141.
- 23 (3) (a) A person required to electronically file a return, report, or statement may
- 24 apply for a waiver from the requirement by submitting the request on a form
- 25 prescribed by the department.
- 26 (b) The request shall indicate the lack of one (1) or more of the following:
- 27 1. Compatible computer hardware;

- 1 2. Internet access; or
2 3. Other technological capabilities determined relevant by the department.

3 ➔Section 7. KRS 131.990 is amended to read as follows:

4 (1) (a) 1. Any person who violates the intentional unauthorized inspection
5 provisions of KRS 131.190(1) shall be fined not more than five hundred
6 dollars (\$500) or imprisoned for not more than six (6) months, or both.

7 ~~2.[(b)]~~ Any person who violates the provisions of KRS 131.190(1) by
8 divulging confidential taxpayer information shall be fined not more than
9 one thousand dollars (\$1,000) or imprisoned for not more than one (1)
10 year, or both.

11 ~~3.[(c)]~~ Any person who violates the intentional unauthorized inspection
12 provisions of KRS 131.190(4) shall be fined not more than one thousand
13 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

14 ~~4.[(d)]~~ Any person who violates the provisions of KRS 131.190(4) by
15 divulging confidential taxpayer information shall be fined not more than
16 five thousand dollars (\$5,000) or imprisoned for not more than five (5)
17 years, or both.

18 ~~5.[(e)]~~ Any present secretary or employee of the Finance and
19 Administration Cabinet, commissioner or employee of the department,
20 member of a county board of assessment appeals, property valuation
21 administrator or employee, or any other person, who violates the
22 provisions of KRS 131.190(1) or (4) may, in addition to the penalties
23 imposed under this subsection, be disqualified and removed from office
24 or employment.

25 *(b) This subsection does not apply to any person who divulges or otherwise*
26 *discloses documents, data, or other information prohibited from divulgence*
27 *or disclosure pursuant to an order by a court of competent jurisdiction.*

- 1 (2) Any person who willfully fails to comply with the rules and regulations
2 promulgated by the department for the administration of delinquent tax collections
3 shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars
4 (\$1,000).
- 5 (3) Any person who fails to do any act required or does any act forbidden by KRS
6 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
7 dollars (\$500).
- 8 (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it
9 is shown to the satisfaction of the department that the failure is due to reasonable
10 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should
11 have been remitted under the provisions of KRS 131.155 for each failure to comply.
- 12 (5) (a) Any person or financial institution that fails to comply with the provisions of
13 KRS 131.672 and 131.674 within ninety (90) days after notification by the
14 department shall, unless the failure is due to reasonable cause as defined in
15 KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no
16 more than five thousand dollars (\$5,000) for each full month of
17 noncompliance. The fine shall begin on the first day of the month beginning
18 after the expiration of the ninety (90) days.
- 19 (b) Any financial institution that fails or refuses to comply with the provisions of
20 KRS 131.672 and 131.674 within one hundred twenty (120) days after the
21 notification by the department shall, unless the failure is due to reasonable
22 cause as defined in KRS 131.010, forfeit its right to do business within the
23 Commonwealth, unless and until the financial institution is in compliance.
24 Upon notification by the department, the commissioner of the Department of
25 Financial Institutions shall, as applicable, revoke the authority of the financial
26 institution or its agents to do business in the Commonwealth.
- 27 (6) Any taxpayer or tax return preparer who fails or refuses to comply with the

1 provisions of KRS 131.250 or an administrative regulation promulgated under KRS
2 131.250 shall, unless it is shown to the satisfaction of the department that the failure
3 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each
4 return not filed as required.

5 ➔Section 8. KRS 132.010 is amended to read as follows:

6 As used in this chapter, unless the context otherwise requires:

- 7 (1) "Department" means the Department of Revenue;
- 8 (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- 9 (3) "Real property" includes all lands within this state and improvements thereon;
- 10 (4) "Personal property" includes every species and character of property, tangible and
11 intangible, other than real property;
- 12 (5) "Resident" means any person who has taken up a place of abode within this state
13 with the intention of continuing to abide in this state; any person who has had his or
14 her actual or habitual place of abode in this state for the larger portion of the twelve
15 (12) months next preceding the date as of which an assessment is due to be made
16 shall be deemed to have intended to become a resident of this state;
- 17 (6) "Compensating tax rate" means that rate which, rounded to the next higher one-
18 tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and
19 applied to the current year's assessment of the property subject to taxation by a
20 taxing district, excluding new property and personal property, produces an amount
21 of revenue approximately equal to that produced in the preceding year from real
22 property. However, in no event shall the compensating tax rate be a rate which,
23 when applied to the total current year assessment of all classes of taxable property,
24 produces an amount of revenue less than was produced in the preceding year from
25 all classes of taxable property. For purposes of this subsection, "property subject to
26 taxation" means the total fair cash value of all property subject to full local rates,
27 less the total valuation exempted from taxation by the homestead exemption

1 provision of the Constitution and the difference between the fair cash value and
2 agricultural or horticultural value of agricultural or horticultural land;

3 (7) "Net assessment growth" means the difference between:

4 (a) The total valuation of property subject to taxation by the county, city, school
5 district, or special district in the preceding year, less the total valuation
6 exempted from taxation by the homestead exemption provision of the
7 Constitution in the current year over that exempted in the preceding year, and

8 (b) The total valuation of property subject to taxation by the county, city, school
9 district, or special district for the current year;

10 (8) "New property" means the net difference in taxable value between real property
11 additions and deletions to the property tax roll for the current year. "Real property
12 additions" shall mean:

13 (a) Property annexed or incorporated by a municipal corporation, or any other
14 taxing jurisdiction; however, this definition shall not apply to property
15 acquired through the merger or consolidation of school districts, or the
16 transfer of property from one (1) school district to another;

17 (b) Property, the ownership of which has been transferred from a tax-exempt
18 entity to a nontax-exempt entity;

19 (c) The value of improvements to existing nonresidential property;

20 (d) The value of new residential improvements to property;

21 (e) The value of improvements to existing residential property when the
22 improvement increases the assessed value of the property by fifty percent
23 (50%) or more;

24 (f) Property created by the subdivision of unimproved property, provided, that
25 when ~~the~~^{such} property is reclassified from farm to subdivision by the
26 property valuation administrator, the value of ~~the~~^{such} property as a farm
27 shall be a deletion from that category;

- 1 (g) Property exempt from taxation, as an inducement for industrial or business
2 use, at the expiration of its tax exempt status;
- 3 (h) Property, the tax rate of which will change, according to the provisions of
4 KRS 82.085, to reflect additional urban services to be provided by the taxing
5 jurisdiction, provided, however, that ~~the~~^{such} property shall be considered
6 "real property additions" only in proportion to the additional urban services to
7 be provided to the property over the urban services previously provided; and
- 8 (i) The value of improvements to real property previously under assessment
9 moratorium.
- 10 "Real property deletions" shall be limited to the value of real property removed
11 from, or reduced over the preceding year on, the property tax roll for the current
12 year;
- 13 (9) "Agricultural land" means:
- 14 (a) Any tract of land, including all income-producing improvements, of at least
15 ten (10) contiguous acres in area used for the production of livestock,
16 livestock products, poultry, poultry products and/or the growing of tobacco
17 and/or other crops including timber;
- 18 (b) Any tract of land, including all income-producing improvements, of at least
19 five (5) contiguous acres in area commercially used for aquaculture; or
- 20 (c) Any tract of land devoted to and meeting the requirements and qualifications
21 for payments pursuant to agriculture programs under an agreement with the
22 state or federal government;
- 23 (10) "Horticultural land" means any tract of land, including all income-producing
24 improvements, of at least five (5) contiguous acres in area commercially used for
25 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
26 flowers, or ornamental plants;
- 27 (11) "Agricultural or horticultural value" means the use value of "agricultural or

1 horticultural land" based upon income-producing capability and comparable sales of
2 farmland purchased for farm purposes where the price is indicative of farm use
3 value, excluding sales representing purchases for farm expansion, better
4 accessibility, and other factors which inflate the purchase price beyond farm use
5 value, if any, considering the following factors as they affect a taxable unit:

- 6 (a) Relative percentages of tillable land, pasture land, and woodland;
- 7 (b) Degree of productivity of the soil;
- 8 (c) Risk of flooding;
- 9 (d) Improvements to and on the land that relate to the production of income;
- 10 (e) Row crop capability including allotted crops other than tobacco;
- 11 (f) Accessibility to all-weather roads and markets; and
- 12 (g) Factors which affect the general agricultural or horticultural economy, such
13 as: interest, price of farm products, cost of farm materials and supplies, labor,
14 or any economic factor which would affect net farm income;

15 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural
16 value and the tax based on fair cash value;

17 (13) "Homestead" means real property maintained as the permanent residence of the
18 owner with all land and improvements adjoining and contiguous thereto including
19 but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all
20 other land connected thereto;

21 (14) "Residential unit" means all or that part of real property occupied as the permanent
22 residence of the owner;

23 (15) "Special benefits" are those which are provided by public works not financed
24 through the general tax levy but through special assessments against the benefited
25 property;

26 (16) "Mobile home" means a structure, transportable in one (1) or more sections, which
27 when erected on site measures eight (8) body feet or more in width and thirty-two

1 (32) body feet or more in length, and which is built on a permanent chassis and
2 designed to be used as a dwelling, with or without a permanent foundation, when
3 connected to the required utilities, and includes the plumbing, heating, air-
4 conditioning, and electrical systems contained therein. It may be used as a place of
5 residence, business, profession, or trade by the owner, lessee, or their assigns and
6 may consist of one (1) or more units that can be attached or joined together to
7 comprise an integral unit or condominium structure;

8 (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
9 living quarters for recreational, camping, or travel use, which either has its own
10 motive power or is mounted on or drawn by another vehicle. The basic entities are:
11 travel trailer, camping trailer, truck camper, and motor home.

12 (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide
13 temporary living quarters for recreational, camping, or travel use, and of
14 ~~a~~^{such} size or weight that does~~as~~ not~~to~~ require special highway
15 movement permits when drawn by a motorized vehicle, and with a living area
16 of less than two hundred twenty (220) square feet, excluding built-in
17 equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and
18 bath and toilet rooms.

19 (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed
20 with collapsible partial side walls which fold for towing by another vehicle
21 and unfold at the camp site to provide temporary living quarters for
22 recreational, camping, or travel use.

23 (c) Truck camper: A portable unit constructed to provide temporary living
24 quarters for recreational, travel, or camping use, consisting of a roof, floor,
25 and sides, designed to be loaded onto and unloaded from the bed of a pick-up
26 truck.

27 (d) Motor home: A vehicular unit designed to provide temporary living quarters

1 for recreational, camping, or travel use built on or permanently attached to a
2 self-propelled motor vehicle chassis or on a chassis cab or van which is an
3 integral part of the completed vehicle;

4 (18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;

5 (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;

6 (20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and
7 KRS 224.60-115;

8 (21) "Qualifying voluntary environmental remediation property" means real property
9 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the
10 Energy and Environment Cabinet has made a determination that:

11 (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or
12 petroleum products at the property occurred prior to the property owner's
13 acquisition of the property;

14 (b) The property owner has made all appropriate inquiry into previous ownership
15 and uses of the property in accordance with generally accepted practices prior
16 to the acquisition of the property;

17 (c) The property owner or a responsible party has provided all legally required
18 notices with respect to hazardous substances, pollutants, contaminants,
19 petroleum, or petroleum products found at the property;

20 (d) The property owner is in compliance with all land use restrictions and does
21 not impede the effectiveness or integrity of any institutional control;

22 (e) The property owner complied with any information request or administrative
23 subpoena under KRS Chapter 224; and

24 (f) The property owner is not affiliated with any person who is potentially liable
25 for the release of hazardous substances, pollutants, contaminants, petroleum,
26 or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405,
27 or 224.60-135, through:

- 1 1. Direct or indirect familial relationship;
 - 2 2. Any contractual, corporate, or financial relationship, excluding
 - 3 relationships created by instruments conveying or financing title or by
 - 4 contracts for sale of goods or services; or
 - 5 3. Reorganization of a business entity that was potentially liable;
- 6 (22) "Intangible personal property" means stocks, mutual funds, money market funds,
- 7 bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits,
- 8 patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred
- 9 compensation, retirement plans, and any other type of personal property that is not
- 10 tangible personal property;
- 11 (23) (a) "County" means any county, consolidated local government, urban-county
- 12 government, unified local government, or charter county government;
- 13 (b) "Fiscal court" means the legislative body of any county, consolidated local
- 14 government, urban-county government, unified local government, or charter
- 15 county government; and
- 16 (c) "County judge/executive" means the chief executive officer of any county,
- 17 consolidated local government, urban-county government, unified local
- 18 government, or charter county government;
- 19 (24) "Taxing district" means any entity with the authority to levy a local ad valorem tax,
- 20 including special purpose governmental entities;
- 21 (25) "Special purpose governmental entity" shall have the same meaning as in KRS
- 22 65A.010, and as used in this chapter shall include only those special purpose
- 23 governmental entities with the authority to levy ad valorem taxes, and that are not
- 24 specifically exempt from the provisions of this chapter by another provision of the
- 25 Kentucky Revised Statutes;
- 26 (26) (a) "Broadcast" means the transmission of audio, video, or other signals, through
- 27 any electronic, radio, light, or similar medium or method now in existence or

1 later devised over the airwaves to the public in general.

2 (b) "Broadcast" shall not apply to operations performed by multichannel video
3 programming service providers as defined in KRS 136.602 or any other
4 operations that transmit audio, video, or other signals, exclusively to persons
5 for a fee;~~and~~

6 (27) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,
7 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid
8 species;

9 **(28) "Heavy equipment rental agreement" means the short-term rental contract under**
10 **which qualified heavy equipment is rented without an operator for a period:**

11 **(a) Not to exceed three hundred sixty-five (365) days; or**

12 **(b) That is open-ended under the terms of the contract with no specified end**
13 **date;**

14 **(29) "Heavy equipment rental company" means an entity that is primarily engaged in**
15 **a line of business described in Code 532412 or 532310 of the North American**
16 **Industry Classification System Manual in effect on January 1, 2019; and**

17 **(30) "Qualified heavy equipment" means machinery and equipment, including**
18 **ancillary equipment and any attachments used in conjunction with the**
19 **machinery and equipment, that is:**

20 **(a) Primarily used and designed for construction, mining, forestry, or**
21 **industrial purposes, including but not limited to cranes, earthmoving**
22 **equipment, well-drilling machinery and equipment, lifts, material handling**
23 **equipment, pumps, generators, and pollution-reducing equipment; and**

24 **(b) Held in a heavy equipment rental company's inventory for:**

25 **1. Rental under a heavy equipment rental agreement; or**

26 **2. Sale in the regular course of business.**

27 ➔Section 9. KRS 132.020 is amended to read as follows:

- 1 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes
2 at the rate of:
- 3 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
4 of value of all real property directed to be assessed for taxation;
- 5 (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of
6 all motor vehicles qualifying for permanent registration as historic motor
7 vehicles under KRS 186.043;
- 8 (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
- 9 1. Machinery actually engaged in manufacturing;
- 10 2. Commercial radio and television equipment used to receive, capture,
11 produce, edit, enhance, modify, process, store, convey, or transmit
12 audio or video content or electronic signals which are broadcast over
13 the air to an antenna, including radio and television towers used to
14 transmit or facilitate the transmission of the signal broadcast and
15 equipment used to gather or transmit weather information, but
16 excluding telephone and cellular communication towers; and
- 17 3. Tangible personal property which has been certified as a pollution
18 control facility as defined in KRS 224.1-300. In the case of tangible
19 personal property certified as a pollution control facility which is
20 incorporated into a landfill facility, the tangible personal property
21 shall be presumed to remain tangible personal property for purposes
22 of this paragraph if the tangible personal property is being used for its
23 intended purposes;
- 24 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the
25 operating property of railroads or railway companies that operate solely
26 within the Commonwealth;
- 27 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods

1 held for sale in the regular course of business, which includes:

2 1. Machinery and equipment held in a retailer's inventory for sale or
 3 lease originating under a floor plan financing arrangement;

4 2. Motor vehicles:

5 a. Held for sale in the inventory of a licensed motor vehicle dealer,
 6 including licensed motor vehicle auction dealers, which are not
 7 currently titled and registered in Kentucky and are held on an
 8 assignment pursuant to KRS 186A.230; or

9 b. That are in the possession of a licensed motor vehicle dealer,
 10 including licensed motor vehicle auction dealers, for sale,
 11 although ownership has not been transferred to the dealer;

12 3. Raw materials, which includes distilled spirits and distilled spirits
 13 inventory;

14 4. In-process materials, which includes distilled spirits and distilled
 15 spirits inventory, held for incorporation in finished goods held for sale
 16 in the regular course of business; and

17 5. Qualified heavy equipment;

18 (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
 19 value of all;

20 1. Privately owned leasehold interests in industrial buildings, as defined
 21 under KRS 103.200, owned and financed by a tax-exempt governmental
 22 unit, or tax-exempt statutory authority under the provisions of KRS
 23 Chapter 103, upon the prior approval of the Kentucky Economic
 24 Development Finance Authority, except that the rate shall not apply to
 25 the proportion of value of the leasehold interest created through any
 26 private financing;

27 2.[(c)] [~~One and one-half cents (\$0.015) upon each one hundred dollars~~

1 ~~(\$100) of value of all~~ Qualifying voluntary environmental remediation
 2 property, provided the property owner has corrected the effect of all
 3 known releases of hazardous substances, pollutants, contaminants,
 4 petroleum, or petroleum products located on the property consistent with
 5 a corrective action plan approved by the Energy and Environment
 6 Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and
 7 provided the cleanup was not financed through a public grant or the
 8 petroleum storage tank environmental assurance fund. This rate shall
 9 apply for a period of three (3) years following the Energy and
 10 Environment Cabinet's issuance of a No Further Action Letter or its
 11 equivalent, after which the regular tax rate shall apply;

12 ~~3.[(d)] [One and one half cents (\$0.015) upon each one hundred dollars~~
 13 ~~(\$100) of value of all]~~ Tobacco directed to be assessed for taxation;

14 ~~4.[(e)] [One and one half cents (\$0.015) upon each one hundred dollars~~
 15 ~~(\$100) of value of]~~ Unmanufactured agricultural products;

16 **5. Aircraft not used in the business of transporting persons or property**
 17 **for compensation or hire; and**

18 **6. Federally documented vessels not used in the business of transporting**
 19 **persons or property for compensation or hire, or for other commercial**
 20 **purposes;**

21 ~~(g)[(f)]~~ One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of
 22 value of all;

23 **1.** Farm implements and farm machinery owned by or leased to a person
 24 actually engaged in farming and used in his farm operations;

25 ~~2.[(g)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~
 26 ~~(\$100) of value of all]~~ Livestock and domestic fowl;

27 ~~3.[(h)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~

- 1 ~~(\$100) of value of all }Tangible personal property located in a foreign~~
2 ~~trade zone established pursuant to 19 U.S.C. sec. 81, provided that the~~
3 ~~zone is activated in accordance with the regulations of the United States~~
4 ~~Customs Service and the Foreign Trade Zones Board; and~~
5 ~~4.[(i)] [Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of~~
6 ~~value of all machinery actually engaged in manufacturing;~~
7 ~~(j) — Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of~~
8 ~~all commercial radio and television equipment used to receive, capture,~~
9 ~~produce, edit, enhance, modify, process, store, convey, or transmit audio~~
10 ~~or video content or electronic signals which are broadcast over the air to~~
11 ~~an antenna, including radio and television towers used to transmit or~~
12 ~~facilitate the transmission of the signal broadcast and equipment used to~~
13 ~~gather or transmit weather information, but excluding telephone and~~
14 ~~cellular communication towers;~~
15 ~~(k) — Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of~~
16 ~~all tangible personal property which has been certified as a pollution~~
17 ~~control facility as defined in KRS 224.1-300. In the case of tangible~~
18 ~~personal property certified as a pollution control facility which is~~
19 ~~incorporated into a landfill facility, the tangible personal property shall~~
20 ~~be presumed to remain tangible personal property for purposes of this~~
21 ~~paragraph if the tangible personal property is being used for its intended~~
22 ~~purposes;~~
23 ~~(l) — One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of~~
24 ~~value of all }Property which has been certified as an alcohol production~~
25 ~~facility as defined in KRS 247.910, or as a fluidized bed energy~~
26 ~~production facility as defined in KRS 211.390;{~~
27 ~~(m) — Twenty five cents (\$0.25) upon each one hundred dollars (\$100) of~~

- 1 value of motor vehicles qualifying for permanent registration as historic
2 motor vehicles under the provisions of KRS 186.043;
- 3 ~~(n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of~~
4 ~~goods held for sale in the regular course of business, which includes:~~
- 5 ~~1. Machinery and equipment held in a retailer's inventory for sale or lease~~
6 ~~originating under a floor plan financing arrangement;~~
- 7 ~~2. Motor vehicles:~~
- 8 ~~a. Held for sale in the inventory of a licensed motor vehicle dealer,~~
9 ~~including licensed motor vehicle auction dealers, which are not~~
10 ~~currently titled and registered in Kentucky and are held on an~~
11 ~~assignment pursuant to the provisions of KRS 186A.230; or~~
- 12 ~~b. That are in the possession of a licensed motor vehicle dealer,~~
13 ~~including licensed motor vehicle auction dealers, for sale, although~~
14 ~~ownership has not been transferred to the dealer;~~
- 15 ~~3. Raw materials, which includes distilled spirits and distilled spirits~~
16 ~~inventory; and~~
- 17 ~~4. In-process materials, which includes distilled spirits and distilled spirits~~
18 ~~inventory, held for incorporation in finished goods held for sale in the~~
19 ~~regular course of business;~~
- 20 ~~(o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on~~
21 ~~the operating property of railroads or railway companies that operate~~
22 ~~solely within the Commonwealth;~~
- 23 ~~(p) One and one half cents (\$0.015) per one hundred dollars (\$100) of~~
24 ~~assessed value on aircraft not used in the business of transporting~~
25 ~~persons or property for compensation or hire;~~
- 26 ~~(q) One and one half cents (\$0.015) per one hundred dollars (\$100) of~~
27 ~~assessed value on federally documented vessels not used in the business~~

1 ~~of transporting persons or property for compensation or hire, or for other~~
2 ~~commercial purposes;] and~~

3 ~~(h)(r)]~~ Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value
4 of all other property directed to be assessed for taxation shall be paid by the
5 owner or person assessed, except as provided in KRS 132.030, 132.200,
6 136.300, and 136.320, providing a different tax rate for particular property.

7 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
8 shall be reduced to compensate for any increase in the aggregate assessed value of
9 real property to the extent that the increase exceeds the preceding year's assessment
10 by more than four percent (4%), excluding:

11 (a) The assessment of new property as defined in KRS 132.010(8);

12 (b) The assessment from property which is subject to tax increment financing
13 pursuant to KRS Chapter 65; and

14 (c) The assessment from leasehold property which is owned and financed by a
15 tax-exempt governmental unit, or tax-exempt statutory authority under the
16 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
17 one-half cents (\$0.015) pursuant to subsection (1)~~(f)(b)]~~ of this section. In
18 any year in which the aggregate assessed value of real property is less than the
19 preceding year, the state rate shall be increased to the extent necessary to
20 produce the approximate amount of revenue that was produced in the
21 preceding year from real property.

22 (3) By July 1 each year, the department shall compute the state tax rate applicable to
23 real property for the current year in accordance with the provisions of subsection (2)
24 of this section and certify the rate to the county clerks for their use in preparing the
25 tax bills. If the assessments for all counties have not been certified by July 1, the
26 department shall, when either real property assessments of at least seventy-five
27 percent (75%) of the total number of counties of the Commonwealth have been

1 determined to be acceptable by the department, or when the number of counties
2 having at least seventy-five percent (75%) of the total real property assessment for
3 the previous year have been determined to be acceptable by the department, make
4 an estimate of the real property assessments of the uncertified counties and compute
5 the state tax rate.

6 (4) If the tax rate set by the department as provided in subsection (2) of this section
7 produces more than a four percent (4%) increase in real property tax revenues,
8 excluding:

- 9 (a) The revenue resulting from new property as defined in KRS 132.010(8);
10 (b) The revenue from property which is subject to tax increment financing
11 pursuant to KRS Chapter 65; and
12 (c) The revenue from leasehold property which is owned and financed by a tax-
13 exempt governmental unit, or tax-exempt statutory authority under the
14 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
15 one-half cents (\$0.015) pursuant to subsection (1) of this section;

16 the rate shall be adjusted in the succeeding year so that the cumulative total of each
17 year's property tax revenue increase shall not exceed four percent (4%) per year.

18 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value
19 of unmined coal certified by the department after July 1, 1994, shall not be included
20 with the assessed value of other real property in determining the state real property
21 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also
22 be excluded from the provisions of subsection (2) of this section. The calculated
23 rate shall, however, be applied to unmined coal property, and the state revenue shall
24 be devoted to the program described in KRS 146.550 to 146.570, except that four
25 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to
26 the State Treasury and credited to the Office of Energy Policy for the purpose of
27 public education of coal-related issues.

1 ➔Section 10. KRS 132.220 is amended to read as follows:

- 2 (1) (a) All taxable property and all interests in taxable property, unless otherwise
3 specifically provided by law, shall be listed, assessed, and valued as of
4 January 1 of each year.
- 5 (b) 1. It shall be the duty of the holder of the first freehold estate in any real
6 property taxable in this state to list or have listed the property with the
7 property valuation administrator of the county where it is located
8 between January 1 and March 1 in each year, except as otherwise
9 provided by law.
- 10 2. a. It shall be the duty of all persons owning any tangible personal
11 property taxable in this state to list or have listed the property , by
12 the address at which it is located, with the property valuation
13 administrator of the county of taxable situs or with the department
14 between January 1 and May 15 in each year, except as provided by
15 subdivision b. of this subparagraph or otherwise prescribed by
16 law.
- 17 b. On January 1 of each year, for each address, if the sum of all of
18 the taxable tangible personal property's fair cash values is one
19 thousand dollars (\$1,000) or less, the taxpayer shall not be
20 required to list the property in accordance with subdivision a. of
21 this subparagraph.
- 22 c. On January 1 of each year, for each address, if the sum of all of
23 the taxable tangible personal property's fair cash values exceeds
24 one thousand dollars (\$1,000) and the property is not listed as
25 required by subdivision a. of this subparagraph, the property
26 shall be deemed omitted property in accordance with KRS
27 132.290.

1 *d. For any taxable tangible personal property that is not listed due*
2 *to the one thousand dollar (\$1,000) threshold established in*
3 *subdivision b. of this subparagraph, the owner of the property*
4 *shall maintain records of the property and its fair cash value*
5 *calculation for five (5) years after the expiration of the listing*
6 *period.*

7 3. The holder of legal title, the holder of equitable title, and the claimant or
8 bailee in possession of the property on the assessment date as provided
9 by law shall be liable for the taxes thereon, and the property may be
10 assessed in any of their names. But, as between them, the holder of the
11 equitable title shall pay the taxes thereon, whether or not the property is
12 in his or her possession at the time of payment.

13 4. All persons in whose name property is properly assessed shall remain
14 bound for the tax, notwithstanding they may have sold or parted with it.

15 (2) Any taxpayer may list his or her property in person before the property valuation
16 administrator or his deputy, or may file a property tax return by first class mail. Any
17 real property correctly and completely described in the assessment record for the
18 previous year, or purchased during the preceding year and for which a value was
19 stated in the deed according to the provisions of KRS 382.135, may be considered
20 by the owner to be listed for the current year if no changes that could potentially
21 affect the assessed value have been made to the property. However, if requested in
22 writing by the property valuation administrator or by the department, any real
23 property owner shall submit a property tax return to verify existing information or
24 to provide additional information for assessment purposes. Any real property which
25 has been underassessed as a result of the owner intentionally failing to provide
26 information, or intentionally providing erroneous information, shall be subject to
27 revaluation, and the difference in value shall be assessed as omitted property under

1 the provisions of KRS 132.290.

2 (3) If the owner fails to list the property, the property valuation administrator shall
3 nevertheless assess it. The property valuation administrator may swear witnesses in
4 order to ascertain the person in whose name to make the list. The property valuation
5 administrator, his or her employee, or employees of the department may physically
6 inspect, or inspect using any other method approved by the department, and revalue
7 land and buildings in the absence of the property owner or resident. The exterior
8 dimensions of buildings may be measured and building photographs may be taken;
9 however, with the exception of buildings under construction or not yet occupied, an
10 interior inspection of residential and farm buildings, and of the nonpublic portions
11 of commercial buildings shall not be conducted in the absence or without the
12 permission of the owner or resident.

13 (4) Real property shall be assessed in the name of the owner, if ascertainable by the
14 property valuation administrator, otherwise in the name of the occupant, if
15 ascertainable, and otherwise to "unknown owner." The undivided real estate of any
16 deceased person may be assessed to the heirs or devisees of the person without
17 designating them by name.

18 (5) (a) Real property tax roll entries for which tax bills have not been collected at the
19 expiration of the one (1) year tolling period provided for in KRS 134.546, and
20 for which the property valuation administrator cannot physically locate and
21 identify the real property, shall be deleted from the tax roll and the assessment
22 shall be exonerated.

23 (b) The property valuation administrator shall keep a record of these exonerations,
24 which shall be open under the provisions of KRS 61.870 to 61.884.

25 (c) If, at any time, one of these entries is determined to represent a valid parcel of
26 property it shall be assessed as omitted property under the provisions of KRS
27 132.290.

1 (d) Notwithstanding other provisions of the Kentucky Revised Statutes to the
 2 contrary, any loss of ad valorem tax revenue suffered by a taxing district due
 3 to the exoneration of these uncollectable tax bills may be recovered through
 4 an adjustment in the tax rate for the following year.

5 (6) All real property exempt from taxation by Section 170 of the Constitution shall be
 6 listed with the property valuation administrator in the same manner and at the same
 7 time as taxable real property. The property valuation administrator shall maintain an
 8 inventory record of the tax-exempt property, but the property shall not be placed on
 9 the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the
 10 department within thirty (30) days of the close of the listing period. This inventory
 11 shall be in the form prescribed by the department. The department shall make an
 12 annual report itemizing all exempt properties to the Governor and the Legislative
 13 Research Commission within sixty (60) days of the close of the listing period.

14 (7) Each property valuation administrator, under the direction of the department, shall
 15 review annually all real property listed with him or her under subsection (6) of this
 16 section and claimed to be exempt from taxation by Section 170 of the Constitution.
 17 The property valuation administrator shall place on the tax rolls all property that is
 18 not exempt. Any property valuation administrator who fails to comply with this
 19 subsection shall be subject to the penalties prescribed in KRS 132.990(2).

20 ➔Section 11. KRS 132.360 is amended to read as follows:

21 (1) Any assessment of tangible personal property listed with the property valuation
 22 administrator or with the department~~[of Revenue]~~ as provided by KRS 132.220
 23 may be reopened by the department~~[of Revenue]~~ within five (5) years after the due
 24 date of the return, unless the assessed value has been established by a court of
 25 competent jurisdiction. If upon reopening the assessment the department finds that
 26 the assessment was less than the fair cash value and should be increased, it shall
 27 provide~~[give]~~ notice~~[thereof]~~ to the taxpayer. ***If the taxpayer disagrees with the***

1 increase in the assessment, the taxpayer may protest the notice in accordance
 2 with KRS 131.110~~], who may within forty five (45) days thereafter protest to the~~
 3 ~~department and offer evidence to show that no increase should be made. After the~~
 4 ~~department has disposed of the protest, the taxpayer may appeal from any such~~
 5 ~~additional assessment as provided by KRS 49.220 and 131.110].~~

- 6 (2) Upon ~~the~~~~[such]~~ assessment becoming final, the department shall certify the amount
 7 due to the taxpayer. The tax bill shall be handled and collected as an omitted tax
 8 bill, and the additional tax shall be subject to the same penalties and interest as the
 9 tax on omitted property voluntarily listed.

10 ➔Section 12. KRS 134.580 is amended to read as follows:

- 11 (1) As used in this section, unless the context requires otherwise:

- 12 (a) "Agency" means the agency of state government which administers the tax to
 13 be refunded or credited; and
 14 (b) "Overpayment" or "payment where no tax was due" means the excess of the
 15 tax payments made over the correct tax liability determined under the terms of
 16 the applicable statute without reference to the constitutionality of the statute.

- 17 (2) When money has been paid into the State Treasury in payment of any state taxes,
 18 except ad valorem taxes, whether payment was made voluntarily or involuntarily,
 19 the appropriate agency shall authorize refunds to the person who paid the tax, or to
 20 his heirs, personal representatives or assigns, of any overpayment of tax and any
 21 payment where no tax was due. When a bona fide controversy exists between the
 22 agency and the taxpayer as to the liability of the taxpayer for the payment of tax
 23 claimed to be due by the agency, the taxpayer may pay the amount claimed by the
 24 agency to be due, and if an appeal is taken by the taxpayer from the ruling of the
 25 agency within the time provided by KRS 49.220 and it is finally adjudged that the
 26 taxpayer was not liable for the payment of the tax or any part thereof, the agency
 27 shall authorize the refund or credit as the Kentucky Claims Commission or courts

1 may direct.

2 (3) No refund shall be made unless each taxpayer individually files an application or
3 claim for the refund within four (4) years from the date payment was made. Each
4 claim or application for a refund shall be in writing and state the specific grounds
5 upon which it is based. Denials of refund claims or applications may be protested
6 and appealed in accordance with KRS 49.220 and 131.110.

7 (4) Notwithstanding any provision of this section, when an assessment of limited
8 liability entity tax is made under Section 41 of this Act against a pass-through
9 entity as defined in Section 49 of this Act, the corporation or individual partners,
10 members, or shareholders of the pass-through entity shall have one hundred
11 eighty (180) days from the date of assessment to file returns to allow for items of
12 income, deduction, and credit to be properly reported on the returns of the
13 partners, members, or shareholders of the pass-through entity subject to
14 adjustment.

15 (5) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds
16 authorized by this section shall be made in the same manner as other claims on the
17 State Treasury are paid. They shall not be charged against any appropriation, but
18 shall be deducted from tax receipts for the current fiscal year.

19 (6)~~(5)~~ Nothing in this section shall be construed to authorize the agency to make or
20 cause to be made any refund except within four (4) years of the date prescribed by
21 law for the filing of a return including any extension of time for filing the return, or
22 the date the money was paid into the State Treasury, whichever is the later, except
23 in any case where the assessment period has been extended by written agreement
24 between the taxpayer and the department, the limitation contained in this subsection
25 shall be extended accordingly. Nothing in this section shall be construed as
26 requiring the agency to authorize any refund to a taxpayer without demand from the
27 taxpayer, if in the opinion of the agency the cost to the state of authorizing the

1 refund would be greater than the amount that should be refunded or credited.

2 ~~(7)~~~~(6)~~ This section shall not apply to any case in which the statute may be held
3 unconstitutional, either in whole or in part.

4 ~~(8)~~~~(7)~~ In cases in which a statute has been held unconstitutional, taxes paid
5 thereunder may be refunded to the extent provided by KRS 134.590, and by the
6 statute held unconstitutional.

7 ~~(9)~~~~(8)~~ No person shall secure a refund of motor fuels tax under KRS 134.580 unless
8 the person holds an unrevoked refund permit issued by the department before the
9 purchase of gasoline or special fuels and that permit entitles the person to apply for
10 a refund under KRS 138.344 to 138.355.

11 ~~(10)~~~~(9)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the
12 contrary:

13 (a) The Commonwealth hereby revokes and withdraws its consent to suit in any
14 forum whatsoever on any claim for recovery, refund, or credit of any tax
15 overpayment for any taxable year ending before December 31, 1995, made by
16 an amended return or any other method after December 22, 1994, and based
17 on a change from any initially filed separate return or returns to a combined
18 return under the unitary business concept or to a consolidated return. No such
19 claim shall be effective or recognized for any purpose;

20 (b) Any stated or implied consent for the Commonwealth of Kentucky, or any
21 agent or officer of the Commonwealth of Kentucky, to be sued by any person
22 for any legal, equitable, or other relief with respect to any claim for recovery,
23 refund, or credit of any tax overpayment for any taxable year ending before
24 December 31, 1995, made by an amended return or any other method after
25 December 22, 1994, and based on a change from any initially filed separate
26 return or returns to a combined return under the unitary business concept or to
27 a consolidated return, is hereby withdrawn; and

1 (c) The provisions of this subsection shall apply retroactively for all taxable years
2 ending before December 31, 1995, and shall apply to all claims for such
3 taxable years pending in any judicial or administrative forum.

4 ~~(11)~~[(10)] Notwithstanding any provision of the Kentucky Revised Statutes to the
5 contrary:

6 (a) No money shall be drawn from the State Treasury for the payment of any
7 claim for recovery, refund, or credit of any tax overpayment for any taxable
8 year ending before December 31, 1995, made by an amended return or any
9 other method after December 22, 1994, and based on a change from any
10 initially filed separate return or returns to a combined return under the unitary
11 business concept or to a consolidated return; and

12 (b) No provision of the Kentucky Revised Statutes shall constitute an
13 appropriation or mandated appropriation for the payment of any claim for
14 recovery, refund, or credit of any tax overpayment for any taxable year ending
15 before December 31, 1995, made by an amended return or any other method
16 after December 22, 1994, and based on a change from any initially filed
17 separate return or returns to a combined return under the unitary business
18 concept or to a consolidated return.

19 ➔Section 13. KRS 134.810 is amended to read as follows:

20 (1) All state, county, city, urban-county government, school, and special taxing district
21 ad valorem taxes shall be due and payable on or before the earlier of the last day of
22 the month in which registration renewal is required by law for a motor vehicle
23 renewed or the last day of the month in which a vehicle is transferred.

24 (2) All state, county, city, urban-county government, school, and special taxing district
25 ad valorem taxes due on motor vehicles shall become delinquent following the
26 earlier of the end of the month in which registration renewal is required by law or
27 the last day of the second calendar month following the month in which a vehicle

1 was transferred.

2 (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be
3 subject to a penalty of three percent (3%) on the taxes due. However, this penalty
4 shall be waived if the tax bill is paid within five (5) days of the tax bill being
5 declared delinquent. Any taxes which are not paid within thirty (30) days of
6 becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes
7 due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on
8 said taxes and penalty from the date of delinquency. A penalty or interest shall not
9 accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

10 (4) When a motor vehicle has been transferred before registration renewal or before
11 taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on
12 January 1 of any year shall be liable for the taxes on the motor vehicle, except as
13 hereinafter provided.

14 (5) If an owner obtains a certificate of registration for a motor vehicle valid through the
15 last day of his second birth month following the month and year in which he applied
16 for a certificate of registration, all state, county, city, urban-county government,
17 school, and special tax district ad valorem tax liabilities arising from the assessment
18 date following initial registration shall be due and payable on or before the last day
19 of the first birth month following the assessment date or date of transfer, whichever
20 is earlier. Any taxes due under the provisions of this subsection and not paid as set
21 forth above shall be considered delinquent and subject to the same interest and
22 penalties found in subsection (3) of this section.

23 (6) For purposes of the state ad valorem tax only, all motor vehicles:

24 (a) Held for sale by a licensed motor vehicle dealer, including licensed motor
25 vehicle auction dealers;

26 (b) That are in the possession of a licensed motor vehicle dealer, including
27 licensed motor vehicle auction dealers, for sale, although ownership has not

1 been transferred to the dealer; and

2 (c) With a salvage title held by an insurance company;

3 on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS
4 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular
5 course of business under the provisions of KRS 132.020(1)(~~e~~)(~~n~~) and 132.220.

6 (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor
7 vehicle becomes delinquent, the state and each county, city, urban-county
8 government, or other taxing district shall have a lien on all motor vehicles owned or
9 acquired by the person who owned the motor vehicle at the time the tax liability
10 arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle
11 transferred while the taxes are due on that vehicle. For the purpose of delinquent ad
12 valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be
13 attached to another vehicle owned by the lessor.

14 (8) The lien required by subsection (7) of this section shall be filed and released by the
15 automatic entry of appropriate information in the AVIS database. For the filing and
16 release of each lien or set of liens arising from motor vehicle ad valorem property
17 tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to
18 the delinquent tax account. The fee shall be collected and retained by the county
19 clerk who collects the delinquent tax.

20 (9) The implementation of the automated lien system provided in this section shall not
21 affect the manner in which commercial liens are recorded or released.

22 ➔SECTION 14. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED
23 TO READ AS FOLLOWS:

24 *(1) Beginning January 1, 2022, the bank franchise tax shall no longer apply to*
25 *financial institutions.*

26 *(2) Beginning January 1, 2021, all financial institutions shall be subject to the*
27 *corporation income tax under Section 40 of this Act and the limited liability entity*

1 tax under Section 41 of this Act.

2 (3) For the one (1) year during the transition from the bank franchise tax to the
3 corporation income and limited liability entity taxes, there shall be allowed a
4 refundable tax credit for income tax purposes under Section 40 of this Act equal
5 to the amount of bank franchise tax paid for that one (1) year.

6 ➔Section 15. KRS 136.500 is amended to read as follows:

7 As used in KRS 136.500 to 136.575, unless the context requires otherwise:

8 (1) "Billing address" means the location indicated in the books and records of the
9 financial institution, on the first day of the taxable year or the date in the taxable
10 year when the customer relationship began, as the address where any notice,
11 statement, or bill relating to a customer's account is mailed;

12 (2) "Borrower located in this state" means a borrower, other than a credit card holder,
13 that is engaged in a trade or business that maintains its commercial domicile in this
14 state or a borrower that is not engaged in a trade or business;

15 (3) "Credit card holder located in this state" means a credit card holder whose billing
16 address is in this state;

17 (4) "Department" means the Department of Revenue;

18 (5) "Commercial domicile" means:

19 (a) The location from which the trade or business is principally managed and
20 directed; or

21 (b) The state of the United States or the District of Columbia from which the
22 financial institution's trade or business in the United States is principally
23 managed and directed, if a financial institution is organized under the laws of
24 a foreign country, the Commonwealth of Puerto Rico, or any territory or
25 possession of the United States.

26 It shall be presumed, subject to rebuttal, that the location from which the financial
27 institution's trade or business is principally managed and directed is the state of the

1 United States or the District of Columbia to which the greatest number of
2 employees are regularly connected or out of which they are working, irrespective of
3 where the services of the employees are performed, as of the last day of the taxable
4 year;

5 (6) "Compensation" means wages, salaries, commissions, and any other form of
6 remuneration paid to employees for personal services that are included in the
7 employee's gross income under the Internal Revenue Code. In the case of employees
8 not subject to the Internal Revenue Code, the determination of whether the
9 payments would constitute gross income to the employees under the Internal
10 Revenue Code shall be made as though the employees were subject to the Internal
11 Revenue Code;

12 (7) "Credit card" means credit, travel, or entertainment card;

13 (8) "Credit card issuer's reimbursement fee" means the fee a financial institution
14 receives from a merchant's bank because one (1) of the persons to whom the
15 financial institution has issued a credit card has charged merchandise or services to
16 the credit card;

17 (9) "Employee" means, with respect to a particular financial institution, "employee" as
18 defined in Section 3121(d) of the Internal Revenue Code;

19 (10) "Financial institution" means:

20 (a) A national bank organized as a body corporate and existing or in the process
21 of organizing as a national bank association pursuant to the provisions of the
22 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
23 1997, exclusive of any amendments made subsequent to that date;

24 (b) Any bank or trust company incorporated or organized under the laws of any
25 state, except a banker's bank organized under KRS 286.3-135;

26 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
27 in effect on December 31, 1997, exclusive of any amendments made

1 subsequent to that date, or any corporation organized after December 31,
2 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
3 December 31, 1997; or

4 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
5 3101, in effect on December 31, 1997, exclusive of any amendments made
6 subsequent to that date, or any agency or branch of a foreign depository
7 established after December 31, 1997, that meets the requirements of 12 U.S.C.
8 sec. 3101 in effect on December 31, 1997;

9 (11) "Gross rents" means the actual sum of money or other consideration payable for the
10 use or possession of property.

