

1 AN ACT relating to governmental operations and declaring an emergency.

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

3 ➔Section 1. KRS 131.183 is amended to read as follows:

- 4 (1) (a) **Except for the addition to tax required when an underpayment of estimated**
5 **tax occurs under Section 9 of this Act and KRS 141.305,** all taxes payable to
6 the Commonwealth not paid at the time prescribed by statute shall accrue
7 interest at the tax interest rate.
- 8 (b) The tax interest rate shall be equal to the adjusted prime rate charged by banks
9 rounded to the nearest full percent as adjusted by subsection (2) of this
10 section.
- 11 (c) The commissioner of revenue shall adjust the tax interest rate not later than
12 November 15 of each year if the adjusted prime rate charged by banks during
13 September of that year, rounded to the nearest full percent, is at least one (1)
14 percentage point more or less than the tax interest rate which is then in effect.
15 The adjusted tax interest rate shall become effective on January 1 of the
16 immediately succeeding year.
- 17 (2) (a) 1. All taxes payable to the Commonwealth that have not been paid at the
18 time prescribed by statute shall accrue interest at the tax interest rate as
19 determined in accordance with subsection (1) of this section until May 1,
20 2008.
- 21 2. Beginning on May 1, 2008, all taxes payable to the Commonwealth that
22 have not been paid at the time prescribed by statute shall accrue interest
23 at the tax interest rate as determined in accordance with subsection (1) of
24 this section plus two percent (2%).
- 25 (b) 1. Interest shall be allowed and paid upon any overpayment as defined in
26 KRS 134.580 in respect of any of the taxes provided for in Chapters
27 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of

1 the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate
2 provided in subsection (1) of this section until May 1, 2008.

3 2. Beginning on May 1, 2008, interest shall be allowed and paid upon any
4 overpayment as defined in KRS 134.580 at the rate provided in
5 subsection (1) of this section minus two percent (2%).

6 3. Effective for refunds issued after April 24, 2008, except for the
7 provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3)
8 of this section, interest authorized under this subsection shall begin to
9 accrue sixty (60) days after the latest of:

10 a. The due date of the return;

11 b. The date the return was filed;

12 c. The date the tax was paid;

13 d. The last day prescribed by law for filing the return; or

14 e. The date an amended return claiming a refund is filed.

15 (c) In no case shall interest be paid in an amount less than five dollars (\$5).

16 **(d) No refund shall be made of any estimated tax paid unless a return is filed as**
17 **required by KRS Chapter 141.**

18 (3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the
19 tax imposed under KRS Chapter 141 results from a carryback of a net operating loss
20 or a net capital loss, the overpayment shall be deemed to have been made on the
21 date the claim for refund was filed. Interest authorized under subsection (2) of this
22 section shall begin to accrue ninety (90) days from the date the claim for refund was
23 filed.

24 (4) No interest shall be allowed or paid on any sales tax refund as provided by KRS
25 139.536.

26 **(5) For purposes of this section, any addition to tax provided in Section 9 of this Act**
27 **and KRS 141.305 shall be considered a penalty.**

1 ➔Section 2. KRS 131.250 is amended to read as follows:

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

5 ~~(2) The following reports, returns, or statements shall be electronically filed:~~

6 ~~(a) The return required by KRS 136.620;~~

7 ~~(b) For tax periods beginning on or after January 1, 2007, the report required by
8 KRS 138.240;~~

9 ~~(c) For tax periods beginning on or after August 1, 2010, the report required by
10 KRS 138.260;~~

11 ~~(d) For taxable years beginning on or after January 1, 2010, the return filed by a
12 specified tax return preparer reporting the annual tax imposed by KRS
13 141.020, if the specified tax return preparer is required to electronically file
14 the return for federal income tax purposes;~~

15 ~~(e) The annual withholding statement required by KRS 141.335, if the employer
16 issues more than twenty five (25) statements annually;~~

17 ~~(f) For tax periods beginning on or after July 1, 2005, the return required by KRS
18 160.615; and~~

19 ~~(g) 1. For taxable years beginning on or after January 1, 2019, the returns
20 required by KRS 141.201(3) or 141.206(1), provided that the
21 corporation or pass-through entity has gross receipts of one million
22 dollars (\$1,000,000) or more.~~

23 ~~2. "Gross receipts" as used in this paragraph means gross receipts reported
24 by the corporation or pass-through entity on their federal income tax
25 return filed for the same taxable year as the return due under KRS
26 Chapter 141.~~

27 ~~(3)}~~ (a) A person required to electronically file a return, report, or statement may

1 apply for a waiver from the requirement by submitting the request on a form
2 prescribed by the department.