11 (a) "Gross rents" includes but is not limited to:

12 1. Any amount payable for the use or possession of real property or
13 tangible property, whether designated as a fixed sum of money or as a
14 percentage of receipts, profits, or otherwise;

15 2. Any amount payable as additional rent or in lieu of rent, such as interest,
16 taxes, insurance, repairs, or any other amount required to be paid by the
17 terms of a lease or other arrangement; and

18 3. A proportionate part of the cost of any improvement to real property
19 made by or on behalf of the financial institution which reverts to the
20 owner or lessor upon termination of a lease or other arrangement. The
21 amount to be included in gross rents is the amount of amortization or
22 depreciation allowed in computing the taxable income base for the
23 taxable year. However, where a building is erected on leased land by or
24 on behalf of the financial institution, the value of the land is determined
25 by multiplying the gross rent by eight (8) and the value of the building is
26 determined in the same manner as if owned by the financial institution;

27 (b) The following are not included in the term "gross rents":

- 1 1. Reasonable amounts payable as separate charges for water and electric
2 service furnished by the lessor;
 - 3 2. Reasonable amounts payable as service charges for janitorial services
4 furnished by the lessor;
 - 5 3. Reasonable amounts payable for storage, if these amounts are payable
6 for space not designated and not under the control of the financial
7 institution; and
 - 8 4. That portion of any rental payment which is applicable to the space
9 subleased from the financial institution and not used by it;
- 10 (12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in
11 effect on December 31, 2001, exclusive of any amendments made subsequent to
12 that date;
- 13 (13) "Loan" means any extension of credit resulting from direct negotiations between the
14 financial institution and its customer, and the purchase, in whole or in part, of the
15 extension of credit from another. Loans include participations, syndications, and
16 leases treated as loans for federal income tax purposes. Loans shall not include
17 properties treated as loans under Section 595 of the Internal Revenue Code, futures
18 or forward contracts, options, notional principal contracts such as swaps, credit card
19 receivables, including purchased credit card relationships, noninterest-bearing
20 balances due from depository institutions, cash items in the process of collection,
21 federal funds sold, securities purchased under agreements to resell, assets held in a
22 trading account, securities, interests in a real estate mortgage investment company,
23 or other mortgage-backed or asset-backed security, and other similar items;
- 24 (14) "Loan secured by real property" means a loan or other obligation for which fifty
25 percent (50%) or more of the aggregate value of the collateral used to secure the
26 loan or other obligation, when valued at fair market value as of the time the original
27 loan or obligation was incurred, was real property;

- 1 (15) "Merchant discount" means the fee or negotiated discount charged to a merchant by
2 the financial institution for the privilege of participating in a program where a credit
3 card is accepted in payment for merchandise or services sold to the card holder;
- 4 (16) "Person" means an individual, estate, trust, partnership, corporation, limited liability
5 company, or any other business entity;
- 6 (17) "Principal base of operations" means:
- 7 (a) With respect to transportation property, the place from which the property is
8 regularly directed or controlled; and
- 9 (b) With respect to an employee:
- 10 1. The place the employee regularly starts work and to which the employee
11 customarily returns in order to receive instructions from his or her
12 employer; or
- 13 2. If the place referred to in subparagraph 1. of this paragraph does not
14 exist, the place the employee regularly communicates with customers or
15 other persons; or
- 16 3. If the place referred to in subparagraph 2. of this paragraph does not
17 exist, the place the employee regularly performs any other functions
18 necessary to the exercise of the employee's trade or profession at some
19 other point or points;
- 20 (18) "Real property owned" and "tangible personal property owned" mean real and
21 tangible personal property, respectively, on which the financial institution may
22 claim depreciation for federal income tax purposes, or property to which the
23 financial institution holds legal title and on which no other person may claim
24 depreciation for federal income tax purposes or could claim depreciation if subject
25 to federal income tax. Real and tangible personal property do not include coin,
26 currency, or property acquired in lieu of or pursuant to a foreclosure;
- 27 (19) "Regular place of business" means an office at which the financial institution carries

1 on its business in a regular and systematic manner and which is continuously
2 maintained, occupied, and used by employees of the financial institution;

3 (20) "State" means a state of the United States, the District of Columbia, the
4 Commonwealth of Puerto Rico, any territory or possession of the United States, or
5 any foreign country;

6 (21) "Syndication" means an extension of credit in which two (2) or more persons fund
7 and each person is at risk only up to a specified percentage of the total extension of
8 credit or up to a specified dollar amount;

9 (22) (a) "Taxable year" means calendar year 1996 ***through calendar year 2021***, ~~and~~
10 ~~every calendar year thereafter~~

11 ***(b) "Taxable year" does not include any calendar year after 2021;***

12 (23) "Transportation property" means vehicles and vessels capable of moving under their
13 own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any
14 equipment or containers attached to the property, such as rolling stock, barges, or
15 trailers;

16 (24) "United States obligations" means all obligations of the United States exempt from
17 taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States
18 Constitution or any federal statute, including the obligations of any instrumentality
19 or agency of the United States that are exempt from state or local taxation under the
20 United States Constitution or any statute of the United States; and

21 (25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky,
22 its counties, municipalities, taxing districts, and school districts, exempt from
23 taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

24 ➔Section 16. KRS 136.505 is amended to read as follows:

25 (1) Every financial institution regularly engaged in business in this Commonwealth at
26 any time during the taxable year as determined under KRS 136.520 shall pay an
27 annual state franchise tax for each taxable year or portion of a taxable year to be

1 measured by its net capital as determined in KRS 136.515 and, for financial
2 institutions with business activity that is taxable both within and without this
3 Commonwealth, apportioned under KRS 136.525.

4 (2) The tax shall be in lieu of all city, county, and local taxes, except the real estate
5 transfer tax levied in KRS Chapter 142, real property and tangible personal property
6 taxes levied in KRS Chapter 132, taxes upon users of utility services, and the local
7 franchise tax levied in KRS 136.575, except that beginning in calendar year 2021
8 all financial institutions shall be subject to the corporation income tax under
9 Section 40 of this Act and the limited liability entity tax under Section 41 of this
10 Act.

11 ~~[(3) Every financial institution regularly engaged in business in this Commonwealth~~
12 ~~shall be subject to all state taxes in effect on July 15, 1996, except for the~~
13 ~~corporation income tax levied in KRS Chapter 141, the limited liability entity tax~~
14 ~~levied in KRS 141.0401, and the corporation license tax levied in this chapter].~~

15 ➔Section 17. KRS 136.602 is amended to read as follows:

16 As used in KRS 136.600 to 136.660:

17 (1) "Cable service" means the provision of video, audio, or other programming service
18 to purchasers, and the purchaser interaction, if any, required for the selection or use
19 of the video or other programming service, regardless of whether the programming
20 is transmitted over facilities owned or operated by the provider or by one (1) or
21 more other communications service providers. Included in this definition are basic,
22 extended, and premium service, pay-per-view service, digital or other music
23 services, and other similar services;

24 (2) "Communications service" means the provision, transmission, conveyance, or
25 routing, for consideration, of voice, data, video, or any other information signals of
26 the purchaser's choosing to a point or between or among points specified by the
27 purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium

1 or method now in existence or later devised.

2 (a) "Communications service" includes but is not limited to:

- 3 1. Local and long-distance telephone services;
- 4 2. Telegraph and teletypewriter services;
- 5 3. Prepaid calling services, and postpaid calling services;
- 6 4. Private communications services involving a direct channel specifically
- 7 dedicated to a customer's use between specific points;
- 8 5. Channel services involving a path of communications between two (2)
- 9 or more points;
- 10 6. Data transport services involving the movement of encoded information
- 11 between points by means of any electronic, radio, or other medium or
- 12 method;
- 13 7. Caller ID services, ring tones, voice mail and other electronic messaging
- 14 services;
- 15 8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7);
- 16 and
- 17 9. Voice over Internet Protocol (VOIP);

18 (b) "Communications services" does not include information services or
19 multichannel video programming service;

20 (3) "Department" means the Department of Revenue;

21 (4) "End user" means the person who utilized the multichannel video programming
22 service. In the case of an entity, "end user" means the individual who used the
23 service on behalf of the entity;

24 (5) "Engaged in business" means:

25 (a) Having any employee, representative, agent, salesman, canvasser, or solicitor
26 operating in this state, under the authority of the provider, its subsidiary, or
27 related entity, for the purpose of selling, delivering, taking orders, or

- 1 performing any activities that help establish or maintain a marketplace for the
2 provider;
- 3 (b) Maintaining, occupying, or using permanently or temporarily, directly or
4 indirectly, or through a subsidiary or any other related entity, agent or
5 representative, by whatever name called, an office, place of distribution, sales
6 or sample room or place, warehouse or storage place, or other place of
7 business;
- 8 (c) Having real or tangible personal property in this state;
- 9 (d) Providing communications service by or through a customer's facilities
10 located in this state;
- 11 (e) Soliciting orders from residents of this state on a continuous, regular, or
12 systematic basis in which the solicitation of the order, placement of the order
13 by the customer or payment of the order utilizes the services of any financial
14 institution, communications system, radio or television station, cable service,
15 direct broadcast satellite or wireless cable service, print media, or other
16 facility or service located in this state; or
- 17 (f) Soliciting orders from residents of this state on a continuous regular,
18 systematic basis if the provider benefits from an agent or representative
19 operating in this state under the authority of the provider to repair or service
20 tangible personal property sold by the retailer;
- 21 (6) "Gross revenues" means all amounts received in money, credits, property, or other
22 money's worth in any form, by a provider for furnishing multichannel video
23 programming service or communications service in this state excluding amounts
24 received from:
- 25 (a) Charges for Internet access as defined in 47 U.S.C. sec. 151; and
26 (b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the
27 United States or any state or local political subdivision upon the purchase,

1 sale, use, or other consumption of communications services or multichannel
2 video programming services that is permitted or required to be added to the
3 sales price of the communications service or multichannel video programming
4 service. This exclusion does not include any amount that the provider has
5 retained as a reimbursement for collecting and remitting the tax to the
6 appropriate taxing jurisdiction in a timely manner;

7 (7) "In this state" means within the exterior limits of the Commonwealth of Kentucky
8 and includes all territory within these limits owned by or ceded to the United States
9 of America;

10 (8) "Multichannel video programming service" means live, scheduled, or on-demand
11 programming provided by or generally considered comparable to or in competition
12 with programming provided by a television broadcast station and shall include but
13 not be limited to:

14 (a) Cable service;

15 (b) Satellite broadcast and wireless cable service;~~and~~

16 (c) Internet protocol television provided through wireline facilities without regard
17 to delivery technology; and

18 (d) Video streaming services;

19 (9) "Person" means and includes any individual, firm, corporation, joint venture,
20 association, social club, fraternal organization, general partnership, limited
21 partnership, limited liability partnership, limited liability company, nonprofit entity,
22 estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee,
23 governmental unit or agency, or any other group or combination acting as a unit;

24 (10) "Place of primary use" means the street address where the end user's use of the
25 multichannel video programming service primarily occurs;

26 (11) "Political subdivision" means a city, county, urban-county government,
27 consolidated local government, or charter county government;

- 1 (12) "Provider" means any person receiving gross revenues for the provision of
2 multichannel video programming service or communications service in this state;
- 3 (13) "Purchaser" means the person paying for multichannel video programming service;
- 4 (14) "Resale" means the purchase of a multichannel video programming service by a
5 provider required to collect the tax levied by KRS 136.604 for sale, or incorporation
6 into a multichannel video programming service for sale, including but not limited
7 to:
- 8 (a) Charges paid by multichannel video programming service providers for
9 transmission of video or other programming by another provider over
10 facilities owned or operated by the other provider; and
- 11 (b) Charges for use of facilities for providing or receiving multichannel video
12 programming services;
- 13 (15) "Retail purchase" means any purchase of a multichannel video programming service
14 for any purpose other than resale;
- 15 (16) "Ring tones" means digitized sound files that are downloaded onto a device and that
16 may be used to alert the customer with respect to a communication;
- 17 (17) "Sale" means the furnishing of a multichannel video programming service for
18 consideration;
- 19 (18) (a) "Sales price" means the total amount billed by or on behalf of a provider for
20 the sale of multichannel video programming services in this state valued in
21 money, whether paid in money or otherwise, without any deduction on
22 account of the following:
- 23 1. Any charge attributable to the connection, movement, change, or
24 termination of a multichannel video programming service; or
- 25 2. Any charge for detail billing;
- 26 (b) "Sales price" does not include any of the following:
- 27 1. Charges for installation, reinstallation, or maintenance of wiring or

- 1 equipment on a customer's premises;
- 2 2. Charges for the sale or rental of tangible personal property;
- 3 3. Charges for billing and collection services provided to another
- 4 multichannel video programming service provider;
- 5 4. Bad check charges;
- 6 5. Late payment charges;
- 7 6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the
- 8 United States or any state or local political subdivision, upon the
- 9 purchase, sale, use, or consumption of any multichannel video
- 10 programming service, that is permitted or required to be added to the
- 11 sales price of the multichannel video programming service; or
- 12 7. Internet access as defined in 47 U.S.C. sec. 151;
- 13 (19) "Satellite broadcast and wireless cable service" means point-to-point or point-to-
- 14 multipoint distribution services that include but are not limited to direct broadcast
- 15 satellite service and multichannel multipoint distribution services, with
- 16 programming or voice transmitted or broadcast by satellite, microwave, or any other
- 17 equipment directly to the purchaser. Included in this definition are basic, extended,
- 18 and premium service, pay-per-view service, digital or other music services, two (2)
- 19 way service, and other similar services;
- 20 (20) "School district" means a school district as defined in KRS 160.010 and 160.020;{
- 21 ~~and~~}
- 22 (21) "Special district" means a special district as defined in KRS 65.005(2)(a) that
- 23 currently levies on any provider or its customers the public service corporation
- 24 property tax under KRS 136.120; and
- 25 **(22) "Video streaming services" means programming that streams live events, movies,**
- 26 **syndicated and television programming, or other audio-visual content over the**
- 27 **Internet for viewing on a television or other electronic device with or without**

1 *regard to a particular viewing schedule.*

2 ➔Section 18. KRS 136.990 is amended to read as follows:

- 3 (1) Any corporation that fails to pay its taxes, penalty, and interest as provided in
4 subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty
5 dollars (\$50) for each day the same remains unpaid, to be recovered by indictment
6 or civil action, of which the Franklin Circuit Court shall have jurisdiction.
- 7 (2) Any public service corporation, or officer thereof, that willfully fails or refuses to
8 make reports as required by KRS 136.130 and 136.140 shall be fined one thousand
9 dollars (\$1,000), and fifty dollars (\$50) for each day the reports are not made after
10 April 30 of each year.
- 11 (3) Any superintendent of schools or county clerk who fails to report as required by
12 KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars
13 (\$50) nor more than one hundred dollars (\$100) for each offense.
- 14 (4) Any company or association that fails or refuses to return the statement or pay the
15 taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars
16 (\$1,000) for each offense.
- 17 (5) Any insurance company that fails or refuses for thirty (30) days to return the
18 statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS
19 136.330 or 136.340, shall forfeit one hundred dollars (\$100) for each offense. The
20 commissioner of insurance shall revoke the authority of the company or its agents to
21 do business in this state, and shall publish the revocation pursuant to KRS Chapter
22 424.
- 23 (6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than
24 one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each
25 offense.
- 26 (7) Where no other penalty is mentioned for failing to do an act required, or for doing
27 an act forbidden by this chapter, the penalty shall be not less than ten dollars (\$10)

1 nor more than five hundred dollars (\$500).

2 (8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under
3 subsections (4) to (6) of this section.

4 (9) Any person who violates any of the provisions of KRS 136.073~~[or KRS 136.090]~~
5 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

6 (10) If the tax imposed by~~[KRS 136.070 or]~~ KRS 136.073, whether assessed by the
7 department or the taxpayer, or any installment or portion of the tax, is not paid on or
8 before the date prescribed for its payment, interest shall be collected upon the
9 nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date
10 prescribed for its payment until payment is actually made to the department.

11 (11) Any provider who violates the provisions of KRS 136.616(3) shall be subject to a
12 penalty of twenty-five dollars (\$25) per purchaser offense, not to exceed ten
13 thousand dollars (\$10,000) per month.

14 ➔Section 19. KRS 139.010 is amended to read as follows:

15 As used in this chapter, unless the context otherwise provides:

16 (1) (a) "Admissions" means the fees paid for:

17 1.~~[(a)]~~ The right of entrance to a display, program, sporting event, music
18 concert, performance, play, show, movie, exhibit, fair, or other
19 entertainment or amusement event or venue; and

20 2.~~[(b)]~~ The privilege of using facilities or participating in an event or
21 activity, including but not limited to:

22 a.~~[1.]~~ Bowling centers;

23 b.~~[2.]~~ Skating rinks;

24 c.~~[3.]~~ Health spas;

25 d.~~[4.]~~ Swimming pools;

26 e.~~[5.]~~ Tennis courts;

27 f.~~[6.]~~ Weight training facilities;

1 ~~g.~~^[7.] Fitness and recreational sports centers; and
2 ~~h.~~^[8.] Golf courses, both public and private;
3 regardless of whether the fee paid is per use or in any other form,
4 including but not limited to an initiation fee, monthly fee, membership
5 fee, or combination thereof.

6 **(b) "Admissions" does not include:**

7 **1. Any fee paid to enter or participate in a fishing tournament; or**

8 **2. Any fee paid for the use of a boat ramp for the purpose of allowing**
9 **boats to be launched into or hauled out from the water;**

10 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
11 which is to attract public attention to a product, person, business, or organization, or
12 to attempt to sell, popularize, or secure financial support for a product, person,
13 business, or organization. As used in this definition, "product" means tangible
14 personal property, an item transferred electronically, or a service;

15 (3) "Business" includes any activity engaged in by any person or caused to be engaged
16 in by that person with the object of gain, benefit, or advantage, either direct or
17 indirect;

18 (4) "Commonwealth" means the Commonwealth of Kentucky;

19 (5) "Department" means the Department of Revenue;

20 (6) (a) "Digital audio-visual works" means a series of related images which, when
21 shown in succession, impart an impression of motion, with accompanying
22 sounds, if any.

23 (b) "Digital audio-visual works" includes movies, motion pictures, musical
24 videos, news and entertainment programs, and live events.

25 (c) "Digital audio-visual works" shall not include video greeting cards, video
26 games, and electronic games;

27 (7) (a) "Digital audio works" means works that result from the fixation of a series of

1 musical, spoken, or other sounds.

2 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
3 readings of books or other written materials, speeches, or other sound
4 recordings.

5 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
6 mail;

7 (8) (a) "Digital books" means works that are generally recognized in the ordinary and
8 usual sense as books, including any literary work expressed in words,
9 numbers, or other verbal or numerical symbols or indicia if the literary work is
10 generally recognized in the ordinary or usual sense as a book.

11 (b) "Digital books" shall not include digital audio-visual works, digital audio
12 works, periodicals, magazines, newspapers, or other news or information
13 products, chat rooms, or Web logs;

14 (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain
15 one (1) or more types of digital property. A "digital code" may be obtained by
16 any means, including electronic mail messaging or by tangible means,
17 regardless of the code's designation as a song code, video code, or book code.

18 (b) "Digital code" shall not include a code that represents:

- 19 1. A stored monetary value that is deducted from a total as it is used by the
20 purchaser; or
- 21 2. A redeemable card, gift card, or gift certificate that entitles the holder to
22 select specific types of digital property;

23 (10) (a) "Digital property" means any of the following which is transferred
24 electronically:

- 25 1. Digital audio works;
- 26 2. Digital books;
- 27 3. Finished artwork;

- 1 4. Digital photographs;
- 2 5. Periodicals;
- 3 6. Newspapers;
- 4 7. Magazines;
- 5 8. Video greeting cards;
- 6 9. Audio greeting cards;
- 7 10. Video games;
- 8 11. Electronic games; or
- 9 12. Any digital code related to this property.
- 10 (b) "Digital property" shall not include digital audio-visual works or satellite
- 11 radio programming;
- 12 (11) (a) "Direct mail" means printed material delivered or distributed by United States
- 13 mail or other delivery service to a mass audience or to addressees on a mailing
- 14 list provided by the purchaser or at the direction of the purchaser when the
- 15 cost of the items are not billed directly to the recipient.
- 16 (b) "Direct mail" includes tangible personal property supplied directly or
- 17 indirectly by the purchaser to the direct mail retailer for inclusion in the
- 18 package containing the printed material.
- 19 (c) "Direct mail" does not include multiple items of printed material delivered to
- 20 a single address;
- 21 (12) "Directly used in the manufacturing or industrial processing process" means the
- 22 process within a plant facility that commences with the movement of raw materials
- 23 from storage into a continuous, unbroken, integrated process and ends when the
- 24 finished product is packaged and ready for sale;
- 25 (13) (a) "Extended warranty services" means services provided through a service
- 26 contract agreement between the contract provider and the purchaser where the
- 27 purchaser agrees to pay compensation for the contract and the provider agrees

1 to repair, replace, support, or maintain tangible personal property or digital
2 property according to the terms of the contract if:

3 ~~1.(a)~~ The service contract agreement is sold or purchased on or after
4 July 1, 2018; and

5 ~~2.(b)~~ The tangible personal property or digital property for which the
6 service contract agreement is provided is subject to tax under this
7 chapter or under KRS 138.460.

8 **(b) "Extended warranty services" does not include the sale of a service contract**
9 **agreement for tangible personal property to be used by a small telephone**
10 **utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in**
11 **KRS 65.7621 to deliver communications services as defined in Section 17 of**
12 **this Act or broadband as defined in KRS 278.5461;**

13 (14) (a) "Finished artwork" means final art that is used for actual reproduction by
14 photomechanical or other processes or for display purposes.

15 (b) "Finished artwork" includes:

- 16 1. Assemblies;
- 17 2. Charts;
- 18 3. Designs;
- 19 4. Drawings;
- 20 5. Graphs;
- 21 6. Illustrative materials;
- 22 7. Lettering;
- 23 8. Mechanicals;
- 24 9. Paintings; and
- 25 10. Paste-ups;

26 (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration,
27 including cash, credit, property, and services, for which tangible personal

1 property, digital property, or services are sold, leased, or rented, valued in
2 money, whether received in money or otherwise, without any deduction for
3 any of the following:

- 4 1. The retailer's cost of the tangible personal property, ~~or~~ digital property,
5 or services sold;
- 6 2. The cost of the materials used, labor or service cost, interest, losses, all
7 costs of transportation to the retailer, all taxes imposed on the retailer, or
8 any other expense of the retailer;
- 9 3. Charges by the retailer for any services necessary to complete the sale;
- 10 4. Delivery charges, which are defined as charges by the retailer for the
11 preparation and delivery to a location designated by the purchaser
12 including transportation, shipping, postage, handling, crating, and
13 packing;
- 14 5. Any amount for which credit is given to the purchaser by the retailer,
15 other than credit for tangible personal property or digital property traded
16 when the tangible personal property or digital property traded is of like
17 kind and character to the property purchased and the property traded is
18 held by the retailer for resale; and
- 19 6. The amount charged for labor or services rendered in installing or
20 applying the tangible personal property, digital property, or service sold.

21 (b) "Gross receipts" and "sales price" shall include consideration received by the
22 retailer from a third party if:

- 23 1. The retailer actually receives consideration from a third party and the
24 consideration is directly related to a price reduction or discount on the
25 sale to the purchaser;
- 26 2. The retailer has an obligation to pass the price reduction or discount
27 through to the purchaser;

- 1 3. The amount of consideration attributable to the sale is fixed and
2 determinable by the retailer at the time of the sale of the item to the
3 purchaser; and
- 4 4. One (1) of the following criteria is met:
- 5 a. The purchaser presents a coupon, certificate, or other
6 documentation to the retailer to claim a price reduction or discount
7 where the coupon, certificate, or documentation is authorized,
8 distributed, or granted by a third party with the understanding that
9 the third party will reimburse any seller to whom the coupon,
10 certificate, or documentation is presented;
- 11 b. The price reduction or discount is identified as a third-party price
12 reduction or discount on the invoice received by the purchaser or
13 on a coupon, certificate, or other documentation presented by the
14 purchaser; or
- 15 c. The purchaser identifies himself or herself to the retailer as a
16 member of a group or organization entitled to a price reduction or
17 discount. A "preferred customer" card that is available to any
18 patron does not constitute membership in such a group.
- 19 (c) "Gross receipts" and "sales price" shall not include:
- 20 1. Discounts, including cash, term, or coupons that are not reimbursed by a
21 third party and that are allowed by a retailer and taken by a purchaser on
22 a sale;
- 23 2. Interest, financing, and carrying charges from credit extended on the sale
24 of tangible personal property, digital property, or services, if the amount
25 is separately stated on the invoice, bill of sale, or similar document given
26 to the purchaser; or
- 27 3. Any taxes legally imposed directly on the purchaser that are separately

1 stated on the invoice, bill of sale, or similar document given to the
2 purchaser.

3 (d) As used in this subsection, "third party" means a person other than the
4 purchaser;

5 (16) "In this state" or "in the state" means within the exterior limits of the
6 Commonwealth and includes all territory within these limits owned by or ceded to
7 the United States of America;

8 (17) "Industrial processing" includes:

9 (a) Refining;

10 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

11 (c) Mining, quarrying, fabricating, and industrial assembling;

12 (d) The processing and packaging of raw materials, in-process materials, and
13 finished products; and

14 (e) The processing and packaging of farm and dairy products for sale;

15 (18) (a) "Lease or rental" means any transfer of possession or control of tangible
16 personal property for a fixed or indeterminate term for consideration. A lease
17 or rental shall include future options to:

18 1. Purchase the property; or

19 2. Extend the terms of the agreement and agreements covering trailers
20 where the amount of consideration may be increased or decreased by
21 reference to the amount realized upon sale or disposition of the property
22 as defined in 26 U.S.C. sec. 7701(h)(1).

23 (b) "Lease or rental" shall not include:

24 1. A transfer of possession or control of property under a security
25 agreement or deferred payment plan that requires the transfer of title
26 upon completion of the required payments;

27 2. A transfer of possession or control of property under an agreement that

1 requires the transfer of title upon completion of the required payments
2 and payment of an option price that does not exceed the greater of one
3 hundred dollars (\$100) or one percent (1%) of the total required
4 payments; or

5 3. Providing tangible personal property and an operator for the tangible
6 personal property for a fixed or indeterminate period of time. To qualify
7 for this exclusion, the operator must be necessary for the equipment to
8 perform as designed, and the operator must do more than maintain,
9 inspect, or setup the tangible personal property.

10 (c) This definition shall apply regardless of the classification of a transaction
11 under generally accepted accounting principles, the Internal Revenue Code, or
12 other provisions of federal, state, or local law;

13 (19) (a) "Machinery for new and expanded industry" means machinery:

- 14 1. Directly used in the manufacturing or industrial processing process;
- 15 2. Which is incorporated for the first time into a plant facility established
16 in this state; and
- 17 3. Which does not replace machinery in the plant facility unless that
18 machinery purchased to replace existing machinery:
 - 19 a. Increases the consumption of recycled materials at the plant
20 facility by not less than ten percent (10%);
 - 21 b. Performs different functions;
 - 22 c. Is used to manufacture a different product; or
 - 23 d. Has a greater productive capacity, as measured in units of
24 production, than the machinery being replaced.

25 (b) "Machinery for new and expanded industry" does not include repair,
26 replacement, or spare parts of any kind, regardless of whether the purchase of
27 repair, replacement, or spare parts is required by the manufacturer or seller as

1 a condition of sale or as a condition of warranty;

2 (20) "Manufacturing" means any process through which material having little or no
3 commercial value for its intended use before processing has appreciable commercial
4 value for its intended use after processing by the machinery;

5 (21) "Marketplace" means any physical or electronic means through which one (1) or
6 more retailers may advertise and sell **tangible personal property, digital property,**
7 **or services,** or lease tangible personal property or digital property, such as a catalog,
8 Internet Web site, or television or radio broadcast, regardless of whether the
9 tangible personal property, digital property, or retailer is physically present in this
10 state;

11 (22) (a) "Marketplace ~~provider~~[~~facilitator~~]" means a person, **including any affiliate of**
12 **the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2.**
13 **of this paragraph as follows:**

14 **1. The person directly or indirectly:**

15 **a. Lists, makes available, or advertises tangible personal property,**
16 **digital property, or services for sale by a marketplace retailer in a**
17 **marketplace owned, operated, or controlled by the person;**

18 **b. Facilitates the sale of a marketplace retailer's product through a**
19 **marketplace by transmitting or otherwise communicating an**
20 **offer or acceptance of a retail sale of tangible personal property,**
21 **digital property, or services between a marketplace retailer and a**
22 **purchaser in a forum including a shop, store, booth, catalog,**
23 **Internet site, or similar forum;**

24 **c. Owns, rents, licenses, makes available, or operates any electronic**
25 **or physical infrastructure or any property, process, method,**
26 **copyright, trademark, or patent that connects marketplace**
27 **retailers to purchasers for the purpose of making retail sales of**

1 tangible personal property, digital property, or services;

2 d. Provides a marketplace for making retail sales of tangible
3 personal property, digital property, or services, or otherwise
4 facilitates retail sales of tangible personal property, digital
5 property, or services, regardless of ownership or control of the
6 tangible personal property, digital property, or services, that are
7 the subject of the retail sale;

8 e. Provides software development or research and development
9 activities related to any activity described in this subparagraph, if
10 the software development or research and development activities
11 are directly related to the physical or electronic marketplace
12 provided by a marketplace provider;

13 f. Provides or offers fulfillment or storage services for a
14 marketplace retailer;

15 g. Sets prices for a marketplace retailer's sale of tangible personal
16 property, digital property, or services;

17 h. Provides or offers customer service to a marketplace retailer or a
18 marketplace retailer's customers, or accepts or assists with
19 taking orders, returns, or exchanges of tangible personal
20 property, digital property, or services sold by a marketplace
21 retailer; or

22 i. Brands or otherwise identifies sales as those of the marketplace
23 provider; and

24 2. The person directly or indirectly:

25 a. Collects the sales price or purchase price of a retail sale of
26 tangible personal property, digital property, or services;

27 b. Provides payment processing services for a retail sale of tangible

- 1 personal property, digital property, or services;
2 c. Charges, collects, or otherwise receives selling fees, listing fees,
3 referral fees, closing fees, fees for inserting or making available
4 tangible personal property, digital property, or services on a
5 marketplace, or receives other consideration from the facilitation
6 of a retail sale of tangible personal property, digital property, or
7 services, regardless of ownership or control of the tangible
8 personal property, digital property, or services that are the
9 subject of the retail sale;
10 d. Through terms and conditions, agreements, or arrangements
11 with a third party, collects payment in connection with a retail
12 sale of tangible personal property, digital property, or services
13 from a purchaser and transmits that payment to the marketplace
14 retailer, regardless of whether the person collecting and
15 transmitting the payment receives compensation or other
16 consideration in exchange for the service; or
17 e. Provides a virtual currency that purchasers are allowed or
18 required to use to purchase tangible personal property, digital
19 property, or services.

20 (b) "Marketplace provider" includes but is not limited to a person that satisfies
21 the requirements of this subsection through the ownership, operation, or
22 control of a digital distribution service, digital distribution platform, online
23 portal, or application store~~[that facilitates the retail sale of tangible personal~~
24 ~~property or digital property by listing or advertising the tangible personal~~
25 ~~property for sale at retail and either directly or indirectly through agreements~~
26 ~~or arrangements with third parties, collects the payment from the purchaser,~~
27 ~~and transmits the payment to the person selling the property];~~

1 (23) "Marketplace retailer" means a *seller that makes retail sales through any*
2 *marketplace owned, operated, or controlled by a marketplace provider*~~[person that~~
3 ~~has an agreement with a marketplace facilitator and makes retail sales of tangible~~
4 ~~personal property or digital property through a marketplace];~~

5 (24) (a) "Occasional sale" includes:

- 6 1. A sale of tangible personal property or digital property not held or used
7 by a seller in the course of an activity for which he or she is required to
8 hold a seller's permit, provided such sale is not one (1) of a series of
9 sales sufficient in number, scope, and character to constitute an activity
10 requiring the holding of a seller's permit. In the case of the sale of the
11 entire, or a substantial portion of the nonretail assets of the seller, the
12 number of previous sales of similar assets shall be disregarded in
13 determining whether or not the current sale or sales shall qualify as an
14 occasional sale; or
- 15 2. Any transfer of all or substantially all the tangible personal property or
16 digital property held or used by a person in the course of such an activity
17 when after such transfer the real or ultimate ownership of such property
18 is substantially similar to that which existed before such transfer.

19 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
20 other persons holding an interest in a corporation or other entity are regarded
21 as having the "real or ultimate ownership" of the tangible personal property or
22 digital property of such corporation or other entity;

23 (25) (a) "Other direct mail" means any direct mail that is not advertising and
24 promotional direct mail, regardless of whether advertising and promotional
25 direct mail is included in the same mailing.

26 (b) "Other direct mail" includes but is not limited to:

- 27 1. Transactional direct mail that contains personal information specific to

1 the addressee, including but not limited to invoices, bills, statements of
2 account, and payroll advices;

3 2. Any legally required mailings, including but not limited to privacy
4 notices, tax reports, and stockholder reports; and

5 3. Other nonpromotional direct mail delivered to existing or former
6 shareholders, customers, employees, or agents, including but not limited
7 to newsletters and informational pieces.

8 (c) "Other direct mail" does not include the development of billing information or
9 the provision of any data processing service that is more than incidental to the
10 production of printed material;

11 (26) "Person" includes any individual, firm, copartnership, joint venture, association,
12 social club, fraternal organization, corporation, estate, trust, business trust, receiver,
13 trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other
14 group or combination acting as a unit;

15 (27) "Permanent," as the term applies to digital property, means perpetual or for an
16 indefinite or unspecified length of time;

17 (28) "Plant facility" means a single location that is exclusively dedicated to
18 manufacturing or industrial processing activities. A location shall be deemed to be
19 exclusively dedicated to manufacturing or industrial processing activities even if
20 retail sales are made there, provided that the retail sales are incidental to the
21 manufacturing or industrial processing activities occurring at the location. The term
22 "plant facility" shall not include any restaurant, grocery store, shopping center, or
23 other retail establishment;

24 (29) (a) "Prewritten computer software" means:

25 1. Computer software, including prewritten upgrades, that are not designed
26 and developed by the author or other creator to the specifications of a
27 specific purchaser;

- 1 2. Software designed and developed by the author or other creator to the
2 specifications of a specific purchaser when it is sold to a person other
3 than the original purchaser; or
- 4 3. Any portion of prewritten computer software that is modified or
5 enhanced in any manner, where the modification or enhancement is
6 designed and developed to the specifications of a specific purchaser,
7 unless there is a reasonable, separately stated charge on an invoice or
8 other statement of the price to the purchaser for the modification or
9 enhancement.
- 10 (b) When a person modifies or enhances computer software of which the person
11 is not the author or creator, the person shall be deemed to be the author or
12 creator only of the modifications or enhancements the person actually made.
- 13 (c) The combining of two (2) or more prewritten computer software programs or
14 portions thereof does not cause the combination to be other than prewritten
15 computer software;
- 16 (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,
17 or rental, conditional or otherwise, in any manner or by any means
18 whatsoever, of:
- 19 1. Tangible personal property;
- 20 2. An extended warranty service;~~{or}~~
- 21 3. Digital property transferred electronically; **or**
- 22 **4. Services included in Section 20 of this Act;**
- 23 for a consideration.
- 24 (b) "Purchase" includes:
- 25 1. When performed outside this state or when the customer gives a resale
26 certificate, the producing, fabricating, processing, printing, or imprinting
27 of tangible personal property for a consideration for consumers who

1 furnish either directly or indirectly the materials used in the producing,
2 fabricating, processing, printing, or imprinting;

3 2. A transaction whereby the possession of tangible personal property or
4 digital property is transferred but the seller retains the title as security for
5 the payment of the price; and

6 3. A transfer for a consideration of the title or possession of tangible
7 personal property or digital property which has been produced,
8 fabricated, or printed to the special order of the customer, or of any
9 publication;

10 (31) "Recycled materials" means materials which have been recovered or diverted from
11 the solid waste stream and reused or returned to use in the form of raw materials or
12 products;

13 (32) "Recycling purposes" means those activities undertaken in which materials that
14 would otherwise become solid waste are collected, separated, or processed in order
15 to be reused or returned to use in the form of raw materials or products;

16 (33) ~~"Referrer" means a person that:~~

17 ~~(a) Contracts with a retailer or retailer's representative to advertise or list tangible
18 personal property or digital property for sale or lease;~~

19 ~~(b) Makes referrals by connecting a person to the retailer or the retailer's
20 representative, but not acting as a marketplace facilitator; and~~

21 ~~(c) Received in the prior calendar year or the current calendar year, in the
22 aggregate, at least ten thousand dollars (\$10,000) in consideration from
23 remote retailers, marketplace retailers, or representatives of remote retailers or
24 marketplace retailers for referrals on retail sales to purchasers in this state;~~

25 ~~(34) (a) "Remote retailer" means a retailer with no physical presence in this state[-~~

26 ~~(b) "Remote retailer" does not include a marketplace facilitator or a referrer];~~

27 (34) ~~(35)~~ (a) "Repair, replacement, or spare parts" means any tangible personal

1 property used to maintain, restore, mend, or repair machinery or equipment.

2 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
3 industrial tools;

4 ~~(35)~~~~(36)~~ (a) "Retailer" means:

5 1. Every person engaged in the business of making retail sales of tangible
6 personal property, digital property, or furnishing any services *in a retail*
7 *sale* included in KRS 139.200;

8 2. Every person engaged in the business of making sales at auction of
9 tangible personal property or digital property owned by the person or
10 others for storage, use or other consumption, except as provided in
11 paragraph (c) of this subsection;

12 3. Every person making more than two (2) retail sales of tangible personal
13 property, ~~or~~ digital property, *or services included in Section 20 of this*
14 *Act* during any twelve (12) month period, including sales made in the
15 capacity of assignee for the benefit of creditors, or receiver or trustee in
16 bankruptcy;

17 4. Any person conducting a race meeting under the provision of KRS
18 Chapter 230, with respect to horses which are claimed during the
19 meeting.

20 (b) When the department determines that it is necessary for the efficient
21 administration of this chapter to regard any salesmen, representatives,
22 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
23 employers under whom they operate or from whom they obtain the tangible
24 personal property, ~~or~~ digital property, *or services* sold by them, irrespective
25 of whether they are making sales on their own behalf or on behalf of the
26 dealers, distributors, supervisors or employers, the department may so regard
27 them and may regard the dealers, distributors, supervisors or employers as

1 retailers for purposes of this chapter.

2 (c) 1. Any person making sales at a charitable auction for a qualifying entity
3 shall not be a retailer for purposes of the sales made at the charitable
4 auction if:

5 a. The qualifying entity, not the person making sales at the auction, is
6 sponsoring the auction;

7 b. The purchaser of tangible personal property at the auction directly
8 pays the qualifying entity sponsoring the auction for the property
9 and not the person making the sales at the auction; and

10 c. The qualifying entity, not the person making sales at the auction, is
11 responsible for the collection, control, and disbursement of the
12 auction proceeds.

13 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
14 the qualifying entity sponsoring the auction shall be the retailer for
15 purposes of the sales made at the charitable auction.

16 3. For purposes of this paragraph, "qualifying entity" means a resident:

17 a. Church;

18 b. School;

19 c. Civic club; or

20 d. Any other nonprofit charitable, religious, or educational
21 organization;

22 ~~(36)~~~~(37)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
23 sublease, or subrent;

24 ~~(37)~~~~(38)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
25 device and that may be used to alert the customer with respect to a
26 communication.

27 (b) "Ringtones" shall not include ringback tones or other digital files that are not

1 stored on the purchaser's communications device;

2 ~~(38)~~~~(39)~~ (a) "Sale" means:

- 3 1. The furnishing of any services included in KRS 139.200;
 - 4 2. Any transfer of title or possession, exchange, barter, lease, or rental,
5 conditional or otherwise, in any manner or by any means whatsoever, of:
 - 6 a. Tangible personal property; or
 - 7 b. Digital property transferred electronically;
- 8 for a consideration.

9 (b) "Sale" includes but is not limited to:

- 10 1. The producing, fabricating, processing, printing, or imprinting of
11 tangible personal property or digital property for a consideration for
12 purchasers who furnish, either directly or indirectly, the materials used
13 in the producing, fabricating, processing, printing, or imprinting;
- 14 2. A transaction whereby the possession of tangible personal property or
15 digital property is transferred, but the seller retains the title as security
16 for the payment of the price; and
- 17 3. A transfer for a consideration of the title or possession of tangible
18 personal property or digital property which has been produced,
19 fabricated, or printed to the special order of the purchaser.

20 (c) This definition shall apply regardless of the classification of a transaction
21 under generally accepted accounting principles, the Internal Revenue Code, or
22 other provisions of federal, state, or local law;

23 ~~(39)~~~~(40)~~ "Seller" includes every person engaged in the business of selling tangible
24 personal property, digital property, or services of a kind, the gross receipts from the
25 retail sale of which are required to be included in the measure of the sales tax, and
26 every person engaged in making sales for resale;

27 ~~(40)~~~~(41)~~ (a) "Storage" includes any keeping or retention in this state for any purpose

1 except sale in the regular course of business or subsequent use solely outside
2 this state of tangible personal property or digital property purchased from a
3 retailer.

4 (b) "Storage" does not include the keeping, retaining, or exercising any right or
5 power over tangible personal property for the purpose of subsequently
6 transporting it outside the state for use thereafter solely outside the state, or for
7 the purpose of being processed, fabricated, or manufactured into, attached to,
8 or incorporated into, other tangible personal property to be transported outside
9 the state and thereafter used solely outside the state;

10 ~~(41)~~~~(42)~~ "Tangible personal property" means personal property which may be seen,
11 weighed, measured, felt, or touched, or which is in any other manner perceptible to
12 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
13 and prewritten computer software;

14 ~~(42)~~~~(43)~~ "Taxpayer" means any person liable for tax under this chapter;

15 ~~(43)~~~~(44)~~ "Transferred electronically" means accessed or obtained by the purchaser by
16 means other than tangible storage media; and

17 ~~(44)~~~~(45)~~ (a) "Use" includes the exercise of:

- 18 1. Any right or power over tangible personal property or digital property
19 incident to the ownership of that property, or by any transaction in which
20 possession is given, or by any transaction involving digital property
21 where the right of access is granted; or
- 22 2. Any right or power to benefit from extended warranty services.

23 (b) "Use" does not include the keeping, retaining, or exercising any right or power
24 over tangible personal property or digital property for the purpose of:

- 25 1. Selling tangible personal property or digital property in the regular
26 course of business; or
- 27 2. Subsequently transporting tangible personal property outside the state

1 for use thereafter solely outside the state, or for the purpose of being
2 processed, fabricated, or manufactured into, attached to, or incorporated
3 into, other tangible personal property to be transported outside the state
4 and thereafter used solely outside the state.

5 ➔Section 20. KRS 139.200 is amended to read as follows:

6 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross
7 receipts derived from:

8 (1) Retail sales of:

9 (a) Tangible personal property, regardless of the method of delivery, made within
10 this Commonwealth; and

11 (b) Digital property regardless of whether:

12 1. The purchaser has the right to permanently use the property;

13 2. The purchaser's right to access or retain the property is not permanent; or

14 3. The purchaser's right of use is conditioned upon continued payment; and

15 (2) The furnishing of the following:

16 (a) The rental of any room or rooms, lodgings, campsites, or accommodations
17 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
18 recreational vehicle parks, or any other place in which rooms, lodgings,
19 campsites, or accommodations are regularly furnished to transients for a
20 consideration. The tax shall not apply to rooms, lodgings, campsites, or
21 accommodations supplied for a continuous period of thirty (30) days or more
22 to a person;

23 (b) Sewer services;

24 (c) The sale of admissions, except:

25 1. Admissions to racetracks taxed under KRS 138.480;

26 2. Admissions to historical sites exempt under KRS 139.482;~~and~~

27 3. **Admissions taxed under KRS 229.031;**

1 4. Admissions charged by nonprofit educational, charitable, or religious
 2 institutions exempt under Section 28 of this Act; and

3 5. Admissions charged by nonprofit civic, governmental, or other
 4 nonprofit organizations exempt under Section 29 of this Act ~~[A portion~~
 5 ~~of the admissions to county fairs exempt under KRS 139.470];~~

- 6 (d) Prepaid calling service and prepaid wireless calling service;
- 7 (e) Intrastate, interstate, and international communications services as defined in
 8 KRS 139.195, except the furnishing of pay telephone service as defined in
 9 KRS 139.195;
- 10 (f) Distribution, transmission, or transportation services for natural gas that is for
 11 storage, use, or other consumption in this state, excluding those services
 12 furnished:
- 13 1. For natural gas that is classified as residential use as provided in KRS
 14 139.470(7); or
- 15 2. To a seller or reseller of natural gas;
- 16 (g) Landscaping services, including but not limited to:
- 17 1. Lawn care and maintenance services;
- 18 2. Tree trimming, pruning, or removal services;
- 19 3. Landscape design and installation services;
- 20 4. Landscape care and maintenance services; and
- 21 5. Snow plowing or removal services;
- 22 (h) Janitorial services, including but not limited to residential and commercial
 23 cleaning services, and carpet, upholstery, and window cleaning services;
- 24 (i) Small animal veterinary services, excluding veterinary services for equine,
 25 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and
 26 cervids;
- 27 (j) Pet care services, including but not limited to grooming and boarding services,

- 1 pet sitting services, and pet obedience training services;
- 2 (k) Industrial laundry services, including but not limited to industrial uniform
3 supply services, protective apparel supply services, and industrial mat and rug
4 supply services;
- 5 (l) Non-coin-operated laundry and dry cleaning services;
- 6 (m) Linen supply services, including but not limited to table and bed linen supply
7 services and nonindustrial uniform supply services;
- 8 (n) Indoor skin tanning services, including but not limited to tanning booth or
9 tanning bed services and spray tanning services;
- 10 (o) Non-medical diet and weight reducing services;
- 11 (p) Limousine services, if a driver is provided; and
- 12 (q) Extended warranty services.

13 ➔Section 21. KRS 139.260 is amended to read as follows:

14 For the purpose of the proper administration of this chapter and to prevent evasion of the
15 duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that
16 all gross receipts and all tangible personal property, digital property, and services sold by
17 any person for delivery or access in this state are subject to the tax until the contrary is
18 established. The burden of proving the contrary is upon the person who makes the sale of:

- 19 (1) Tangible personal property or digital property unless the person takes from the
20 purchaser a certificate to the effect that the property is either:
- 21 (a) Purchased for resale according to the provisions of KRS 139.270;
- 22 (b) Purchased through a fully completed certificate of exemption or fully
23 completed Streamlined Sales and Use Tax Agreement Certificate of
24 Exemption in accordance with KRS 139.270; or
- 25 (c) Purchased according to administrative regulations promulgated by the
26 department governing a direct pay authorization;~~and~~

27 (2) A service **included in paragraphs (a) to (f) in subsection (2) of Section 20 of this**

1 Act unless the person takes from the purchaser a certificate to the effect that the
 2 service is purchased through a fully completed certificate of exemption or fully
 3 completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in
 4 accordance with KRS 139.270; and

5 (3) A service included in paragraphs (g) to (q) in subsection (2) of Section 20 of this
 6 Act unless the person takes from the purchaser a certificate to the effect that the
 7 property is:

8 (a) Purchased for resale according to Section 22 of this Act;

9 (b) Purchased through a fully completed certificate of exemption or fully
 10 completed Streamlined Sales and Use Tax Agreement Certificate of
 11 Exemption in accordance with Section 22 of this Act; or

12 (c) Purchased according to administrative regulations promulgated by the
 13 department governing a direct pay authorization.

14 ➔Section 22. KRS 139.270 is amended to read as follows:

15 (1) The resale certificate, certificate of exemption, or Streamlined Sales and Use Tax
 16 Agreement Certificate of Exemption relieves the retailer or seller from the burden
 17 of proof if the retailer or seller:

18 (a) Within ninety (90) days after the date of sale:

- 19 1. Obtains a fully completed resale certificate, certificate of exemption, or
- 20 Streamlined Sales and Use Tax Agreement Certificate of Exemption; or
- 21 2. Captures the relevant data elements that correspond to the information
- 22 that the purchaser would otherwise provide to the retailer or seller on the
- 23 Streamlined Sales and Use Tax Agreement Certificate of Exemption;
- 24 and

25 (b) Maintains a file of the certificate obtained or relevant data elements captured
 26 in accordance with KRS 139.720.

27 (2) The relief from liability provided to the retailer or the seller in this section does not

1 apply to a retailer or seller who:

2 (a) Fraudulently fails to collect the tax;

3 (b) Solicits purchasers to participate in the unlawful claiming of an exemption; or

4 (c) Accepts an exemption certificate when the purchaser claims an entity-based
5 exemption when:

6 1. The product sought to be covered by the exemption certificate is actually
7 received by the purchaser at a location operated by the retailer or seller;
8 and

9 2. The state in which that location resides provides an exemption
10 certificate that clearly and affirmatively indicates that the claimed
11 exemption is not available in that state.

12 For purposes of this paragraph, "entity-based exemption" means an exemption
13 based on who purchases the product or who sells the product. An exemption
14 available to all individuals shall not be considered an entity-based exemption.

15 (3) (a) If the department requests that the seller or retailer substantiate that the sale
16 was a sale for resale or an exempt sale and the retailer or seller has not
17 complied with subsection (1) of this section, the seller or retailer shall be
18 relieved of any liability for the tax on the transaction if the seller or retailer,
19 within one hundred twenty (120) days of the department's request:

20 1. Obtains a fully completed resale certificate, exemption certificate, or
21 Streamlined Sales and Use Tax Agreement Certificate of Exemption
22 from the purchaser for an exemption that:

23 a. Was available under this chapter on the date the transaction
24 occurred;

25 b. Could be applicable to the item being purchased; and

26 c. Is reasonable for the purchaser's type of business; or

27 2. Obtains other information establishing that the transaction was not

1 subject to the tax.

2 (b) Notwithstanding paragraph (a) of this subsection, if the department discovers
3 through the audit process that the seller or retailer had knowledge or had
4 reason to know at the time the information was provided that the information
5 relating to the exemption claimed was materially false, or the seller or retailer
6 otherwise knowingly participated in activity intended to purposefully evade
7 the tax that is properly due on the transaction, the seller or retailer shall not be
8 relieved of the tax on the transaction. The department shall bear the burden of
9 proof that the seller or retailer had knowledge or had reason to know at the
10 time the information was provided that the information was materially false.

11 (4) Notwithstanding subsections (1) and (3) of this section, the seller or retailer may
12 still offer additional documentation that is acceptable by the department that the
13 transaction is not subject to tax and to relieve the seller or retailer from the tax
14 liability.

15 (5) If the department later finds that the retailer or seller complied with subsections (1),
16 (3), and (4) of this section, but that the purchaser used the property or service in a
17 manner that would not have qualified for resale status or the purchaser issued a
18 certificate of exemption or a Streamlined Sales and Use Tax Agreement Certificate
19 of Exemption and used the property or service in some other manner or for some
20 other purpose, the department shall hold the purchaser liable for the remittance of
21 the tax originally due and may apply penalties provided in KRS 139.990.

22 ➔Section 23. KRS 139.280 is amended to read as follows:

23 (1) The resale certificate shall:

24 (a) Be signed by and bear the name and address of the purchaser;

25 (b) Indicate the number of the permit issued to the purchaser;

26 (c) Indicate the general character of the tangible personal property, ~~or~~ digital
27 property, or services sold by the purchaser in the regular course of business.

1 (2) The certificate shall be substantially in a form as the department may prescribe.

2 (3) A signature shall not be required if the purchaser provides the retailer with an
3 electronic resale certificate.

4 ➔Section 24. KRS 139.340 is amended to read as follows:

5 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
6 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
7 give to the purchaser a receipt therefor in the manner and form prescribed by the
8 department. The taxes collected or required to be collected by the retailer under this
9 section shall be deemed to be held in trust for and on account of the
10 Commonwealth.

11 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section
12 includes any of the following:

13 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
14 directly or indirectly, or through a subsidiary or any other related entity,
15 representative, or agent, by whatever name called, an office, place of
16 distribution, sales or sample room or place, warehouse or storage place, or
17 other place of business. Property owned by a person who has contracted with a
18 printer for printing, which consists of the final printed product, property which
19 becomes a part of the final printed product, or copy from which the printed
20 product is produced, and which is located at the premises of the printer, shall
21 not be deemed to be an office, place of distribution, sales or sample room or
22 place, warehouse or storage place, or other place of business maintained,
23 occupied, or used by the person;

24 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
25 operating in this state under the authority of the retailer or its subsidiary for
26 the purpose of selling, delivering, or the taking of orders for any tangible
27 personal property, digital property, or an extended warranty service. An

1 unrelated printer with which a person has contracted for printing shall not be
2 deemed to be a representative, agent, salesman, canvasser, or solicitor for the
3 person;

4 (c) Any retailer soliciting orders for tangible personal property, digital property,
5 or an extended warranty service from residents of this state on a continuous,
6 regular, or systematic basis in which the solicitation of the order, placement of
7 the order by the customer or the payment for the order utilizes the services of
8 any financial institution, telecommunication system, radio or television
9 station, cable television service, print media, or other facility or service
10 located in this state;

11 (d) Any retailer deriving receipts from the lease or rental of tangible personal
12 property situated in this state;

13 (e) Any retailer soliciting orders for tangible personal property, digital property,
14 or an extended warranty service from residents of this state on a continuous,
15 regular, systematic basis if the retailer benefits from an agent or representative
16 operating in this state under the authority of the retailer to repair or service
17 tangible personal property or digital property sold by the retailer;

18 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
19 either full-time or part-time, if the representative performs any activities that
20 help establish or maintain a marketplace for the retailer, including receiving or
21 exchanging returned merchandise; or

22 (g) 1. Any remote retailer selling tangible personal property or digital property
23 delivered or transferred electronically to a purchaser in this state,
24 **including retail sales facilitated by a marketplace provider on behalf**
25 **of the remote retailer,** if:

26 a.~~[1.]~~ The remote retailer sold tangible personal property or digital
27 property that was delivered or transferred electronically to a

1 purchaser in this state in two hundred (200) or more separate
 2 transactions in the previous calendar year or the current calendar
 3 year; or

4 ~~b.~~^[2.]The remote retailer's gross receipts derived from the sale of
 5 tangible personal property or digital property delivered or
 6 transferred electronically to a purchaser in this state in the previous
 7 calendar year or current calendar year exceeds one hundred
 8 thousand dollars (\$100,000).

9 2. Any remote retailer that meets either threshold provided in
 10 subparagraph 1. of this paragraph shall register for a sales and use
 11 tax permit and collect the tax imposed by KRS 139.310 from the
 12 purchaser by the first day of the calendar month that begins no later
 13 than thirty (30) days after either threshold is reached.

14 ➔Section 25. KRS 139.450 is amended to read as follows:

15 (1) It shall be presumed that:

16 (a) Tangible personal property shipped or brought to this state by the purchaser;
 17 or

18 (b) Digital property delivered or transferred electronically into this state;

19 was purchased from a retailer for storage, use, or other consumption in this state.

20 (2) (a) A marketplace provider that makes retail sales on its own behalf or
 21 facilitates retail sales of tangible personal property, digital property, or
 22 services that are delivered or transferred electronically to a purchaser in
 23 this state for one (1) or more marketplace retailers that in any sales
 24 combination exceeds one hundred thousand dollars (\$100,000) or reaches
 25 two hundred (200) or more separate transactions in the immediately
 26 preceding calendar year or current calendar year shall be subject to this
 27 section.

1 (b) The marketplace provider shall:

2 1. Register for a sales and use tax permit number to report and remit the
3 tax due on the marketplace provider's sales;

4 2. Register for a separate sales and use tax permit number to report and
5 remit the tax due on all of the sales it facilitates for one (1) or more
6 marketplace retailers; and

7 3. Collect tax imposed under this chapter;
8 by the first day of the calendar month that begins no later than thirty (30)
9 days after either threshold in paragraph (a) of this subsection is reached.

10 (c) The marketplace provider shall collect Kentucky tax on the entire sales
11 price or purchase price paid by a purchaser on each retail sale subject to tax
12 under this chapter that is made on its own behalf or that is facilitated by the
13 marketplace provider, regardless of whether the seller would have been
14 required to collect the tax had the retail sale not been facilitated by the
15 marketplace provider.

16 (3) Nothing in this section shall be construed to relieve the marketplace provider of
17 liability for collecting but failing to remit the taxes imposed under this chapter.

18 (4) (a) The marketplace provider shall be subject to audit on all sales made on its
19 own behalf and on all sales facilitated by the marketplace provider.

20 (b) The marketplace retailer shall be relieved of all liability for the collection
21 and remittance of the sales or use tax on sales facilitated by the marketplace
22 provider.

23 (5) No class action may be brought against a marketplace provider on behalf of
24 purchasers arising from or in any way related to an overpayment of tax collected
25 by the marketplace provider. ~~Except as provided in subsection (8) of this section,~~
26 ~~every retailer that:~~

27 ~~1. Is making sales of tangible personal property or digital property from a~~

1 ~~place outside this state for storage, use, or other consumption in this~~
2 ~~state; and~~

3 ~~2.— Is not required to collect the use tax under KRS 139.340;~~
4 ~~— shall notify the purchaser that the purchaser is required to report and pay the~~
5 ~~Kentucky use tax directly to the department on purchases from that retailer~~
6 ~~unless the purchases are otherwise exempt under this chapter.~~

7 ~~(b)— The required use tax notification shall be readily visible and shall be included~~
8 ~~on the retailer's Internet Web site, retail catalog, and invoices provided to the~~
9 ~~purchaser, as provided in subsection (4) of this section.~~

10 ~~(c)— A retailer shall not advertise, state, display, or imply on the retailer's Internet~~
11 ~~Web site or retail catalog that there is no Kentucky tax due on the purchases~~
12 ~~made from the retailer.~~

13 ~~(3)— The use tax notification required by subsection (2) of this section shall contain the~~
14 ~~following language:~~

15 ~~(a)— "The retailer is not required to and does not collect Kentucky sales or use~~
16 ~~tax.";~~

17 ~~(b)— "The purchase may be subject to Kentucky use tax unless the purchase is~~
18 ~~exempt from taxation in Kentucky.";~~

19 ~~(c)— "The purchase is not exempt merely because it is made over the Internet, by~~
20 ~~catalog, or by other remote means."; and~~

21 ~~(d)— "The Commonwealth of Kentucky requires Kentucky purchasers to report all~~
22 ~~purchases of tangible personal property or digital property that are not taxed~~
23 ~~by the retailer and pay use tax on those purchases unless exempt under~~
24 ~~Kentucky law. The tax may be reported and paid on the Kentucky individual~~
25 ~~income tax return or by filing a consumer use tax return with the Kentucky~~
26 ~~Department of Revenue. These forms and corresponding instructions may be~~
27 ~~found on the Kentucky Department of Revenue's Internet Web site."~~

- 1 ~~(4) Except as provided in subsection (5) of this section, the retailer shall include the~~
2 ~~exact required use tax notification language provided in subsection (3) of this~~
3 ~~section on the:~~
- 4 ~~(a) Internet Web site page necessary to facilitate an online sales transaction;~~
 - 5 ~~(b) Electronic order confirmation or, if an electronic order confirmation is not~~
6 ~~issued, the required use tax notification shall be included on the purchase~~
7 ~~order, invoice, bill, receipt, sales slip, order form, or packing statement; and~~
 - 8 ~~(c) Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing~~
9 ~~statement.~~
- 10 ~~(5) If the retailer provides a prominent reference to a supplemental page in the retailer's~~
11 ~~catalog or on the retailer's Internet Web site, or provides a prominent electronic~~
12 ~~linking notice on the retailers' Internet Web site, that states, "See important~~
13 ~~Kentucky sales and use tax information regarding tax you may owe directly to the~~
14 ~~Commonwealth of Kentucky," and that supplemental page or electronic link~~
15 ~~contains the required use tax notification language as provided in subsection (3) of~~
16 ~~this section, the retailer is relieved from the requirements of subsection (4) of this~~
17 ~~section.~~
- 18 ~~(6) If the retailer is required to provide a similar use tax notification for another state in~~
19 ~~addition to the use tax notification required by this section, the retailer may provide~~
20 ~~a consolidated notification if the consolidated notification meets the requirements of~~
21 ~~this section.~~
- 22 ~~(7) Except for the notification requirement on invoices in subsection (4)(c) of this~~
23 ~~section, subsections (2) to (8) of this section shall also apply to online auction Web~~
24 ~~sites. For purposes of this section, "online auction Web site" means a collection of~~
25 ~~Internet Web pages that allows persons to display tangible personal property or~~
26 ~~digital property for sale that is purchased through a competitive process where~~
27 ~~participants place bids with the highest bidder purchasing the item when the bidding~~

1 ~~period ends.~~

2 ~~(8) Any retailer that made total gross sales of less than one hundred thousand dollars~~
3 ~~(\$100,000) to Kentucky residents or businesses located in Kentucky, and that~~
4 ~~reasonably expects that its Kentucky sales in the current calendar year will be less~~
5 ~~than one hundred thousand dollars (\$100,000), shall be exempt from subsections (2)~~
6 ~~to (8) of this section].~~

7 ➔Section 26. KRS 139.470 is amended to read as follows:

8 There are excluded from the computation of the amount of taxes imposed by this chapter:

- 9 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
10 state of, tangible personal property or digital property which this state is prohibited
11 from taxing under the Constitution or laws of the United States, or under the
12 Constitution of this state;
- 13 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
14 of:
- 15 (a) Nonreturnable and returnable containers when sold without the contents to
16 persons who place the contents in the container and sell the contents together
17 with the container; and
- 18 (b) Returnable containers when sold with the contents in connection with a retail
19 sale of the contents or when resold for refilling;

20 As used in this section the term "returnable containers" means containers of a kind
21 customarily returned by the buyer of the contents for reuse. All other containers are
22 "nonreturnable containers";

- 23 (3) Gross receipts from occasional sales of tangible personal property or digital
24 property and the storage, use, or other consumption in this state of tangible personal
25 property or digital property, the transfer of which to the purchaser is an occasional
26 sale;
- 27 (4) Gross receipts from sales of tangible personal property to a common carrier,

- 1 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
2 freight is paid in advance or the shipment is made freight charges collect, to a point
3 outside this state and the property is actually transported to the out-of-state
4 destination for use by the carrier in the conduct of its business as a common carrier;
- 5 (5) Gross receipts from sales of tangible personal property sold through coin-operated
6 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
7 retailer is primarily engaged in making the sales and maintains records satisfactory
8 to the department. As used in this subsection, "bulk vending machine" means a
9 vending machine containing unsorted merchandise which, upon insertion of a coin,
10 dispenses the same in approximately equal portions, at random and without
11 selection by the customer;
- 12 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
13 other statutory or constitutional agency of the state and gross receipts from sales to
14 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
15 apply only to purchases of tangible personal property, digital property, or services
16 for use solely in the government function. A purchaser not qualifying as a
17 governmental agency or unit shall not be entitled to the exemption even though the
18 purchaser may be the recipient of public funds or grants;
- 19 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
20 residents for use in heating, water heating, cooking, lighting, and other
21 residential uses. As used in this subsection, "fuel" shall include but not be
22 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
23 Determinations of eligibility for the exemption shall be made by the
24 department;
- 25 (b) In making the determinations of eligibility, the department shall exempt from
26 taxation all gross receipts derived from sales:
- 27 1. Classified as "residential" by a utility company as defined by applicable

- 1 tariffs filed with and accepted by the Public Service Commission;
- 2 2. Classified as "residential" by a municipally owned electric distributor
- 3 which purchases its power at wholesale from the Tennessee Valley
- 4 Authority;
- 5 3. Classified as "residential" by the governing body of a municipally owned
- 6 electric distributor which does not purchase its power from the
- 7 Tennessee Valley Authority, if the "residential" classification is
- 8 reasonably consistent with the definitions of "residential" contained in
- 9 tariff filings accepted and approved by the Public Service Commission
- 10 with respect to utilities which are subject to Public Service Commission
- 11 regulation.

12 If the service is classified as residential, use other than for "residential"

13 purposes by the customer shall not negate the exemption;

14 (c) The exemption shall not apply if charges for sewer service, water, and fuel are

15 billed to an owner or operator of a multi-unit residential rental facility or

16 mobile home and recreational vehicle park other than residential

17 classification; and

18 (d) The exemption shall apply also to residential property which may be held by

19 legal or equitable title, by the entireties, jointly, in common, as a

20 condominium, or indirectly by the stock ownership or membership

21 representing the owner's or member's proprietary interest in a corporation

22 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

23 (8) Gross receipts from sales to an out-of-state agency, organization, or institution

24 exempt from sales and use tax in its state of residence when that agency,

25 organization, or institution gives proof of its tax-exempt status to the retailer and the

26 retailer maintains a file of the proof;

27 (9) (a) Gross receipts derived from the sale of, the following tangible personal

1 property to a manufacturer or industrial processor if the property is to be
2 directly used in the manufacturing or industrial processing process of tangible
3 personal property at a plant facility and which will be for sale:

4 1. Materials which enter into and become an ingredient or component part
5 of the manufactured product;

6 2. Other tangible personal property which is directly used in the
7 manufacturing or industrial processing process, if the property has a
8 useful life of less than one (1) year. Specifically these items are
9 categorized as follows:

10 a. Materials. This refers to the raw materials which become an
11 ingredient or component part of supplies or industrial tools exempt
12 under subdivisions b. and c. below;

13 b. Supplies. This category includes supplies such as lubricating and
14 compounding oils, grease, machine waste, abrasives, chemicals,
15 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
16 dyes, refrigerants, and explosives. The supplies indicated above
17 need not come in direct contact with a manufactured product to be
18 exempt. "Supplies" does not include repair, replacement, or spare
19 parts of any kind; and

20 c. Industrial tools. This group is limited to hand tools such as jigs,
21 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
22 and to tools attached to a machine such as molds, grinding balls,
23 grinding wheels, dies, bits, and cutting blades. Normally, for
24 industrial tools to be considered directly used in the manufacturing
25 or industrial processing process, they shall come into direct contact
26 with the product being manufactured or processed; and

27 3. Materials and supplies that are not reusable in the same manufacturing

1 or industrial processing process at the completion of a single
2 manufacturing or processing cycle. A single manufacturing cycle shall
3 be considered to be the period elapsing from the time the raw materials
4 enter into the manufacturing process until the finished product emerges
5 at the end of the manufacturing process.

6 (b) The property described in paragraph (a) of this subsection shall be regarded as
7 having been purchased for resale.

8 (c) For purposes of this subsection, a manufacturer or industrial processor
9 includes an individual or business entity that performs only part of the
10 manufacturing or industrial processing activity, and the person or business
11 entity need not take title to tangible personal property that is incorporated into,
12 or becomes the product of, the activity.

13 (d) The exemption provided in this subsection does not include repair,
14 replacement, or spare parts;

15 (10) Any water use fee paid or passed through to the Kentucky River Authority by
16 facilities using water from the Kentucky River basin to the Kentucky River
17 Authority in accordance with KRS 151.700 to 151.730 and administrative
18 regulations promulgated by the authority;

19 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
20 use, or other consumption outside this state and delivered by the retailer's own
21 vehicle to a location outside this state, or delivered to the United States Postal
22 Service, a common carrier, or a contract carrier for delivery outside this state,
23 regardless of whether the carrier is selected by the purchaser or retailer or an agent
24 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
25 shipping point or purchaser's destination.

26 (a) As used in this subsection:

27 1. "Catalogs" means tangible personal property that is printed to the special

1 order of the purchaser and composed substantially of information
2 regarding goods and services offered for sale; and

3 2. "Newspaper inserts" means printed materials that are placed in or
4 distributed with a newspaper of general circulation.

5 (b) The retailer shall be responsible for establishing that delivery was made to a
6 non-Kentucky location through shipping documents or other credible evidence
7 as determined by the department;

8 (12) Gross receipts from the sale of water used in the raising of equine as a business;

9 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
10 purchased for storage, use, or other consumption outside this state and delivered by
11 the retailer's own vehicle to a location outside this state, or delivered to the United
12 States Postal Service, a common carrier, or a contract carrier for delivery outside
13 this state, regardless of whether the carrier is selected by the purchaser or retailer or
14 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
15 retailer's shipping point or the purchaser's destination.

16 (a) As used in this subsection, "metal retail fixtures" means check stands and
17 belted and nonbelted checkout counters, whether made in bulk or pursuant to
18 specific purchaser specifications, that are to be used directly by the purchaser
19 or to be distributed by the purchaser.

20 (b) The retailer shall be responsible for establishing that delivery was made to a
21 non-Kentucky location through shipping documents or other credible evidence
22 as determined by the department;

23 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
24 ultimate storage, use, or other consumption outside this state and delivered to a
25 common carrier in this state for delivery outside this state, regardless of whether the
26 carrier is selected by the purchaser or retailer, or is an agent or representative of the
27 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or

1 purchaser's destination;

2 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
3 means an agreement whereby an amount, whether paid in money, credit, or
4 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
5 the quantity and unit price of tobacco products sold at retail that requires the retailer
6 to reduce the selling price of the product to the purchaser without the use of a
7 manufacturer's or wholesaler's coupon or redemption certificate;

8 (16) Gross receipts from the sale of tangible personal property or digital property
9 returned by a purchaser when the full sales price is refunded either in cash or credit.
10 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
11 required to purchase other tangible personal property or digital property at a price
12 greater than the amount charged for the property that is returned;

13 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
14 Chapter 138;

15 (18) The amount of any tax imposed by the United States upon or with respect to retail
16 sales, whether imposed on the retailer or the consumer, not including any
17 manufacturer's excise or import duty;

18 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
19 is:

20 (a) Sold to a Kentucky resident, registered for use on the public highways, and
21 upon which any applicable tax levied by KRS 138.460 has been paid; or

22 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
23 vehicle in a state that:

24 1. Allows residents of Kentucky to purchase motor vehicles without
25 payment of that state's sales tax at the time of sale; or

26 2. Allows residents of Kentucky to remove the vehicle from that state
27 within a specific period for subsequent registration and use in Kentucky

1 without payment of that state's sales tax;

2 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
3 trailer as defined in KRS 189.010(17);

4 ~~(21) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions~~
5 ~~to county fairs held in Kentucky in any calendar year by a nonprofit county fair~~
6 ~~board;~~

7 ~~(22)~~ Gross receipts from the collection of:

8 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;

9 (b) The charge imposed by KRS 65.7629(3);

10 (c) The fee imposed by KRS 65.7634; and

11 (d) The service charge imposed by KRS 65.7636; ~~and~~

12 ~~(22)~~~~(23)~~ Gross receipts derived from charges for labor or services to apply, install,
13 repair, or maintain tangible personal property directly used in manufacturing or
14 industrial processing process, and that is not otherwise exempt under subsection (9)
15 of this section or KRS 139.480(10), if the charges for labor or services are
16 separately stated on the invoice, bill of sale, or similar document given to purchaser;

17 **(23) (a) For persons selling services included in subsection (2)(g) to (q) of Section**
18 **20 of this Act prior to January 1, 2019, gross receipts derived from the sale**
19 **of those services if the gross receipts were less than six thousand dollars**
20 **(\$6,000) during calendar year 2018. When gross receipts from these services**
21 **exceed six thousand dollars (\$6,000) in a calendar year:**

22 **1. All gross receipts over six thousand dollars (\$6,000) are taxable in that**
23 **calendar year; and**

24 **2. All gross receipts are subject to tax in subsequent calendar years.**

25 **(b) The exemption provided in this subsection shall not apply to a person also**
26 **engaged in the business of selling tangible personal property, digital**
27 **property, or services included in subsection (2)(a) to (f) of Section 20 of this**

1 Act; and

2 (24) (a) For persons that first begin making sales of services included in subsection
 3 (2)(g) to (q) of Section 20 of this Act on or after January 1, 2019, gross
 4 receipts derived from the sale of those services if the gross receipts are less
 5 than six thousand dollars (\$6,000) within the first calendar year of
 6 operation. When gross receipts from these services exceed six thousand
 7 dollars (\$6,000) in a calendar year:

8 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 9 calendar year; and

10 2. All gross receipts are subject to tax in subsequent calendar years.

11 (b) The exemption provided in this subsection shall not apply to a person that is
 12 also engaged in the business of selling tangible personal property, digital
 13 property, or services included in subsection (2)(a) to (f) of Section 20 of this
 14 Act.

15 ➔Section 27. KRS 139.480 is amended to read as follows:

16 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
 17 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
 18 include the sale, use, storage, or other consumption of:

19 (1) Locomotives or rolling stock, including materials for the construction, repair, or
 20 modification thereof, or fuel or supplies for the direct operation of locomotives and
 21 trains, used or to be used in interstate commerce;

22 (2) Coal for the manufacture of electricity;

23 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
 24 processing, mining, or refining and any related distribution, transmission, and
 25 transportation services for this energy that are billed to the user, to the extent
 26 that the cost of the energy or energy-producing fuels used, and related
 27 distribution, transmission, and transportation services for this energy that are

1 billed to the user exceed three percent (3%) of the cost of production.

2 (b) Cost of production shall be computed on the basis of a plant facility, which
3 shall include all operations within the continuous, unbroken, integrated
4 manufacturing or industrial processing process that ends with a product
5 packaged and ready for sale.

6 (c) ~~[[If]A person who[independently] performs a manufacturing or industrial~~
7 ~~processing[production] activity for a fee[, applies for the exemption under~~
8 ~~this subsection,] and does not take ownership of the tangible personal property~~
9 ~~that is incorporated into, or becomes the product of the manufacturing or~~
10 ~~industrial processing activity~~ **is a toller. For periods on or after July 1, 2018,**
11 **the costs of the tangible personal property shall be excluded from the**
12 **toller's cost of production at a plant facility with tolling operations in place**
13 **as of July 1, 2018.**

14 **(d) For plant facilities that begin tolling operations after July 1, 2018, the costs**
15 **of tangible personal property shall be excluded from the toller's cost of**
16 **production if the toller:**~~[, then all costs of production, including raw material~~
17 ~~costs, shall be allocated in proportion to all manufacturing or industrial~~
18 ~~processing operations at the plant facility;]~~

19 **1. Maintains a binding contract for periods after July 1, 2018, that**
20 **governs the terms, conditions, and responsibilities with a separate**
21 **legal entity, which holds title to the tangible personal property that is**
22 **incorporated into, or becomes the product of, the manufacturing or**
23 **industrial processing activity;**

24 **2. Maintains accounting records that show the expenses it incurs to**
25 **fulfill the binding contract that include but are not limited to energy**
26 **or energy-producing fuels, materials, labor, procurement,**
27 **depreciation, maintenance, taxes, administration, and office expenses;**

- 1 3. Maintains separate payroll, bank accounts, tax returns, and other
2 records that demonstrate its independent operations in the
3 performance of its tolling responsibilities;
- 4 4. Demonstrates one (1) or more substantial business purposes for the
5 tolling operations germane to the overall manufacturing, industrial
6 processing activities, or corporate structure at the plant facility. A
7 business purpose is a purpose other than the reduction of sales tax
8 liability for the purchases of energy and energy-producing fuels; and
- 9 5. Provides information to the department upon request that documents
10 fulfillment of the requirements in subparagraphs 1. to 4. of this
11 paragraph and gives an overview of its tolling operations with an
12 explanation of how the tolling operations relate and connect with all
13 other manufacturing or industrial processing activities occurring at
14 the plant facility.
- 15 (4) Livestock of a kind the products of which ordinarily constitute food for human
16 consumption, provided the sales are made for breeding or dairy purposes and by or
17 to a person regularly engaged in the business of farming;
- 18 (5) Poultry for use in breeding or egg production;
- 19 (6) Farm work stock for use in farming operations;
- 20 (7) Seeds, the products of which ordinarily constitute food for human consumption or
21 are to be sold in the regular course of business, and commercial fertilizer to be
22 applied on land, the products from which are to be used for food for human
23 consumption or are to be sold in the regular course of business; provided such sales
24 are made to farmers who are regularly engaged in the occupation of tilling and
25 cultivating the soil for the production of crops as a business, or who are regularly
26 engaged in the occupation of raising and feeding livestock or poultry or producing
27 milk for sale; and provided further that tangible personal property so sold is to be

- 1 used only by those persons designated above who are so purchasing;
- 2 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
3 used in the production of crops as a business, or in the raising and feeding of
4 livestock or poultry, the products of which ordinarily constitute food for human
5 consumption;
- 6 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
7 products of which ordinarily constitute food for human consumption;
- 8 (10) Machinery for new and expanded industry;
- 9 (11) Farm machinery. As used in this section, the term "farm machinery":
- 10 (a) Means machinery used exclusively and directly in the occupation of:
- 11 1. Tilling the soil for the production of crops as a business;
- 12 2. Raising and feeding livestock or poultry for sale; or
- 13 3. Producing milk for sale;
- 14 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
15 replacement parts which are used or manufactured for use on, or in the
16 operation of farm machinery and which are necessary to the operation of the
17 machinery, and are customarily so used, including but not limited to combine
18 header wagons, combine header trailers, or any other implements specifically
19 designed and used to move or transport a combine head; and
- 20 (c) Does not include:
- 21 1. Automobiles;
- 22 2. Trucks;
- 23 3. Trailers, except combine header trailers; or
- 24 4. Truck-trailer combinations;
- 25 (12) Tombstones and other memorial grave markers;
- 26 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
27 or handling. The exemption applies to the equipment, machinery, attachments,

- 1 repair and replacement parts, and any materials incorporated into the construction,
2 renovation, or repair of the facilities;
- 3 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
4 shall apply to the equipment, machinery, attachments, repair and replacement parts,
5 and any materials incorporated into the construction, renovation, or repair of the
6 facilities. The exemption shall apply but not be limited to vent board equipment,
7 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
8 and curtain systems. In addition, the exemption shall apply whether or not the seller
9 is under contract to deliver, assemble, and incorporate into real estate the
10 equipment, machinery, attachments, repair and replacement parts, and any materials
11 incorporated into the construction, renovation, or repair of the facilities;
- 12 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
13 and directly to:
- 14 (a) Operate farm machinery as defined in subsection (11) of this section;
 - 15 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
16 (13) of this section;
 - 17 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
18 this section;
 - 19 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - 20 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
21 section; or
 - 22 (f) Operate on-farm dairy facilities;
- 23 (16) Textbooks, including related workbooks and other course materials, purchased for
24 use in a course of study conducted by an institution which qualifies as a nonprofit
25 educational institution under KRS 139.495. The term "course materials" means only
26 those items specifically required of all students for a particular course but shall not
27 include notebooks, paper, pencils, calculators, tape recorders, or similar student

- 1 aids;
- 2 (17) Any property which has been certified as an alcohol production facility as defined in
3 KRS 247.910;
- 4 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
5 direct operation of aircraft in interstate commerce and used exclusively for the
6 conveyance of property or passengers for hire. Nominal intrastate use shall not
7 subject the property to the taxes imposed by this chapter;
- 8 (19) Any property which has been certified as a fluidized bed energy production facility
9 as defined in KRS 211.390;
- 10 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
11 modification, or expansion of a blast furnace or any of its components or
12 appurtenant equipment or structures as part of an approved supplemental
13 project, as defined by KRS 154.26-010; and
- 14 2. Materials, supplies, and repair or replacement parts purchased for use in
15 the operation and maintenance of a blast furnace and related carbon
16 steel-making operations as part of an approved supplemental project, as
17 defined by KRS 154.26-010.
- 18 (b) The exemptions provided in this subsection shall be effective for sales made:
- 19 1. On and after July 1, 2018; and
- 20 2. During the term of a supplemental project agreement entered into
21 pursuant to KRS 154.26-090;
- 22 (21) Beginning on October 1, 1986, food or food products purchased for human
23 consumption with food coupons issued by the United States Department of
24 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
25 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
26 continue participation in the federal food stamp program;
- 27 (22) Machinery or equipment purchased or leased by a business, industry, or

1 organization in order to collect, source separate, compress, bale, shred, or otherwise
2 handle waste materials if the machinery or equipment is primarily used for recycling
3 purposes;

4 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
5 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
6 products, and the following items used in this agricultural pursuit:

- 7 (a) Feed and feed additives;
- 8 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 9 (c) On-farm facilities, including equipment, machinery, attachments, repair and
10 replacement parts, and any materials incorporated into the construction,
11 renovation, or repair of the facilities. The exemption shall apply to incubation
12 systems, egg processing equipment, waterer and feeding systems, brooding
13 systems, ventilation systems, alarm systems, and curtain systems. In addition,
14 the exemption shall apply whether or not the seller is under contract to deliver,
15 assemble, and incorporate into real estate the equipment, machinery,
16 attachments, repair and replacement parts, and any materials incorporated into
17 the construction, renovation, or repair of the facilities;

18 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
19 these embryos and semen ordinarily constitute food for human consumption, and if
20 the sale is made to a person engaged in the business of farming;

21 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
22 the breeding and production of hides, breeding stock, fiber and wool products, meat,
23 and llama and alpaca by-products, and the following items used in this pursuit:

- 24 (a) Feed and feed additives;
- 25 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 26 and
- 27 (c) On-farm facilities, including equipment, machinery, attachments, repair and

1 replacement parts, and any materials incorporated into the construction,
2 renovation, or repair of the facilities. The exemption shall apply to waterer
3 and feeding systems, ventilation systems, and alarm systems. In addition, the
4 exemption shall apply whether or not the seller is under contract to deliver,
5 assemble, and incorporate into real estate the equipment, machinery,
6 attachments, repair and replacement parts, and any materials incorporated into
7 the construction, renovation, or repair of the facilities;

8 (26) Baling twine and baling wire for the baling of hay and straw;

9 (27) Water sold to a person regularly engaged in the business of farming and used in the:

10 (a) Production of crops;

11 (b) Production of milk for sale; or

12 (c) Raising and feeding of:

13 1. Livestock or poultry, the products of which ordinarily constitute food for
14 human consumption; or

15 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

16 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
17 production of hides, breeding stock, meat, and buffalo by-products, and the
18 following items used in this pursuit:

19 (a) Feed and feed additives;

20 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

21 (c) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities. The exemption shall apply to waterer
24 and feeding systems, ventilation systems, and alarm systems. In addition, the
25 exemption shall apply whether or not the seller is under contract to deliver,
26 assemble, and incorporate into real estate the equipment, machinery,
27 attachments, repair and replacement parts, and any materials incorporated into

1 the construction, renovation, or repair of the facilities;

2 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
3 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
4 and the following items used in this pursuit:

5 (a) Feed and feed additives;

6 (b) Water;

7 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
8 and

9 (d) On-farm facilities, including equipment, machinery, attachments, repair and
10 replacement parts, and any materials incorporated into the construction,
11 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
12 petroleum gas, or natural gas used to operate the facilities. The exemption
13 shall apply, but not be limited to: waterer and feeding systems; ventilation,
14 aeration, and heating systems; processing and storage systems; production
15 systems such as ponds, tanks, and raceways; harvest and transport equipment
16 and systems; and alarm systems. In addition, the exemption shall apply
17 whether or not the seller is under contract to deliver, assemble, and
18 incorporate into real estate the equipment, machinery, attachments, repair and
19 replacement parts, and any materials incorporated into the construction,
20 renovation, or repair of the facilities;

21 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
22 production of hides, breeding stock, meat, and cervid by-products, and the
23 following items used in this pursuit:

24 (a) Feed and feed additives;

25 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

26 (c) On-site facilities, including equipment, machinery, attachments, repair and
27 replacement parts, and any materials incorporated into the construction,

1 renovation, or repair of the facilities. In addition, the exemption shall apply
2 whether or not the seller is under contract to deliver, assemble, and
3 incorporate into real estate the equipment, machinery, attachments, repair and
4 replacement parts, and any materials incorporated into the construction,
5 renovation, or repair of the facilities;

6 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
7 vehicle, including any towed unit, used exclusively in interstate commerce for
8 the conveyance of property or passengers for hire, provided the motor vehicle
9 is licensed for use on the highway and its declared gross vehicle weight with
10 any towed unit is forty-four thousand and one (44,001) pounds or greater.
11 Nominal intrastate use shall not subject the property to the taxes imposed by
12 this chapter;

13 (b) Repair or replacement parts for the direct operation and maintenance of a
14 motor vehicle operating under a charter bus certificate issued by the
15 Transportation Cabinet under KRS Chapter 281, or under similar authority
16 granted by the United States Department of Transportation; and

17 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
18 brakes, engines, transmissions, drive trains, chassis, body parts, and their
19 components. "Repair or replacement parts" shall not include fuel, machine
20 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
21 to the operation of the motor vehicle itself, except when sold as part of the
22 assembled unit, such as cigarette lighters, radios, lighting fixtures not
23 otherwise required by the manufacturer for operation of the vehicle, or tool or
24 utility boxes; and

25 (32) Food donated by a retail food establishment or any other entity regulated under KRS
26 217.127 to a nonprofit organization for distribution to the needy.

27 ➔Section 28. KRS 139.495 is amended to read as follows:

- 1 (1) The taxes imposed by this chapter shall apply to:
- 2 (a) Resident, nonprofit educational, charitable, or religious institutions which
- 3 have qualified for exemption from income taxation under Section 501(c)(3) of
- 4 the Internal Revenue Code; and
- 5 (b) Any resident, single member limited liability company that is:
- 6 1. Wholly owned and controlled by a resident or nonresident, nonprofit
- 7 educational, charitable, or religious institution which has qualified for
- 8 exemption from income taxation under Section 501(c)(3) of the Internal
- 9 Revenue Code; and
- 10 2. Disregarded as an entity separate from the resident or nonresident,
- 11 nonprofit educational, charitable, or religious institution for federal
- 12 income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2;
- 13 as provided in this section.