3 (b) The request shall indicate the lack of one (1) or more of the following:

- 4 1. Compatible computer hardware;
- 5 2. Internet access; or
- 6 3. Other technological capabilities determined relevant by the department.

7 ➔Section 3. KRS 133.225 is amended to read as follows:

8 **(1) The department~~[of Revenue]~~ shall *provide the following information pertaining to***
9 ***property taxes on a Web site that is accessible to the public:***

10 **(a) *An explanation of the process for assessing property values, which shall***
11 ***include but not be limited to:***

12 **1. *The duties and function of each state and local official involved in the***
13 ***property assessment process;***

14 **2. *The methods most commonly used to compute fair cash value;***

15 **3. *The types of property exempt from taxation;***

16 **4. *The types of property assessed at a lower value as required by Sections***
17 ***170 and 172A of the Kentucky Constitution, including property with a***
18 ***homestead exemption, agricultural property, and horticultural***
19 ***property;***

20 **5. *The property tax calendar;***

21 **6. *How and when to report property to the Property Valuation***
22 ***Administrator;***

23 **7. *The process for examining real property for valuation purposes;***

24 **8. *How and when a taxpayer is notified of the assessed value of property;***

25 **9. *When and where the public can inspect the tax roll; and***

26 **10. *The process for appealing the assessed values of real and personal***
27 ***property, including motor vehicles;***

1 (b) An explanation of the process for setting the state tax rate and the county,
 2 city, school, and special taxing district tax rates, including but not limited
 3 to:

4 1. The duties and function of each state and local official involved in the
 5 process for setting tax rates;

6 2. The definitions of compensating tax rate and net assessment growth;

7 3. The requirements set forth in KRS 68.245, 132.023, 132.027, and
 8 160.470; and

9 4. The recall provisions set forth in KRS 132.017;

10 (c) An explanation of the process for property tax collection, including but not
 11 limited to:

12 1. The duties and function of each state and local official involved in the
 13 tax collection process;

14 2. How and when to remit payment of the tax;

15 3. The due date for the tax;

16 4. The early payment discount;

17 5. The penalties assessed on delinquent taxes; and

18 6. The delinquent tax collection process; and

19 (d) Direct links to the Web sites or guidance on how to access the Web sites of
 20 the local offices, such as the property valuation administrator's office, the
 21 county clerk's office, and the sheriff's office, that provide taxpayers
 22 additional information on the property taxes within its jurisdiction.

23 (2) The Web site address that provides the information required by subsection (1) of
 24 this section shall be included on every notice of assessment and property tax bill
 25 sent to the taxpayer~~[draft, and the sheriff shall mail with the property tax bills~~
 26 ~~annually, an explanation of the provisions of Acts 1979 (Ex. Sess.) ch. 25].~~

27 ➔Section 4. KRS 138.220 is amended to read as follows:

- 1 (1) (a) An excise tax at the rate of nine percent (9%) of the average wholesale price
2 rounded to the nearest one-tenth of one cent (\$0.001) shall be paid on all
3 gasoline and special fuel received in this state. The tax shall be paid on a per
4 gallon basis.
- 5 (b) The average wholesale price shall be determined and adjusted as provided in
6 KRS 138.228.
- 7 (c) For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365,
8 the amount calculated under this subsection shall be reduced by the amount
9 calculated in subsection (3) of this section.
- 10 (d) Except as provided by KRS Chapter 138, no other excise or license tax shall
11 be levied or assessed on gasoline or special fuel by the state or any political
12 subdivision of the state.
- 13 (e) The tax herein imposed shall be paid by the dealer receiving the gasoline or
14 special fuel to the State Treasurer in the manner and within the time specified
15 in KRS 138.230 to 138.340 and all such tax may be added to the selling price
16 charged by the dealer or other person paying the tax on gasoline or special fuel
17 sold in this state.
- 18 (f) Nothing herein contained shall authorize or require the collection of the tax
19 upon any gasoline or special fuel after it has been once taxed under the
20 provisions of this section, unless such tax was refunded or credited.
- 21 (2) (a) In addition to the excise tax provided in subsection (1) of this section, there is
22 hereby levied a supplemental highway user motor fuel tax to be paid in the
23 same manner and at the same time as the tax provided in subsection (1) of this
24 section.
- 25 (b) The tax shall be:
- 26 1. Five cents (\$0.05) per gallon on gasoline; and
27 2. Two cents (\$0.02) per gallon on special fuel.