- 14 (2) Tax does not apply to:
- 15 (a) 1. Sales of tangible personal property, digital property, or services to these
- 16 institutions or limited liability companies described in subsection (1) of
- 17 this section, provided the tangible personal property, digital property, or
- 18 service is to be used solely in this state within the educational,
- 19 charitable, or religious function; ~~[-]~~
- 20 2. ~~[(3) Tax does not apply to]~~ Sales of food to students in school
- 21 cafeterias or lunchrooms; ~~[-]~~
- 22 3. ~~[(4) Tax does not apply to]~~ Sales by school bookstores of textbooks,
- 23 workbooks, and other course materials; ~~[-]~~
- 24 4. ~~[(5) Tax does not apply to]~~ Sales by nonprofit, school sponsored clubs
- 25 and organizations, provided such sales do not include tickets for athletic
- 26 events;
- 27 5. *Sales of admissions by nonprofit educational, charitable, or religious*

- 1 *institutions described in subsection (1) of this section; or*
- 2 *6. a. Fundraising event sales made by nonprofit educational,*
- 3 *charitable, or religious institutions and limited liability*
- 4 *companies described in subsection (1) of this section.*
- 5 *b. For the purposes of this subparagraph, "fundraising event*
- 6 *sales" does not include sales related to the operation of a retail*
- 7 *business, including but not limited to thrift stores, bookstores,*
- 8 *surplus property auctions, recycle and reuse stores, or any*
- 9 *ongoing operations in competition with for-profit retailers.*
- 10 *(b) The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of*
- 11 *this subsection shall not apply to sales generated by or arising at a tourism*
- 12 *development project approved under KRS 148.851 to 148.860.*

13 ~~(3)~~[(6)] An institution shall be entitled to a refund equal to twenty-five percent (25%)

14 of the tax collected on its sale of donated goods if the refund is used exclusively as

15 reimbursement for capital construction costs of additional retail locations in this

16 state, provided the institution:

- 17 (a) Routinely sells donated items;
- 18 (b) Provides job training and employment to individuals with workplace
- 19 disadvantages and disabilities;
- 20 (c) Spends at least seventy-five percent (75%) of its annual revenue on job
- 21 training, job placement, or other related community services;
- 22 (d) Submits a refund application to the department within sixty (60) days after the
- 23 new retail location opens for business; and
- 24 (e) Provides records of capital construction costs for the new retail location and
- 25 any other information the department deems necessary to process the refund.

26 The maximum refund allowed for any location shall not exceed one million dollars

27 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost

1 of construction of any new facilities or the purchase and renovation of any existing
 2 facilities, but does not include the cost of real property other than real property
 3 designated as a brownfield site as defined in KRS 65.680(4).

4 ~~(4)~~~~(7)~~ Notwithstanding any other provision of law to the contrary, refunds under
 5 subsection ~~(3)~~~~(6)~~ of this section shall be made directly to the institution. Interest
 6 shall not be allowed or paid on the refund. The department may examine any refund
 7 within four (4) years from the date the refund application is received. Any
 8 overpayment shall be subject to the interest provisions of KRS 131.183 and the
 9 penalty provisions of KRS 131.180.

10 ~~(5)~~~~(8)~~ All other sales made by nonprofit educational, charitable, or religious
 11 institutions or limited liability companies described in subsection (1) of this section
 12 are taxable and the tax may be passed on to the purchaser~~customer~~ as provided in
 13 KRS 139.210.

14 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
 15 READ AS FOLLOWS:

16 **(1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except**
 17 **as described in Section 28 of this Act and KRS 139.497, the taxes imposed**
 18 **by this chapter do not apply to:**

19 **1. The sale of admissions; or**

20 **2. a. Fundraising event sales.**

21 **b. For the purposes of this paragraph, "fundraising event sales"**
 22 **does not include sales related to the operation of a retail**
 23 **business, including but not limited to thrift stores, bookstores,**
 24 **surplus property auctions, recycle and reuse stores, or any**
 25 **ongoing operations in competition with for-profit retailers.**

26 **(b) The exemption provided in subparagraph 1. of paragraph (a) of this**
 27 **subsection shall not apply to the sale of admissions to a public facility that**

1 *qualifies for a sales tax rebate under Section 31 of this Act.*

2 *(2) All other sales made by organizations referred to in subsection (1) of this section*
 3 *are taxable.*

4 ➔Section 30. KRS 139.496 is amended to read as follows:

5 (1) ~~[Notwithstanding any other provisions of this chapter,]~~The taxes imposed *in this*
 6 *chapter*~~[herein]~~ do not apply to the first one thousand dollars (\$1,000) of sales made
 7 in any calendar year by individuals~~[or nonprofit organizations]~~ not engaged in the
 8 business of selling. This exemption is limited to ~~[the following types of transactions~~
 9 ~~or activities:~~

10 ~~(a)]garage or yard sales of household items by an individual or family which are~~
 11 ~~in no way associated with or related to the operation of a business;~~

12 ~~(b) Fundraising event held by nonprofit civic, governmental, or other nonprofit~~
 13 ~~organizations, except as set forth in KRS 139.497].~~

14 (2) The exemption does not apply to activities in which all or substantially all the
 15 household goods of a person are offered for sale~~[or where nonprofit organizations~~
 16 ~~conduct regular selling activities in competition with private business].~~

17 ➔Section 31. KRS 139.533 is amended to read as follows:

18 (1) *Beginning July 1, 2020, no additional applications for a sales tax rebate shall be*
 19 *accepted under this section. Any qualified applicant which has applied and been*
 20 *granted a sales tax rebate under this section shall continue to receive the sales tax*
 21 *rebates provided by this section as long as the governmental entity continues to*
 22 *qualify for the sales tax rebate under this section.*

23 *(2)* As used in this section:

24 (a) "Effective date" means the first day of the month following the month in
 25 which the department notifies the governmental entity that it is eligible to
 26 receive a sales tax rebate;

27 (b) "Governmental entity" means:

- 1 1. Any county with a population of less than one hundred thousand
2 (100,000) residents; or
- 3 2. Any city, agency, instrumentality, quasi-governmental entity, or other
4 political subdivision of the Commonwealth that is located in a county
5 with a population of less than one hundred thousand (100,000) residents;
6 and
- 7 (c) 1. "Public facility" means a building owned and operated by a
8 governmental entity that is a multipurpose facility open to the general
9 public for performances and programs relating to arts, sports, and
10 entertainment and which includes at least five hundred (500) seats but
11 not more than eight thousand (8,000) seats.
- 12 2. "Public facility" does not include a university, college, or school
13 gymnasium or auditorium.
- 14 ~~(3)~~~~(2)~~ (a) Notwithstanding KRS 134.580 and 139.770, effective July 1, 2010, a
15 governmental entity may be granted a sales tax rebate of up to one hundred
16 percent (100%) of the Kentucky sales tax generated by the sale of admissions
17 to the public facility and the sale of tangible personal property at the public
18 facility. The tax rebate shall be reduced by the vendor compensation allowed
19 under KRS 139.570 on or after July 1, 2010.
- 20 (b) The governmental entity shall have no obligation to refund or otherwise return
21 any amount of the sales tax rebate to the persons from whom the sales tax was
22 collected.
- 23 (c) The total tax rebate for each public facility shall not exceed two hundred fifty
24 thousand dollars (\$250,000) in each calendar year.
- 25 ~~(4)~~~~(3)~~ (a) To be eligible for a sales tax rebate under this section, the governmental
26 entity shall file an application with the department in the form prescribed by
27 the department through the promulgation of an administrative regulation in

1 accordance with KRS Chapter 13A.

2 (b) The department shall:

- 3 1. Review the application;
- 4 2. Determine whether the applicant meets the requirements of this section;
- 5 and
- 6 3. Notify the applicant in writing whether the applicant qualifies for a
- 7 rebate and the effective date of qualification.

8 ~~(5)~~~~(4)~~ A qualified applicant shall file a request for a sales tax rebate within sixty (60)

9 days following the end of each calendar quarter for sales made during the quarter.

10 The request shall be submitted in the form prescribed by the department through the

11 promulgation of an administrative regulation in accordance with KRS Chapter 13A,

12 and shall include supporting information and documentation as determined

13 necessary by the department to verify the requested tax rebate.

14 ~~(6)~~~~(5)~~ The department shall review the request, verify the amount of sales tax rebate

15 due to the governmental entity, and pay the amount determined due within forty-

16 five (45) days of receipt of the request and all necessary supporting information to

17 the extent the cap established by subsection (2)(c) of this section has not been met.

18 ~~(7)~~~~(6)~~ Interest shall not be allowed or paid on any sales tax rebate payment made

19 under this section.

20 ➔Section 32. KRS 139.536 is amended to read as follows:

21 (1) **Beginning July 1, 2020, no applications for the incentives under Section 32 of**

22 **this Act and KRS 148.851 to 148.860 shall be accepted. All projects with**

23 **preliminary or final approval under Section 32 of this Act and KRS 148.851 to**

24 **148.860 on June 30, 2020, shall continue to be governed by Section 32 of this Act**

25 **and KRS 148.851 to 148.860.**

26 (2) As used in this section:

27 (a) "Agreement" means the same as defined in KRS 148.851;

- 1 (b) "Approved company" means the same as defined in KRS 148.851;
- 2 (c) "Approved costs" means the same as defined in KRS 148.851;
- 3 (d) "Authority" means the same as defined in KRS 148.851;
- 4 (e) "Cabinet" means the same as defined in KRS 148.851;
- 5 (f) "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;
- 6 and

7 (g) "Tourism development project" means the same as defined in KRS 148.851.

8 ~~(3)~~~~(2)~~ (a) In consideration of the execution of the agreement and notwithstanding
9 any provision of KRS 139.770 to the contrary, the approved company
10 excluding its lessees, may be granted a sales tax incentive based on the
11 Kentucky sales tax imposed by KRS 139.200 on the sales generated by or
12 arising at the tourism development project as provided in KRS 148.853.

13 (b) The approved company shall have no obligation to refund or otherwise return
14 any amount of this sales tax refund to the persons from whom the sales tax
15 was collected.

16 ~~(4)~~~~(3)~~ The authority shall notify the department upon approval of a tourism
17 development project. The notification shall include the name of the approved
18 company, the name of the tourism development project, the date on which the
19 approved company is eligible to receive incentives under this section, the term of
20 the agreement, the estimated approved costs, and the specified percentage of the
21 approved costs that the approved company is eligible to receive and any other
22 information that the department may require.

23 ~~(5)~~~~(4)~~ The sales tax incentive shall be reduced by the amount of vendor
24 compensation allowed under KRS 139.570.

25 ~~(6)~~~~(5)~~ The approved company seeking the incentives shall execute information-
26 sharing agreements prescribed by the department with its lessees and other related
27 parties to verify the amount of sales tax eligible for the sales tax refund under this

1 section.

2 ~~(7)~~~~(6)~~ By October 1 of each year, the department shall certify to the authority and the
3 secretary the sales tax liability of the approved companies receiving incentives
4 under this section and KRS 148.851 to 148.860, and their lessees, and the amount
5 of the sales tax refunds issued pursuant to this section for the preceding fiscal year.

6 ~~(8)~~~~(7)~~ Interest shall not be allowed or paid on any refund made under the provisions
7 of this section.

8 ~~(9)~~~~(8)~~ The department may promulgate administrative regulations and require the
9 filing of forms designed by the department to reflect the intent of this section and
10 KRS 148.851 to 148.860.

11 ➔Section 33. KRS 139.550 is amended to read as follows:

12 (1) On or before the twentieth day of the month following each calendar month, a
13 return for the preceding month shall be filed with the department in a form the
14 department may prescribe.

15 (2) (a) For purposes of the sales tax, a return shall be filed by every retailer or seller.

16 (b) For purposes of the use tax, a return shall be filed by every retailer engaged in
17 business in the state and by every person purchasing tangible personal
18 property, digital property, or an extended warranty service, the storage, use or
19 other consumption of which is subject to the use tax, who has not paid the use
20 tax due to a retailer required to collect the tax.

21 (c) If a retailer's responsibilities have been assumed by a certified service provider
22 as defined by KRS 139.795, the certified service provider shall file the return.

23 *(d) When a remote retailer's product is sold through a marketplace, then the*
24 *marketplace provider that facilitated the sale shall file the return and remit*
25 *the tax due on those sales.*

26 (3) Returns shall be signed by the person required to file the return or by a duly
27 authorized agent but need not be verified by oath.

1 (4) Persons not regularly engaged in selling at retail and not having a permanent place
 2 of business, but who are temporarily engaged in selling from trucks, portable
 3 roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall
 4 report and remit the tax on a nonpermit basis, under rules as the department shall
 5 provide for the efficient collection of the sales tax on sales.

6 (5) The return shall show the amount of the taxes for the period covered by the return
 7 and other information the department deems necessary for the proper administration
 8 of this chapter.

9 ➔Section 34. KRS 139.720 is amended to read as follows:

10 (1) Every seller, every retailer, and every person storing, using and otherwise
 11 consuming in this state tangible personal property, digital property, or services
 12 included in Section 20 of this Act~~[an extended warranty service]~~ purchased from a
 13 retailer shall keep such records, receipts, invoices, and other pertinent papers in
 14 such form as the department may require.

15 (2) Every such seller, retailer, or person who files the returns required under this
 16 chapter shall keep such records for not less than four (4) years from the making of
 17 such records unless the department in writing sooner authorizes their destruction.

18 ➔Section 35. KRS 141.010 is amended to read as follows:

19 As used in this chapter, for taxable years beginning on or after January 1, 2018:

20 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means
 21 the amount calculated in KRS 141.019;

22 (2) "Captive real estate investment trust" means a real estate investment trust as defined
 23 in Section 856 of the Internal Revenue Code that meets the following requirements:

24 (a) 1. The shares or other ownership interests of the real estate investment trust
 25 are not regularly traded on an established securities market; or

26 2. The real estate investment trust does not have enough shareholders or
 27 owners to be required to register with the Securities and Exchange

1 Commission;

2 (b) 1. The maximum amount of stock or other ownership interest that is owned
3 or constructively owned by a corporation equals or exceeds:

4 a. Twenty-five percent (25%), if the corporation does not occupy
5 property owned, constructively owned, or controlled by the real
6 estate investment trust; or

7 b. Ten percent (10%), if the corporation occupies property owned,
8 constructively owned, or controlled by the real estate investment
9 trust.

10 The total ownership interest of a corporation shall be determined by
11 aggregating all interests owned or constructively owned by a
12 corporation; and

13 2. For the purposes of this paragraph:

14 a. "Corporation" means a corporation taxable under KRS 141.040,
15 and includes an affiliated group as defined in KRS 141.200, that is
16 required to file a consolidated return pursuant to KRS 141.200;
17 and

18 b. "Owned or constructively owned" means owning shares or having
19 an ownership interest in the real estate investment trust, or owning
20 an interest in an entity that owns shares or has an ownership
21 interest in the real estate investment trust. Constructive ownership
22 shall be determined by looking across multiple layers of a
23 multilayer pass-through structure; and

24 (c) The real estate investment trust is not owned by another real estate investment
25 trust;

26 (3) "Commissioner" means the commissioner of the department;

27 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal

1 Revenue Code;

2 (5) "Department" means the Department of Revenue;

3 (6) "Dependent" means those persons defined as dependents in the Internal Revenue
4 Code;

5 (7) "Doing business in this state" includes but is not limited to:

6 (a) Being organized under the laws of this state;

7 (b) Having a commercial domicile in this state;

8 (c) Owning or leasing property in this state;

9 (d) Having one (1) or more individuals performing services in this state;

10 (e) Maintaining an interest in a pass-through entity doing business in this state;

11 (f) Deriving income from or attributable to sources within this state, including
12 deriving income directly or indirectly from a trust doing business in this state,
13 or deriving income directly or indirectly from a single-member limited
14 liability company that is doing business in this state and is disregarded as an
15 entity separate from its single member for federal income tax purposes; or

16 (g) Directing activities at Kentucky customers for the purpose of selling them
17 goods or services.

18 Nothing in this subsection shall be interpreted in a manner that goes beyond the
19 limitations imposed and protections provided by the United States Constitution or
20 Pub. L. No. 86-272;

21 (8) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue
22 Code;

23 (9) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue
24 Code;

25 (10) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue
26 Code;

27 (11) **"Financial institution" means:**

1 (a) A national bank organized as a body corporate and existing or in the
 2 process of organizing as a national bank association pursuant to the
 3 provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on
 4 December 31, 1997, exclusive of any amendments made subsequent to that
 5 date;

6 (b) Any bank or trust company incorporated or organized under the laws of any
 7 state, except a banker's bank organized under KRS 286.3-135;

8 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to
 9 631, in effect on December 31, 1997, exclusive of any amendments made
 10 subsequent to that date, or any corporation organized after December 31,
 11 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
 12 December 31, 1997; or

13 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
 14 3101, in effect on December 31, 1997, exclusive of any amendments made
 15 subsequent to that date, or any agency or branch of a foreign depository
 16 established after December 31, 1997, that meets the requirements of 12
 17 U.S.C. sec. 3101 in effect on December 31, 1997;

18 (12) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
 19 Revenue Code;

20 (13)~~(12)~~ "Gross income":

21 (a) In the case of taxpayers other than corporations, has the same meaning as in
 22 Section 61 of the Internal Revenue Code; and

23 (b) In the case of corporations, means the amount calculated in KRS 141.039;

24 (14)~~(13)~~ "Individual" means a natural person;

25 (15)~~(14)~~ "Internal Revenue Code" means;

26 (a) For taxable years beginning on or after January 1, 2018, but before
 27 January 1, 2019, the Internal Revenue Code in effect on December 31, 2017,

1 including the provisions contained in Pub. L. No. 115-97 apply to the same
 2 taxable year as the provisions apply for federal purposes, exclusive of any
 3 amendments made subsequent to that date, other than amendments that extend
 4 provisions in effect on December 31, 2017, that would otherwise terminate;
 5 and

6 (b) For taxable years beginning on or after January 1, 2019, the Internal
 7 Revenue Code in effect on December 31, 2018, exclusive of any
 8 amendments made subsequent to that date, other than amendments that
 9 extend provisions in effect on December 31, 2018, that would otherwise
 10 terminate;

11 ~~(16)~~~~(15)~~ "Limited liability pass-through entity" means any pass-through entity that
 12 affords any of its partners, members, shareholders, or owners, through function of
 13 the laws of this state or laws recognized by this state, protection from general
 14 liability for actions of the entity;

15 ~~(17)~~~~(16)~~ "Modified gross income" means the greater of:

16 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any
 17 amendments in effect on December 31 of the taxable year, and adjusted as
 18 follows:

- 19 1. Include interest income derived from obligations of sister states and
 20 political subdivisions thereof; and
- 21 2. Include lump-sum pension distributions taxed under the special
 22 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

23 (b) Adjusted gross income as defined in subsection (1) of this section and
 24 adjusted to include lump-sum pension distributions taxed under the special
 25 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

26 ~~(18)~~~~(17)~~ "Net income":

27 (a) In the case of taxpayers other than corporations, means the amount calculated

1 in KRS 141.019; and

2 (b) In the case of corporations, means the amount calculated in KRS 141.039;

3 ~~(19)~~~~(18)~~ "Nonresident" means any individual not a resident of this state;

4 ~~(20)~~~~(19)~~ "Number of withholding exemptions claimed" means the number of
5 withholding exemptions claimed in a withholding exemption certificate in effect
6 under KRS 141.325, except that if no such certificate is in effect, the number of
7 withholding exemptions claimed shall be considered to be zero;

8 ~~(21)~~~~(20)~~ "Part-year resident" means any individual that has established or abandoned
9 Kentucky residency during the calendar year;

10 ~~(22)~~~~(21)~~ "Pass-through entity" means any partnership, S corporation, limited liability
11 company, limited liability partnership, limited partnership, or similar entity
12 recognized by the laws of this state that is not taxed for federal purposes at the
13 entity level, but instead passes to each partner, member, shareholder, or owner their
14 proportionate share of income, deductions, gains, losses, credits, and any other
15 similar attributes;

16 ~~(23)~~~~(22)~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal
17 Revenue Code;

18 ~~(24)~~~~(23)~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal
19 Revenue Code;

20 ~~(25)~~~~(24)~~ "Resident" means an individual domiciled within this state or an individual
21 who is not domiciled in this state, but maintains a place of abode in this state and
22 spends in the aggregate more than one hundred eighty-three (183) days of the
23 taxable year in this state;

24 ~~(26)~~~~(25)~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal
25 Revenue Code;

26 ~~(27)~~~~(26)~~ "State" means a state of the United States, the District of Columbia, the
27 Commonwealth of Puerto Rico, or any territory or possession of the United States;

1 ~~(28)~~~~(27)~~ "Taxable net income":

2 (a) In the case of corporations that are taxable in this state, means "net income" as
3 defined in subsection ~~(18)~~~~(17)~~ of this section;

4 (b) In the case of corporations that are taxable in this state and taxable in another
5 state, means "net income" as defined in subsection ~~(18)~~~~(17)~~ of this section
6 and as allocated and apportioned under KRS 141.120;

7 (c) For homeowners' associations as defined in Section 528(c) of the Internal
8 Revenue Code, means "taxable income" as defined in Section 528(d) of the
9 Internal Revenue Code. Notwithstanding the provisions of subsection
10 ~~(15)~~~~(14)~~ of this section, the Internal Revenue Code sections referred to in
11 this paragraph shall be those code sections in effect for the applicable tax year;
12 and

13 (d) For a corporation that meets the requirements established under Section 856
14 of the Internal Revenue Code to be a real estate investment trust, means "real
15 estate investment trust taxable income" as defined in Section 857(b)(2) of the
16 Internal Revenue Code, except that a captive real estate investment trust shall
17 not be allowed any deduction for dividends paid;

18 ~~(29)~~~~(28)~~ "Taxable year" means the calendar year or fiscal year ending during such
19 calendar year, upon the basis of which net income is computed, and in the case of a
20 return made for a fractional part of a year under the provisions of this chapter or
21 under administrative regulations prescribed by the commissioner, "taxable year"
22 means the period for which the return is made; and

23 ~~(30)~~~~(29)~~ "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue
24 Code and includes other income subject to withholding as provided in Section
25 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

26 ➔Section 36. KRS 141.0101 is amended to read as follows:

27 (1) (a) The provisions of subsections (2) to (11) of this section shall apply to taxable

- 1 years beginning before January 1, 1994.
- 2 (b) The provisions of subsections (12) to (15) of this section shall apply to taxable
3 years beginning after December 31, 1993.
- 4 (c) The provisions of subsection (16) of this section apply to property placed in
5 service after September 10, 2001.
- 6 (2) For property placed in service prior to January 1, 1990, in lieu of the depreciation
7 and expense deductions allowed under Internal Revenue Code Sections 168 and
8 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and
9 tear, and obsolescence of property used in a trade or business shall be allowed and
10 computed as set out in subsections (3) to (11) of this section. For property placed in
11 service after December 31, 1989, the depreciation and expense deductions allowed
12 under Sections 168 and 179 of the Internal Revenue Code shall be allowed.
- 13 (3) Effective August 1, 1985, "reasonable allowance" as used in subsection (2) of this
14 section shall mean depreciation computed in accordance with Section 167 of the
15 Internal Revenue Code and related regulations in effect on December 31, 1980, for
16 all property placed in service on or after January 1, 1981, except as provided in
17 subsections (6) to (8) of this section.
- 18 (4) Depreciation of property placed in service prior to January 1, 1981, shall be
19 computed under Section 167 of the Internal Revenue Code, and the method elected
20 thereunder at the time the property was first placed in service or as changed with the
21 approval of the Commissioner of Internal Revenue Service or as required by
22 changes in federal regulations.
- 23 (5) Taxpayers other than corporations shall be allowed to deduct as depreciation on
24 recovery property placed in service before August 1, 1985, an amount calculated
25 under Section 168 of the Internal Revenue Code subject to the provisions of
26 subsections (6) and (8) of this section. Corporations with a taxable year beginning
27 on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for

- 1 depreciation on recovery property placed in service prior to August 1, 1985, using
2 either of the following alternative methods:
- 3 (a) Dividing the total of the deductions allowed under Internal Revenue Code
4 Section 168 by one and four tenths (1.4); and
 - 5 (b) Calculating the deduction that would be allowed or allowable under the
6 provisions of Section 167 of the Internal Revenue Code.
- 7 (6) Recovery property placed in service on or after January 1, 1981, and before August
8 1, 1985, and subject to transition under subsection (8) of this section, shall be
9 subject to depreciation under Section 167 of the Internal Revenue Code, restricted
10 to the straight line method therein provided over the remaining useful life of such
11 assets.
- 12 (7) Depreciation of property placed in service on or after August 1, 1985, shall be
13 computed under Section 167 of the Internal Revenue Code.
- 14 (8) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost
15 Recovery System (ACRS) depreciation, to the depreciation allowed or allowable
16 under this section shall be reported in the first taxable year beginning on or after
17 August 1, 1985. To implement the transition, the following adjustments shall be
18 made:
- 19 (a) Taxpayers other than corporations shall use the adjusted Kentucky basis for
20 property placed in service on or after January 1, 1981. "Adjusted Kentucky
21 basis" means the basis used for determining depreciation under Section 168 of
22 the Internal Revenue Code less the allowed or allowable depreciation and
23 adjustment for election to expense an asset (Section 179 of the Internal
24 Revenue Code);
 - 25 (b) Corporations shall adjust the federal unadjusted basis by increasing such basis
26 by the ACRS depreciation not allowed as a deduction in determining
27 Kentucky net income for tax years beginning after June 30, 1984, less allowed

1 or allowable ACRS depreciation for federal income tax purposes.
2 Corporations will not be permitted to adjust the basis by the ACRS
3 depreciation not allowed for Kentucky income tax purposes in tax years
4 beginning on or before June 30, 1984.

5 (9) A taxpayer may elect to treat the cost of property placed in service on or before July
6 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in
7 effect on December 31, 1981, except that the aggregate cost which may be expensed
8 for corporations shall not exceed five thousand dollars (\$5,000). A taxpayer may
9 elect to treat the cost of property placed in service on or after August 1, 1985, as an
10 expense as provided in Section 179 of the Internal Revenue Code in effect on
11 December 31, 1980. Computations, limitations, definitions, exceptions, and other
12 provisions of Section 179 of the Internal Revenue Code and related regulations shall
13 be construed to govern the computation of the allowable deduction.

14 (10) Upon the sale, exchange, or disposition of any depreciable property placed in
15 service on or after January 1, 1981, capital gains or losses and the amount of
16 ordinary income determined under the provisions of the Internal Revenue Code
17 shall be computed for Kentucky income tax purposes as follows:

18 (a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced
19 by any basis adjustment made by the taxpayer under Section 48(q)(1) of the
20 Internal Revenue Code and any expense allowed and utilized under Section
21 179 of the Internal Revenue Code (First Year Expense) in determining
22 Kentucky net income in prior years, and

23 (b) Compute the adjusted basis by subtracting the depreciation allowed or
24 allowable for Kentucky income tax purposes from the unadjusted basis,
25 except corporations will not be permitted to adjust the basis of assets by the
26 ACRS depreciation not allowed for Kentucky income tax purposes in the tax
27 years beginning on or before June 30, 1984, and

- 1 (c) Compute the gain or loss by subtracting the adjusted basis from the value
2 received from the disposition of the depreciable property, and
- 3 (d) Compute the recapture of depreciation required under Sections 1245 through
4 1256 of the Internal Revenue Code and related regulations, and
- 5 (e) Unless otherwise provided in this subsection the provisions of the Internal
6 Revenue Code and related regulations governing the determination of capital
7 gains or losses shall apply for Kentucky income tax purposes.
- 8 (11) Unless otherwise provided by this chapter, the basis of property placed in service
9 prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis,
10 adjusted or unadjusted, required to be used under Section 167 of the Internal
11 Revenue Code in effect on December 31, 1980.
- 12 (12) As used in this subsection to subsection (14) of this section:
- 13 (a) "Transition property" means any property placed in service before the first day
14 of the first taxable year beginning after December 31, 1993, and owned by the
15 taxpayer on the first day of the first taxable year beginning after December 31,
16 1993.
- 17 (b) "Adjusted Kentucky basis" means the amount computed in accordance with
18 the provisions of paragraph (b) of subsection (10) of this section for transition
19 property.
- 20 (c) "Adjusted federal basis" means the original cost, or, in the case of Section 338
21 property, the adjusted grossed-up basis of transition property less:
- 22 1. Any basis adjustments required by the Internal Revenue Code for
23 credits; and
- 24 2. The total accumulated depreciation and election to expense deductions
25 allowed or allowable for federal income tax purposes.
- 26 (d) "Section 338 property" means property to which an adjusted grossed-up basis
27 has been allocated pursuant to a valid election made by a purchasing

1 corporation under the provisions of Section 338 of the Internal Revenue Code.

2 (e) "Transition amount" means the net difference between the adjusted Kentucky
3 basis and the adjusted federal basis of all transition property determined as of
4 the first day of the first taxable year beginning after December 31, 1993.

5 (13) For taxable years beginning after December 31, 1993, the amounts of depreciation
6 and election to expense deductions, allowed or allowable, the basis of assets,
7 adjusted or unadjusted, and the gain or loss from the sale or other disposition of
8 assets shall be the same for Kentucky income tax purposes as determined under
9 Chapter 1 of the Internal Revenue Code.

10 (14) For taxable years beginning after December 31, 1993, the transition amount
11 computed in accordance with the provisions of paragraph (e) of subsection (12) of
12 this section shall be reported by the taxpayer as follows:

13 (a) In the first taxable year beginning after December 31, 1993, and the eleven
14 (11) succeeding taxable years, the taxpayer shall include in gross income one-
15 twelfth (1/12) of the transition amount if:

- 16 1. The adjusted federal basis of transition property exceeds the adjusted
17 Kentucky basis of transition property;
- 18 2. The transition amount exceeds five million dollars (\$5,000,000);
- 19 3. The transition amount includes property for which an election was made
20 under Section 338 of the Internal Revenue Code; and
- 21 4. The taxpayer elects the provisions of this paragraph with the filing of an
22 amended income tax return for the first taxable year beginning after
23 December 31, 1993.

24 (b) In the first taxable year beginning after December 31, 1993 and the three (3)
25 succeeding taxable years, if the transition amount exceeds one hundred
26 thousand dollars (\$100,000), or if the transition amount does not exceed one
27 hundred thousand dollars (\$100,000) and the taxpayer elects the provision of

1 this paragraph with the filing of the income tax return for the first taxable year
2 beginning after December 31, 1993, the taxpayer shall:

- 3 1. Deduct from gross income twenty-five percent (25%) of the transition
4 amount if the adjusted Kentucky basis of transition property exceeds the
5 adjusted federal basis of transition property; or
- 6 2. Add to gross income twenty-five percent (25%) of the transition amount
7 if the adjusted federal basis of transition property exceeds the adjusted
8 Kentucky basis of transition property.

9 (c) In the first taxable year beginning after December 31, 1993, if the transition
10 amount does not exceed one hundred thousand dollars (\$100,000) and the
11 taxpayer does not elect the provisions of paragraph (b) of this subsection, the
12 taxpayer shall:

- 13 1. Deduct from gross income the total transition amount if the adjusted
14 Kentucky basis of transition property exceeds the adjusted federal basis
15 of transition property; or
- 16 2. Add to gross income the total transition amount if the adjusted federal
17 basis of transition property exceeds the adjusted Kentucky basis of
18 transition property.

19 (15) Notwithstanding any other provision of this section to the contrary, any qualified
20 farming operation, as defined in KRS 141.410, shall be allowed to compute the
21 depreciation deduction for new buildings and equipment purchased to enable
22 participation in a networking project, as defined in KRS 141.410, on an accelerated
23 basis at two (2) times the rate that would otherwise be permitted under the
24 provisions of this section. The accumulated depreciation allowed under this
25 subsection shall not exceed the taxpayer's basis in such property.

26 (16) (a) For property placed in service after September 10, 2001, only the depreciation
27 deduction~~[- and expense deductions]~~ allowed under Section~~[Sections]~~ 168F

1 ~~and 179]~~ of the Internal Revenue Code in effect on December 31, 2001,
2 exclusive of any amendments made subsequent to that date, shall be allowed.

3 **(b) For property placed in service after September 10, 2001, but prior to**
4 **January 1, 2020, only the expense deduction allowed under Section 179 of**
5 **the Internal Revenue Code in effect on December 31, 2001, exclusive of any**
6 **amendments made subsequent to that date, shall be allowed.**

7 **(c) For property placed in service on or after January 1, 2020, only the expense**
8 **deduction allowed under Section 179 of the Internal Revenue Code in effect**
9 **on December 31, 2003, exclusive of any amendments made subsequent to**
10 **that date, shall be allowed.**

11 ➔Section 37. KRS 141.019 is amended to read as follows:

12 For taxable years beginning on or after January 1, 2018, in the case of taxpayers other
13 than corporations:

14 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
15 those taxpayers the deductions allowed individuals by Section 62 of the Internal
16 Revenue Code and adjusting as follows:

17 (a) Exclude income that is exempt from state taxation by the Kentucky
18 Constitution and the Constitution and statutory laws of the United States;

19 (b) Exclude income from supplemental annuities provided by the Railroad
20 Retirement Act of 1937 as amended and which are subject to federal income
21 tax by Pub. L. No. 89-699;

22 (c) Include interest income derived from obligations of sister states and political
23 subdivisions thereof;

24 (d) Exclude employee pension contributions picked up as provided for in KRS
25 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
26 and 161.540 upon a ruling by the Internal Revenue Service or the federal
27 courts that these contributions shall not be included as gross income until such

1 time as the contributions are distributed or made available to the employee;

2 (e) Exclude Social Security and railroad retirement benefits subject to federal
3 income tax;

4 (f) Exclude any money received because of a settlement or judgment in a lawsuit
5 brought against a manufacturer or distributor of "Agent Orange" for damages
6 resulting from exposure to Agent Orange by a member or veteran of the
7 Armed Forces of the United States or any dependent of such person who
8 served in Vietnam;

9 (g) 1. a. For taxable years beginning after December 31, 2005, but before
10 January 1, 2018, exclude up to forty-one thousand one hundred ten
11 dollars (\$41,110) of total distributions from pension plans, annuity
12 contracts, profit-sharing plans, retirement plans, or employee
13 savings plans; and

14 b. For taxable years beginning on or after January 1, 2018, exclude
15 up to thirty-one thousand one hundred ten dollars (\$31,110) of
16 total distributions from pension plans, annuity contracts, profit-
17 sharing plans, retirement plans, or employee savings plans.

18 2. As used in this paragraph:

19 a. "Annuity contract" has the same meaning as set forth in Section
20 1035 of the Internal Revenue Code;

21 b. "Distributions" includes but is not limited to any lump-sum
22 distribution from pension or profit-sharing plans qualifying for the
23 income tax averaging provisions of Section 402 of the Internal
24 Revenue Code; any distribution from an individual retirement
25 account as defined in Section 408 of the Internal Revenue Code;
26 and any disability pension distribution; and

27 c. "Pension plans, profit-sharing plans, retirement plans, or employee

- 1 savings plans" means any trust or other entity created or organized
2 under a written retirement plan and forming part of a stock bonus,
3 pension, or profit-sharing plan of a public or private employer for
4 the exclusive benefit of employees or their beneficiaries and
5 includes plans qualified or unqualified under Section 401 of the
6 Internal Revenue Code and individual retirement accounts as
7 defined in Section 408 of the Internal Revenue Code;
- 8 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
9 income from an S corporation subject to the franchise tax imposed
10 under KRS 136.505 or the capital stock tax imposed under KRS
11 136.300; and
- 12 b. Exclude the portion of the distributive share of a shareholder's net
13 income from an S corporation related to a qualified subchapter S
14 subsidiary subject to the franchise tax imposed under KRS
15 136.505 or the capital stock tax imposed under KRS 136.300.
- 16 2. The shareholder's basis of stock held in an S corporation where the S
17 corporation or its qualified subchapter S subsidiary is subject to the
18 franchise tax imposed under KRS 136.505 or the capital stock tax
19 imposed under KRS 136.300 shall be the same as the basis for federal
20 income tax purposes;
- 21 (i) Exclude income received for services performed as a precinct worker for
22 election training or for working at election booths in state, county, and local
23 primaries or regular or special elections;
- 24 (j) Exclude any capital gains income attributable to property taken by eminent
25 domain;
- 26 (k) 1. Exclude all income from all sources for ~~active duty and reserve~~
27 members ~~and officers~~ of the Armed Forces **who are on active duty**

1 ~~and~~~~[of the United States or National Guard]~~ who are killed in the line of
 2 duty, for the year during which the death occurred and the year prior to
 3 the year during which the death occurred.

4 2. For the purposes of this paragraph, "all income from all sources" shall
 5 include all federal and state death benefits payable to the estate or any
 6 beneficiaries;

7 (l) Exclude all military pay received by~~[active duty]~~ members of the Armed
 8 Forces ***while on active duty***~~[of the United States, members of reserve~~
 9 ~~components of the Armed Forces of the United States, and members of the~~
 10 ~~National Guard, including compensation for state active duty as described in~~
 11 ~~KRS 38.205];~~

12 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
 13 or 168; and

14 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and

15 (n) Include the amount deducted under 26 U.S.C. sec. 199A; and

16 (2) Net income shall be calculated by subtracting from adjusted gross income all the
 17 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
 18 modified by KRS 141.0101, except:

19 ~~(a)[Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;~~

20 ~~(b)]~~ Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

21 **(b)(e)]** Any deduction allowed by 26 U.S.C. sec. 165 for losses, ***except***
 22 ***wagering losses allowed under Section 165(d) of the Internal Revenue***
 23 ***Code;***

24 **(c)(d)]** Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;

25 **(d)(e)]** Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;

26 **(e)(f)]** Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
 27 deduction;

1 ~~(f)~~~~(g)~~ Any deduction allowed by the Internal Revenue Code for amounts
2 allowable under KRS 140.090(1)(h) in calculating the value of the distributive
3 shares of the estate of a decedent, unless there is filed with the income return a
4 statement that the deduction has not been claimed under KRS 140.090(1)(h);

5 ~~(g)~~~~(h)~~ Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions
6 and any other deductions in lieu thereof;

7 ~~(h)~~~~(i)~~ Any deduction allowed for amounts paid to any club, organization, or
8 establishment which has been determined by the courts or an agency
9 established by the General Assembly and charged with enforcing the civil
10 rights laws of the Commonwealth, not to afford full and equal membership
11 and full and equal enjoyment of its goods, services, facilities, privileges,
12 advantages, or accommodations to any person because of race, color, religion,
13 national origin, or sex, except nothing shall be construed to deny a deduction
14 for amounts paid to any religious or denominational club, group, or
15 establishment or any organization operated solely for charitable or educational
16 purposes which restricts membership to persons of the same religion or
17 denomination in order to promote the religious principles for which it is
18 established and maintained; and

19 ~~(i)~~~~(j)~~ A taxpayer may elect to claim the standard deduction allowed by KRS
20 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
21 and as modified by this section.

22 ➔Section 38. KRS 141.021 is amended to read as follows:

23 Notwithstanding the provisions of KRS 141.010, federal retirement annuities, and local
24 government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to
25 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to
26 95.784, 95.851 to 95.884, or 96.180, shall be excluded from gross income. Except federal
27 retirement annuities and local government retirement annuities accrued or accruing on or

1 after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
2 provided in KRS ~~141.019~~~~[141.010]~~ and 141.0215.

3 →Section 39. KRS 141.0215 is amended to read as follows:

4 (1) Notwithstanding the provisions of KRS 141.010~~(12)~~~~[(9)]~~, for tax years commencing
5 on or after January 1, 1998, the amount of all previously untaxed distributions from
6 a retirement plan paid pursuant to KRS Chapters 6, 16, 21, 61, 67A, 78, 90, 95, 96,
7 161, and 164, and the amount of all previously untaxed distributions paid from a
8 retirement plan by the federal government, which are excluded from gross income
9 pursuant to KRS 141.021, shall be included in gross income as follows:

10 (a) Multiply the total annual government retirement payments by a fraction whose
11 numerator is the number of full or partial years of service performed for the
12 governmental unit making the retirement payments after January 1, 1998, and
13 whose denominator is the total number of full or partial years of service
14 performed for the governmental unit making retirement payments, including
15 purchased service credit. Purchased service credits shall be included in the
16 numerator of the fraction only if the services for which credits are being
17 purchased were provided after January 1, 1998.

18 (b) The resulting number shall be the amount included in gross income.

19 (2) Any taxpayer receiving government retirement payments from more than one (1)
20 governmental unit shall separately determine the payment amount attributable to
21 each unit to be included in gross income, using the formula set forth in subsection
22 (1) of this section.

23 →Section 40. KRS 141.040 is amended to read as follows:

24 (1) Every corporation doing business in this state, except those corporations listed in
25 paragraphs (a) ~~and (b)~~~~[(h)]~~ of this subsection, shall pay for each taxable year a
26 tax to be computed by the taxpayer on taxable net income at the rates specified in
27 this section:

- 1 (a) **For taxable years beginning prior to January 1, 2021:**
- 2 **1.** Financial institutions, as defined in KRS 136.500, except bankers banks
 3 organized under KRS 286.3-135;
- 4 **2.**~~[(b)]~~ Savings and loan associations organized under the laws of this
 5 state and under the laws of the United States and making loans to
 6 members only;
- 7 **3.**~~[(c)]~~ Banks for cooperatives;
- 8 **4.**~~[(d)]~~ Production credit associations;
- 9 **5.**~~[(e)]~~ Insurance companies, including **farmers'**~~farmers]~~ or other mutual
 10 hail, cyclone, windstorm, or fire insurance companies, insurers, and
 11 reciprocal underwriters;
- 12 **6.**~~[(f)]~~ Corporations or other entities exempt under Section 501 of the
 13 Internal Revenue Code;
- 14 **7.**~~[(g)]~~ Religious, educational, charitable, or like corporations not
 15 organized or conducted for pecuniary profit; and
- 16 **8.**~~[(h)]~~ Corporations whose only owned or leased property located in this
 17 state is located at the premises of a printer with which it has contracted
 18 for printing, provided that:
- 19 **a.**~~[1.]~~ The property consists of the final printed product, or copy from
 20 which the printed product is produced; and
- 21 **b.**~~[2.]~~ The corporation has no individuals receiving compensation in this
 22 state as provided in KRS 141.120(8)(b); **and**

23 **(b) For taxable years beginning on or after January 1, 2021:**

- 24 **1. Insurance companies, including farmers' or other mutual hail,**
 25 **cyclone, windstorm, or fire insurance companies, insurers, and**
 26 **reciprocal underwriters;**
- 27 **2. Corporations or other entities exempt under Section 501 of the**

- 1 *Internal Revenue Code;*
- 2 *3. Religious, educational, charitable, or like corporations not organized*
- 3 *or conducted for pecuniary profit; and*
- 4 *4. Corporations whose only owned or leased property located in this state*
- 5 *is located at the premises of a printer with which it has contracted for*
- 6 *printing, provided that:*
- 7 *a. The property consists of the final printed product, or copy from*
- 8 *which the printed product is produced; and*
- 9 *b. The corporation has no individuals receiving compensation in*
- 10 *this state as provided in KRS 141.120(8)(b).*
- 11 (2) For taxable years beginning on or after January 1, 2018, the rate of five percent
- 12 (5%) of taxable net income shall apply.
- 13 (3) For taxable years beginning on or after January 1, 2007, and before January 1, 2018,
- 14 the following rates shall apply:
- 15 (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net
- 16 income;
- 17 (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000)
- 18 up to one hundred thousand dollars (\$100,000); and
- 19 (c) Six percent (6%) of taxable net income over one hundred thousand dollars
- 20 (\$100,000).
- 21 (4) (a) An S corporation shall pay income tax on the same items of income and in the
- 22 same manner as required for federal purposes, except to the extent required by
- 23 differences between this chapter and the federal income tax law and
- 24 regulations.
- 25 (b) 1. If the S corporation is required under Section 1363(d) of the Internal
- 26 Revenue Code to submit installments of tax on the recapture of LIFO
- 27 benefits, installments to pay the Kentucky tax due shall be paid on or

1 before the due date of the S corporation's return, as extended, if
2 applicable.

3 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the
4 installment payment for the period of extension.

5 (c) If the S corporation is required under Section 1374 or 1375 of the Internal
6 Revenue Code to pay tax on built-in gains or on passive investment income,
7 the amount of tax imposed by this subsection shall be computed by applying
8 the highest rate of tax for the taxable year.

9 **(5) For the taxable years beginning on or after January 1, 2021, but prior to January**
10 **1, 2022, there shall be allowed a refundable credit against the tax imposed by this**
11 **section and Section 41 of this Act, with the ordering of the credits as provided in**
12 **Section 79 of this Act, for any financial institution that timely pays the bank**
13 **franchise tax imposed under Section 16 of this Act.**

14 ➔Section 41. KRS 141.0401 is amended to read as follows:

15 (1) As used in this section:

16 (a) "Kentucky gross receipts" means an amount equal to the computation of the
17 numerator of the apportionment fraction under KRS 141.120, any
18 administrative regulations related to the computation of the sales factor, and
19 KRS 141.121 and includes the proportionate share of Kentucky gross receipts
20 of all wholly or partially owned limited liability pass-through entities,
21 including all layers of a multi-layered pass-through structure;

22 (b) "Gross receipts from all sources" means an amount equal to the computation
23 of the denominator of the apportionment fraction under KRS 141.120, any
24 administrative regulations related to the computation of the sales factor, and
25 KRS 141.121 and includes the proportionate share of gross receipts from all
26 sources of all wholly or partially owned limited liability pass-through entities,
27 including all layers of a multi-layered pass-through structure;

1 (c) "Combined group" means all members of an affiliated group as defined in
2 KRS 141.200(9)(b) and all limited liability pass-through entities that would be
3 included in an affiliated group if organized as a corporation;

4 (d) "Cost of goods sold" means:

5 1. Amounts that are:

6 a. Allowable as cost of goods sold pursuant to the Internal Revenue
7 Code and any guidelines issued by the Internal Revenue Service
8 relating to cost of goods sold, unless modified by this paragraph;
9 and

10 b. Incurred in acquiring or producing the tangible product generating
11 the Kentucky gross receipts.

12 2. For manufacturing, producing, reselling, retailing, or wholesaling
13 activities, cost of goods sold shall only include costs directly incurred in
14 acquiring or producing the tangible product. In determining cost of
15 goods sold:

16 a. Labor costs shall be limited to direct labor costs as defined in
17 paragraph (f) of this subsection;

18 b. Bulk delivery costs as defined in paragraph (g) of this subsection
19 may be included; and

20 c. Costs allowable under Section 263A of the Internal Revenue Code
21 may be included only to the extent the costs are incurred in
22 acquiring or producing the tangible product generating the
23 Kentucky gross receipts. Notwithstanding the foregoing, indirect
24 labor costs allowable under Section 263A shall not be included;

25 3. For any activity other than manufacturing, producing, reselling, retailing,
26 or wholesaling, no costs shall be included in cost of goods sold.

27 As used in this paragraph, "guidelines issued by the Internal Revenue Service"

1 includes regulations, private letter rulings, or any other guidance issued by the
2 Internal Revenue Service that may be relied upon by taxpayers under reliance
3 standards established by the Internal Revenue Service;

4 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
5 returns and allowances attributable to Kentucky gross receipts, less the
6 cost of goods sold attributable to Kentucky gross receipts. If the amount
7 of returns and allowances attributable to Kentucky gross receipts and the
8 cost of goods sold attributable to Kentucky gross receipts is zero, then
9 "Kentucky gross profits" means Kentucky gross receipts; and

10 2. "Gross profits from all sources" means gross receipts from all sources
11 reduced by returns and allowances attributable to gross receipts from all
12 sources, less the cost of goods sold attributable to gross receipts from all
13 sources. If the amount of returns and allowances attributable to gross
14 receipts from all sources and the cost of goods sold attributable to gross
15 receipts from all sources is zero, then gross profits from all sources
16 means gross receipts from all sources;

17 (f) "Direct labor" means labor that is incorporated into the tangible product sold
18 or is an integral part of the manufacturing process;

19 (g) "Bulk delivery costs" means the cost of delivering the product to the consumer
20 if:

21 1. The tangible product is delivered in bulk and requires specialized
22 equipment that generally precludes commercial shipping; and

23 2. The tangible product is taxable under KRS 138.220;

24 (h) "Manufacturing" and "producing" means:

25 1. Manufacturing, producing, constructing, or assembling components to
26 produce a significantly different or enhanced end tangible product;

27 2. Mining or severing natural resources from the earth; or

- 1 3. Growing or raising agricultural or horticultural products or animals;
- 2 (i) "Real property" means land and anything growing on, attached to, or erected
- 3 on it, excluding anything that may be severed without injury to the land;
- 4 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
- 5 product;
- 6 (k) "Tangible personal property" means property, other than real property, that has
- 7 physical form and characteristics; and
- 8 (l) "Tangible product" means real property and tangible personal property;
- 9 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
- 10 liability entity tax shall be paid by every corporation and every limited liability
- 11 pass-through entity doing business in Kentucky on all Kentucky gross receipts
- 12 or Kentucky gross profits except as provided in this subsection. A small
- 13 business exclusion from this tax shall be provided based on the reduction
- 14 contained in this subsection. The tax shall be the greater of the amount
- 15 computed under paragraph (b) of this subsection or one hundred seventy-five
- 16 dollars (\$175), regardless of the application of any tax credits provided under
- 17 this chapter or any other provisions of the Kentucky Revised Statutes for
- 18 which the business entity may qualify.
- 19 (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of
- 20 this paragraph:
- 21 1. a. If the corporation's or limited liability pass-through entity's gross
- 22 receipts from all sources are three million dollars (\$3,000,000) or
- 23 less, the limited liability entity tax shall be one hundred seventy-
- 24 five dollars (\$175)~~[zero]~~;
- 25 b. If the corporation's or limited liability pass-through entity's gross
- 26 receipts from all sources are greater than three million dollars
- 27 (\$3,000,000) but less than six million dollars (\$6,000,000), the

1 limited liability entity tax shall be nine and one-half cents (\$0.095)
2 per one hundred dollars (\$100) of the corporation's or limited
3 liability pass-through entity's Kentucky gross receipts reduced by
4 an amount equal to two thousand eight hundred fifty dollars
5 (\$2,850) multiplied by a fraction, the numerator of which is six
6 million dollars (\$6,000,000) less the amount of the corporation's or
7 limited liability pass-through entity's Kentucky gross receipts for
8 the taxable year, and the denominator of which is three million
9 dollars (\$3,000,000), but in no case shall the result be less than
10 one hundred seventy-five dollars (\$175)~~[zero]~~;

11 c. If the corporation's or limited liability pass-through entity's gross
12 receipts from all sources are equal to or greater than six million
13 dollars (\$6,000,000), the limited liability entity tax shall be nine
14 and one-half cents (\$0.095) per one hundred dollars (\$100) of the
15 corporation's or limited liability pass-through entity's Kentucky
16 gross receipts.

17 2. a. If the corporation's or limited liability pass-through entity's gross
18 profits from all sources are three million dollars (\$3,000,000) or
19 less, the limited liability entity tax shall be one hundred seventy-
20 five dollars (\$175)~~[zero]~~;

21 b. If the corporation's or limited liability pass-through entity's gross
22 profits from all sources are at least three million dollars
23 (\$3,000,000) but less than six million dollars (\$6,000,000), the
24 limited liability entity tax shall be seventy-five cents (\$0.75) per
25 one hundred dollars (\$100) of the corporation's or limited liability
26 pass-through entity's Kentucky gross profits, reduced by an amount
27 equal to twenty-two thousand five hundred dollars (\$22,500)

1 multiplied by a fraction, the numerator of which is six million
2 dollars (\$6,000,000) less the amount of the corporation's or limited
3 liability pass-through entity's Kentucky gross profits, and the
4 denominator of which is three million dollars (\$3,000,000), but in
5 no case shall the result be less than one hundred seventy-five
6 dollars (\$175)~~[zero]~~;

7 c. If the corporation's or limited liability pass-through entity's gross
8 profits from all sources are equal to or greater than six million
9 dollars (\$6,000,000), the limited liability entity tax shall be
10 seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of
11 the corporation's or limited liability pass-through entity's Kentucky
12 gross profits.

13 In determining eligibility for the reductions contained in this paragraph, a
14 member of a combined group shall consider the combined gross receipts and
15 the combined gross profits from all sources of the entire combined group,
16 including eliminating entries for transactions among the group.

17 (c) A credit shall be allowed against the tax imposed under paragraph (a) of this
18 subsection for the current year to a corporation or limited liability pass-
19 through entity that owns an interest in a limited liability pass-through entity.
20 The credit shall be the proportionate share of tax calculated under this
21 subsection by the lower-level pass-through entity, as determined after the
22 amount of tax calculated by the pass-through entity has been reduced by the
23 minimum tax of one hundred seventy-five dollars (\$175). The credit shall
24 apply across multiple layers of a multi-layered pass-through entity structure.
25 The credit at each layer shall include the credit from each lower layer, after
26 reduction for the minimum tax of one hundred seventy-five dollars (\$175) at
27 each layer.

- 1 (d) The department may promulgate administrative regulations to establish a
2 method for calculating the cost of goods sold attributable to Kentucky.
- 3 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
4 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
5 credit amount shall be determined as follows:
- 6 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
7 shall be equal to the amount of tax calculated under subsection (2) of this
8 section for the current year after subtraction of any credits identified in KRS
9 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
10 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
11 paid by wholly or partially owned limited liability pass-through entities. The
12 amount of credit allowed to a corporation based on the amount of tax paid
13 under subsection (2) of this section for the current year shall be applied to the
14 income tax due from the corporation's activities in this state. Any remaining
15 credit from the corporation shall be disallowed.
- 16 (b) The credit allowed members, shareholders, or partners of a limited liability
17 pass-through entity shall be the members', shareholders', or partners'
18 proportionate share of the tax calculated under subsection (2) of this section
19 for the current year after subtraction of any credits identified in KRS
20 141.0205, as determined after the amount of tax paid has been reduced by the
21 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed
22 to members, shareholders, or partners of a limited liability pass-through entity
23 shall be applied to income tax assessed on income from the limited liability
24 pass-through entity. Any remaining credit from the limited liability pass-
25 through entity shall be disallowed.
- 26 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms
27 prepared by the department, on or before the fifteenth day of the fourth month

1 following the close of the taxpayer's taxable year. Any tax remaining due after
 2 making the payments required **under Section 42 of this Act**~~[in KRS 141.042]~~ shall
 3 be paid by the original due date of the return.

4 (5) The department shall prescribe forms and promulgate administrative regulations as
 5 needed to administer the provisions of this section.

6 (6) The tax imposed by subsection (2) of this section shall not apply to:

7 (a) **For taxable years beginning prior to January 1, 2021:**

8 **1.** Financial institutions, as defined in KRS 136.500, except banker's banks
 9 organized under KRS 287.135 or 286.3-135;

10 **2.**~~[(b)]~~ Savings and loan associations organized under the laws of this
 11 state and under the laws of the United States and making loans to
 12 members only;

13 **3.**~~[(c)]~~ Banks for cooperatives;

14 **4.**~~[(d)]~~ Production credit associations;

15 **5.**~~[(e)]~~ Insurance companies, including farmers' or other mutual hail,
 16 cyclone, windstorm, or fire insurance companies, insurers, and
 17 reciprocal underwriters;

18 **6.**~~[(f)]~~ Corporations or other entities exempt under Section 501 of the
 19 Internal Revenue Code;

20 **7.**~~[(g)]~~ Religious, educational, charitable, or like corporations not
 21 organized or conducted for pecuniary profit;

22 **8.**~~[(h)]~~ Corporations whose only owned or leased property located in this
 23 state is located at the premises of a printer with which it has contracted
 24 for printing, provided that:

25 **a.**~~[(1)]~~ The property consists of the final printed product, or copy from
 26 which the printed product is produced; and

27 **b.**~~[(2)]~~ The corporation has no individuals receiving compensation in this

- 1 state as provided in KRS 141.901;
- 2 ~~9.(i)~~ Public service corporations subject to tax under KRS 136.120;
- 3 ~~10.(j)~~ Open-end registered investment companies organized under the
4 laws of this state and registered under the Investment Company Act of
5 1940;
- 6 ~~11.(k)~~ Any property or facility which has been certified as a fluidized bed
7 energy production facility as defined in KRS 211.390;
- 8 ~~12.(l)~~ An alcohol production facility as defined in KRS 247.910;
- 9 ~~13.(m)~~ Real estate investment trusts as defined in Section 856 of the
10 Internal Revenue Code;
- 11 ~~14.(n)~~ Regulated investment companies as defined in Section 851 of the
12 Internal Revenue Code;
- 13 ~~15.(o)~~ Real estate mortgage investment conduits as defined in Section
14 860D of the Internal Revenue Code;
- 15 ~~16.(p)~~ Personal service corporations as defined in Section 269A(b)(1) of
16 the Internal Revenue Code;
- 17 ~~17.(q)~~ Cooperatives described in Sections 521 and 1381 of the Internal
18 Revenue Code, including farmers' agricultural and other cooperatives
19 organized or recognized under KRS Chapter 272, advertising
20 cooperatives, purchasing cooperatives, homeowners associations
21 including those described in Section 528 of the Internal Revenue Code,
22 political organizations as defined in Section 527 of the Internal Revenue
23 Code, and rural electric and rural telephone cooperatives; or
- 24 ~~18.(r)~~ Publicly traded partnerships as defined by Section 7704(b) of the
25 Internal Revenue Code that are treated as partnerships for federal tax
26 purposes under Section 7704(c) of the Internal Revenue Code, or their
27 publicly traded partnership affiliates. "Publicly traded partnership

1 affiliates" shall include any limited liability company or limited
2 partnership for which at least eighty percent (80%) of the limited
3 liability company member interests or limited partner interests are
4 owned directly or indirectly by the publicly traded partnership; and

5 (b) For taxable years beginning on or after January 1, 2022:

- 6 1. Insurance companies, including farmers' or other mutual hail,
7 cyclone, windstorm, or fire insurance companies, insurers, and
8 reciprocal underwriters;
- 9 2. Corporations or other entities exempt under Section 501 of the
10 Internal Revenue Code;
- 11 3. Religious, educational, charitable, or like corporations not organized
12 or conducted for pecuniary profit;
- 13 4. Corporations whose only owned or leased property located in this state
14 is located at the premises of a printer with which it has contracted for
15 printing, provided that:
 - 16 a. The property consists of the final printed product, or copy from
17 which the printed product is produced; and
 - 18 b. The corporation has no individuals receiving compensation in
19 this state as provided in KRS 141.901;
- 20 5. Public service corporations subject to tax under KRS 136.120;
- 21 6. Open-end registered investment companies organized under the laws
22 of this state and registered under the Investment Company Act of
23 1940;
- 24 7. Any property or facility which has been certified as a fluidized bed
25 energy production facility as defined in KRS 211.390;
- 26 8. An alcohol production facility as defined in KRS 247.910;
- 27 9. Real estate investment trusts as defined in Section 856 of the Internal

- 1 Revenue Code;
- 2 10. Regulated investment companies as defined in Section 851 of the
- 3 Internal Revenue Code;
- 4 11. Real estate mortgage investment conduits as defined in Section 860D
- 5 of the Internal Revenue Code;
- 6 12. Personal service corporations as defined in Section 269A(b)(1) of the
- 7 Internal Revenue Code;
- 8 13. Cooperatives described in Sections 521 and 1381 of the Internal
- 9 Revenue Code, including farmers' agricultural and other cooperatives
- 10 organized or recognized under KRS Chapter 272, advertising
- 11 cooperatives, purchasing cooperatives, homeowners associations
- 12 including those described in Section 528 of the Internal Revenue
- 13 Code, political organizations as defined in Section 527 of the Internal
- 14 Revenue Code, and rural electric and rural telephone cooperatives; or
- 15 14. Publicly traded partnerships as defined by Section 7704(b) of the
- 16 Internal Revenue Code that are treated as partnerships for federal tax
- 17 purposes under Section 7704(c) of the Internal Revenue Code, or their
- 18 publicly traded partnership affiliates. "Publicly traded partnership
- 19 affiliates" shall include any limited liability company or limited
- 20 partnership for which at least eighty percent (80%) of the limited
- 21 liability company member interests or limited partner interests are
- 22 owned directly or indirectly by the publicly traded partnership.

23 (7) (a) As used in this subsection, "qualified exempt organization" means an entity

24 listed in subsection (6)(a) and (b)~~[(a)-(f)]~~ of this section and shall not include

25 any entity whose exempt status has been disallowed by the Internal Revenue

26 Service.

27 (b) Notwithstanding any other provisions of this section, any limited liability

1 pass-through entity that is owned in whole or in part by a qualified exempt
2 organization shall, in calculating its Kentucky gross receipts or Kentucky
3 gross profits, exclude the proportionate share of its Kentucky gross receipts or
4 Kentucky gross profits attributable to the ownership interest of the qualified
5 exempt organization.

6 (c) Any limited liability pass-through entity that reduces Kentucky gross receipts
7 or Kentucky gross profits in accordance with paragraph (b) of this subsection
8 shall disregard the ownership interest of the qualified exempt organization in
9 determining the amount of credit available under subsection (3) of this
10 section.

11 (d) The Department of Revenue may promulgate an administrative regulation to
12 further define "qualified exempt organization" to include an entity for which
13 exemption is constitutionally or legally required, or to exclude any entity
14 created primarily for tax avoidance purposes with no legitimate business
15 purpose.

16 (8) The credit permitted by subsection (3) of this section shall flow through multiple
17 layers of limited liability pass-through entities and shall be claimed by the taxpayer
18 who ultimately pays the tax on the income of the limited liability pass-through
19 entity.

20 ➔Section 42. KRS 141.044 is amended to read as follows:

21 (1) **For taxable years beginning on or after January 1, 2019, every corporation and**
22 **limited liability pass-through entity subject to taxation under Sections 40 and 41**
23 **of this Act shall make estimated tax payments if the taxes imposed by Sections 40**
24 **and 41 of this Act for the taxable year can reasonably be expected to exceed five**
25 **thousand dollars (\$5,000).**

26 (2) **Estimated tax payments for the taxes imposed under Sections 40 and 41 of this**
27 **Act shall be made at the same time and calculated in the same manner as**

1 estimated tax payments for federal income tax purposes under 26 U.S.C. sec.
 2 6655, except:

3 (a) The estimated liabilities for the taxes imposed under Sections 40 and 41 of
 4 this Act shall be used to make the estimated payments;

5 (b) Any provisions in 26 U.S.C. sec. 6655 that apply for federal tax purposes but
 6 do not apply to the taxes imposed under Sections 40 and 41 of this Act;

7 (c) The addition to tax identified by 26 U.S.C. sec. 6655(a) shall instead be
 8 considered a penalty under Section 4 of this Act;

9 (d) The tax interest rate identified under KRS 131.183 shall be used to
 10 determine the underpayment rate instead of the rate under 26 U.S.C. sec.
 11 6621; and

12 (e) Any waiver of penalties shall be performed as provided in KRS 131.175.

13 (3) The department may promulgate administrative regulations to implement this
 14 section. [The estimated tax provided for in KRS 141.042 shall be paid as follows:

15 ~~(a) If the declaration is filed on or before June 15 of the taxable year, the~~
 16 ~~estimated tax shall be paid in three (3) installments. The first installment, in~~
 17 ~~an amount equal to fifty percent (50%) of the estimated tax, shall be paid at~~
 18 ~~the time of the filing of the declaration. The second and third installments,~~
 19 ~~each in an amount equal to twenty-five percent (25%) of the estimated tax,~~
 20 ~~shall be paid on September 15 and December 15, respectively, of the taxable~~
 21 ~~year;~~

22 ~~(b) If the declaration is filed after June 15 and not after September 15 of the~~
 23 ~~taxable year and is not required by KRS 141.042 to be filed on or before June~~
 24 ~~15 of the taxable year, the estimated tax shall be paid in two (2) installments.~~
 25 ~~The first installment, in an amount equal to seventy-five percent (75%) of the~~
 26 ~~estimated tax, shall be paid at the time of the filing of the declaration and the~~
 27 ~~second installment, in an amount equal to twenty-five percent (25%) of the~~

1 ~~estimated tax, on December 15 of the taxable year;~~

2 ~~(c) If the declaration is filed after September 15 of the taxable year and is not~~
3 ~~required to be filed on or before September 15 of the taxable year, the~~
4 ~~estimated tax shall be paid in full at the time of the filing of the declaration;~~

5 ~~(d) If the declaration is filed after the time prescribed in KRS 141.042, including~~
6 ~~cases where extensions of time have been granted, paragraphs (a), (b), and (c)~~
7 ~~of this subsection shall not apply, and there shall be paid at the time of such~~
8 ~~filing all installments of estimated tax which would have been payable on or~~
9 ~~before such time if the declaration had been filed within the time prescribed in~~
10 ~~KRS 141.042, and the remaining installments shall be paid at the times at~~
11 ~~which, and in the amounts in which, they would have been payable if the~~
12 ~~declaration had been so filed.~~

13 ~~(2) (a) A refund of taxes collected pursuant to KRS 141.042 shall include interest at~~
14 ~~the tax interest rate as defined in KRS 131.010(6).~~

15 ~~(b) Effective for refunds issued after April 24, 2008, the interest shall not begin to~~
16 ~~accrue until ninety (90) days after the latest of:~~

17 ~~1. The due date of the return;~~

18 ~~2. The date the return was filed;~~

19 ~~3. The date the tax was paid;~~

20 ~~4. The last day prescribed by law for filing the return, or~~

21 ~~5. The date an amended return claiming a refund is filed.~~

22 ~~(3) (a) Overpayment as defined in KRS 134.580 resulting from the payment of~~
23 ~~estimated tax in excess of the amount determined to be due upon the filing of~~
24 ~~a return for the same taxable year may be credited against the amount of~~
25 ~~estimated tax determined to be due on any declaration filed for the next~~
26 ~~succeeding taxable year or for any deficiency or nonpayment of tax for any~~
27 ~~previous taxable year;~~

1 ~~(b) No refund shall be made of any estimated tax paid unless a complete return is~~
2 ~~filed as required by this chapter.~~

3 ~~(4) At the election of the taxpayer, any installment of the estimated tax may be paid~~
4 ~~prior to the date prescribed for its payment.~~

5 ~~(5) In the application of this section and KRS 141.042 for a taxable year beginning on~~
6 ~~any date other than January 1, there shall be substituted for the months specified in~~
7 ~~this section and KRS 141.042 the relative months and dates which correspond to~~
8 ~~that taxable year.]~~

9 ➔Section 43. KRS 141.066 is amended to read as follows:

10 (1) As used in this section:

11 (a) "Federal poverty level" means the Health and Human Services poverty
12 guidelines updated periodically in the Federal Register by the United States
13 Department of Health and Human Services under the authority of 42 U.S.C.
14 sec. 9902(2) and available on June 30 of the taxable year;

15 (b) "Qualifying dependent" means a qualifying child as defined in the Internal
16 Revenue Code, Section 152(c), and includes a child who lives in the
17 household but cannot be claimed as a dependent if the provisions of Internal
18 Revenue Code Section 152(e)(2) and 152(e)(4) apply;

19 (c) "Qualifying individual" means an individual whose filing status is single or
20 married filing separately if during the taxable year the individual's spouse is
21 not a member of the household;

22 (d) "Qualifying married couple" means a husband and wife living together who
23 file a joint return or separately on a combined return. "Marital status" shall
24 have the same meaning as defined in Section 7703 of the Internal Revenue
25 Code; and

26 (e) "Threshold amount" means:

27 1. For a qualifying individual with no qualifying dependent children, the

- 1 federal poverty level established for a family unit size of one (1):
- 2 2. For a qualifying individual with one (1) qualifying dependent child or a
- 3 qualifying married couple with no qualifying dependent children, the
- 4 federal poverty level established for a family unit size of two (2);
- 5 3. For a qualifying individual with two (2) qualifying dependent children or
- 6 a qualifying married couple with one (1) qualifying dependent child, the
- 7 federal poverty level established for a family unit size of three (3);
- 8 4. For a qualifying individual with (3) or more qualifying dependent
- 9 children or a qualifying married couple with two (2) or more qualifying
- 10 dependent children, the federal poverty level established for a family
- 11 unit size of four (4).

12 (2) (a) For taxable years beginning before January 1, 2005, a resident individual

13 whose adjusted gross income does not exceed the amounts set out in

14 paragraph (c) of this subsection shall be eligible for a nonrefundable "low

15 income" tax credit. The credit shall be applied against the taxpayer's tax

16 liability calculated under KRS 141.020, and shall be taken in the order

17 established by KRS 141.0205.

18 (b) For a husband and wife filing jointly, the "low income" tax credit shall be

19 computed on the basis of their joint adjusted gross income and shall be

20 applied against their joint tax liability. For a husband and wife living together,

21 whether filing separate returns or filing separately on a combined return, the

22 "low income" credit shall be computed on the basis of their combined adjusted

23 gross income, except that a separately computed gross income of less than

24 zero shall be treated as zero, and shall be applied against their combined tax

25 liability.

26 (c) The "low income" tax credit shall be computed as follows:

27

PERCENT OF TAX

1	AMOUNT OF ADJUSTED	LIABILITY ALLOWED AS
2	GROSS INCOME	LOW INCOME TAX CREDIT
3	not over \$5,000	100%
4	over \$ 5,000 but not over \$10,000	50%
5	over \$10,000 but not over \$15,000	25%
6	over \$15,000 but not over \$20,000	15%
7	over \$20,000 but not over \$25,000	5%
8	over \$25,000	-0-

9 (3) (a) For taxable years beginning after December 31, 2004, qualifying taxpayers
 10 whose modified gross income is below one hundred thirty-three percent
 11 (133%) of the threshold amount shall be entitled to a nonrefundable family
 12 size tax credit. The family size tax credit shall be applied against the
 13 taxpayer's tax liability calculated under KRS 141.020. The family size tax
 14 credit shall not reduce the taxpayer's tax liability below zero.

15 (b) For qualifying taxpayers whose modified gross income is equal to or below
 16 one hundred percent (100%) of the threshold amount, the family size tax
 17 credit shall be equal to the taxpayer's tax liability.

18 (c) For qualifying taxpayers whose modified gross income exceeds the threshold
 19 amount but is below one hundred thirty-three percent (133%) of the threshold
 20 amount, the family size tax credit shall be equal to the amount of the
 21 taxpayer's individual income tax liability multiplied by a percentage as
 22 follows:

23 1. If modified gross income is above one hundred percent (100%) but less
 24 than or equal to one hundred four percent (104%) of the threshold
 25 amount, the credit percentage shall be ninety percent (90%);

26 2. If modified gross income is above one hundred four percent (104%) but
 27 less than or equal to one hundred eight percent (108%) of the threshold

- 1 amount, the credit percentage shall be eighty percent (80%);
- 2 3. If modified gross income is above one hundred eight percent (108%) but
- 3 less than or equal to one hundred twelve percent (112%) of the threshold
- 4 amount, the credit percentage shall be seventy percent (70%);
- 5 4. If modified gross income is above one hundred twelve percent (112%)
- 6 but less than or equal to one hundred sixteen percent (116%) of the
- 7 threshold amount, the credit percentage shall be sixty percent (60%);
- 8 5. If modified gross income is above one hundred sixteen percent (116%)
- 9 but less than or equal to one hundred twenty percent (120%) of the
- 10 threshold amount, the credit percentage shall be fifty percent (50%);
- 11 6. If modified gross income is above one hundred twenty percent (120%)
- 12 but less than or equal to one hundred twenty-four percent (124%) of the
- 13 threshold amount, the credit percentage shall be forty percent (40%);
- 14 7. If modified gross income is above one hundred twenty-four percent
- 15 (124%) but less than or equal to one hundred twenty-seven percent
- 16 (127%) of the threshold amount, the credit percentage shall be thirty
- 17 percent (30%);
- 18 8. If modified gross income is above one hundred twenty-seven percent
- 19 (127%) but less than or equal to one hundred thirty percent (130%) of
- 20 the threshold amount, the credit percentage shall be twenty percent
- 21 (20%);
- 22 9. If modified gross income is above one hundred thirty percent (130%) but
- 23 less than or equal to one hundred thirty-three percent (133%) of the
- 24 threshold amount, the credit percentage shall be ten percent (10%);
- 25 10. If modified gross income is above one hundred thirty-three percent
- 26 (133%) of the threshold amount, the credit percentage shall be zero.

27 **(d) For taxable years beginning on or after January 1, 2019, but before**

1 January 1, 2021, in addition to the credit calculated under paragraphs (a),
2 (b), and (c) of this subsection, the income gap credit shall be allowed:

3 1. If modified gross income is above one hundred percent (100%) but
4 less than or equal to one hundred four percent (104%) of the
5 threshold amount, the credit shall be in an amount equal to:

6 a. Eleven dollars (\$11) for a family size of one (1);

7 b. Seven dollars (\$7) for a family size of two (2); and

8 c. Three dollars (\$3) for a family size of three (3);

9 2. If modified gross income is above one hundred four percent (104%)
10 but less than or equal to one hundred eight percent (108%) of the
11 threshold amount, the credit shall be in an amount equal to:

12 a. Twenty dollars (\$20) for a family size of one (1);

13 b. Thirteen dollars (\$13) for a family size of two (2); and

14 c. Six dollars (\$6) for a family size of three (3);

15 3. If modified gross income is above one hundred eight percent (108%)
16 but less than or equal to one hundred twelve percent (112%) of the
17 threshold amount, the credit shall be in an amount equal to:

18 a. Twenty-nine dollars (\$29) for a family size of one (1);

19 b. Eighteen dollars (\$18) for a family size of two (2); and

20 c. Six dollars (\$6) for a family size of three (3);

21 4. If modified gross income is above one hundred twelve percent (112%)
22 but less than or equal to one hundred sixteen percent (116%) of the
23 threshold amount, the credit shall be in an amount equal to:

24 a. Thirty-seven dollars (\$37) for a family size of one (1);

25 b. Twenty-two dollars (\$22) for a family size of two (2); and

26 c. Six dollars (\$6) for a family size of three (3);

27 5. If modified gross income is above one hundred sixteen percent (116%)

- 1 but less than or equal to one hundred twenty percent (120%) of the
 2 threshold amount, the credit shall be in an amount equal to:
 3 a. Forty-five dollars (\$45) for a family size of one (1);
 4 b. Twenty-four dollars (\$24) for a family size of two (2); and
 5 c. Four dollars (\$4) for a family size of three (3);
 6 6. If modified gross income is above one hundred twenty percent (120%)
 7 but less than or equal to one hundred twenty-four percent (124%) of
 8 the threshold amount, the credit shall be in an amount equal to:
 9 a. Fifty-one dollars (\$51) for a family size of one (1); and
 10 b. Twenty-six dollars (\$26) for a family size of two (2);
 11 7. If modified gross income is above one hundred twenty-four percent
 12 (124%) but less than or equal to one hundred twenty-seven percent
 13 (127%) of the threshold amount, the credit shall be in an amount
 14 equal to:
 15 a. Fifty-eight dollars (\$58) for a family size of one (1); and
 16 b. Twenty-seven dollars (\$27) for a family size of two (2);
 17 8. If modified gross income is above one hundred twenty-seven percent
 18 (127%) but less than or equal to one hundred thirty percent (130%) of
 19 the threshold amount, the credit shall be in an amount equal to:
 20 a. Sixty-four dollars (\$64) for a family size of one (1); and
 21 b. Twenty-eight dollars (\$28) for a family size of two (2); and
 22 9. If modified gross income is above one hundred thirty percent (130%)
 23 but less than or equal to one hundred thirty-three percent (133%) of
 24 the threshold amount, the credit shall be in an amount equal to:
 25 a. Sixty-nine dollars (\$69) for a family size of one (1); and
 26 b. Twenty-eight dollars (\$28) for a family size of two (2).

27 (4) For a qualifying married couple filing jointly, the family size tax credit shall be

1 computed on the basis of their joint modified gross income and shall be applied
2 against their joint tax liability. For a qualifying married couple living together,
3 whether filing separate returns or filing separately on a combined return, the family
4 size tax credit shall be computed on the basis of their combined modified gross
5 income, except that a separately computed modified gross income of less than zero
6 shall be treated as zero, and shall be applied against their combined tax liability.

7 ➔Section 44. KRS 141.121 is amended to read as follows:

8 (1) As used in this section:

9 (a) "Affiliated airline" means an airline:

- 10 1. For which a qualified air freight forwarder facilitates air transportation;
- 11 and
- 12 2. That is in the same affiliated group as a qualified air freight forwarder;

13 (b) "Affiliated group" has the same meaning as in KRS 141.200;

14 (c) "Kentucky revenue passenger miles" means the total revenue passenger miles
15 within the borders of Kentucky for all flight stages that either originate or
16 terminate in this state;

17 (d) "Passenger airline" means a person or corporation engaged primarily in the
18 carriage by aircraft of passengers in interstate commerce;

19 (e) "Provider" means any corporation engaged in the business of providing:

- 20 1. Communications service as defined in KRS 136.602;
- 21 2. Cable service as defined in KRS 136.602; or
- 22 3. Internet access as defined in 47 U.S.C. sec. 151;

23 (f) "Qualified air freight forwarder" means a person that:

- 24 1. Is engaged primarily in the facilitation of the transportation of property
25 by air;
- 26 2. Does not itself operate aircraft; and
- 27 3. Is in the same affiliated group as an affiliated airline; and

1 (g) "Revenue passenger miles" means miles calculated in accordance with 14
2 C.F.R. Part 241.

3 (2) (a) For purposes of apportioning business income to this state for taxable years
4 beginning prior to January 1, 2018:

5 1. Passenger airlines shall determine the property, payroll, and sales factors
6 as follows:

7 a. Except as modified by this subdivision, the property factor shall be
8 determined as provided in KRS 141.901. Aircraft operated by a
9 passenger airline shall be included in both the numerator and
10 denominator of the property factor. Aircraft shall be included in
11 the numerator of the property factor by determining the product of:

12 i. The total average value of the aircraft operated by the
13 passenger airline; and

14 ii. A fraction, the numerator of which is the Kentucky revenue
15 passenger miles of the passenger airline for the taxable year
16 and the denominator of which is the total revenue passenger
17 miles of the passenger airline for the taxable year;

18 b. Except as modified by this subdivision, the payroll factor shall be
19 determined as provided in KRS 141.901. Compensation paid
20 during the tax period by a passenger airline to flight personnel
21 shall be included in the numerator of the payroll factor by
22 determining the product of:

23 i. The total amount paid during the taxable year to flight
24 personnel; and

25 ii. A fraction, the numerator of which is the Kentucky revenue
26 passenger miles of the passenger airline for the taxable year
27 and the denominator of which is the total revenue passenger

- 1 miles of the passenger airline for the taxable year; and
- 2 c. Except as modified by this subdivision, the sales factor shall be
- 3 determined as provided in KRS 141.901. Transportation
- 4 revenues shall be included in the numerator of the sales
- 5 factor by determining the product of:
- 6 i The total transportation revenues of the passenger airline for
- 7 the taxable year; and
- 8 ii. A fraction, the numerator of which is the Kentucky revenue
- 9 passenger miles for the taxable year and the denominator of
- 10 which is the total revenue passenger miles for the taxable
- 11 year; and
- 12 2. Qualified air freight forwarders shall determine the property, payroll,
- 13 and sales factors as follows:
- 14 a. The property factor shall be determined as provided in KRS
- 15 141.901;
- 16 b. The payroll factor shall be determined as provided in KRS
- 17 141.901; and
- 18 c. Except as modified by this subparagraph, the sales factor shall be
- 19 determined as provided in KRS 141.901. Freight forwarding
- 20 revenues shall be included in the numerator of the sales factor by
- 21 determining the product of:
- 22 i. The total freight forwarding revenues of the qualified air
- 23 freight forwarder for the taxable year; and
- 24 ii. A fraction, the numerator of which is miles operated in
- 25 Kentucky by the affiliated airline and the denominator of
- 26 which is the total miles operated by the affiliated airline.
- 27 (b) For purposes of apportioning income to this state for taxable years beginning

1 on or after January 1, 2018, except as modified by this paragraph, the
2 apportionment fraction shall be determined as provided in KRS 141.120,
3 except that:

- 4 1. Transportation revenues shall be determined to be in this state by
5 multiplying the total transportation revenues by a fraction, the numerator
6 of which is the Kentucky revenue passenger miles for the taxable year
7 and the denominator of which is the total revenue passenger miles for
8 the taxable year; and
- 9 2. Freight forwarding revenues shall be determined to be in this state by
10 multiplying the total freight forwarding revenues by a fraction, the
11 numerator of which is miles operated in Kentucky by the affiliated
12 airline and the denominator of which is the total miles operated by the
13 affiliated airline.

14 (3) For purposes of apportioning income to this state for taxable years beginning on or
15 after January 1, 2018, the apportionment fraction for a provider shall continue to be
16 calculated using a three (3) factor formula as provided in KRS 141.901.

17 (4) (a) A corporation may elect the allocation and apportionment methods for the
18 corporation's apportionable income provided for in paragraphs (b) and (c) of
19 this subsection. The election, if made, shall be irrevocable for a period of five
20 (5) years.

21 (b) All business income derived directly or indirectly from the sale of
22 management, distribution, or administration services to or on behalf of
23 regulated investment companies, as defined under the Internal Revenue Code
24 of 1986, as amended, including trustees, and sponsors or participants of
25 employee benefit plans which have accounts in a regulated investment
26 company, shall be apportioned to this state only to the extent that shareholders
27 of the investment company are domiciled in this state as follows:

- 1 1. Total apportionable income shall be multiplied by a fraction, the
2 numerator of which shall be Kentucky receipts from the services for the
3 tax period and the denominator of which shall be the total receipts
4 everywhere from the services for the tax period;
 - 5 2. For purposes of subparagraph 1. of this paragraph, Kentucky receipts
6 shall be determined by multiplying total receipts for the taxable year
7 from each separate investment company for which the services are
8 performed by a fraction. The numerator of the fraction shall be the
9 average of the number of shares owned by the investment company's
10 shareholders domiciled in this state at the beginning of and at the end of
11 the investment company's taxable year, and the denominator of the
12 fraction shall be the average of the number of the shares owned by the
13 investment company shareholders everywhere at the beginning of and at
14 the end of the investment company's taxable year; and
 - 15 3. Nonapportionable income shall be allocated to this state as provided in
16 KRS 141.120.
- 17 (c) All apportionable income derived directly or indirectly from the sale of
18 securities brokerage services by a business which operates within the
19 boundaries of any area of the Commonwealth, which on June 30, 1992, was
20 designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2)
21 before that statute was renumbered in 1992, shall be apportioned to this state
22 only to the extent that customers of the securities brokerage firm are
23 domiciled in this state. The portion of business income apportioned to
24 Kentucky shall be determined by multiplying the total business income from
25 the sale of these services by a fraction determined in the following manner:
- 26 1. The numerator of the fraction shall be the brokerage commissions and
27 total margin interest paid in respect of brokerage accounts owned by

1 customers domiciled in Kentucky for the brokerage firm's taxable year;

2 2. The denominator of the fraction shall be the brokerage commissions and
3 total margin interest paid in respect of brokerage accounts owned by all
4 of the brokerage firm's customers for that year; and

5 3. Nonapportionable income shall be allocated to this state as provided in
6 KRS 141.120.

7 (5) Public service companies and financial organizations required by KRS 141.010 to
8 allocate and apportion net income shall allocate and apportion that income as
9 follows:

10 (a) Nonapportionable income shall be allocated to this state as provided in KRS
11 141.120;

12 (b) Apportionable income shall be apportioned to this state as provided by KRS
13 141.120. Receipts shall be determined as provided by administrative
14 regulations promulgated by the department; and

15 (c) An affiliated group required to file a consolidated return under KRS 141.200
16 that includes a public service company, a provider of communications services
17 or multichannel video programming services as defined in KRS 136.602, or a
18 financial organization shall determine the amount of receipts as provided by
19 administrative regulations promulgated by the department.

20 (6) A corporation:

21 (a) That owns an interest in a limited liability pass-through entity; or

22 (b) That owns an interest in a general partnership;

23 shall include the proportionate share of receipts of the limited liability pass-through
24 entity or general partnership when apportioning income. The phrases "an interest in
25 a limited liability pass-through entity" and "an interest in a general partnership"
26 shall extend to each level of multiple-tiered pass-through entities.

27 **(7) The department shall promulgate administrative regulations to detail the**

1 sourcing of the following receipts related to financial institutions:

2 (a) Receipts from the lease of real property;

3 (b) Receipts from the lease of tangible personal property;

4 (c) Interest, fees, and penalties imposed in connection with loans secured by
5 real property;

6 (d) Interest, fees, and penalties imposed in connection with loans not secured
7 by real property;

8 (e) Net gains from the sale of loans;

9 (f) Receipts from fees, interest, and penalties charged to card holders;

10 (g) Net gains from the sale of credit card receivables;

11 (h) Card issuer's reimbursement fees;

12 (i) Receipts from merchant discount;

13 (j) Receipts from ATM fees;

14 (k) Receipts from loan servicing fees;

15 (l) Receipts from other services;

16 (m) Receipts from the financial institution's investment assets and activity and
17 trading assets and activity; and

18 (n) All other receipts.

19 ➔Section 45. KRS 141.170 is amended to read as follows:

20 (1) The department~~[of Revenue]~~ may grant any taxpayer other than a corporation a
21 reasonable extension of time for filing an income tax return whenever good cause
22 exists, and shall keep a record of every extension. Except in the case of an
23 individual who is abroad, no extension shall be granted for more than six (6)
24 months. In the case of an individual who is abroad, the extension shall not be
25 granted for more than one (1) year.

26 (2) A corporation may be granted an extension of not more than seven (7)~~[six (6)]~~
27 months for filing its income tax return, provided the corporation, on or before the

1 date prescribed for payment of the tax, requests the extension and pays the amount
2 properly estimated as its tax.

3 (3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax,
4 an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax
5 shown due on the return, but not previously paid, from the time the tax was due
6 until the return is actually filed with the department.