1 (c) The supplemental highway user motor fuel tax provided by this subsection
2 and the provisions of subsections (1) and (3) of this section shall constitute the
3 tax on motor fuels imposed by KRS 138.220.

4 (3) Two and one-tenth cents (\$0.021), of the tax collected under subsection (1) of this
5 section shall be excluded from the calculations in KRS 177.320(1) and (2) and
6 177.365. The funds identified in this subsection shall be deposited into the state
7 road fund.

8 (4) Notification of the average wholesale price shall be given to all licensed dealers at
9 least twenty (20) days in advance of July 1~~[the first day]~~ of each calendar
10 year~~[quarter]~~.

11 (5) Dealers with a tax-paid gasoline or special fuel inventory at the time an average
12 wholesale price becomes effective, shall be subject to additional tax or appropriate
13 tax credit to reflect the increase or decrease in the average wholesale price for the
14 new quarter. The department shall promulgate administrative regulations to
15 properly administer this provision.

16 ➔Section 5. KRS 138.450 is amended to read as follows:

17 As used in KRS 138.455 to 138.470, unless the context requires otherwise:

18 (1) "Current model year" means a motor vehicle of either the model year corresponding
19 to the current calendar year or of the succeeding calendar year, if the same model
20 and make is being offered for sale by local dealers;

21 (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

22 (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor
23 vehicle with an odometer reading of least one thousand (1,000) miles that has been
24 used either by representatives of the manufacturer or by a licensed Kentucky dealer,
25 franchised to sell the particular model and make, for demonstration;

26 (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to
27 KRS 186.043;

- 1 (5) "Motor vehicle" means any vehicle that is propelled by other than muscular power
2 and that is used for transportation of persons or property over the public highways
3 of the state, except road rollers, mopeds, vehicles that travel exclusively on rails,
4 and vehicles propelled by electric power obtained from overhead wires;
- 5 (6) "Moped" means either a motorized bicycle whose frame design may include one (1)
6 or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a
7 motorized bicycle with a step through type frame which may or may not have pedals
8 rated no more than two (2) brake horsepower, a cylinder capacity not exceeding
9 fifty (50) cubic centimeters, an automatic transmission not requiring clutching or
10 shifting by the operator after the drive system is engaged, and capable of a
11 maximum speed of not more than thirty (30) miles per hour;
- 12 (7) "New motor vehicle" means a motor vehicle of the current model year which has
13 not previously been registered in any state or country;
- 14 (8) "Previous model year motor vehicle" means a motor vehicle not previously
15 registered in any state or country which is neither of the current model year nor a
16 dealer demonstrator;
- 17 (9) "Total consideration given" means the amount given, valued in money, whether
18 received in money or otherwise, at the time of purchase or at a later date, including
19 consideration given for all equipment and accessories, standard and optional. "Total
20 consideration given" shall not include:
- 21 (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is
22 provided at the time of purchase and is applied to the purchase of the motor
23 vehicle;
- 24 (b) Any interest payments to be made over the life of a loan for the purchase of a
25 motor vehicle; and
- 26 (c) The value of any items that are not equipment or accessories including but not
27 limited to extended warranties, service contracts, and items that are given

- 1 away as part of a promotional sales campaign;
- 2 (10) "Trade-in allowance" means:
- 3 (a) The value assigned by the seller of a motor vehicle to a motor vehicle
- 4 registered to the purchaser and offered in trade by the purchaser as part of the
- 5 total consideration given by the purchaser and included in the notarized
- 6 affidavit attesting to total consideration given; or
- 7 (b) In the absence of a notarized affidavit, the value of the vehicle being offered
- 8 in trade as established by the department through the use of the reference
- 9 manual;
- 10 (11) "Used motor vehicle" means a motor vehicle which has been previously registered
- 11 in any state or country;
- 12 (12) "Retail price" for:
- 13 (a) New motor vehicles;
- 14 (b) Dealer demonstrator vehicles;
- 15 (c) Previous model year motor vehicles; and
- 16 (d) U-Drive-It motor vehicles that have been transferred within one hundred
- 17 eighty (180) days of being registered as a U-Drive-It and that have less than
- 18 five thousand (5,000) miles;
- 19 means the total consideration given, as determined in KRS ~~138.4602~~ 138.4603;
- 20 (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- 21 (14) "Retail price" for used motor vehicles being titled or registered by a new resident
- 22 for the first time in Kentucky whose values appear in the reference manual means
- 23 the trade-in value given in the reference manual;
- 24 (15) "Retail price" for older used motor vehicles being titled or registered by a new
- 25 resident for the first time in Kentucky whose values no longer appear in the
- 26 reference manual shall be one hundred dollars (\$100);
- 27 (16) (a) "Retail price" for:

- 1 1. Used motor vehicles, except those vehicles for which the retail price is
2 established in subsection (13), (14), (15), (17), or (19) of this section;
3 and
4 2. U-Drive-It motor vehicles that are not transferred within one hundred
5 eighty (180) days of being registered as a U-Drive-It or that have more
6 than five thousand (5,000) miles;
7 means the total consideration given, excluding any amount allowed as a trade-
8 in allowance by the seller, as attested to in a notarized affidavit, provided that
9 the retail price established by the notarized affidavit shall not be less than fifty
10 percent (50%) of the difference between the trade-in value, as established by
11 the reference manual, of the motor vehicle offered for registration and the
12 trade-in value, as established by the reference manual, of any motor vehicle
13 offered in trade as part of the total consideration given.
- 14 (b) The trade-in allowance shall also be disclosed in the notarized affidavit.
- 15 (c) If a notarized affidavit is not available, "retail price" shall be established by
16 the department through the use of the reference manual;
- 17 (17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an
18 individual as a gift and not purchased or leased by the individual, "retail price" shall
19 be the trade-in value given in the reference manual;
- 20 (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental
21 motor vehicle within one hundred eighty (180) days of the registration, and if less
22 than five thousand (5,000) miles have been placed on the vehicle during the period
23 of its registration as a loaner or rental motor vehicle, then the "retail price" of the
24 vehicle shall be the same as the retail price determined by paragraph (a) of
25 subsection (12) of this section computed as of the date on which the vehicle is
26 transferred;
- 27 (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525,

1 186A.530, or 186A.555 means the total consideration given as attested to in a
2 notarized affidavit;

3 (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a
4 dealer and which is regularly loaned or rented to customers of the service or repair
5 component of the dealership;

6 (21) "Department" means the Department of Revenue;

7 (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on
8 which the signature of the buyer and the signature of the seller are individually
9 notarized; and

10 (23) "Reference manual" means the automotive reference manual prescribed by the
11 department.

12 ➔Section 6. KRS 139.260 is amended to read as follows:

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

18 (1) Tangible personal property or digital property unless the person takes from the
19 purchaser a certificate to the effect that the property is either:

20 (a) Purchased for resale according to the provisions of KRS 139.270;

21 (b) Purchased through a fully completed certificate of exemption or fully
22 completed Streamlined Sales and Use Tax Agreement Certificate of
23 Exemption in accordance with KRS 139.270; or

24 (c) Purchased according to administrative regulations promulgated by the
25 department governing a direct pay authorization;

26 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the
27 purchaser a certificate to the effect that the service is purchased through a fully

1 completed certificate of exemption or fully completed Streamlined Sales and Use
2 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

3 (3) A service included in KRS 139.200(2)(g) to (q) unless the person takes from the
4 purchaser a certificate to the effect that the service~~[property]~~ is:

5 (a) Purchased for resale according to KRS 139.270;

6 (b) Purchased through a fully completed certificate of exemption or fully
7 completed Streamlined Sales and Use Tax Agreement Certificate of
8 Exemption in accordance with KRS 139.270; or

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

11 ➔Section 7. KRS 141.039 is amended to read as follows:

12 For taxable years beginning on or after January 1, 2018, in the case of corporations:

13 (1) Gross income shall be calculated by adjusting federal gross income as defined in
14 Section 61 of the Internal Revenue Code as follows:

15 (a) Exclude income that is exempt from state taxation by the Kentucky
16 Constitution and the Constitution and statutory laws of the United States;

17 (b) Exclude all dividend income;

18 (c) Include interest income derived from obligations of sister states and political
19 subdivisions thereof;

20 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
21 covered by Section 631(c) of the Internal Revenue Code if the corporation
22 does not claim any deduction for percentage depletion, or for expenditures
23 attributable to the making and administering of the contract under which such
24 disposition occurs or to the preservation of the economic interests retained
25 under such contract;

26 (e)~~[Include in the gross income of lessors income tax payments made by lessees
27 to lessors, under the provisions of Section 110 of the Internal Revenue Code,~~

- 1 ~~and exclude such payments from the gross income of lessees;~~
- 2 ~~(f)~~ Include the amount calculated under KRS 141.205;
- 3 ~~(f)~~~~(g)~~ Ignore the provisions of Section 281 of the Internal Revenue Code in
- 4 computing gross income;
- 5 ~~(g)~~~~(h)~~ Include the amount of depreciation deduction calculated under 26 U.S.C.
- 6 sec. 167 or 168; and
- 7 (2) Net income shall be calculated by subtracting from gross income:
- 8 (a) The deduction for depreciation allowed by KRS 141.0101;
- 9 (b) Any amount paid for vouchers or similar instruments that provide health
- 10 insurance coverage to employees or their families;
- 11 (c) All the deductions from gross income allowed corporations by Chapter 1 of
- 12 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 13 1. Any deduction for a state tax which is computed, in whole or in part, by
- 14 reference to gross or net income and which is paid or accrued to any
- 15 state of the United States, the District of Columbia, the Commonwealth
- 16 of Puerto Rico, any territory or possession of the United States, or to any
- 17 foreign country or political subdivision thereof;
- 18 2. The deductions contained in Sections 243,~~244,~~ 245, and 247 of the
- 19 Internal Revenue Code;
- 20 3. The provisions of Section 281 of the Internal Revenue Code shall be
- 21 ignored in computing net income;
- 22 4. Any deduction directly or indirectly allocable to income which is either
- 23 exempt from taxation or otherwise not taxed under the provisions of this
- 24 chapter, and nothing in this chapter shall be construed to permit the
- 25 same item to be deducted more than once;
- 26 5. Any deduction for amounts paid to any club, organization, or
- 27 establishment which has been determined by the courts or an agency

1 established by the General Assembly and charged with enforcing the
2 civil rights laws of the Commonwealth, not to afford full and equal
3 membership and full and equal enjoyment of its goods, services,
4 facilities, privileges, advantages, or accommodations to any person
5 because of race, color, religion, national origin, or sex, except nothing
6 shall be construed to deny a deduction for amounts paid to any religious
7 or denominational club, group, or establishment or any organization
8 operated solely for charitable or educational purposes which restricts
9 membership to persons of the same religion or denomination in order to
10 promote the religious principles for which it is established and
11 maintained;

12 6. Any deduction prohibited by KRS 141.205; and

13 7. Any dividends-paid deduction of any captive real estate investment trust;
14 and

15 (d) 1. A deferred tax deduction in an amount computed in accordance with this
16 paragraph.

17 2. For purposes of this paragraph:

18 a. "Net deferred tax asset" means that deferred tax assets exceed the
19 deferred tax liabilities of the combined group, as computed in
20 accordance with accounting principles generally accepted in the
21 United States of America; and

22 b. "Net deferred tax liability" means deferred tax liabilities that
23 exceed the deferred tax assets of a combined group as defined in
24 KRS 141.202, as computed in accordance with accounting
25 principles generally accepted in the United States of America.

26 3. Only publicly traded companies, including affiliated corporations
27 participating in the filing of a publicly traded company's financial

1 statements prepared in accordance with accounting principles generally
2 accepted in the United States of America, as of January 1, 2019, shall be
3 eligible for this deduction.

4 4. If the provisions of KRS 141.202 result in an aggregate increase to the
5 member's net deferred tax liability, an aggregate decrease to the
6 member's net deferred tax asset, or an aggregate change from a net
7 deferred tax asset to a net deferred tax liability, the combined group
8 shall be entitled to a deduction, as determined in this paragraph.