7 ➔Section 46. KRS 141.175 is amended to read as follows:

8 (1) *As used in this section, Section 37 of this Act, and KRS 141.900:*

9 *(a) "Active duty" means the day the person assembles at his or her armory or*
10 *other designated place until the day he or she returns there and has been*
11 *properly relieved, including:*

12 *1. Fractional parts of a day which count as a full day; and*

13 *2. All days of active duty for training and inactive duty training; and*

14 *(b) "Armed Forces" means the military forces of the United States and the*
15 *Commonwealth, including the:*

16 *1. Army;*

17 *2. Navy;*

18 *3. Air Force;*

19 *4. Marine Corps;*

20 *5. Coast Guard;*

21 *6. Any Reserve branch of the Army, Navy, Air Force, Marine Corps, or*
22 *Coast Guard; and*

23 *7. National Guard.*

24 (2) (a) Members of the *Armed Forces*~~[National Guard or any branch of the reserves]~~
25 called to active duty who are required by law to file an income tax return and
26 pay income taxes to the state of Kentucky shall be allowed an extension to file
27 the return and pay the taxes, which would otherwise become due during the

1 period of service, if the member serves in an area designated as a combat zone
2 by presidential proclamation.

3 ~~(b)(2)~~ The extension referred to in paragraph (a) of this subsection~~(1) of this~~
4 ~~section~~ shall expire twelve (12) months after the service.

5 ~~(c)(3)~~ No penalty shall accrue by reason of the extension.

6 ➔Section 47. KRS 141.201 is amended to read as follows:

- 7 (1) This section shall apply to taxable years beginning on or after January 1, 2019.
- 8 (2) As used in this section:
- 9 (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the
10 Internal Revenue Code and related regulations;
- 11 (b) "Consolidated return" means a Kentucky corporation income tax return filed
12 by members of an affiliated group in accordance with this section. The
13 determinations and computations required by this chapter shall be made in
14 accordance with Section 1502 of the Internal Revenue Code and related
15 regulations, except as required by differences between this chapter and the
16 Internal Revenue Code. Corporations exempt from taxation under KRS
17 141.040 shall not be included in the return;
- 18 (c) "Separate return" means a Kentucky corporation income tax return in which
19 only the transactions and activities of a single corporation are considered in
20 making all determinations and computations necessary to calculate taxable net
21 income, tax due, and credits allowed in accordance with this chapter;
- 22 (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the
23 Internal Revenue Code; and
- 24 (e) "Election period" means the forty-eight (48)~~ninety-six (96)~~ month period
25 provided for in subsection (4)(d) of this section.
- 26 (3) Every corporation doing business in this state, except those exempt from taxation
27 under KRS 141.040, shall, for each taxable year:

- 1 (a) 1. File a combined report, if the corporation is a member of unitary
2 business group as provided in KRS 141.202; or
3 2. Make an election to file a consolidated return with all members of the
4 affiliated group as provided in this section; or
5 (b) File a separate return, if paragraph (a) of this subsection does not apply.
- 6 (4) (a) An affiliated group, whether or not filing a federal consolidated return, may
7 elect to file a consolidated return which includes all members of the affiliated
8 group.
9 (b) An affiliated group electing to file a consolidated return under paragraph (a) of
10 this subsection shall be treated for all purposes as a single corporation under
11 this chapter. All transactions between corporations included in the
12 consolidated return shall be eliminated in computing net income as provided
13 in KRS 141.039(2), and determining the apportionment fraction in accordance
14 with KRS 141.120.
15 (c) Any election made in accordance with paragraph (a) of this subsection shall be
16 made on a form prescribed by the department and shall be submitted to the
17 department on or before the due date of the return, including extensions, for
18 the first taxable year for which the election is made.
19 (d) Any election to file a consolidated return pursuant to paragraph (a) of this
20 subsection shall be binding on both the department and the affiliated group for
21 a period beginning with the first month of the first taxable year for which the
22 election is made and ending with the conclusion of the taxable year in which
23 the forty-eighth~~ninety-sixth~~ consecutive calendar month expires.
24 (e) For each taxable year for which an affiliated group has made an election
25 provided in paragraph (a) of this subsection, the consolidated return shall
26 include all corporations which are members of the affiliated group.
- 27 (5) Each corporation included as part of an affiliated group filing a consolidated return

1 shall be jointly and severally liable for the income tax liability computed on the
2 consolidated return, except that any corporation which was not a member of the
3 affiliated group for the entire taxable year shall be jointly and severally liable only
4 for that portion of the Kentucky consolidated income tax liability attributable to that
5 portion of the year that the corporation was a member of the affiliated group.

6 (6) Every corporation return or report required by this chapter shall be executed by one
7 (1) of the following officers of the corporation: the president, vice president,
8 secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting
9 officer. The department may require a further or supplemental report of further
10 information and data necessary for computation of the tax.

11 (7) In the case of a corporation doing business in this state that carries on transactions
12 with stockholders or with other corporations related by stock ownership, by
13 interlocking directorates, or by some other method, the department shall require
14 information necessary to make possible accurate assessment of the income derived
15 by the corporation from sources within this state. To make possible this assessment,
16 the department may require the corporation to file supplementary returns showing
17 information respecting the business of any or all individuals and corporations
18 related by one (1) or more of these methods to the corporation. The department may
19 require the return to show in detail the record of transactions between the
20 corporation and any or all other related corporations or individuals.

21 ➔Section 48. KRS 141.202 is amended to read as follows:

22 (1) This section shall apply to taxable years beginning on or after January 1, 2019.

23 (2) As used in this section:

24 (a) "Combined group" means the group of all corporations whose income and
25 apportionment factors are required to be taken into account as provided in
26 subsection (3) of this section in determining the taxpayer's share of the net
27 income or loss apportionable to this state. **A combined group shall include**

1 **only corporations, the voting stock of which is more than fifty percent (50%)**
2 **owned, directly or indirectly, by a common owner or owners;**

3 (b) "Corporation" has the same meaning as in KRS 141.010, including an
4 organization of any kind treated as a corporation for tax purposes under KRS
5 141.040, wherever located, which if it were doing business in this state would
6 be a taxpayer, and the business conducted by a pass-through entity which is
7 directly or indirectly held by a corporation shall be considered the business of
8 the corporation to the extent of the corporation's distributive share of the pass-
9 through entity income, inclusive of guaranteed payments;

10 (c) "Doing business in a tax haven" means being engaged in activity sufficient for
11 that tax haven jurisdiction to impose a tax under United States constitutional
12 standards;

13 (d) **I.** "Tax haven" means a jurisdiction that, during the taxable year has no or
14 nominal effective tax on the relevant income and:

15 **a.**~~[1.]~~ Has laws or practices that prevent effective exchange of
16 information for tax purposes with other governments on taxpayers
17 benefitting from the tax regime;

18 **b.**~~[2.]~~ Has a tax regime which lacks transparency. A tax regime lacks
19 transparency if the details of legislative, legal, or administrative
20 provisions are not open and apparent or are not consistently
21 applied among similarly situated taxpayers, or if the information
22 needed by tax authorities to determine a taxpayer's correct tax
23 liability, such as accounting records and underlying
24 documentation, is not adequately available;

25 **c.**~~[3.]~~ Facilitates the establishment of foreign-owned entities without the
26 need for a local substantive presence or prohibits these entities
27 from having any commercial impact on the local economy;

1 ~~d.[4.]~~ Explicitly or implicitly excludes the jurisdiction's resident
 2 taxpayers from taking advantage of the tax regime's benefits or
 3 prohibits enterprises that benefit from the regime from operating in
 4 the jurisdiction's domestic market; or

5 ~~e.[5.]~~ Has created a tax regime which is favorable for tax avoidance,
 6 based upon an overall assessment of relevant factors, including
 7 whether the jurisdiction has a significant untaxed offshore
 8 financial or other services sector relative to its overall economy.

9 **2. "Tax haven" does not include a jurisdiction that has entered into a**
 10 **comprehensive income tax treaty with the United States, which the**
 11 **Secretary of the Treasury has determined is satisfactory for purposes**
 12 **of Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code;**

13 (e) "Taxpayer" means any corporation subject to the tax imposed under this
 14 chapter;

15 (f) "Unitary business" means a single economic enterprise that is made up either
 16 of separate parts of a single corporation or of a commonly controlled group of
 17 corporations that are sufficiently interdependent, integrated, and interrelated
 18 through their activities so as to provide a synergy and mutual benefit that
 19 produces a sharing or exchange of value among them and a significant flow of
 20 value to the separate parts. For purposes of this section, the term "unitary
 21 business" shall be broadly construed, to the extent permitted by the United
 22 States Constitution; and

23 (g) "United States" means the fifty (50) states of the United States, the District of
 24 Columbia, and United States' territories and possessions.

25 (3) (a) Except as provided in KRS 141.201, a taxpayer engaged in a unitary business
 26 with one (1) or more other corporations shall file a combined report which
 27 includes the income, determined under subsection (5) of this section, and the

1 apportionment fraction, determined under KRS 141.120 and paragraph (d) of
2 this subsection, of all corporations that are members of the unitary business,
3 and any other information as required by the department. **The combined**
4 **report shall be filed on a waters-edge basis under subsection (8) of this**
5 **section.**

6 (b) The department may, by administrative regulation, require that the combined
7 report include the income and associated apportionment factors of any
8 corporations that are not included as provided by paragraph (a) of this
9 subsection, but that are members of a unitary business, in order to reflect
10 proper apportionment of income of the entire unitary businesses. Authority to
11 require combination by administrative regulation under this paragraph
12 includes authority to require combination of corporations that are not, or
13 would not be combined, if the corporation were doing business in this state.

14 (c) In addition, if the department determines that the reported income or loss of a
15 taxpayer engaged in a unitary business with any corporation not included as
16 provided by paragraph (a) of this subsection represents an avoidance or
17 evasion of tax by the taxpayer, the department may, on a case-by-case basis,
18 require all or any part of the income and associated apportionment factors of
19 the corporation be included in the taxpayer's combined report.

20 (d) With respect to the inclusion of associated apportionment factors as provided
21 in paragraph (a) of this subsection, the department may require the inclusion
22 of any one (1) or more additional factors which will fairly represent the
23 taxpayer's business activity in this state, or the employment of any other
24 method to effectuate a proper reflection of the total amount of income subject
25 to apportionment and an equitable allocation and apportionment of the
26 taxpayer's income.

27 (e) **A unitary business shall consider the combined gross receipts and combined**

1 income from all sources of all members under subsection (8) of this section,
2 including eliminating entries for transactions among the members under
3 subsection (8)(e) of this section.

4 (f) Notwithstanding paragraphs (a) to ~~(e)~~[(d)] of this subsection, a consolidated
5 return may be filed as provided in KRS 141.201 if the taxpayer makes an
6 election according to KRS 141.201.

7 (4) The use of a combined report does not disregard the separate identities of the
8 taxpayer members of the combined group. Each taxpayer member is responsible for
9 tax based on its taxable income or loss apportioned or allocated to this state, which
10 shall include, in addition to the other types of income, the taxpayer member's share
11 of apportionable income of the combined group, where apportionable income of the
12 combined group is calculated as a summation of the individual net incomes of all
13 members of the combined group. A member's net income is determined by
14 removing all but apportionable income, expense, and loss from that member's total
15 income as provided in subsection (5) of this section.

16 (5) (a) Each taxpayer member is responsible for tax based on its taxable income or
17 loss apportioned or allocated to this state, which shall include:

- 18 1. Its share of any income apportionable to this state of each of the
19 combined groups of which it is a member, determined under subsection
20 (6) of this section;
- 21 2. Its share of any income apportionable to this state of a distinct business
22 activity conducted within and without the state wholly by the taxpayer
23 member, determined under KRS 141.120;
- 24 3. Its income from a business conducted wholly by the taxpayer member
25 entirely within the state;
- 26 4. Its income sourced to this state from the sale or exchange of capital or
27 assets, and from involuntary conversions, as determined under

- 1 subsection (8)(k) of this section;
- 2 5. Its nonapportionable income or loss allocable to this state, determined
- 3 under KRS 141.120;
- 4 6. Its income or loss allocated or apportioned in an earlier year, required to
- 5 be taken into account as state source income during the income year,
- 6 other than a net operating loss; and
- 7 7. Its net operating loss carryover. If the taxable income computed pursuant
- 8 to this subsection results in a loss for a taxpayer member of the
- 9 combined group, that taxpayer member has a Kentucky net operating
- 10 loss, subject to the net operating loss limitations and carry forward
- 11 provisions of KRS 141.011. The net operating loss is applied as a
- 12 deduction in a subsequent year only if that taxpayer has Kentucky source
- 13 positive net income, whether or not the taxpayer is or was a member of a
- 14 combined reporting group in the subsequent year.
- 15 (b) No tax credit or post-apportionment deduction earned by one (1) member of
- 16 the group, but not fully used by or allowed to that member, may be used in
- 17 whole or in part by another member of the group or applied in whole or in part
- 18 against the total income of the combined group.
- 19 (c) A post-apportionment deduction carried over into a subsequent year as to the
- 20 member that incurred it, and available as a deduction to that member in a
- 21 subsequent year, will be considered in the computation of the income of that
- 22 member in the subsequent year, regardless of the composition of that income
- 23 as apportioned, allocated, or wholly within this state.
- 24 (6) The taxpayer's share of the business income apportionable to this state of each
- 25 combined group of which it is a member shall be the product of:
- 26 (a) The apportionable income of the combined group, determined under
- 27 subsection (7) of this section; and

1 (b) The taxpayer member's apportionment fraction, determined under KRS
2 141.120, including in the sales factor numerator the taxpayer's sales associated
3 with the combined group's unitary business in this state, and including in the
4 denominator the sales of all members of the combined group, including the
5 taxpayer, which sales are associated with the combined group's unitary
6 business wherever located. The sales of a pass-through entity shall be included
7 in the determination of the partner's apportionment percentage in proportion to
8 a ratio, the numerator of which is the amount of the partner's distributive share
9 of the pass-through entity's unitary income included in the income of the
10 combined group as provided in subsection (8) of this section and the
11 denominator of which is the amount of pass-through entity's total unitary
12 income.

13 (7) The apportionable income of a combined group is determined as follows:

14 (a) The total income of the combined group is the sum of the income of each
15 member of the combined group determined under federal income tax laws, as
16 adjusted for state purposes, as if the member were not consolidated for federal
17 purposes; and

18 (b) From the total income of the combined group determined under subsection (8)
19 of this section, subtract any income and add any expense or loss, other than
20 the apportionable income, expense, or loss of the combined group.

21 (8) To determine the total income of the combined group, taxpayer members shall take
22 into account all or a portion of the income and apportionment factor of only the
23 following members otherwise included in the combined group as provided in
24 subsection (3) of this section:

25 (a) The entire income and apportionment percentage of any member incorporated
26 in the United States or formed under the laws of any state, the District of
27 Columbia, or any territory or possession of the United States *that earns less*

1 than eighty percent (80%) of its income from sources outside of the United
2 States, the District of Columbia, or any territory or possession of the United
3 States;

4 (b) Any member that earns more than twenty percent (20%) of its income, directly
5 or indirectly, from intangible property or service related activities that are
6 deductible against the apportionable income of other members of the
7 combined group, to the extent of that income and the apportionment factor
8 related to that income;

9 (c) The entire income and apportionment factor of any member that is doing
10 business in a tax haven. If the member's business activity within a tax haven is
11 entirely outside the scope of the laws, provisions, and practices that cause the
12 jurisdiction to meet the definition established in subsection (2)(d) of this
13 section, the activity of the member shall be treated as not having been
14 conducted in a tax haven;

15 (d) If a unitary business includes income from a pass-through entity, the income
16 to be included in the total income of the combined group shall be the member
17 of the combined group's direct and indirect distributive share of the pass-
18 through entity's unitary income;

19 (e) Income from an intercompany transaction between members of the same
20 combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13.
21 Upon the occurrence of any of the following events, deferred income resulting
22 from an intercompany transaction between members of a combined group
23 shall be restored to the income of the seller, and shall be apportionable income
24 earned immediately before the event:

25 1. The object of a deferred intercompany transaction is:

26 a. Resold by the buyer to an entity that is not a member of the
27 combined group;

- 1 b. Resold by the buyer to an entity that is a member of the combined
2 group for use outside the unitary business in which the buyer and
3 seller are engaged; or
- 4 c. Converted by the buyer to a use outside the unitary business in
5 which the buyer and seller are engaged; or
- 6 2. The buyer and seller are no longer members of the same combined
7 group, regardless of whether the members remain unitary;
- 8 (f) A charitable expense incurred by a member of a combined group shall, to the
9 extent allowable as a deduction provided by Section 170 of the Internal
10 Revenue Code, be subtracted first from the apportionable income of the
11 combined group, subject to the income limitations of that section applied to
12 the entire apportionable income of the group, and any remaining amount shall
13 then be treated as a nonapportionable expense allocable to the member that
14 incurred the expense, subject to the income limitations of that section applied
15 to the nonapportionable income of that specific member. Any charitable
16 deduction disallowed under this paragraph, but allowed as a carryover
17 deduction in a subsequent year, shall be treated as originally incurred in the
18 subsequent year by the same member, and this paragraph shall apply in the
19 subsequent year in determining the allowable deduction in that year;
- 20 (g) Gain or loss from the sale or exchange of capital assets, property described by
21 Section 1231(a)(3) of the Internal Revenue Code, and property subject to an
22 involuntary conversion shall be removed from the total separate net income of
23 each member of a combined group and shall be apportioned and allocated as
24 follows:
- 25 1. For each class of gain or loss, including short-term capital, long-term
26 capital, Internal Revenue Code Section 1231, and involuntary
27 conversions, all members' gain and loss for the class shall be combined,

- 1 without netting between the classes, and each class of net gain or loss
2 separately apportioned to each member using the member's
3 apportionment percentage determined under subsection (6) of this
4 section;
- 5 2. Each taxpayer member shall then net its apportioned business gain or
6 loss for all classes, including any apportioned gain and loss from other
7 combined groups, against the taxpayer member's nonapportionable gain
8 and loss for all classes allocated to this state, using the rules of Sections
9 1231 and 1222 of the Internal Revenue Code, without regard to any of
10 the taxpayer member's gains or losses from the sale or exchange of
11 capital assets, Internal Revenue Code Section 1231 property, and
12 involuntary conversions which are nonapportionable items allocated to
13 another state;
- 14 3. Any resulting state source income or loss, if the loss is not subject to the
15 limitations of Section 1211 of the Internal Revenue Code, of a taxpayer
16 member produced by the application of subparagraphs 1. and 2. of this
17 paragraph shall then be applied to all other state source income or loss of
18 that member; and
- 19 4. Any resulting state source loss of a member that is subject to the
20 limitations of Section 1211 of the Internal Revenue Code shall be
21 carried forward by that member, and shall be treated as state source
22 short-term capital loss incurred by that member for the year for which
23 the carryover applies; and
- 24 (h) Any expense of one (1) member of the unitary group which is directly or
25 indirectly attributable to the nonapportionable or exempt income of another
26 member of the unitary group shall be allocated to that other member as
27 corresponding nonapportionable or exempt expense, as appropriate.

- 1 (9) (a) As a filing convenience, and without changing the respective liability of the
2 group members, members of a combined reporting group shall annually
3 designate one (1) taxpayer member of the combined group to file a single
4 return in the form and manner prescribed by the department, in lieu of filing
5 their own respective returns.
- 6 (b) The taxpayer member designated to file the single return shall consent to act
7 as surety with respect to the tax liability of all other taxpayers properly
8 included in the combined report, and shall agree to act as agent on behalf of
9 those taxpayers for the taxable year for matters relating to the combined
10 report. If for any reason the surety is unwilling or unable to perform its
11 responsibilities, tax liability may be assessed against the taxpayer members.

12 ➔Section 49. KRS 141.206 is amended to read as follows:

- 13 (1) Every pass-through entity doing business in this state shall, on or before the
14 fifteenth day of the fourth month following the close of its annual accounting
15 period, file a copy of its federal tax return with the form prescribed and furnished by
16 the department.
- 17 (2) Pass-through entities shall determine net income in the same manner as in the case
18 of an individual under KRS 141.010 and the adjustment required under Sections
19 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under
20 this section and the computation of the partner's, member's, or shareholder's
21 distributive share shall be computed as nearly as practicable identical with those
22 required for federal income tax purposes except to the extent required by
23 differences between this chapter and the federal income tax law and regulations.
- 24 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
25 member, or shareholder in a pass-through entity shall be liable for income tax only
26 in their individual, fiduciary, or corporate capacities, and no income tax shall be
27 assessed against the net income of any pass-through entity, except as required for S

1 corporations by KRS 141.040.

2 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
3 section, except publicly traded partnerships as described~~defined~~ in
4 subsection (6)(a)18. of this section~~[KRS 141.0401(6)(r)]~~, shall withhold
5 Kentucky income tax on the distributive share, whether distributed or
6 undistributed, of each:

- 7 1. Nonresident individual partner, member, or shareholder; and
- 8 2. Corporate partner or member that is doing business in Kentucky only
9 through its ownership interest in a pass-through entity.

10 (b) Withholding shall be at the maximum rate provided in KRS 141.020 or
11 141.040.

12 (5) (a) Effective for taxable years beginning after December 31, 2018~~[2011]~~, every
13 pass-through entity required to withhold Kentucky income tax as provided by
14 subsection (4) of this section shall pay~~make a declaration and payment of~~
15 estimated tax for the taxable year if:

- 16 1. For a nonresident individual partner, member, or shareholder, the
17 estimated tax liability can reasonably be expected to exceed five
18 hundred dollars (\$500); or
- 19 2. For a corporate partner or member that is doing business in Kentucky
20 only through its ownership interest in a pass-through entity, the
21 estimated tax liability can reasonably be expected to exceed five
22 thousand dollars (\$5,000).

23 (b) The~~declaration and~~ payment of estimated tax shall contain the information
24 and shall be filed as provided in KRS 141.207.

25 (6) (a) If a pass-through entity demonstrates to the department that a partner,
26 member, or shareholder has filed an appropriate tax return for the prior year
27 with the department, then the pass-through entity shall not be required to

1 withhold on that partner, member, or shareholder for the current year unless
2 the exemption from withholding has been revoked pursuant to paragraph (b)
3 of this subsection.

4 (b) An exemption from withholding shall be considered revoked if the partner,
5 member, or shareholder does not file and pay all taxes due in a timely manner.
6 An exemption so revoked shall be reinstated only with permission of the
7 department. If a partner, member, or shareholder who has been exempted from
8 withholding does not file a return or pay the tax due, the department may
9 require the pass-through entity to pay to the department the amount that
10 should have been withheld, up to the amount of the partner's, member's, or
11 shareholder's ownership interest in the entity. The pass-through entity shall be
12 entitled to recover a payment made pursuant to this paragraph from the
13 partner, member, or shareholder on whose behalf the payment was made.

14 (7) In determining the tax under this chapter, a resident individual, estate, or trust that is
15 a partner, member, or shareholder in a pass-through entity shall take into account
16 the partner's, member's, or shareholder's total distributive share of the pass-through
17 entity's items of income, loss, deduction, and credit.

18 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
19 that is a partner, member, or shareholder in a pass-through entity required to file a
20 return under subsection (1) of this section shall take into account:

21 (a) 1. If the pass-through entity is doing business only in this state, the
22 partner's, member's, or shareholder's total distributive share of the pass-
23 through entity's items of income, loss, and deduction; or

24 2. If the pass-through entity is doing business both within and without this
25 state, the partner's, member's, or shareholder's distributive share of the
26 pass-through entity's items of income, loss, and deduction multiplied by
27 the apportionment fraction of the pass-through entity as prescribed in

1 subsection (11) of this section; and

2 (b) The partner's, member's, or shareholder's total distributive share of credits of
3 the pass-through entity.

4 (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member
5 in a pass-through entity shall take into account the corporation's distributive share of
6 the pass-through entity's items of income, loss, and deduction and:

7 (a) 1. For taxable years beginning on or after January 1, 2007, but prior
8 to January 1, 2018, shall include the proportionate share of the sales,
9 property, and payroll of the limited liability pass-through entity or
10 general partnership in computing its own apportionment factor; and

11 2. For taxable years beginning on or after January 1, 2018, shall include the
12 proportionate share of the sales of the limited liability pass-through
13 entity or general partnership in computing its own apportionment factor;
14 and

15 (b) Credits from the partnership.

16 (10) (a) If a pass-through entity is doing business both within and without this state,
17 the pass-through entity shall compute and furnish to each partner, member, or
18 shareholder the numerator and denominator of each factor of the
19 apportionment fraction determined in accordance with subsection (11) of this
20 section.

21 (b) For purposes of determining an apportionment fraction under paragraph (a) of
22 this subsection, if the pass-through entity is:

23 1. Doing business both within and without this state; and

24 2. A partner or member in another pass-through entity;

25 then the pass-through entity shall be deemed to own the pro rata share of the
26 property owned or leased by the other pass-through entity, and shall also
27 include its pro rata share of the other pass-through entity's payroll and sales.

- 1 (c) The phrases "a partner or member in another pass-through entity" and "doing
2 business both within and without this state" shall extend to each level of
3 multiple-tiered pass-through entities.
- 4 (d) The attribution to the pass-through entity of the pro rata share of property,
5 payroll and sales from its role as a partner or member in another pass-through
6 entity will also apply when determining the pass-through entity's ultimate
7 apportionment factor for property, payroll and sales as required under
8 subsection (11) of this section.
- 9 (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity
10 doing business within and without the state shall compute an apportionment
11 fraction, the numerator of which is the property factor, representing twenty-
12 five percent (25%) of the fraction, plus the payroll factor, representing twenty-
13 five percent (25%) of the fraction, plus the sales factor, representing fifty
14 percent (50%) of the fraction, with each factor determined in the same manner
15 as provided in KRS 141.901, and the denominator of which is four (4),
16 reduced by the number of factors, if any, having no denominator, provided
17 that if the sales factor has no denominator, then the denominator shall be
18 reduced by two (2).
- 19 (b) For taxable years beginning on or after January 1, 2018, a pass-through entity
20 doing business within and without the state shall compute an apportionment
21 fraction as provided in KRS 141.120.
- 22 (12) Resident individuals, estates, or trusts that are partners in a partnership, members of
23 a limited liability company electing partnership tax treatment for federal income tax
24 purposes, owners of single member limited liability companies, or shareholders in
25 an S corporation which does not do business in this state are subject to tax under
26 KRS 141.020 on federal net income, gain, deduction, or loss passed through the
27 partnership, limited liability company, or S corporation.

1 (13) An S corporation election made in accordance with Section 1362 of the Internal
2 Revenue Code for federal tax purposes is a binding election for Kentucky tax
3 purposes.

4 (14) (a) Nonresident individuals shall not be taxable on investment income distributed
5 by a qualified investment partnership. For purposes of this subsection, a
6 "qualified investment partnership" means a pass-through entity that, during the
7 taxable year, holds only investments that produce income that would not be
8 taxable to a nonresident individual if held or owned individually.

9 (b) A qualified investment partnership shall be subject to all other provisions
10 relating to a pass-through entity under this section and shall not be subject to
11 the tax imposed under KRS 141.040 or 141.0401.

12 (15) (a) 1. A pass-through entity may file a composite income tax return on behalf
13 of electing nonresident individual partners, members, or shareholders.

14 2. The pass-through entity shall report and pay on the composite income
15 tax return income tax at the highest marginal rate provided in this
16 chapter on any portion of the partners', members', or shareholders' pro
17 rata or distributive shares of income of the pass-through entity from
18 doing business in this state or deriving income from sources within this
19 state. Payments made pursuant to subsection (5) of this section shall be
20 credited against any tax due.

21 3. The pass-through entity filing a composite return shall still make
22 estimated tax payments if required to do so by subsection (5) of this
23 section, and shall remain subject to any penalty **under Sections 42 and**
24 **52 of this Act**~~provided by KRS 131.180 or 141.990~~ for any~~[~~
25 ~~declaration]~~ underpayment **of estimated tax determined under Section**
26 **42 or 52 of this Act**~~for any installment not paid on time].~~

27 4. The partners', members', or shareholders' pro rata or distributive share of

1 income shall include all items of income or deduction used to compute
2 adjusted gross income on the Kentucky return that is passed through to
3 the partner, member, or shareholder by the pass-through entity, including
4 but not limited to interest, dividend, capital gains and losses, guaranteed
5 payments, and rents.

6 (b) A nonresident individual partner, member, or shareholder whose only source
7 of income within this state is distributive share income from one (1) or more
8 pass-through entities may elect to be included in a composite return filed
9 pursuant to this section.

10 (c) A nonresident individual partner, member, or shareholder that has been
11 included in a composite return may file an individual income tax return and
12 shall receive credit for tax paid on the partner's behalf by the pass-through
13 entity.

14 (d) A pass-through entity shall deliver to the department a return upon a form
15 prescribed by the department showing the total amounts paid or credited to its
16 electing nonresident individual partners, members, or shareholders, the
17 amount paid in accordance with this subsection, and any other information the
18 department may require. A pass-through entity shall furnish to its nonresident
19 partner, member, or shareholder annually, but not later than the fifteenth day
20 of the fourth month after the end of its taxable year, a record of the amount of
21 tax paid on behalf of the partner, member, or shareholder on a form prescribed
22 by the department.

23 ➔Section 50. KRS 141.207 is amended to read as follows:

24 (1) ~~The declaration and~~ payment of estimated tax required by KRS 141.206 shall
25 contain the following information:

26 (a) For a nonresident individual partner, member, or shareholder, the amount of
27 estimated tax calculated under KRS 141.020 ***and Section 52 of this Act*** for

1 the taxable year; and

2 (b) For a corporate partner or member that is doing business in Kentucky only
3 through its ownership interest in a pass-through entity, the amount of
4 estimated tax calculated under KRS 141.040 and Section 42 of this Act for
5 the taxable year.

6 ~~(2) The declaration of estimated tax required under this section shall be filed with the~~
7 ~~department by the pass-through entity in the same manner and at the same times as~~
8 ~~provided by:~~

9 ~~(a) KRS 141.300, for a nonresident individual partner, member, or shareholder;~~
10 ~~and~~

11 ~~(b) KRS 141.042, for a corporate partner or member.~~

12 ~~(3)~~ The payment of estimated tax shall be made in installments by the pass-through
13 entity in the same manner and at the same times as provided by:

14 (a) KRS 141.305, for a nonresident individual partner, member, or shareholder;
15 and

16 (b) KRS 141.044, for a corporate partner or member.

17 ~~(3)~~~~(4)~~ A pass-through entity required to make a ~~declaration and~~ payment of
18 estimated tax shall be subject to the penalty provisions ~~of KRS 131.180 and~~
19 ~~141.990~~ for any ~~declaration~~ underpayment of estimated tax ~~or any installment~~
20 ~~not paid on time~~.

21 ➔Section 51. KRS 141.235 is amended to read as follows:

22 (1) No suit shall be maintained in any court to restrain or delay the collection or
23 payment of the tax levied by this chapter.

24 (2) Any tax collected pursuant to the provisions of this chapter may be refunded or
25 credited in accordance with the provisions of KRS 134.580, except that:

26 (a) In any case where the assessment period contained in KRS 141.210 has been
27 extended by an agreement between the taxpayer and the department, the

1 limitation contained in this subsection shall be extended accordingly.

2 (b) If the claim for refund or credit relates directly to adjustments resulting from a
3 federal audit, the taxpayer shall file a claim for refund or credit within the time
4 provided for in this subsection or six (6) months from the conclusion of the
5 federal audit, whichever is later.

6 (c) If the claim for refund or credit relates to an overpayment attributable to a net
7 operating loss carryback or capital loss carryback, resulting from a loss which
8 occurs in a taxable year beginning after December 31, 1993, the claim for
9 refund or credit shall be filed within the times prescribed in this subsection for
10 the taxable year of the net operating loss or capital loss which results in the
11 carryback.

12 For the purposes of this subsection and subsection (3) of this section, a return filed
13 before the last day prescribed by law for filing the return shall be considered as filed
14 on the last day.

15 (3) Overpayments as defined in KRS 134.580 of taxes collected pursuant to KRS
16 141.305~~[141.300]~~, 141.310, or 141.315 shall be refunded or credited with interest
17 at the tax interest rate as defined in KRS 131.010(6). Effective for refunds issued
18 after April 24, 2008, the interest shall not begin to accrue until ninety (90) days after
19 the latest of:

- 20 (a) The due date of the return;
21 (b) The date the return was filed;
22 (c) The date the tax was paid;
23 (d) The last day prescribed by law for filing the return; or
24 (e) The date an amended return claiming a refund is filed.

25 (4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to
26 this chapter is vested in the commissioner or his authorized agent. Amounts directed
27 to be refunded shall be paid out of the general fund.

1 ➔Section 52. KRS 141.305 is amended to read as follows:

2 (1) For taxable years beginning on or after January 1, 2019, every individual shall
3 make estimated income tax payments if his or her:

4 (a) Gross income from sources other than wages upon which Kentucky income
5 tax will be withheld can reasonably be expected to exceed five thousand
6 dollars (\$5,000) for the taxable year; or

7 (b) Adjusted gross income can reasonably be expected to be an amount not less
8 than the amount for which a return is required under KRS 141.180.

9 (2) No estimated tax shall be required if the estimated tax liability can reasonably be
10 expected to be five hundred dollars (\$500) or less.

11 (3) Estimated tax payment for the tax imposed under KRS 141.020 shall be made at
12 the same time and calculated in the same manner as an estimated tax payment
13 for federal income tax purposes under 26 U.S.C. sec. 6654, except:

14 (a) The estimated tax liability for the tax imposed under KRS 141.020 shall be
15 used to make the estimated payment;

16 (b) Any provisions in 26 U.S.C. sec. 6654 that apply for federal tax purposes but
17 do not apply to the taxes imposed under KRS 141.020 shall not be included;

18 (c) The addition to tax identified by 26 U.S.C. sec. 6654(a) shall instead be
19 considered a penalty under Section 4 of this Act;

20 (d) The tax interest rate identified under KRS 131.183 shall be used to
21 determine the underpayment rate instead of the rate under 26 U.S.C. sec.
22 6621; and

23 (e) Any waiver of penalties shall be performed as provided in Section 3 of this
24 Act.

25 (4) The department may promulgate administrative regulations to implement this
26 section~~The estimated tax provided for in KRS 141.300 shall be paid as follows:~~

27 ~~(a) If the declaration is filed on or before April 15 of the taxable year, the~~

1 ~~estimated tax shall be paid in four (4) equal installments. The first installment~~
2 ~~shall be paid at the time of the filing of the declaration, the second and third~~
3 ~~on June 15 and September 15, respectively, of the taxable year, and the fourth~~
4 ~~on January 15 of the succeeding taxable year;~~

5 ~~(b) If the declaration is filed after April 15 and not after June 15 of the taxable~~
6 ~~year and is not required by subsection (3) of KRS 141.300 to be filed on or~~
7 ~~before April 15 of the taxable year, the estimated tax shall be paid in three (3)~~
8 ~~equal installments. The first installment shall be paid at the time of the filing~~
9 ~~of the declaration, the second on September 15 of the taxable year, and the~~
10 ~~third on January 15 of the succeeding taxable year;~~

11 ~~(c) If the declaration is filed after June 15 and not after September 15 of the~~
12 ~~taxable year and is not required by subsection (3) of KRS 141.300 to be filed~~
13 ~~on or before June 15 of the taxable year, the estimated tax shall be paid in two~~
14 ~~(2) equal installments. The first installment shall be paid at the time of the~~
15 ~~filing of the declaration and the second on January 15 of the succeeding~~
16 ~~taxable year;~~

17 ~~(d) If the declaration is filed after September 15 of the taxable year, and is not~~
18 ~~required by subsection (3) of KRS 141.300 to be filed on or before September~~
19 ~~15 of the taxable year, the declaration shall be filed and estimated tax shall be~~
20 ~~paid on or before January 15 of the succeeding taxable year;~~

21 ~~(e) If the declaration is filed after the time prescribed in KRS 141.300, including~~
22 ~~cases where extensions of time have been granted, paragraphs (b), (c), and (d)~~
23 ~~of this subsection shall not apply, and there shall be paid at the time of such~~
24 ~~filing all installments of estimated tax which would have been payable on or~~
25 ~~before such time if the declaration has been filed within the time prescribed in~~
26 ~~subsection (3) of KRS 141.300, and the remaining installments shall be paid~~
27 ~~at the times at which, and in the amounts in which, they would have been~~

1 payable if the declaration had been so filed. Provided, that payments required
2 under this section for purposes of the taxable year 1954 shall be limited to
3 fifty percent (50%) of the total estimated tax for 1954.

4 ~~(2) If any amendment of a declaration is filed, the remaining installments, if any, shall~~
5 ~~be ratably increased or decreased as the case may be, to reflect the respective~~
6 ~~increase or decrease in the estimated tax by reason of such amendment, and if any~~
7 ~~amendment is made after September 15 of the taxable year any increase in the~~
8 ~~estimated tax by reasons thereof shall be paid at the time of making such~~
9 ~~amendment.~~

10 ~~(3) At the election of the individual, any installment of the estimated tax may be paid~~
11 ~~prior to the date prescribed for its payment.~~

12 ~~(4) Payment of the estimated tax, or any installment thereof, shall be considered~~
13 ~~payment on account of the tax for the taxable year. Assessment in respect of the~~
14 ~~estimated tax shall be limited to the amount paid.~~

15 ~~(5) In the case of an individual whose estimated gross income from farming for the~~
16 ~~taxable year is at least two thirds (2/3) of the total estimated gross income from all~~
17 ~~sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS~~
18 ~~141.300, the declaration for the taxable year may be made at any time on or before~~
19 ~~January 15 of the succeeding taxable year; and if such an individual files a return on~~
20 ~~or before March 1 of the succeeding taxable year, and pays in full the amount~~
21 ~~computed on the return as payable, such return shall have the same effect as that~~
22 ~~prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or~~
23 ~~before January 31.~~

24 ~~(6) The application of this section and KRS 141.300 to taxable years of less than twelve~~
25 ~~(12) months shall be as prescribed in administrative regulations promulgated by the~~
26 ~~department.~~

27 ~~(7) In the application of this section and KRS 141.300 to taxpayers reporting income on~~

1 ~~a fiscal year basis, there shall be substituted for the date specified therein, the~~
2 ~~months corresponding thereto].~~

3 ➔Section 53. KRS 141.390 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Postconsumer waste" means any product generated by a business or
6 consumer which has served its intended end use, and which has been
7 separated from solid waste for the purposes of collection, recycling,
8 composting, and disposition and which does not include secondary waste
9 material or demolition waste;

10 (b) "Recycling equipment" means any machinery or apparatus used exclusively to
11 process postconsumer waste material and manufacturing machinery used
12 exclusively to produce finished products composed of substantial
13 postconsumer waste materials;

14 (c) "Composting equipment" means equipment used in a process by which
15 biological decomposition of organic solid waste is carried out under controlled
16 aerobic conditions, and which stabilizes the organic fraction into a material
17 which can easily and safely be stored, handled, and used in a environmentally
18 acceptable manner;

19 (d) "Recapture period" means:

20 1. For qualified equipment with a useful life of five (5) or more years, the
21 period from the date the equipment is purchased to five (5) full years
22 from that date; or

23 2. For qualified equipment with a useful life of less than five (5) years, the
24 period from the date the equipment is purchased to three (3) full years
25 from that date;

26 (e) "Useful life" means the period determined under Section 168 of the Internal
27 Revenue Code; ***and***

1 (f) ~~"Baseline tax liability" means the tax liability of the taxpayer for the most~~
 2 ~~recent tax year ending prior to January 1, 2005; and~~

3 (g) "Major recycling project" means a project ***location*** where the taxpayer:

- 4 1. Invests more than ten million dollars (\$10,000,000) in recycling or
- 5 composting equipment to be used exclusively in this state;
- 6 2. Has more than ***four hundred (400)***~~seven hundred fifty (750)~~ full-time
- 7 employees with an average hourly wage of more than three hundred
- 8 percent (300%) of the federal minimum wage; and
- 9 3. Has plant and equipment with a total cost of more than five hundred
- 10 million dollars (\$500,000,000).

11 (2) (a) ***1.*** A taxpayer that purchases recycling or composting equipment to be used
 12 exclusively within this state for recycling or composting postconsumer
 13 waste materials shall be entitled to a credit against the:

14 ***a.*** Income taxes ***under KRS 141.020 or Section 40 of this Act; and***

15 ***b.*** ***Limited liability entity tax under Section 41 of this Act;***

16 ***with the ordering of the credits under Section 79 of this Act.***~~imposed~~
 17 ~~pursuant to this chapter, including any tax due under the provisions of~~
 18 ~~KRS 141.040, in]~~

19 ***2.*** ***The total tax credit shall be*** an amount equal to fifty percent (50%) of
 20 the installed cost of the recycling or composting equipment.~~Any credit~~
 21 ~~allowed against the income taxes imposed pursuant to this chapter shall~~
 22 ~~also be applied against the limited liability entity tax imposed by KRS~~
 23 ~~141.0401, with the ordering of credits as provided in KRS 141.0205.]~~

24 ***3.*** The amount of credit claimed in the ***taxable***~~tax]~~ year during which the
 25 recycling equipment is purchased shall not exceed:

26 ***a.*** Ten percent (10%) of the amount of the total credit allowable; ***or***~~]~~
 27 ~~and shall not exceed]~~

1 ~~(75%)~~ ~~In each taxable year, the amount of credits claimed for all major~~
 2 ~~recycling projects shall be limited to:~~

3 1. ~~Fifty percent (50%) of the excess~~ of the total of each tax liability ***which***
 4 ***would be otherwise due for that taxable year*** ~~over the baseline tax~~
 5 ~~liability of the taxpayer; or~~

6 2. ~~Two million five hundred thousand dollars (\$2,500,000), whichever is~~
 7 ~~less~~.

8 ***5. The amount of credit claimed in a taxable year subsequent to the***
 9 ***taxable year during which the recycling equipment is purchased shall***
 10 ***not exceed seventy-five percent (75%) of the total of each tax liability,***
 11 ***which would be otherwise due for that taxable year.***

12 (c) A taxpayer with one (1) or more major recycling projects shall be entitled to a
 13 total credit including the amount computed in paragraph (a) of this subsection
 14 plus the amount of credit computed in paragraph (b) of this subsection, ***except***
 15 ***that the total amount of credits under paragraphs (a) and (b) of this***
 16 ***subsection claimed in a taxable year shall not exceed seventy-five percent***
 17 ***(75%) of the total of each tax liability which would be otherwise due for that***
 18 ***taxable year.***

19 (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph
 20 (a) of this subsection and a credit computed under paragraph (b) of this
 21 subsection on the same recycling or composting equipment.

22 (3) ***(a)*** Application for a tax credit shall be made to the department ~~of Revenue~~ on
 23 or before the first day of the seventh month following the close of the taxable
 24 year in which the recycling or composting equipment is purchased ***or placed***
 25 ***in service.***

26 ***(b)*** The application shall include a description of each item of recycling
 27 equipment purchased, the date of purchase and the installed cost of the

1 recycling equipment, a statement of where the recycling equipment is to be
2 used, and any other information as the department~~[of Revenue]~~ may require
3 **to fulfill the reporting requirements under subsection (8) of this section.**

4 **(c)** The department~~[of Revenue]~~ shall review all applications received to
5 determine whether expenditures for which credits are required meet the
6 requirements of this section and shall advise the taxpayer of the amount of
7 credit for which the taxpayer is eligible under this section.

8 (4) **(a)** Except as provided in subsection (6) of this section, if a taxpayer that receives
9 a tax credit under this section sells, transfers, or otherwise disposes of the
10 qualifying recycling or composting equipment before the end of the recapture
11 period, the tax credit shall be redetermined under subsection (5) of this
12 section.

13 **(b)** If the total credit taken in prior taxable years exceeds the redetermined credit,
14 the difference shall be added to the taxpayer's tax liability under this chapter
15 for the taxable year in which the sale, transfer, or disposition occurs.

16 **(c)** If the redetermined credit exceeds the total credit already taken in prior
17 taxable years, the taxpayer shall be entitled to use the difference to reduce the
18 taxpayer's tax liability under this chapter for the taxable year in which the sale,
19 transfer, or disposition occurs.

20 (5) The total tax credit allowable under subsection (2) of this section for equipment that
21 is sold, transferred, or otherwise disposed of before the end of the recapture period
22 shall be adjusted as follows:

23 (a) For equipment with a useful life of five (5) or more years that is sold,
24 transferred, or otherwise disposed of:

- 25 1. One (1) year or less after the purchase, no credit shall be allowed.
- 26 2. Between one (1) year and two (2) years after the purchase, twenty
27 percent (20%) of the total allowable credit shall be allowed.

- 1 3. Between two (2) and three (3) years after the purchase, forty percent
2 (40%) of the total allowable credit shall be allowed.
- 3 4. Between three (3) and four (4) years after the purchase, sixty percent
4 (60%) of the total allowable credit shall be allowed.
- 5 5. Between four (4) and five (5) years after the purchase, eighty percent
6 (80%) of the total allowable credit shall be allowed.
- 7 (b) For equipment with a useful life of less than five (5) years that is sold,
8 transferred, or otherwise disposed of:
- 9 1. One (1) year or less after the purchase, no credit shall be allowed.
- 10 2. Between one (1) year and two (2) years after the purchase, thirty-three
11 percent (33%) of the total allowable credit shall be allowed.
- 12 3. Between two (2) and three (3) years after the purchase, sixty-seven
13 percent (67%) of the total allowable credit shall be allowed.
- 14 (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or
15 transfers due merely to a change in business ownership or organization as long as
16 the equipment continues to be used exclusively in recycling or composting, or
17 transactions to which Section 381(a) of the Internal Revenue Code applies.
- 18 (7) The department~~[of Revenue]~~ may promulgate administrative regulations to carry
19 out the provisions of this section.
- 20 **(8) (a) The purpose of expanding the tax credit for a major recycling project is to**
21 **encourage more recycling and composting by businesses within the**
22 **Commonwealth.**
- 23 **(b) In order for the General Assembly to evaluate the fulfillment of the purpose**
24 **stated in paragraph (a) of this subsection, the department shall provide the**
25 **following information on a cumulative basis for each taxable year to**
26 **provide a historical impact of the tax credit to the Commonwealth:**
- 27 **1. A narrative for each major recycling project approved for a tax credit,**

- 1 describing:
- 2 a. The taxpayer claiming the tax credit;
- 3 b. The industry sector within which the taxpayer operates in this
- 4 state, including the NAICS code for the taxpayer; and
- 5 c. The type of recycling or composting equipment purchased by the
- 6 taxpayer;
- 7 2. The location, by county, of the major recycling project;
- 8 3. The installed cost of the recycling or composting equipment;
- 9 4. The total amount of tax credit approved for the major recycling
- 10 project;
- 11 5. The amount of tax credit allowed for the major recycling project for
- 12 each taxable year; and
- 13 6. a. In the case of all taxpayers other than corporations, based on
- 14 ranges of adjusted gross income of no larger than five thousand
- 15 dollars (\$5,000) for the taxable year, the total amount of tax
- 16 credits claimed and the number of returns claiming a tax credit
- 17 for each adjusted gross income range; and
- 18 b. In the case of all corporations, based on ranges of net income no
- 19 larger than fifty thousand dollars (\$50,000) for the taxable year,
- 20 the total amount of tax credit claimed and the number of returns
- 21 claiming a tax credit for each net income range.
- 22 (c) The report required by paragraph (b) of this subsection shall be submitted
- 23 to the Interim Joint Committee on Appropriations and Revenue beginning
- 24 no later than November 1, 2021, and no later than each November 1
- 25 thereafter, as long as the credit is claimed on any return processed by the
- 26 department.

27 ➔Section 54. KRS 141.402 is amended to read as follows:

- 1 (1) As used in this section, unless the context requires otherwise:
- 2 (a) "Approved company" shall have the same meaning as set forth in KRS
3 154.25-010;
- 4 (b) "Jobs retention project" shall have the same meaning as set forth in KRS
5 154.25-010;
- 6 (c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
7 141.0401;
- 8 (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
9 141.0401; and
- 10 (e) "Tax credit" means the tax credit allowed in KRS 154.25-030.
- 11 (2) An approved company shall determine the income tax credit as provided in this
12 section.
- 13 (3) An approved company which is an individual sole proprietorship subject to tax
14 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
15 for federal income tax purposes subject to tax under KRS 141.040(1) shall:
- 16 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
17 141.020 or 141.040 on net income as defined by KRS 141.010~~{(11)}~~ or
18 taxable net income as defined by KRS 141.010~~{(14)}~~, including income
19 from the jobs retention project;
- 20 2. Compute the limited liability entity tax imposed under KRS 141.0401,
21 including Kentucky gross profits or Kentucky gross receipts from the
22 jobs retention project; and
- 23 3. Add the amounts computed under subparagraphs 1. and 2. of this
24 paragraph and, if applicable, subtract the credit permitted by KRS
25 141.0401(3) from that sum. The resulting amount shall be the net tax for
26 purposes of this paragraph.
- 27 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS

- 1 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or
2 taxable net income as defined by KRS 141.010~~[(14)]~~, excluding net
3 income attributable to the jobs retention project;
- 4 2. Using the same method used under subparagraph 2. of paragraph (a) of
5 this subsection, compute the limited liability entity tax imposed under
6 KRS 141.0401, excluding Kentucky gross profits or Kentucky gross
7 receipts from the jobs retention project; and
- 8 3. Add the amounts computed under subparagraphs 1. and 2. of this
9 paragraph and, if applicable, subtract the credit permitted by KRS
10 141.0401(3) from that sum. The resulting amount shall be the net tax for
11 purposes of this paragraph.
- 12 (c) The tax credit shall be the amount by which the net tax computed under
13 paragraph (a)3. of this subsection exceeds the tax computed under paragraph
14 (b)3. of this subsection; however, the credit shall not exceed the limits set
15 forth in KRS 154.25-030.
- 16 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
17 which is a pass-through entity not subject to the tax imposed by KRS 141.040
18 or trust not subject to the tax imposed by KRS 141.040 shall be subject to
19 income tax on the net income attributable to a jobs retention project at the
20 rates provided in KRS 141.020(2).
- 21 (b) The amount of the tax credit shall be determined as provided in subsection (3)
22 of this section. Upon the annual election of the approved company, in lieu of
23 the tax credit, an amount shall be applied as an estimated tax payment equal to
24 the tax computed in this section. Any estimated tax payment made pursuant to
25 this paragraph shall be in satisfaction of the tax liability of the partners,
26 members, shareholders, or beneficiaries of the pass-through entity or trust, and
27 shall be paid on behalf of the partners, members, shareholders, or

- 1 beneficiaries.
- 2 (c) The tax credit or estimated payment shall not exceed the limits set forth in
3 KRS 154.25-030.
- 4 (d) If the tax computed in this section exceeds the tax credit, the difference shall
5 be paid by the pass-through entity or trust at the times provided by KRS
6 141.160 for filing the returns.
- 7 (e) Any estimated tax payment made by the pass-through entity or trust in
8 satisfaction of the tax liability of partners, members, shareholders, or
9 beneficiaries shall not be treated as taxable income subject to Kentucky
10 income tax by the partner, member, shareholder, or beneficiary.
- 11 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
12 the tax credit, and the estimated tax payment determined under subsection (4) of
13 this section shall be excluded in determining each partner's, member's,
14 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
15 through entity or trust.
- 16 (6) (a) Net income attributable to the project for the purposes of subsections (3), (4),
17 and (5) of this section shall be determined under the separate accounting
18 method reflecting only the gross income, deductions, expenses, gains, and
19 losses allowed under KRS Chapter 141 directly attributable to the facility and
20 overhead expenses apportioned to the facility; and
- 21 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
22 for purposes of subsection (3) of this section shall be determined under the
23 separate accounting method reflecting only the Kentucky gross receipts or
24 Kentucky gross profits directly attributable to the facility.
- 25 (7) If an approved company can show to the satisfaction of the Department of Revenue
26 that the nature of the operations and activities of the approved company are such
27 that it is not practical to use the separate accounting method to determine the net

1 income, Kentucky gross receipts, or Kentucky gross profits from the facility at
2 which the jobs retention project is located, the approved company shall determine
3 net income, Kentucky gross receipts, or Kentucky gross profits from the jobs
4 retention project using an alternative method approved by the Department of
5 Revenue.

6 (8) The Department of Revenue may promulgate administrative regulations and require
7 the filing of forms designed by the Department of Revenue to reflect the intent of
8 this section and KRS 154.25-010 to 154.25-050 and the allowable income tax credit
9 which an approved company may retain under this section and KRS 154.25-010 to
10 154.25-050.

11 ➔Section 55. KRS 141.408 is amended to read as follows:

12 (1) There shall be allowed a nonrefundable and nontransferable credit against the tax
13 imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits
14 as provided in KRS 141.0205, for any taxpayer that, on or after January 1, 2018,
15 timely pays an ad valorem tax to the Commonwealth or any political subdivision
16 thereof for property described in KRS 132.020(1)(~~e~~)(~~n~~) or 132.099.

17 (2) The credit allowed under subsection (1) of this section shall be in an amount equal
18 to:

19 (a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable
20 years beginning on or after January 1, 2018, and before January 1, 2019;

21 (b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years
22 beginning on or after January 1, 2019, and before January 1, 2020;

23 (c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable
24 years beginning on or after January 1, 2020, and before January 1, 2021; and

25 (d) One hundred percent (100%) of the ad valorem taxes timely paid, for taxable
26 years beginning on or after January 1, 2021.

27 (3) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the

1 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
2 through to its members, partners, or shareholders in the same proportion as the
3 distributive share of income or loss is passed through.

4 (4) No later than October 1, 2019, and annually thereafter, the department shall report
5 to the Interim Joint Committee on Appropriations and Revenue:

6 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
7 this section;

8 (b) The location of the property upon which the credit was allowed; and

9 (c) The amount of credit taken by that taxpayer.

10 ➔Section 56. KRS 141.421 is amended to read as follows:

11 (1) As used in this section:

12 (a) "Approved company" has the same meaning as in KRS 154.27-010;

13 (b) "Eligible project" has the same meaning as in KRS 154.27-010;

14 (c) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

15 (d) "Kentucky gross profits" has the same meaning as in KRS 141.0401; and

16 (e) "Tax credit" means the tax credit allowed in KRS 154.27-080.

17 (2) An approved company shall compute the income tax credit as provided in this
18 section.

19 (3) An approved company which is an individual sole proprietorship subject to tax
20 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
21 for federal income tax purposes subject to tax under KRS 141.040(1) shall:

22 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
23 141.020 or 141.040 on net income as defined by KRS 141.010~~{(11)}~~ or
24 taxable net income as defined by KRS 141.010~~{(14)}~~, including income
25 from the eligible project;

26 2. Compute the limited liability entity tax imposed under KRS 141.0401,
27 including Kentucky gross profits or Kentucky gross receipts from the

- 1 eligible project; and
- 2 3. Add the amounts computed under subparagraphs 1. and 2. of this
- 3 paragraph and, if applicable, subtract the credit permitted by KRS
- 4 141.0401(3) from that sum. The resulting amount shall be the net tax for
- 5 purposes of this paragraph.
- 6 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
- 7 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or
- 8 taxable net income as defined by KRS 141.010~~[(14)]~~, excluding net
- 9 income attributable to the eligible project;
- 10 2. Using the same method used under paragraph (a)2. of this subsection,
- 11 compute the limited liability entity tax imposed under KRS 141.0401,
- 12 excluding Kentucky gross profits or Kentucky gross receipts from the
- 13 eligible project; and
- 14 3. Add the amounts computed under subparagraphs 1. and 2. of this
- 15 paragraph and, if applicable, subtract the credit permitted by KRS
- 16 141.0401(3) from that sum. The resulting amount shall be the net tax for
- 17 purposes of this paragraph.
- 18 (c) The tax credit shall be the amount by which the net tax computed under
- 19 paragraph (a)3. of this subsection exceeds the tax computed under paragraph
- 20 (b)3. of this subsection; however, the credit shall not exceed the limits set
- 21 forth in KRS 154.27-020.
- 22 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
- 23 which is a pass-through entity not subject to the tax imposed by KRS 141.040
- 24 or trust not subject to the tax imposed by KRS 141.040 shall be subject to
- 25 income tax on the net income attributable to an eligible project at the rates
- 26 provided in KRS 141.020(2).
- 27 (b) The amount of the tax credit shall be determined as provided in subsection (3)

1 of this section. Upon the annual election of the approved company, in lieu of
2 the tax credit, an amount shall be applied as an estimated tax payment equal to
3 the tax computed in this section. Any estimated tax payment made pursuant to
4 this paragraph shall be in satisfaction of the tax liability of the partners,
5 members, shareholders, or beneficiaries of the pass-through entity or trust and
6 shall be paid on behalf of the partners, members, shareholders, or
7 beneficiaries.

8 (c) The tax credit or estimated payment shall not exceed the limits set forth in
9 KRS 154.27-020.

10 (d) If the tax computed in this section exceeds the tax credit, the difference shall
11 be paid by the pass-through entity or trust at the times provided by KRS
12 141.160 for filing the returns.

13 (e) Any estimated tax payment made by the pass-through entity or trust in
14 satisfaction of the tax liability of partners, members, shareholders, or
15 beneficiaries shall not be treated as taxable income subject to Kentucky
16 income tax by the partner, member, shareholder, or beneficiary.

17 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
18 tax credit, and estimated tax payment determined under subsection (4) of this
19 section shall be excluded in determining each partner's, member's, shareholder's, or
20 beneficiary's distributive share of net income or credit of a pass-through entity or
21 trust.

22 (6) (a) Net income attributable to the project for the purposes of subsections (3), (4),
23 and (5) of this section shall be determined under the separate accounting
24 method reflecting only the gross income, deductions, expenses, gains, and
25 losses allowed under this chapter directly attributable to the facility and
26 overhead expenses apportioned to the facility; and

27 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project

1 for purposes of subsection (3) of this section shall be determined under the
2 separate accounting method reflecting only the Kentucky gross receipts or
3 Kentucky gross profits directly attributable to the facility.

4 (7) If an approved company can show to the satisfaction of the department that the
5 nature of the operations and activities of the approved company are such that it is
6 not practical to use the separate accounting method to determine the net income,
7 Kentucky gross receipts, or Kentucky gross profits from the facility at which the
8 eligible project is located, the approved company shall determine net income,
9 Kentucky gross receipts, or Kentucky gross profits from the eligible project using an
10 alternative method approved by the department.

11 (8) The department may promulgate administrative regulations and require the filing of
12 forms designed by the department to reflect the intent of this section and KRS
13 154.27-080 and the allowable income tax credit which an approved company may
14 retain under this section and KRS 154.27-080.

15 ➔Section 57. KRS 141.428 is amended to read as follows:

16 (1) As used in this section:

17 (a) "Clean coal facility" means an electric generation facility beginning
18 commercial operation on or after January 1, 2005, at a cost greater than one
19 hundred fifty million dollars (\$150,000,000) that is located in the
20 Commonwealth of Kentucky and is certified by the Energy and Environment
21 Cabinet as reducing emissions of pollutants released during generation of
22 electricity through the use of clean coal equipment and technologies;

23 (b) "Clean coal equipment" means equipment purchased and installed for
24 commercial use in a clean coal facility to aid in reducing the level of
25 pollutants released during the generation of electricity from eligible coal;

26 (c) "Clean coal technologies" means technologies incorporated for use within a
27 clean coal facility to lower emissions of pollutants released during the

- 1 generation of electricity from eligible coal;
- 2 (d) "Eligible coal" means coal that is subject to the tax imposed under KRS
3 143.020;
- 4 (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and
- 5 (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).
- 6 (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable,
7 nontransferable credit shall be allowed for:
- 8 (a) Any electric power company subject to tax under KRS 136.120 and certified
9 as a clean coal facility or any taxpayer that owns or operates a clean coal
10 facility and purchases eligible coal that is used by the taxpayer in a certified
11 clean coal facility; or
- 12 (b) A parent company of an entity identified in paragraph (a) of this subsection if
13 the subsidiary is wholly owned.
- 14 (3) (a) The credit may be taken against the taxes imposed by:
15 1. ~~KRS 136.070~~;
16 ~~2.~~ KRS 136.120; or
17 2.~~3.~~ KRS 141.020 or 141.040, and 141.0401.
- 18 (b) The credit shall not be carried forward and must be used on the tax return filed
19 for the period during which the eligible coal was purchased. The Energy and
20 Environment Cabinet must approve and certify use of the clean coal
21 equipment and technologies within a clean coal facility before any taxpayer
22 may claim the credit.
- 23 (c) The credit allowed under paragraph (a) of this subsection shall be applied both
24 to the income tax imposed under KRS 141.020 or 141.040 and to the limited
25 liability entity tax imposed under KRS 141.0401, with the ordering of credits
26 as provided in KRS 141.0205.
- 27 (4) The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal

1 purchased that is used to generate electric power at a certified clean coal facility~~],~~
2 ~~except that no credit shall be allowed if the eligible coal has been used to generate a~~
3 ~~credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary].~~

4 (5) Each taxpayer eligible for the credit provided under subsection (2) of this section
5 shall file a clean coal incentive credit claim on forms prescribed by the department~~]~~
6 ~~of Revenue].~~ At the time of filing for the credit, the taxpayer shall submit an
7 electronic report verifying the tons of coal subject to the tax imposed by KRS
8 143.020 purchased for each year in which the credit is claimed. The department~~]~~
9 ~~Revenue]~~ shall determine the amount of the approved credit and issue a credit
10 certificate to the taxpayer.

11 (6) Corporations and pass-through entities subject to the tax imposed under KRS
12 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed
13 under this section, the approved credit against its liability for the taxes, in
14 consecutive order as follows:

15 (a) The credit shall first be applied against both the tax imposed by KRS
16 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering
17 of credits as provided in KRS 141.0205;

18 (b) The credit shall then be applied to the tax imposed by KRS 136.120.

19 The credit shall meet the entirety of the taxpayer's liability under the first tax listed
20 in consecutive order before applying any remaining credit to the next tax listed. The
21 taxpayer's total liability under each preceding tax must be fully met before the
22 remaining credit can be applied to the subsequent tax listed in consecutive order.

23 (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the
24 amount of approved credit shall be applied against the tax imposed by KRS
25 141.0401 at the entity level, and shall also be distributed to each partner, member,
26 or shareholder based on the partner's, member's, or shareholder's distributive share
27 of the income of the pass-through entity. The credit shall be claimed in the same

1 manner as specified in subsection (6) of this section. Each pass-through entity shall
2 notify the department~~[of Revenue]~~ electronically of all partners, members, or
3 shareholders who may claim any amount of the approved credit. Failure to provide
4 information to the department~~[of Revenue]~~ in a manner prescribed by regulation
5 may constitute the forfeiture of available credits to all partners, members, or
6 shareholders associated with the pass-through entity.

7 (8) The taxpayer shall maintain all records associated with the credit for a period of five
8 (5) years. Acceptable verification of eligible coal purchased shall include invoices
9 that indicate the tons of eligible coal purchased from a Kentucky supplier of coal
10 and proof of remittance for that purchase.

11 (9) The department~~[of Revenue]~~ shall develop the forms required under this section,
12 specifying the procedure for claiming the credit, and applying the credit against the
13 taxpayer's liability in the order provided under subsections (6) and (7) of this
14 section.

15 (10) The Office of Energy Policy within the Energy and Environment Cabinet and the
16 department~~[of Revenue]~~ shall promulgate administrative regulations necessary to
17 administer this section.

18 (11) This section shall be known as the Kentucky Clean Coal Incentive Act.

19 ➔Section 58. KRS 141.985 is amended to read as follows:

20 **Except for the addition to tax required when an underpayment of estimated tax occurs**
21 **under Sections 42 and 52 of this Act, any**~~[If the]~~ tax imposed by this chapter, whether
22 assessed by the department, or the taxpayer, or any installment or portion of the tax is not
23 paid on or before the date prescribed for its payment, there shall be collected, as a part of
24 the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS
25 131.010(6) from the date prescribed for its payment until payment is actually made to the
26 department. Interest shall be assessed, collected, and paid in the same manner as if it were
27 a deficiency.

1 ➔Section 59. KRS 141.990 is amended to read as follows:

- 2 (1) Any individual, fiduciary, corporation, employer, or other person who violates any
3 of the provisions of this chapter shall be subject to the uniform civil penalties
4 imposed pursuant to KRS 131.180.
- 5 ~~(2) Any individual required by KRS 141.300 to file a declaration of estimated tax and
6 required by KRS 141.305 to pay the declaration of estimated tax shall be subject to
7 a penalty as provided in KRS 131.180 for any declaration underpayment or any late
8 payment. Underpayment, for purposes of this subsection, is determined by
9 subtracting declaration credits allowed by KRS 141.070, declaration installment
10 payments actually made, and credit for tax withheld as allowed by KRS 141.350
11 from seventy percent (70%) of the total income tax liability computed by the
12 taxpayer as shown on the return filed for the tax year. This subsection shall not
13 apply to the tax year in which the death of the taxpayer occurs, nor in the case of a
14 farmer exercising an election under subsection (5) of KRS 141.305, nor in the case
15 of any person having a tax liability of five hundred dollars (\$500) or less.~~
- 16 ~~(3) Any corporation or limited liability pass-through entity required by KRS 141.042 to
17 file a declaration of estimated tax and required to pay the declaration of estimated
18 tax by the installment method prescribed by subsection (1) of KRS 141.044 shall be
19 subject to a penalty as provided in KRS 131.180 for any declaration underpayment
20 or any installment not paid on time. Declaration underpayment, for purposes of this
21 subsection, is determined by subtracting five thousand dollars (\$5,000) and
22 declaration payments actually made from seventy percent (70%) of the total tax
23 liability due under KRS 141.040 and computed by the taxpayer on the return filed
24 for the tax year. For taxable years beginning on or after January 1, 2006, the penalty
25 imposed by this subsection shall not apply if estimated payments made under
26 subsection (1) of KRS 141.044 are equal to the amount of tax due under KRS
27 141.040 for the previous taxable year, and the amount of tax due under KRS~~

1 ~~141,040 for the previous year was equal to or less than twenty five thousand dollars~~
 2 ~~(\$25,000).~~

3 ~~(4)~~ Every tax imposed by this chapter, and all increases, interest, and penalties thereon,
 4 shall become, from the time it is due and payable, a personal debt to the state from
 5 the taxpayer or other person liable therefor.

6 ~~(3)~~~~(5)~~ In addition to the penalties herein prescribed, any taxpayer or employer, who
 7 willfully fails to make a return or willfully makes a false return, or who willfully
 8 fails to pay taxes owing or collected, with intent to evade payment of the tax or
 9 amount collected, or any part thereof, shall be guilty of a Class D felony.

10 ~~(4)~~~~(6)~~ Any person who willfully aids or assists in, or procures, counsels, or advises
 11 the preparation or presentation under, or in connection with any matter arising under
 12 this chapter of a return, affidavit, claim, or other document, which is fraudulent or is
 13 false as to any material matter, whether or not the falsity or fraud is with the
 14 knowledge or consent of the person authorized or required to present such return,
 15 affidavit, claim, or document, shall be guilty of a Class D felony.

16 ~~(5)~~~~(7)~~ A return for the purpose of this section shall mean and include any return,
 17 declaration, or form prescribed by the department and required to be filed with the
 18 department by the provisions of this chapter, or by the rules and regulations of the
 19 department or by written request for information to the taxpayer by the department.

20 ➔Section 60. KRS 148.853 is amended to read as follows:

21 (1) **Beginning July 1, 2020, no applications for the incentives under Section 32 of**
 22 **this Act and KRS 148.851 to 148.860 shall be accepted. All projects with**
 23 **preliminary or final approval under Section 32 of this Act and KRS 148.851 to**
 24 **148.860 on June 30, 2020, shall continue to be governed by Section 32 of this Act**
 25 **and KRS 148.851 to 148.860.**~~[The General Assembly finds and declares that:~~

26 ~~(a) The general welfare and material well-being of the citizens of the~~
 27 ~~Commonwealth depend in large measure upon the development of tourism in~~

1 the Commonwealth;

2 ~~(b) It is in the best interest of the Commonwealth to provide incentives for the~~
3 ~~creation of new tourism attractions and the expansion of existing tourism~~
4 ~~attractions within the Commonwealth in order to advance the public purposes~~
5 ~~of relieving unemployment by preserving and creating jobs that would not~~
6 ~~exist if not for the incentives offered by the authority to approved companies,~~
7 ~~and by preserving and creating sources of tax revenues for the support of~~
8 ~~public services provided by the Commonwealth;~~

9 ~~(c) The authorities granted by KRS 148.851 to 148.860 are proper governmental~~
10 ~~and public purposes for which public moneys may be expended; and~~

11 ~~(d) That the creation or expansion of tourism development projects is of~~
12 ~~paramount importance mandating that the provisions of KRS 139.536 and~~
13 ~~KRS 148.851 to 148.860 be liberally construed and applied in order to~~
14 ~~advance public purposes.]~~

15 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the
16 following requirements shall be met:

17 (a) For a tourism attraction project:

18 1. The total eligible costs shall exceed one million dollars (\$1,000,000),
19 except for a tourism attraction project located in a county designated as
20 an enhanced incentive county at the time the eligible company becomes
21 an approved company as provided in KRS 148.857(6), the total eligible
22 costs shall exceed five hundred thousand dollars (\$500,000);

23 2. In any year, including the first year of operation, the tourism attraction
24 project shall be open to the public at least one hundred (100) days; and

25 3. In any year following the third year of operation, the tourism attraction
26 project shall attract at least twenty-five percent (25%) of its visitors from
27 among persons who are not residents of the Commonwealth;

- 1 (b) For an entertainment destination center project:
- 2 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 3 2. The facility shall contain a minimum of two hundred thousand (200,000)
- 4 square feet of building space adjacent or complementary to an existing
- 5 tourism attraction project or a major convention facility;
- 6 3. The incentives shall be dedicated to a public infrastructure purpose that
- 7 shall relate to the entertainment destination center project;
- 8 4. In any year, including the first year of operation, the entertainment
- 9 destination center project shall:
- 10 a. Be open to the public at least one hundred (100) days per year;
- 11 b. Maintain at least one (1) major theme restaurant and at least three
- 12 (3) additional entertainment venues, including but not limited to
- 13 live entertainment, multiplex theaters, large-format theater, motion
- 14 simulators, family entertainment centers, concert halls, virtual
- 15 reality or other interactive games, museums, exhibitions, or other
- 16 cultural and leisure-time activities; and
- 17 c. Maintain a minimum occupancy of sixty percent (60%) of the total
- 18 gross area available for lease with entertainment and food and
- 19 drink options not including the retail sale of tangible personal
- 20 property; and
- 21 5. In any year following the third year of operation, the entertainment
- 22 destination center project shall attract at least twenty-five percent (25%)
- 23 of its visitors from among persons who are not residents of the
- 24 Commonwealth;
- 25 (c) For a theme restaurant destination attraction project:
- 26 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 27 2. In any year, including the first year of operation, the attraction shall:

- 1 a. Be open to the public at least three hundred (300) days per year
- 2 and for at least eight (8) hours per day; and
- 3 b. Generate no more than fifty percent (50%) of its revenue through
- 4 the sale of alcoholic beverages;
- 5 3. In any year following the third year of operation, the theme restaurant
- 6 destination attraction project shall attract a minimum of fifty percent
- 7 (50%) of its visitors from among persons who are not residents of the
- 8 Commonwealth; and
- 9 4. The theme restaurant destination attraction project shall:
 - 10 a. At the time of final approval, offer a unique dining experience that
 - 11 is not available in the Commonwealth within a one hundred (100)
 - 12 mile radius of the attraction;
 - 13 b. In any year, including the first year of operation, maintain seating
 - 14 capacity of four hundred fifty (450) guests and offer live music or
 - 15 live musical and theatrical entertainment during the peak business
 - 16 hours that the facility is in operation and open to the public; or
 - 17 c. Within three (3) years of the completion date, the attraction shall
 - 18 obtain a top two (2) tier rating by a nationally accredited service
 - 19 and shall maintain a top two (2) tier rating through the term of the
 - 20 agreement;
 - 21 (d) For a lodging facility project:
 - 22 1. a. The eligible costs shall exceed five million dollars (\$5,000,000)
 - 23 unless the provisions of subdivision b. of this subparagraph apply.
 - 24 b. i. If the lodging facility is an integral part of a major
 - 25 convention or sports facility, the eligible costs shall exceed six
 - 26 million dollars (\$6,000,000); and
 - 27 ii. If the lodging facility includes five hundred (500) or more

- 1 guest rooms, the eligible costs shall exceed ten million
2 dollars (\$10,000,000); and
- 3 2. In any year, including the first year of operation, the lodging facility
4 shall:
- 5 a. Be open to the public at least one hundred (100) days; and
6 b. Attract at least twenty-five percent (25%) of its visitors from
7 among persons who are not residents of the Commonwealth;
- 8 (e) Any tourism development project shall not be eligible for incentives if it
9 includes material determined to be lewd, offensive, or deemed to have a
10 negative impact on the tourism industry in the Commonwealth; and
- 11 (f) An expansion of any tourism development project shall in all cases be treated
12 as a new stand-alone project.
- 13 (3) The incentives offered under the Kentucky Tourism Development Act shall be as
14 follows:
- 15 (a) An approved company may be granted a sales tax incentive based on the
16 Kentucky sales tax imposed on sales generated by or arising at the tourism
17 development project; and
- 18 (b) 1. For a tourism development project other than a lodging facility project
19 described in KRS 148.851(14)(e) or (f), or a tourism attraction project
20 described in subparagraph 2. of this paragraph:
- 21 a. A sales tax incentive shall be allowed to an approved company
22 over a period of ten (10) years, except as provided in subparagraph
23 5. of this paragraph; and
- 24 b. The sales tax incentive shall not exceed the lesser of the total
25 amount of the sales tax liability of the approved company and its
26 lessees or a percentage of the approved costs as specified by the
27 agreement, not to exceed twenty-five percent (25%);

- 1 2. For a tourism attraction project located in an enhanced incentive county
2 at the time the eligible company becomes an approved company as
3 provided in KRS 148.857(6):
- 4 a. A sales tax incentive shall be allowed to the approved company
5 over a period of ten (10) years; and
- 6 b. The sales tax incentive shall not exceed the lesser of the total
7 amount of the sales tax liability of the approved company and its
8 lessees or a percentage of the approved costs as specified by the
9 agreement, not to exceed thirty percent (30%);
- 10 3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
- 11 a. A sales tax incentive shall be allowed to the approved company
12 over a period of twenty (20) years; and
- 13 b. The sales tax incentive shall not exceed the lesser of total amount
14 of the sales tax liability of the approved company and its lessees or
15 a percentage of the approved costs as specified by the agreement,
16 not to exceed fifty percent (50%);
- 17 4. Any unused incentives from a previous year may be carried forward to
18 any succeeding year during the term of the agreement until the entire
19 specified percentage of the approved costs has been received through
20 sales tax incentives; and
- 21 5. If the approved company is an entertainment destination center that has
22 dedicated at least thirty million dollars (\$30,000,000) of the incentives
23 provided under the agreement to a public infrastructure purpose, the
24 agreement may be amended to extend the term of the agreement up to
25 two (2) additional years if the approved company agrees to:
- 26 a. Reinvest in the original entertainment destination project one
27 hundred percent (100%) of any incentives received during the

1 extension that were outstanding at the end of the original term of
2 the agreement; and

3 b. Report to the authority at the end of each fiscal year the amount of
4 incentives received during the extension and how the incentives
5 were reinvested in the original entertainment destination project.

6 ➔Section 61. KRS 154.20-232 is amended to read as follows:

7 ~~(1) (a) Beginning on April 14, 2018, the authority shall not accept any new~~
8 ~~applications for the Kentucky Angel Investment Act until on or after July 1,~~
9 ~~2022.~~

10 ~~(b)~~ KRS 154.20-230 to 154.20-240 shall be known as the "Kentucky Angel Investment
11 Act."

12 (2) The purpose of KRS 141.396 and 154.20-230 to 154.20-240 is to encourage capital
13 investment in the Commonwealth by individual investors that will further the
14 establishment or expansion of small businesses, create additional jobs, and foster
15 the development of new products and technologies, by providing tax credits for
16 certain investments in small businesses located in the Commonwealth, operating in
17 the fields of knowledge-based, high-tech, and research and development, and
18 showing a potential for rapid growth.

19 (3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-
20 240:

21 (a) Small businesses and individual investors shall request certification from the
22 authority pursuant to KRS 154.20-236. To be qualified, the small businesses
23 and individual investors shall fulfill the requirements outlined in KRS 154.20-
24 234; and

25 (b) Once certified, qualified investors may make investments in qualified small
26 businesses, and may apply to the authority for a credit in return for making the
27 investment if that investment qualifies under KRS 154.20-234.

1 (4) Any qualified investment made in a qualified small business under KRS 154.20-230
2 to 154.20-240 shall be used by that business, insofar as possible, to leverage
3 additional capital investments from other sources.

4 ➔Section 62. KRS 154.20-250 is amended to read as follows:

5 ~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or~~
6 ~~make preliminary approvals for the Kentucky Investment Fund until on or after July~~
7 ~~1, 2022.~~

8 ~~(2)~~ The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital
9 investment in the Commonwealth of Kentucky, to encourage the establishment or
10 expansion of small businesses in Kentucky, to provide additional jobs, and to encourage
11 the development of new products and technologies in the state through capital
12 investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment
13 preference to Kentucky small businesses showing a potential for rapid growth. Insofar as
14 possible, any investment made in a Kentucky small business under the provisions of KRS
15 154.20-250 to 154.20-284 shall be used by that business to leverage additional capital
16 investments from other sources.

17 ➔Section 63. KRS 154.20-258 is amended to read as follows:

18 (1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%)
19 of the investor's proportional ownership share of all qualified investments made by
20 its investment fund and verified by the authority. The aggregate tax credit available
21 to any investor shall not exceed forty percent (40%) of the cash contribution made
22 by the investor to its investment fund. The credit may be applied against:

23 (a) Both the income tax imposed by KRS 141.020 or 141.040, and the limited
24 liability entity tax imposed by KRS 141.0401, with the ordering of the credits
25 as provided in KRS 141.0205;

26 ~~(b) The corporation license tax imposed by KRS 136.070;~~

27 ~~(c)~~ The insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270; and

1 ~~(c)~~~~(d)~~ The taxes on financial institutions imposed by KRS 136.300, 136.310,
2 and 136.505.

3 (2) The tax credit amount that may be claimed by an investor in any tax year shall not
4 exceed fifty percent (50%) of the initial aggregate credit amount approved by the
5 authority for the investment fund which would be proportionally available to the
6 investor. An investor may first claim the credit granted in subsection (1) of this
7 section in the year following the year in which the credit is granted.

8 (3) If the credit amount that may be claimed in any tax year, as determined under
9 subsections (1) and (2) of this section, exceeds the investor's combined tax
10 liabilities against which the credit may be claimed for that year, the investor may
11 carry the excess tax credit forward until the tax credit is used, but the carry-forward
12 of any excess tax credit shall not increase the fifty percent (50%) limitation
13 established by subsection (2) of this section. Any tax credits not used within fifteen
14 (15) years of the approval by the authority of the aggregate tax credit amount
15 available to the investor shall be lost.

16 (4) The tax credits allowed by this section shall not apply to any liability an investor
17 may have for interest, penalties, past due taxes, or any other additions to the
18 investor's tax liability. The holder of the tax credit shall assume any and all
19 liabilities and responsibilities of the credit.

20 (5) The tax credits allowed by this section are not transferable, except that:

21 (a) A nonprofit entity may transfer, for some or no consideration, any or all of the
22 credits it receives under this section and any related benefits, rights,
23 responsibilities, and liabilities. Within thirty (30) days of the date of any
24 transfer of credits pursuant to this subsection, the nonprofit entity shall notify
25 the authority and the Department of Revenue of:

26 1. The name, address, and Social Security number or employer
27 identification number, as may be applicable, of the party to which the

- 1 nonprofit entity transferred its credits;
- 2 2. The amount of credits transferred; and
- 3 3. Any additional information the authority or the Department of Revenue
- 4 deems necessary.

5 (b) If an investor is an entity and is a party to a merger, acquisition, consolidation,

6 dissolution, liquidation, or similar corporate reorganization, the tax credits

7 shall pass through to the investor's successor.

8 (c) If an individual investor dies, the tax credits shall pass to the investor's estate

9 or beneficiaries in a manner consistent with the transfer of ownership of the

10 investor's interest in the investment fund.

11 (6) The tax credit amount that may be claimed by an investor shall reflect only the

12 investor's participation in qualified investments properly reported to the authority by

13 the investment fund manager. No tax credit authorized by this section shall become

14 effective until the Department of Revenue receives notification from the authority

15 that includes:

16 (a) A statement that a qualified investment has been made that is in compliance

17 with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

18 (b) A list of each investor in the investment fund that owns a portion of the small

19 business in which a qualified investment has been made by virtue of an

20 investment in the investment fund, and each investor's amount of credit

21 granted to the investor for each qualified investment.

22 The authority shall, within sixty (60) days of approval of credits, notify the

23 Department of Revenue of the information required pursuant to this subsection and

24 notify each investor of the amount of credits granted to that investor, and the year

25 the credits may first be claimed.

26 (7) After the date on which investors in an investment fund have cumulatively received

27 an amount of credits equal to the amount of credits allocated to the investment fund

1 by the authority, no investor shall receive additional credits by virtue of its
2 investment in that investment fund unless the investment fund's allocation of credits
3 is increased by the authority pursuant to an amended application.

4 (8) The maximum amount of credits to be authorized by the authority shall be three
5 million dollars (\$3,000,000) for each of fiscal years 2002-03 and 2003-04.

6 ➔Section 64. KRS 154.22-050 is amended to read as follows:

7 The authority may enter into, with any approved company, a tax incentive agreement with
8 respect to its economic development project, upon adoption of a resolution authorizing
9 the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth
10 below, the terms and provisions of each tax incentive agreement shall be determined by
11 negotiations between the authority and the approved company.

12 (1) The tax incentive agreement shall set forth the maximum amount of inducements
13 available to the approved company for recovery of the approved costs authorized by
14 the authority and expended by the approved company.

15 (2) The approved company shall expend the authorized approved costs for the
16 economic development project within three (3) years of the date of the final
17 approval by the authority.

18 (3) The approved company shall provide the authority with documentation as to the
19 expenditures for approved costs in a manner acceptable to the authority.

20 (4) (a) The term of the tax incentive agreement shall commence upon the activation
21 date and shall terminate upon the earlier of the full receipt of the maximum
22 amount of inducements by the approved company or fifteen (15) years after
23 the activation date unless paragraph (b) of this subsection applies.

24 (b) 1. An approved company may request an extension of the fifteen (15) year
25 term as provided in this paragraph. The extension may be granted by the
26 authority for up to ten (10) years under the following conditions:

27 a. The approved company commits to an additional investment or the

- 1 creation of additional jobs at the approved economic development
2 project;
- 3 b. The approved company consolidates operations, facilities, or
4 services currently located in another state to the Kentucky facility;
- 5 c. At the time the extension is granted, the approved company has
6 used less than sixty percent (60%) of the inducements awarded
7 under the tax incentive agreement; and
- 8 d. The authority shall not increase the maximum amount of
9 incentives established by the existing tax incentive agreement.
- 10 2. If the authority approves the extension, the tax incentive agreement shall
11 be amended as necessary to extend the term, and to incorporate any
12 additional requirements established by the authority as required by this
13 paragraph.
- 14 (5) The tax incentive agreement shall include the activation date. To implement the
15 activation date, the approved company shall notify the authority, the Department of
16 Revenue, and the approved company's employees of the activation date when the
17 implementation of the inducements authorized in the tax incentive agreement shall
18 occur. If the approved company does not satisfy the minimum investment and
19 minimum employment requirements of KRS 154.22-040(3) by the activation date,
20 the approved company shall not be entitled to receive inducements pursuant to this
21 subchapter until the approved company satisfies the requirements; however, the
22 fifteen (15) year period for the term of the tax incentive agreement shall begin from
23 the activation date. Notwithstanding the previous sentence, if the approved
24 company does not satisfy the minimum investment and minimum employment
25 requirements of KRS 154.22-040(3) within two (2) years from the date of final
26 approval of the tax incentive agreement, then the approved company shall be
27 ineligible to receive inducements under this subchapter unless an extension is

- 1 approved by the authority.
- 2 (6) The tax agreement shall also state that if the total number of new full-time
3 employees at the site of the economic development project who are residents of the
4 Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at
5 any time after activation, the authorized inducements shall be suspended for a
6 period of up to one (1) year. If the company does not have at least fifteen (15) new
7 full-time employees at the site who are residents of the Commonwealth and subject
8 to Kentucky income tax within one (1) year from the date of the initial suspension,
9 the inducements may be terminated at the discretion of the authority.
- 10 (7) The approved company shall comply with the hourly wage criteria set forth in KRS
11 154.22-040(4) and provide documentation in connection with hourly wages paid to
12 its full-time employees hired as a result of the economic development project in a
13 manner acceptable to the authority.
- 14 (8) The approved company may be permitted the following inducements during the
15 term of the tax incentive agreement:
- 16 (a) A one hundred percent (100%) credit against the Kentucky income tax and the
17 limited liability entity tax imposed under KRS 141.0401 that would otherwise
18 be owed in the approved company's fiscal year, as determined under KRS
19 141.347, to the Commonwealth by the approved company on the income,
20 Kentucky gross receipts, or Kentucky gross profits of the approved company
21 generated by or arising from the economic development project. The ordering
22 of the credits shall be as provided in KRS 141.0205; and
- 23 (b) The aggregate assessments withheld by the approved company in each year.
- 24 (9) The credit allowed the approved company shall be applied against both the income
25 tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
26 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for
27 the fiscal year for which the tax return of the approved company is filed. The total

1 inducements may not exceed authorized cumulative approved costs paid by the
2 approved company in the period commencing with the date of final approval.

3 (10) The approved company shall not be required to pay estimated tax payments under
4 Section 42 of this Act~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable
5 income, Kentucky gross receipts or Kentucky gross profits generated by or arising
6 from the economic development project.

7 (11) The tax incentive agreement may be assigned by the approved company only upon
8 the prior written consent of the authority following the adoption of a resolution by
9 the authority to that effect.