9 5. For ten (10) years beginning with the combined group's first taxable year
10 beginning on or after January 1, 2024, a combined group shall be
11 entitled to a deduction from the combined group's entire net income
12 equal to one-tenth (1/10) of the amount necessary to offset the increase
13 in the net deferred tax liability, decrease in the net deferred tax asset, or
14 aggregate change from a net deferred tax asset to a net deferred tax
15 liability. The increase in the net deferred tax liability, decrease in the net
16 deferred tax asset, or the aggregate change from a net deferred tax asset
17 to a net deferred tax liability shall be computed based on the change that
18 would result from the imposition of the combined reporting requirement
19 under KRS 141.202, but for the deduction provided under this paragraph
20 as of June 27, 2019.

21 6. The deferred tax impact determined in subparagraph 5. of this paragraph
22 shall be converted to the annual deferred tax deduction amount, as
23 follows:

24 a. The deferred tax impact determined in subparagraph 5. of this
25 paragraph shall be divided by the tax rate determined under KRS
26 141.040;

27 b. The resulting amount shall be further divided by the apportionment

1 factor determined by KRS 141.120 or 141.121 that was used by the
2 combined group in the calculation of the deferred tax assets and
3 deferred tax liabilities as described in subparagraph 5. of this
4 paragraph; and

5 c. The resulting amount represents the total net deferred tax
6 deduction available over the ten (10) year period as described in
7 subparagraph 5. of this paragraph.

8 7. The deduction calculated under this paragraph shall not be adjusted as a
9 result of any events happening subsequent to the calculation, including
10 but not limited to any disposition or abandonment of assets. The
11 deduction shall be calculated without regard to the federal tax effect and
12 shall not alter the tax basis of any asset. If the deduction under this
13 section is greater than the combined group's entire Kentucky net income,
14 any excess deduction shall be carried forward and applied as a deduction
15 to the combined group's entire net income in future taxable years until
16 fully utilized.

17 8. Any combined group intending to claim a deduction under this
18 paragraph shall file a statement with the department on or before July 1,
19 2019. The statement shall specify the total amount of the deduction
20 which the combined group claims on the form, including calculations
21 and other information supporting the total amounts of the deduction as
22 required by the department. No deduction shall be allowed under this
23 paragraph for any taxable year, except to the extent claimed on the
24 timely filed statement in accordance with this paragraph.

25 ➔Section 8. KRS 141.0401 is amended to read as follows:

26 (1) As used in this section:

27 (a) "Kentucky gross receipts" means an amount equal to the computation of the

1 numerator of the apportionment fraction under KRS 141.120, any
 2 administrative regulations related to the computation of the sales factor, and
 3 KRS 141.121 and includes the proportionate share of Kentucky gross receipts
 4 of all wholly or partially owned limited liability pass-through entities,
 5 including all layers of a multi-layered pass-through structure;

6 (b) "Gross receipts from all sources" means an amount equal to the computation
 7 of the denominator of the apportionment fraction under KRS 141.120, any
 8 administrative regulations related to the computation of the sales factor, and
 9 KRS 141.121 and includes the proportionate share of gross receipts from all
 10 sources of all wholly or partially owned limited liability pass-through entities,
 11 including all layers of a multi-layered pass-through structure;

12 (c) "Affiliated~~[Combined]~~ group" has the same meaning as~~[means all members~~
 13 ~~of an affiliated group as defined]~~ in Section 11 of this Act~~[KRS 141.200(9)(b)~~
 14 ~~and all limited liability pass-through entities that would be included in an~~
 15 ~~affiliated group if organized as a corporation];~~

16 (d) "Cost of goods sold" means:

17 1. Amounts that are:

18 a. Allowable as cost of goods sold pursuant to the Internal Revenue
 19 Code and any guidelines issued by the Internal Revenue Service
 20 relating to cost of goods sold, unless modified by this paragraph;
 21 and

22 b. Incurred in acquiring or producing the tangible product generating
 23 the Kentucky gross receipts.

24 2. For manufacturing, producing, reselling, retailing, or wholesaling
 25 activities, cost of goods sold shall only include costs directly incurred in
 26 acquiring or producing the tangible product. In determining cost of
 27 goods sold:

- 1 a. Labor costs shall be limited to direct labor costs as defined in
2 paragraph (f) of this subsection;
- 3 b. Bulk delivery costs as defined in paragraph (g) of this subsection
4 may be included; and
- 5 c. Costs allowable under Section 263A of the Internal Revenue Code
6 may be included only to the extent the costs are incurred in
7 acquiring or producing the tangible product generating the
8 Kentucky gross receipts. Notwithstanding the foregoing, indirect
9 labor costs allowable under Section 263A shall not be included;
- 10 3. For any activity other than manufacturing, producing, reselling, retailing,
11 or wholesaling, no costs shall be included in cost of goods sold.