10 (12) The tax incentive agreement shall provide that if an approved company fails to
11 comply with its obligations under the tax incentive agreement then the authority
12 shall have the right, at its option, to:

- 13 (a) Suspend the tax credits and assessments available to the approved company;
- 14 (b) Pursue any remedy provided under the tax incentive agreement, including
15 termination thereof; and
- 16 (c) Pursue any other remedy at law to which it may be entitled.

17 (13) All remedies provided in subsection (12) of this section shall be deemed to be
18 cumulative.

19 ➔Section 65. KRS 154.23-035 is amended to read as follows:

20 The authority, upon adoption of an authorizing resolution, may enter into a tax incentive
21 agreement with any approved company engaged in manufacturing activities with respect
22 to its economic development project. The terms and provisions of each tax incentive
23 agreement, including the amount of approved costs, shall be determined by negotiations
24 between the authority and the approved company, subject to the inclusion of the
25 following mandatory provisions:

26 (1) The tax incentive agreement shall set forth the maximum amount of inducements
27 available to the approved company for recovery of the approved costs authorized by

- 1 the authority and expended by the approved company.
- 2 (2) The approved company shall expend the authorized approved costs within three (3)
3 years of the date of the final approval by the authority.
- 4 (3) The approved company shall provide the authority with documentation as to the
5 expenditures for approved costs in a manner acceptable to the authority.
- 6 (4) The term of the tax incentive agreement shall commence upon the activation date
7 and will terminate upon the earlier of the full receipt of the maximum amount of
8 inducements by the approved company or ten (10) years after the activation date.
- 9 (5) The tax incentive agreement shall include the activation date, which shall be a date
10 selected by the approved company within two (2) years of the date of final approval
11 by the authority of the tax incentive agreement. If the approved company does not
12 satisfy the minimum investment and minimum employment requirements of KRS
13 154.23-025 by the activation date, the approved company shall not be entitled to
14 receive inducements pursuant to this subchapter until the approved company
15 satisfies the requirements; however, the ten (10) year period for the term of the tax
16 incentive agreement shall begin from the activation date. Notwithstanding the
17 previous sentence, if the approved company does not satisfy the minimum
18 investment and minimum employment requirements of KRS 154.23-025 within two
19 (2) years from the date of final approval of the tax incentive agreement, then the
20 approved company shall be ineligible to receive inducements under this subchapter
21 unless an extension is approved by the authority.
- 22 (6) The approved company shall comply with the hourly wage criteria set forth in KRS
23 154.23-025(4) and provide documentation in connection with hourly wages paid to
24 its full-time employees hired as a result of the economic development project in a
25 manner acceptable to the authority.
- 26 (7) The approved company may be permitted the following inducements during the
27 term of the tax incentive agreement:

- 1 (a) A one hundred percent (100%) credit against the Kentucky income tax and the
2 limited liability entity tax imposed under KRS 141.0401 that would otherwise
3 be owed in the approved company's fiscal year, as determined under KRS
4 141.401, to the Commonwealth by the approved company on the income,
5 Kentucky gross profits, or Kentucky gross receipts of the approved company
6 generated by or arising from the economic development project. The ordering
7 of the credits shall be as provided in KRS 141.0205; and
- 8 (b) The aggregate assessments withheld by the approved company each year.
- 9 (8) The total inducements may not exceed authorized cumulative approved costs paid
10 by the approved company in the three (3) year period commencing with and after
11 the date of final approval.
- 12 (9) The tax credited to the approved company shall be credited for the fiscal year for
13 which the tax return of the approved company is filed. The approved company shall
14 not be required to pay estimated income tax payments under Section 42 of this
15 Act~~as prescribed in KRS 141.042~~ on the Kentucky taxable income, Kentucky
16 gross receipts or Kentucky gross profits generated by or arising from the economic
17 development project.
- 18 (10) The tax incentive agreement may be assigned by the approved company only upon
19 the prior written consent of the authority following the adoption of a resolution by
20 the authority to that effect.
- 21 (11) The tax incentive agreement shall provide that if the total number of full-time
22 qualified employees at the site of the economic development project is less than ten
23 (10), the authorized inducements shall be suspended for a period of up to one (1)
24 year. If the company does not have at least ten (10) new full-time qualified
25 employees at the site within one (1) year from the date of the initial suspension, the
26 inducements may be terminated at the discretion of the authority.
- 27 (12) The tax incentive agreement shall provide that if an approved company fails to

1 comply with its obligations under the tax incentive agreement then the authority
2 shall have the right, at its option, to:

3 (a) Suspend the tax credits and assessments available to the approved company,
4 pursuant to subsection (11) of this section;

5 (b) Pursue any remedy provided under the tax incentive agreement, including
6 termination thereof; and

7 (c) Pursue any other remedy at law to which it may be entitled.

8 (13) All remedies provided in subsection (12) of this section shall be deemed to be
9 cumulative.

10 (14) The approved company shall pay all costs of counsel to the authority resulting from
11 approval of its economic development project.

12 ➔Section 66. KRS 154.26-085 is amended to read as follows:

13 (1) If, prior to July 13, 2004, the authority has given its preliminary approval
14 designating an eligible company as a preliminarily approved company and
15 authorizing the undertaking of an economic revitalization project, but has not
16 entered into a final agreement with the company, the company shall have the one-
17 time option to:

18 (a) Operate under the existing agreement as preliminarily approved; or

19 (b) Request the authority to amend the agreement to comply with the amendments
20 to KRS 154.26-090, 154.26-100,~~136.0704,~~ and 141.310 in 2004 Ky. Acts
21 ch. 105, secs. 12, 13, 14, and 21.

22 (2) If, prior to July 13, 2004, the authority has entered into a final agreement with an
23 eligible company, and if the final agreement is still in effect, the company shall have
24 the one-time option to:

25 (a) Operate under the existing final agreement; or

26 (b) Request the authority to amend only the employee assessment portion of the
27 final agreement to comply with the amendment to KRS 154.26-100 in 2004

1 Ky. Acts ch. 105, sec. 13.

2 ➔Section 67. KRS 154.26-095 is amended to read as follows:

3 ~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or~~
4 ~~make preliminary approvals of a revitalization agreement until on or after July 1,~~
5 ~~2022.~~

6 ~~(2)~~By July 1, 2019, and by each July 1 thereafter, the authority and the Department of
7 Revenue shall jointly provide a report to the Interim Joint Committee on Appropriations
8 and Revenue for each project approved under this subchapter. The report shall contain the
9 following information:

10 ~~(1)(a)~~ The name of each approved company and the location of each economic
11 revitalization project;

12 ~~(2)(b)~~ The amount of approved costs for each economic revitalization project;

13 ~~(3)(c)~~ The date the agreement was approved;

14 ~~(4)(d)~~ Whether an assessment fee authorized by KRS 154.26-100 was a part of the
15 agreement;

16 ~~(5)(e)~~ The number of employees employed in manufacturing, the number of
17 employees employed in coal mining and processing, or the number of employees
18 employed in agribusiness operations;

19 ~~(6)(f)~~ Whether the project was a supplemental project; and

20 ~~(7)(g)~~ By taxable year, the amount of tax credit claimed on the taxpayer's return, any
21 amount denied by the department, and the amount of any tax credit remaining to be
22 carried forward.

23 ➔Section 68. KRS 154.26-115 is amended to read as follows:

24 (1) If, prior to July 13, 2004, the authority has given its preliminary approval
25 designating an eligible company as a preliminarily approved company and
26 authorizing the undertaking of an economic revitalization project, but has not
27 entered into a final agreement with the company, the company shall have the one-

1 time option to:

- 2 (a) Operate under the existing agreement as preliminarily approved; or
3 (b) Request the authority to amend the agreement to comply with the amendments
4 to KRS 154.26-090, 154.26-100, ~~136.0704,~~ and 141.310 in 2004 Ky. Acts
5 ch. 18, secs. 1, 2, 4, and 5.

6 (2) If, prior to July 13, 2004, the authority has entered into a final agreement with an
7 eligible company, and if the final agreement is still in effect, the company shall have
8 the one-time option to:

- 9 (a) Operate under the existing final agreement; or
10 (b) Request the authority to amend only the employee assessment portion of the
11 final agreement to comply with the amendment to KRS 154.26-100 in 2004
12 Ky. Acts ch. 18, sec. 2.

13 ➔Section 69. KRS 154.27-080 is amended to read as follows:

14 An approved company may be eligible for income tax-related incentives as follows:

15 (1) A credit of up to one hundred percent (100%) of the Kentucky income tax imposed
16 under KRS 141.040 or 141.020, and the limited liability entity tax imposed under
17 KRS 141.0401 that would otherwise be owed by the approved company to the
18 Commonwealth for the approved company's tax year, on the income, Kentucky
19 gross profits, or Kentucky gross receipts of the approved company generated by or
20 arising from the eligible project, with the ordering of credits as provided in KRS
21 141.0205.

22 (a) The credit allowed the approved company shall be applied against both the
23 income tax imposed by KRS 141.020 or 141.040, and the limited liability
24 entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS
25 141.0205, for the tax year for which the tax return of the approved company is
26 filed.

27 (b) The approved company shall not be required to pay estimated tax payments

1 under Section 42 of this Act~~[as prescribed in KRS 141.042]~~ on the Kentucky
2 taxable income, Kentucky gross receipts, or Kentucky gross profits generated
3 by or arising from the eligible project.

4 (c) The credit provided by this subsection shall be determined as provided in KRS
5 141.421.

6 (2) The approved company or, with the authority's consent, an affiliate of the approved
7 company may require that each employee subject to the state income tax imposed
8 by KRS 141.020, as a condition of employment, agree to pay an assessment of up to
9 four percent (4%) of his or her gross wages. The assessment shall be uniform
10 against all employees against whom it is assessed and shall be imposed at a
11 percentage rate that is negotiated as part of the tax incentive agreement.

12 (a) 1. The assessment may be imposed against each employee:

13 a. Whose job was created as a result of the eligible project;

14 b. Who is employed by the approved company to work at the facility;
15 and

16 c. Who is on the payroll of the approved company or, with the
17 authority's consent, is on the payroll of an affiliate of the approved
18 company.

19 2. Construction workers, employees of the approved company directly
20 employed in the construction, retrofit, or upgrade of the eligible facility,
21 contract workers, and leased workers shall not be considered employees
22 of the approved company for purposes of the assessment permitted by
23 this subsection.

24 (b) Each employee so assessed shall be entitled to credits against Kentucky
25 income tax equal to the assessment withheld from wages during the calendar
26 year as provided by KRS 141.310 and 141.421.

27 (c) An approved company that elects to impose the assessment as a condition of

1 employment is authorized to deduct the assessment from each paycheck of
2 each employee.

3 (d) The approved company shall provide to the authority the information
4 necessary to monitor the tax incentive agreement and the authorization for the
5 authority to share the information with the department as necessary for
6 purposes of enforcing the terms of the tax incentive agreement.

7 (e) Any assessment imposed pursuant to this subsection shall permanently expire
8 upon termination or expiration of the tax incentive agreement.

9 ➔Section 70. KRS 154.28-090 is amended to read as follows:

10 The authority, upon adoption of an authorizing resolution, may enter into, with any
11 approved company, an agreement with respect to its economic development project. The
12 terms and provisions of each agreement, including the amount of approved costs, shall be
13 determined by negotiations between the authority and the approved company, except that
14 each agreement shall include the following provisions:

15 (1) The agreement shall set forth the maximum amount of inducements available to the
16 approved company for recovery of the approved costs authorized by the authority
17 and expended by the approved company.

18 (2) The approved company shall expend the authorized approved costs within three (3)
19 years of the date of the final approval by the authority.

20 (3) The approved company shall provide the authority with documentation as to the
21 expenditures for approved costs in a manner acceptable to the authority.

22 (4) The agreement shall include the activation date and will terminate upon the earlier
23 of the full receipt of the maximum amount of inducements by the approved
24 company or ten (10) years from the activation date. To implement the activation
25 date, the approved company shall notify the authority, the Kentucky Department of
26 Revenue, and the approved company's employees of the activation date on which
27 implementation of the inducements authorized in the agreement shall occur. The

1 activation date shall be the time when the maximum dollar value of equipment that
2 constitutes a portion of the economic development project under KRS 154.28-
3 010(11) shall be determined. If the approved company does not satisfy the
4 minimum investment and minimum employment requirements of KRS 154.28-
5 080(3) by the activation date, the approved company shall not be entitled to receive
6 inducements pursuant to this subchapter until the approved company satisfies the
7 requirements; however, the ten (10) year period for the term of the agreement shall
8 begin from the activation date. Notwithstanding the previous sentence, if the
9 approved company does not satisfy the minimum investment and minimum
10 employment requirements of KRS 154.28-080(3) within two (2) years from the date
11 of final approval of the agreement, then the approved company shall be ineligible to
12 receive inducements under this subchapter unless an extension is approved by the
13 authority.

14 (5) The tax agreement shall also state that if the total number of new full-time
15 employees at the site of the economic development project who are residents of the
16 Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at
17 any time after activation, the authorized inducements shall be suspended for a
18 period of up to one (1) year. If the company does not have at least fifteen (15) new
19 full-time employees at the site who are residents of the Commonwealth and subject
20 to Kentucky income tax within one (1) year from the date of the initial suspension,
21 the inducements may be terminated at the discretion of the authority.

22 (6) The approved company shall comply with the wage criteria set forth in KRS
23 154.28-080(4) and provide documentation in connection with wages paid to its full-
24 time employees hired as a result of the economic development project in a manner
25 acceptable to the authority.

26 (7) The approved company may be permitted one of the following inducements during
27 the term of the agreement and shall select the applicable inducement at the time of

- 1 final approval by the authority:
- 2 (a) A one hundred percent (100%) credit against the Kentucky income tax and the
3 limited liability entity tax imposed under KRS 141.0401 that would otherwise
4 be owed in the approved company's fiscal year, as determined under KRS
5 141.400, to the Commonwealth by the approved company on the income,
6 Kentucky gross profits, or Kentucky gross receipts of the approved company
7 generated by or arising from the economic development project, with the
8 ordering of credits as provided in KRS 141.0205; or
- 9 (b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the
10 approved company each year.
- 11 (8) Either the total tax credit or assessments may not exceed authorized cumulative
12 approved costs paid by the approved company in the three (3) year period
13 commencing with the date of final approval.
- 14 (9) If the approved company elects to use the tax credit, the income tax and limited
15 liability entity tax imposed under KRS 141.0401 credited to the approved company
16 shall be credited for the fiscal year for which the tax return of the approved
17 company is filed. The approved company shall not be required to pay estimated tax
18 payments under Section 42 of this Act~~[as prescribed in KRS 141.042]~~ on the
19 Kentucky taxable income, Kentucky gross profits, or Kentucky gross receipts
20 generated by or arising from the economic development project.
- 21 (10) The agreement may be assigned by the approved company only upon the prior
22 written consent of the authority following the adoption of a resolution by the
23 authority to that effect.
- 24 (11) The agreement shall provide that if an approved company fails to comply with its
25 obligations under the agreement then the authority shall have the right, at its option,
26 to:
- 27 (a) Suspend either the income tax credits or assessments available to the approved

1 company, pursuant to subsection (5) of this section;

2 (b) Pursue any remedy provided under the agreement, including termination
3 thereof; and

4 (c) Pursue any other remedy at law to which it may be entitled.

5 (12) All remedies provided in subsection (11) of this section shall be deemed to be
6 cumulative.

7 (13) By October 1 of each year, the Department of Revenue shall certify to the authority,
8 in the form of an annual report, aggregate tax credits claimed on tax returns filed
9 during the fiscal year ending June 30 of that year and assessments taken during the
10 prior calendar year by approved companies with respect to their economic
11 development projects under this subchapter, and shall certify to the authority, within
12 ninety (90) days from the date an approved company has filed its state income tax
13 return, when an approved company has taken tax credits or assessments equal to its
14 total inducements.

15 ➔Section 71. KRS 154.32-070 is amended to read as follows:

16 (1) For taxable years beginning after December 31, 2009, an approved company may be
17 eligible for a credit of up to one hundred percent (100%) of the Kentucky income
18 tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax
19 imposed under KRS 141.0401, that would otherwise be owed by the approved
20 company to the Commonwealth for the approved company's taxable year, on the
21 income, Kentucky gross profits, or Kentucky gross receipts of the approved
22 company generated by or arising from the economic development project.

23 (2) The credit allowed the approved company shall be applied against both the income
24 tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
25 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for
26 the taxable year for which the tax return of the approved company is filed, subject to
27 the annual maximum set forth in the tax incentive agreement. Any credit not used in

1 the year in which it was first available may be carried forward to subsequent years,
2 provided that no credit may be carried forward beyond the term of the tax incentive
3 agreement.

4 (3) The approved company shall not be required to pay estimated tax payments under
5 Section 42 of this Act~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable
6 income, Kentucky gross receipts, or Kentucky gross profits generated by or arising
7 from the eligible project.

8 (4) The credit provided by this section shall be determined as provided in KRS
9 141.415.

10 (5) The amount of incentives allowed in any year shall not exceed the lesser of the tax
11 liability of the approved company related to the economic development project for
12 that year or the annual maximum approved costs set forth in the tax incentive
13 agreement. The incentives shall be allowed for each fiscal year of the approved
14 company during the term of the tax incentive agreement for which a tax return is
15 filed by the approved company.

16 ➔Section 72. KRS 154.34-120 is amended to read as follows:

17 (1) Except as provided in subsection (5) of this section, for taxable years beginning
18 after December 31, 2009, an approved company may be eligible for a nonrefundable
19 credit of up to one hundred percent (100%) of the Kentucky income tax imposed
20 under KRS 141.020 or 141.040, and the limited liability entity tax imposed under
21 KRS 141.0401 that would otherwise be owed by the approved company to the
22 Commonwealth for the approved company's tax year, on the income, Kentucky
23 gross profits, or Kentucky gross receipts of the approved company generated by or
24 arising from the reinvestment project.

25 (2) The credit allowed the approved company shall be applied against both the income
26 tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
27 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for

1 the tax year for which the tax return of the approved company is filed. Any credit
2 not used in the year in which it was first available may be carried forward to
3 subsequent years, provided that no credit may be carried forward beyond the term of
4 the reinvestment agreement.

5 (3) The approved company shall not be required to pay estimated tax payments under
6 Section 42 of this Act~~[as prescribed in KRS 141.042]~~ on the Kentucky taxable
7 income, Kentucky gross receipts, or Kentucky gross profits generated by or arising
8 from the eligible project.

9 (4) The credit provided by this section shall be determined as provided in KRS
10 141.415.

11 (5) (a) For an approved company which receives preliminary approval prior to
12 February 1, 2010, the amount of incentives allowed in any year shall not
13 exceed the lesser of the tax liability of the approved company related to the
14 reinvestment project for that taxable year or the approved costs that have not
15 yet been recovered.

16 (b) For an approved company which receives preliminary approval on or after
17 February 1, 2010, the amount of incentives allowed in any year shall not
18 exceed the lesser of the tax liability of the approved company related to the
19 reinvestment project for that taxable year or twenty percent (20%) of the total
20 amount of the approved costs.

21 (c) The incentives shall be allowed for each taxable year of the approved
22 company during the term of the reinvestment agreement for which a tax return
23 is filed by the approved company.

24 ➔Section 73. KRS 155.170 is amended to read as follows:

25 (1) An annual excise tax is hereby levied on every corporation organized under this
26 chapter for the privilege of transacting business in this Commonwealth during the
27 calendar year, according to or measured by its entire net income, as defined herein,

1 received or accrued from all sources during the preceding calendar year, hereinafter
2 referred to as taxable year, at the rate of four and one-half percent (4.5%) of such
3 entire net income. The minimum tax assessable to any one (1) such corporation
4 shall be ten dollars (\$10). The liability for the tax imposed by this section shall arise
5 upon the first day of each calendar year, and shall be based upon and measured by
6 the entire net income of each such corporation for the preceding calendar year,
7 including all income received from government securities in such year. As used in
8 this section the words "taxable year" mean the calendar year next preceding the
9 calendar year for which and during which the excise tax is levied.

10 (2) The excise tax levied under subsection (1) of this section shall be in lieu of ~~the~~
11 ~~corporation license tax imposed by KRS 136.070,~~ the taxes imposed by KRS
12 141.040, and the taxes imposed by KRS 141.0401. It is the purpose and intent of the
13 General Assembly to levy taxes on corporations organized pursuant to this chapter
14 so that all such corporations will be taxed uniformly in a just and equitable manner
15 in accordance with the provisions of the Constitution of the Commonwealth of
16 Kentucky. The intent of this section is for the General Assembly to exercise the
17 powers of classification and of taxation on property, franchises, and trades
18 conferred by Section 171 of the Constitution of the Commonwealth.

19 (3) On or before June 1 of each year, the executive officer or officers of each
20 corporation shall file with the commissioner of the Department of Revenue a full
21 and accurate report of all income received or accrued during the taxable year, and
22 also an accurate record of the legal deductions in the same calendar year to the end
23 that the correct entire net income of the corporation may be determined. This report
24 shall be in such form and contain such information as the commissioner of the
25 Department of Revenue may specify. At the time of making such report by each
26 corporation, the taxes levied by this section with respect to an excise tax on
27 corporations organized pursuant to this chapter shall be paid to the commissioner of

1 the Department of Revenue.

2 (4) The securities, evidences of indebtedness, and shares of the capital stock issued by
3 the corporation established under the provisions of this chapter, their transfer, and
4 income therefrom and deposits of financial institutions invested therein, shall at all
5 times be free from taxation within the Commonwealth.

6 (5) Any stockholder, member, or other holder of any securities, evidences of
7 indebtedness, or shares of the capital stock of the corporation who realizes a loss
8 from the sale, redemption, or other disposition of any securities, evidences of
9 indebtedness, or shares of the capital stock of the corporation, including any such
10 loss realized on a partial or complete liquidation of the corporation, and who is not
11 entitled to deduct such loss in computing any of such stockholder's, member's, or
12 other holder's taxes to the Commonwealth shall be entitled to credit against any
13 taxes subsequently becoming due to the Commonwealth from such stockholder,
14 member, or other holder, a percentage of such loss equivalent to the highest rate of
15 tax assessed for the year in which the loss occurs upon mercantile and business
16 corporations.

17 ➔Section 74. KRS 160.613 is amended to read as follows:

18 (1) There is hereby authorized a utility gross receipts license tax for schools not to
19 exceed three percent (3%) of the gross receipts derived from the furnishing, within
20 the district, of utility services, except that "gross receipts" shall not include:

21 (a) Amounts received for furnishing energy or energy-producing fuels *to a person*
22 *engaged in manufacturing or industrial processing if that person provides*
23 *the utility services provider with a copy of its utility gross receipts license tax*
24 *energy direct pay authorization, as provided in subsection (3) of this section,*
25 *and the utility service provider retains a copy of the authorization in its*
26 *records*~~[-, used in the course of manufacturing, processing, mining, or refining~~
27 ~~to the extent that the cost of the energy or energy-producing fuels used~~

1 ~~exceeds three percent (3%) of the cost of production]; or~~

2 (b) Amounts received for furnishing utility services which are to be resold.

3 (2) If any user of utility services purchases the utility services directly from any supplier
4 who is exempt either by state or federal law from the utility gross receipts license
5 tax, then the user of the utility services, if the tax has been levied in the user's
6 school district, shall be liable for the tax and shall **register with and** pay directly to
7 the department, in accordance with the provisions of KRS 160.615, a utility gross
8 receipts license tax for schools computed by multiplying the gross cost of all utility
9 services received by the tax rate levied under the provisions of this section.

10 (3) ~~[(f)]~~A person engaged in manufacturing **or industrial] processing **whose cost of]
11 ~~mining, or refining chooses to claim that the]~~ energy or energy-producing fuels **used**
12 **in the course of manufacturing or industrial processing]~~[purchased from a utility~~
13 ~~services provider]~~ exceeds an amount equal to three percent (3%) of the cost of
14 production **may apply to the department for a utility gross receipts license tax**
15 **energy direct pay authorization. Cost of production shall be computed on the**
16 **basis of a plant facility, which shall include all operations within the continuous,**
17 **unbroken, integrated manufacturing or processing production process that ends**
18 **with a product packaged and ready for sale. If the person]**~~as provided in~~
19 ~~subsection (1)(a) of this section and]~~ receives confirmation of eligibility from the
20 department, the person shall:******

21 (a) Provide the utility services provider with a copy of the **utility gross receipts**
22 **license tax** energy direct pay authorization issued by the department **for all**
23 **purchases of energy and energy-producing fuels;** and

24 (b) Report and pay directly to the department, in accordance with the provisions
25 of KRS 160.615, the utility gross receipts license tax due.

26 **(4) A person who performs a manufacturing or industrial processing activity for a**
27 **fee and does not take ownership of the tangible personal property that is**

1 incorporated into, or becomes the product of, the manufacturing or industrial
2 processing activity is a toller. For periods on or after July 1, 2018, the costs of the
3 tangible personal property shall be excluded from the toller's cost of production
4 at a plant facility with tolling operations in place as of July 1, 2018.

5 (5) For plant facilities that begin tolling operations after July 1, 2018, the costs of
6 tangible personal property shall be excluded from the toller's cost of production if
7 the toller:

8 (a) Maintains a binding contract for periods after July 1, 2018, that governs the
9 terms, conditions, and responsibilities with a separate legal entity, which
10 holds title to the tangible personal property that is incorporated into, or
11 becomes the product of, the manufacturing or industrial processing activity;

12 (b) Maintains accounting records that show the expenses it incurs to fulfill the
13 binding contract that include but are not limited to energy or energy-
14 producing fuels, materials, labor, procurement, depreciation, maintenance,
15 taxes, administration, and office expenses;

16 (c) Maintains separate payroll, bank accounts, tax returns, and other records
17 that demonstrate its independent operations in the performance of its tolling
18 responsibilities;

19 (d) Demonstrates one (1) or more substantial business purposes for the tolling
20 operations germane to the overall manufacturing, industrial processing
21 activities, or corporate structure at the plant facility. A business purpose is a
22 purpose other than the reduction of utility gross receipts license tax liability
23 for the purchases of energy and energy-producing fuels; and

24 (e) Provides information to the department upon request that documents
25 fulfillment of the requirements in paragraphs (a) to (d) of this subsection
26 and gives an overview of its tolling operations with an explanation of how
27 the tolling operations relate and connect with all other manufacturing or

1 *industrial processing activities occurring at the plant facility.*

2 ➔Section 75. KRS 160.6131 is amended to read as follows:

3 As used in KRS 160.613 to 160.617:

4 (1) "Department" means the Department of Revenue;

5 (2) "Communications service" means the provision, transmission, conveyance, or
6 routing, for consideration, of voice, data, video, or any other information signals of
7 the purchaser's choosing to a point or between or among points specified by the
8 purchaser, by or through any electronic, radio, light, fiber optic, or similar medium
9 or method now in existence or later devised.

10 (a) "Communications service" includes but is not limited to:

11 1. Local and long-distance telephone services;

12 2. Telegraph and teletypewriter services;

13 3. Postpaid calling services;

14 4. Private communications services involving a direct channel specifically
15 dedicated to a customer's use between specific points;

16 5. Channel services involving a path of communications between two (2)
17 or more points;

18 6. Data transport services involving the movement of encoded information
19 between points by means of any electronic, radio, or other medium or
20 method;

21 7. Caller ID services, ring tones, voice mail, and other electronic
22 messaging services;

23 8. Mobile wireless telecommunications service and fixed wireless service
24 as defined in KRS 139.195; and

25 9. Voice over Internet Protocol (VOIP).

26 (b) "Communications service" does not include any of the following if the
27 charges are separately itemized on the bill provided to the purchaser:

- 1 1. Information services;
- 2 2. Internet access as defined in 47 U.S.C. sec. 151;
- 3 3. Installation, reinstallation, or maintenance of wiring or equipment on a
- 4 customer's premises. This exclusion does not apply to any charge
- 5 attributable to the connection, movement, change, or termination of a
- 6 communications service;
- 7 4. The sale of directory and other advertising and listing services;
- 8 5. Billing and collection services provided to another communications
- 9 service provider;
- 10 6. Cable service, satellite broadcast, satellite master antenna television,
- 11 wireless cable service, including direct-to-home satellite service as
- 12 defined in Section 602 of the federal Telecommunications Act of 1996,
- 13 and Internet protocol television provided through wireline facilities
- 14 without regard to delivery technology;
- 15 7. The sale of communications service to a communications provider that
- 16 is buying the communications service for sale or incorporation into a
- 17 communications service for sale, including:
 - 18 a. Carrier access charges, excluding user access fees;
 - 19 b. Right of access charges;
 - 20 c. Interconnection charges paid by the provider of mobile
 - 21 telecommunications services or other communications providers;
 - 22 d. Charges for the sale of unbundled network elements as defined in
 - 23 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is
 - 24 provided on an unbundled basis in accordance with 47 U.S.C. sec.
 - 25 251(c)(3); and
 - 26 e. Charges for use of facilities for providing or receiving
 - 27 communications service;

- 1 8. The sale of communications services provided to the public by means of
2 a pay phone;
- 3 9. Prepaid calling services and prepaid wireless calling service;
- 4 10. Interstate telephone service, if the interstate charge is separately itemized
5 for each call; and
- 6 11. If the interstate calls are not itemized, the portion of telephone charges
7 identified and set out on the customer's bill as interstate as supported by
8 the provider's books and records;

9 (3) "Gross cost" means the total cost of utility services including the cost of the tangible
10 personal property and any services associated with obtaining the utility services
11 regardless from whom purchased;

12 (4) "Gross receipts" means all amounts received in money, credits, property, or other
13 money's worth in any form, as consideration for the furnishing of utility services;

14 (5) "Utility services" means the furnishing of communications services, electric power,
15 water, and natural, artificial, and mixed gas;

16 (6) "Cable service" has the same meaning as ~~provided~~ in KRS 136.602;

17 (7) "Satellite broadcast and wireless cable service" has the same meaning as ~~provided~~
18 in KRS 136.602;

19 (8) "Ring tones" has the same meaning as ~~provided~~ in KRS 136.602; ~~and~~

20 (9) "Multichannel video programming service" has the same meaning as in KRS
21 136.602;

22 **(10) "Industrial processing" has the same meaning as in Section 19 of this Act;**

23 **(11) "Manufacturing" has the same meaning as in Section 19 of this Act; and**

24 **(12) "Plant facility" has the same meaning as in Section 19 of this Act.**

25 ➔Section 76. KRS 160.637 is amended to read as follows:

26 (1) "Requesting school districts" shall mean those school districts for which the
27 Department of Revenue is requested to act as tax collector under the authority of

1 KRS 160.627(2).

2 (2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax
3 collector, except the Department of Revenue, for the administration or collection of
4 the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and
5 160.621 to 160.633 shall be reimbursed by the school district boards of education
6 on a monthly basis or on the basis agreed upon by the boards of education and the
7 tax collector. The expenses shall be borne by the school districts on a basis
8 proportionate to the revenue received by the districts.

9 (3) The following shall apply only when the Department of Revenue is acting as tax
10 collector under the authority of KRS 160.627(2):

11 (a) When the department is initially requested to be the tax collector under KRS
12 160.627(2), the department shall estimate the costs of implementing the
13 administration of the tax so requested, and shall inform the requesting school
14 district of this estimated cost. The requesting school district shall pay to the
15 department ten percent (10%) of this estimated cost referred to as "start-up
16 costs" within thirty (30) days of notification by the department. Subsequent
17 requesting school districts shall pay their pro rata share, or ten percent (10%),
18 whichever is less, of the unpaid balance of the initial "start-up costs" until the
19 department has fully recovered the costs. The payment shall be made within
20 thirty (30) days of notification by the department.

21 (b) The Department of Revenue shall also be reimbursed by each school district
22 for its proportionate share of the actual operational expenses incurred by the
23 department in collecting the excise tax. The expenses, which shall be deducted
24 by the Department of Revenue from payments to school districts made under
25 the provisions of KRS 160.627(2), shall be allocated by the department to
26 school districts on a basis proportionate to the number of returns processed by
27 the Department of Revenue for each district compared to the total processed

1 by the Department of Revenue for all districts.

2 (c) All funds received by the department under the authority of paragraphs (a) and
3 (b) of this subsection shall be deposited into an account entitled the "school
4 tax fund account," an account created within the restricted fund group set forth
5 in KRS 45.305. The use of these funds shall be restricted to paying the
6 department for the costs described in paragraphs (a) and (b) of this subsection.
7 This account shall not lapse.

8 (d) The department may retain a portion of the school tax revenues collected in a
9 special account entitled the "school tax refund account" which is an account
10 created within the restricted fund group set forth in KRS 45.305. The sole
11 purpose of this account shall be to authorize the Department of Revenue to
12 refund school taxes. This account shall not lapse. Refunds shall be made in
13 accordance with the provisions in KRS 134.580(~~6~~)(~~5~~), and when the
14 taxpayer has made an overpayment or a payment where no tax was due as
15 defined in KRS 134.580(~~7~~)(~~6~~), within four (4) years of payment.

16 (e) KRS 160.621 notwithstanding, when the department is acting as tax collector
17 under the authority of KRS 160.627(2), the requesting school district may
18 enact the tax enumerated in KRS 160.621 only at the following rates: five
19 percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent
20 (20%) on a school district resident's state individual income tax liability as
21 computed under KRS Chapter 141.

22 (f) Beginning August 1, 1982, any school district which requests the department
23 to collect taxes under the authority of KRS 160.627(2) shall inform the
24 department of this request not less than one hundred fifty (150) days prior to
25 January 1.

26 (g) The department shall not be required to collect taxes authorized in KRS
27 160.621 of an individual when the department is not pursuing collection of

1 that individual's state income taxes. The department shall not be required to
2 collect or defend the tax set forth in KRS 160.621 in any board or court of this
3 state.

4 (h) Any overpayments of the tax set forth in KRS 141.020 or payments made
5 when no tax was due may be applied to any tax liability arising under KRS
6 160.621 before a refund is authorized to the taxpayer. No individual's tax
7 payment shall be credited to the tax set forth in KRS 160.621 until all
8 outstanding state income tax liabilities of that individual have been paid.

9 (i) KRS 160.510 notwithstanding, the State Auditor shall be the only party
10 authorized to audit the Department of Revenue with respect to the
11 performance of its duties under KRS 160.621.

12 ➔Section 77. KRS 243.884 is amended to read as follows:

13 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
14 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
15 and distilled spirits, all distributors of beer, and all microbreweries selling
16 malt beverages under KRS 243.157.

17 (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent
18 (11%) of the gross receipts of any such wholesaler or distributor derived from
19 "sales at wholesale" or "wholesale sales" made within the Commonwealth,
20 except as provided in subsection (3) of this section. For the purposes of this
21 section, the gross receipts of a microbrewery making "wholesale sales" shall
22 be calculated by determining the dollar value amount that the microbrewer
23 would have collected had it conveyed to a distributor the same volume sold to
24 a consumer as allowed under KRS 243.157 (3)(b) and (c).

25 (c) On and after July 1, 2015, the following rates shall apply:

26 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at
27 wholesale; and

- 1 2. For wine and beer:
- 2 a. Ten and three-quarters of one percent (10.75%) for wholesale sales
- 3 or sales at wholesale made on or after July 1, 2015, and before
- 4 June 1, 2016;
- 5 b. Ten and one-half of one percent (10.5%) for wholesale sales or
- 6 sales at wholesale made on or after June 1, 2016, and before June
- 7 1, 2017;
- 8 c. Ten and one-quarter of one percent (10.25%) for wholesale sales
- 9 or sales at wholesale made on or after June 1, 2017, and before
- 10 June 1, 2018; and
- 11 d. Ten percent (10%) for wholesale sales or sales at wholesale made
- 12 on or after June 1, 2018.

13 (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, and

14 microbreweries shall pay and report the tax levied by this section on or before the

15 twentieth day of the calendar month next succeeding the month in which possession

16 or title of the distilled spirits, wine, or malt beverages is transferred from the

17 wholesaler or distributor to retailers, or by microbreweries to consumers in this

18 state, in accordance with rules and regulations of the Department of Revenue

19 designed reasonably to protect the revenues of the Commonwealth.

20 (3) Gross receipts from sales at wholesale or wholesale sales shall not include the

21 following sales:

- 22 (a) Sales made between wholesalers or between distributors; and
- 23 (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a
- 24 small farm winery in a calendar year made by: ~~[-a]~~
- 25 1. The small farm winery; or
- 26 2. A wholesaler of that wine produced by the ~~[-a]~~ small farm winery ~~[-, if that~~
- 27 ~~small farm winery produces no more than fifty thousand (50,000)~~

1 gallons of wine per year].

2 ➔Section 78. KRS 272.333 is amended to read as follows:

3 The provisions of KRS 136.060~~[-and-136.070]~~ shall not apply to the issuance of
4 membership certificates, shares of stock or any other evidence of member, shareholder, or
5 patron interest by any such agricultural cooperative association.

6 ➔Section 79. KRS 141.0205 is amended to read as follows:

7 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
8 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
9 the credits shall be determined as follows:

10 (1) The nonrefundable business incentive credits against the tax imposed by KRS
11 141.020 shall be taken in the following order:

12 (a) The limited liability entity tax credit permitted by KRS 141.0401;

13 (b) The economic development credits computed under KRS 141.347, 141.381,
14 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
15 154.12-2088;

16 (c) The qualified farming operation credit permitted by KRS 141.412;

17 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

18 (e) The health insurance credit permitted by KRS 141.062;

19 (f) The tax paid to other states credit permitted by KRS 141.070;

20 (g) The credit for hiring the unemployed permitted by KRS 141.065;

21 (h) The recycling or composting equipment credit permitted by KRS 141.390;

22 (i) The tax credit for cash contributions in investment funds permitted by KRS
23 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
24 154.20-258;

25 (j) The research facilities credit permitted by KRS 141.395;

26 (k) The employer High School Equivalency Diploma program incentive credit
27 permitted under KRS 164.0062;

- 1 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 2 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 3 (n) The clean coal incentive credit permitted by KRS 141.428;
- 4 (o) The ethanol credit permitted by KRS 141.4242;
- 5 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 6 (q) The energy efficiency credits permitted by KRS 141.436;
- 7 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 8 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 9 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 10 (u) The distilled spirits credit permitted by KRS 141.389;
- 11 (v) The angel investor credit permitted by KRS 141.396;
- 12 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 13 on or after April 27, 2018; and
- 14 (x) The inventory credit permitted by KRS 141.408.
- 15 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 16 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 17 shall be taken in the following order:
- 18 (a) The individual credits permitted by KRS 141.020(3);
- 19 (b) The credit permitted by KRS 141.066;
- 20 (c) The tuition credit permitted by KRS 141.069;~~and~~
- 21 (d) The household and dependent care credit permitted by KRS 141.067; **and**
- 22 **(e) The income gap credit permitted by Section 43 of this Act.**
- 23 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 24 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 25 taken in the following order:
- 26 (a) The individual withholding tax credit permitted by KRS 141.350;
- 27 (b) The individual estimated tax payment credit permitted by KRS 141.305;

- 1 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
2 171.397(1)(b); and
- 3 (d) The film industry tax credit permitted by KRS 141.383 for applications
4 approved prior to April 27, 2018.
- 5 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
6 tax imposed by KRS 141.040.
- 7 (5) The following nonrefundable credits shall be applied against the sum of the tax
8 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
9 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 10 (a) The economic development credits computed under KRS 141.347, 141.381,
11 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
12 154.12-2088;
- 13 (b) The qualified farming operation credit permitted by KRS 141.412;
- 14 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 15 (d) The health insurance credit permitted by KRS 141.062;
- 16 (e) The unemployment credit permitted by KRS 141.065;
- 17 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 18 (g) The coal conversion credit permitted by KRS 141.041;
- 19 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
20 ending prior to January 1, 2008;
- 21 (i) The tax credit for cash contributions to investment funds permitted by KRS
22 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
23 154.20-258;
- 24 (j) The research facilities credit permitted by KRS 141.395;
- 25 (k) The employer High School Equivalency Diploma program incentive credit
26 permitted by KRS 164.0062;
- 27 (l) The voluntary environmental remediation credit permitted by KRS 141.418;

- 1 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 2 (n) The clean coal incentive credit permitted by KRS 141.428;
- 3 (o) The ethanol credit permitted by KRS 141.4242;
- 4 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 5 (q) The energy efficiency credits permitted by KRS 141.436;
- 6 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
7 permitted by KRS 141.437;
- 8 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 9 (t) The railroad expansion credit permitted by KRS 141.386;
- 10 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 11 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 12 (w) The distilled spirits credit permitted by KRS 141.389;
- 13 (x) The film industry credit permitted by KRS 141.383 for applications approved
14 on or after April 27, 2018; and
- 15 (y) The inventory credit permitted by KRS 141.408.
- 16 (6) After the application of the nonrefundable credits in subsection (5) of this section,
17 the refundable credits shall be taken in the following order:
- 18 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 19 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
20 171.397(1)(b); and
- 21 (c) The film industry tax credit permitted by KRS 141.383 for applications
22 approved prior to April 27, 2018.
- 23 ➔Section 80. The following KRS sections are repealed:
- 24 136.078 Disposition of receipts.
- 25 136.090 Reports of corporations for license tax purposes -- Subject matter.
- 26 136.100 Time of filing reports -- Period covered -- Change of period.
- 27 136.377 Filing of declaration of estimated tax by company -- Payment -- Penalty.

1 141.042 Declaration of estimated corporation and limited liability pass-through entity
2 tax.

3 141.300 Declaration of estimated tax.

4 ➔Section 81. Sections 9 and 10 of this Act shall apply to tangible personal
5 property assessed on or after January 1, 2020.

6 ➔Section 82. Sections 17 to 25, 28 to 30, 33, 34, 74, and 75 apply to transactions
7 occurring on or after July 1, 2019.

8 ➔Section 83. Sections 35 to 39 and 46 to 48 apply to taxable years beginning on
9 or after January 1, 2019.

10 ➔Section 84. Section 53 applies to taxable years beginning on or after January 1,
11 2021.

12 ➔Section 85. Sections 61 to 71 apply retroactively to April 14, 2018.

13 ➔Section 86. No claim for refund or credit of a tax overpayment for any taxable
14 period ending prior to July 1, 2018, made by an amended return, tax refund application,
15 or any other method after June 30, 2018, and based on the amendments to subsection (3)
16 of Section 27 of this Act or based on the amendments to Section 74 or 75 of this Act,
17 shall be recognized for any purpose.

18 ➔Section 87. Notwithstanding KRS 446.090, the amendments to subsection (3)
19 of Section 27 of this Act and the amendments to Sections 74 and 75 of this Act are not
20 severable. If the amendment made to subsection (3) of Section 27 of this Act or the
21 amendments to Section 74 or 75 of this Act is declared invalid for any reason, then all
22 amendments to subsection (3) of Section 27 of this Act and the amendments to Sections
23 74 and 75 of this Act shall also be invalid.

24 ➔Section 88. It is the intent of the General Assembly to study the long-term
25 impact of the income tax on certain family-size households and to extend the provisions
26 of Section 43 of this Act or find a permanent alternative to those provisions.

27 ➔Section 89. Whereas it is important for the General Assembly to clarify certain

1 tax provisions immediately, an emergency is declared to exist, and Sections 28 and 29 of
2 this Act take effect upon its passage and approval by the Governor or upon its otherwise
3 becoming a law.