12 As used in this paragraph, "guidelines issued by the Internal Revenue Service"
13 includes regulations, private letter rulings, or any other guidance issued by the
14 Internal Revenue Service that may be relied upon by taxpayers under reliance
15 standards established by the Internal Revenue Service;

- 16 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
17 returns and allowances attributable to Kentucky gross receipts, less the
18 cost of goods sold attributable to Kentucky gross receipts. If the amount
19 of returns and allowances attributable to Kentucky gross receipts and the
20 cost of goods sold attributable to Kentucky gross receipts is zero, then
21 "Kentucky gross profits" means Kentucky gross receipts; and
- 22 2. "Gross profits from all sources" means gross receipts from all sources
23 reduced by returns and allowances attributable to gross receipts from all
24 sources, less the cost of goods sold attributable to gross receipts from all
25 sources. If the amount of returns and allowances attributable to gross
26 receipts from all sources and the cost of goods sold attributable to gross
27 receipts from all sources is zero, then gross profits from all sources

- 1 means gross receipts from all sources;
- 2 (f) "Direct labor" means labor that is incorporated into the tangible product sold
3 or is an integral part of the manufacturing process;
- 4 (g) "Bulk delivery costs" means the cost of delivering the product to the consumer
5 if:
6 1. The tangible product is delivered in bulk and requires specialized
7 equipment that generally precludes commercial shipping; and
8 2. The tangible product is taxable under KRS 138.220;
- 9 (h) "Manufacturing" and "producing" means:
10 1. Manufacturing, producing, constructing, or assembling components to
11 produce a significantly different or enhanced end tangible product;
12 2. Mining or severing natural resources from the earth; or
13 3. Growing or raising agricultural or horticultural products or animals;
- 14 (i) "Real property" means land and anything growing on, attached to, or erected
15 on it, excluding anything that may be severed without injury to the land;
- 16 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
17 product;
- 18 (k) "Tangible personal property" means property, other than real property, that has
19 physical form and characteristics; and
- 20 (l) "Tangible product" means real property and tangible personal property;
- 21 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
22 liability entity tax shall be paid by every corporation and every limited liability
23 pass-through entity doing business in Kentucky on all Kentucky gross receipts
24 or Kentucky gross profits except as provided in this subsection. A small
25 business exclusion from this tax shall be provided based on the reduction
26 contained in this subsection. The tax shall be the greater of the amount
27 computed under paragraph (b) of this subsection or one hundred seventy-five

1 dollars (\$175), regardless of the application of any tax credits provided under
2 this chapter or any other provisions of the Kentucky Revised Statutes for
3 which the business entity may qualify.

4 (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of
5 this paragraph:

6 1. a. If the corporation's or limited liability pass-through entity's gross
7 receipts from all sources are three million dollars (\$3,000,000) or
8 less, the limited liability entity tax shall be one hundred seventy-
9 five dollars (\$175);

10 b. If the corporation's or limited liability pass-through entity's gross
11 receipts from all sources are greater than three million dollars
12 (\$3,000,000) but less than six million dollars (\$6,000,000), the
13 limited liability entity tax shall be nine and one-half cents (\$0.095)
14 per one hundred dollars (\$100) of the corporation's or limited
15 liability pass-through entity's Kentucky gross receipts reduced by
16 an amount equal to two thousand eight hundred fifty dollars
17 (\$2,850) multiplied by a fraction, the numerator of which is six
18 million dollars (\$6,000,000) less the amount of the corporation's or
19 limited liability pass-through entity's Kentucky gross receipts for
20 the taxable year, and the denominator of which is three million
21 dollars (\$3,000,000), but in no case shall the result be less than one
22 hundred seventy-five dollars (\$175);

23 c. If the corporation's or limited liability pass-through entity's gross
24 receipts from all sources are equal to or greater than six million
25 dollars (\$6,000,000), the limited liability entity tax shall be nine
26 and one-half cents (\$0.095) per one hundred dollars (\$100) of the
27 corporation's or limited liability pass-through entity's Kentucky

1 gross receipts.

2 2. a. If the corporation's or limited liability pass-through entity's gross
3 profits from all sources are three million dollars (\$3,000,000) or
4 less, the limited liability entity tax shall be one hundred seventy-
5 five dollars (\$175);

6 b. If the corporation's or limited liability pass-through entity's gross
7 profits from all sources are at least three million dollars
8 (\$3,000,000) but less than six million dollars (\$6,000,000), the
9 limited liability entity tax shall be seventy-five cents (\$0.75) per
10 one hundred dollars (\$100) of the corporation's or limited liability
11 pass-through entity's Kentucky gross profits, reduced by an amount
12 equal to twenty-two thousand five hundred dollars (\$22,500)
13 multiplied by a fraction, the numerator of which is six million
14 dollars (\$6,000,000) less the amount of the corporation's or limited
15 liability pass-through entity's Kentucky gross profits, and the
16 denominator of which is three million dollars (\$3,000,000), but in
17 no case shall the result be less than one hundred seventy-five
18 dollars (\$175);

19 c. If the corporation's or limited liability pass-through entity's gross
20 profits from all sources are equal to or greater than six million
21 dollars (\$6,000,000), the limited liability entity tax shall be
22 seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of
23 the corporation's or limited liability pass-through entity's Kentucky
24 gross profits.

25 In determining eligibility for the reductions contained in this paragraph, a
26 member of an affiliated~~a combined~~ group shall consider the
27 total~~combined~~ gross receipts and the total~~combined~~ gross profits from all

1 sources of the entire affiliated~~combined~~ group, including eliminating entries
2 for transactions among the group.

3 (c) A credit shall be allowed against the tax imposed under paragraph (a) of this
4 subsection for the current year to a corporation or limited liability pass-
5 through entity that owns an interest in a limited liability pass-through entity.
6 The credit shall be the proportionate share of tax calculated under this
7 subsection by the lower-level pass-through entity, as determined after the
8 amount of tax calculated by the pass-through entity has been reduced by the
9 minimum tax of one hundred seventy-five dollars (\$175). The credit shall
10 apply across multiple layers of a multi-layered pass-through entity structure.
11 The credit at each layer shall include the credit from each lower layer, after
12 reduction for the minimum tax of one hundred seventy-five dollars (\$175) at
13 each layer.

14 (d) The department may promulgate administrative regulations to establish a
15 method for calculating the cost of goods sold attributable to Kentucky.

16 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
17 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
18 credit amount shall be determined as follows:

19 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
20 shall be equal to the amount of tax calculated under subsection (2) of this
21 section for the current year after subtraction of any credits identified in KRS
22 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
23 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
24 paid by wholly or partially owned limited liability pass-through entities. The
25 amount of credit allowed to a corporation based on the amount of tax paid
26 under subsection (2) of this section for the current year shall be applied to the
27 income tax due from the corporation's activities in this state. Any remaining

1 credit from the corporation shall be disallowed.

2 (b) The credit allowed members, shareholders, or partners of a limited liability
3 pass-through entity shall be the members', shareholders', or partners'
4 proportionate share of the tax calculated under subsection (2) of this section
5 for the current year after subtraction of any credits identified in KRS
6 141.0205, as determined after the amount of tax paid has been reduced by the
7 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed
8 to members, shareholders, or partners of a limited liability pass-through entity
9 shall be applied to income tax assessed on income from the limited liability
10 pass-through entity. Any remaining credit from the limited liability pass-
11 through entity shall be disallowed.

12 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms
13 prepared by the department, on or before the fifteenth day of the fourth month
14 following the close of the taxpayer's taxable year. Any tax remaining due after
15 making the payments required in KRS 141.044 shall be paid by the original due
16 date of the return.

17 (5) The department shall prescribe forms and promulgate administrative regulations as
18 needed to administer the provisions of this section.

19 (6) The tax imposed by subsection (2) of this section shall not apply to:

20 (a) For taxable years beginning prior to January 1, 2021:

- 21 1. Financial institutions, as defined in KRS 136.500, except banker's banks
22 organized under KRS 287.135 or 286.3-135;
- 23 2. Savings and loan associations organized under the laws of this state and
24 under the laws of the United States and making loans to members only;
- 25 3. Banks for cooperatives;
- 26 4. Production credit associations;
- 27 5. Insurance companies, including farmers' or other mutual hail, cyclone,

- 1 windstorm, or fire insurance companies, insurers, and reciprocal
2 underwriters;
- 3 6. Corporations or other entities exempt under Section 501 of the Internal
4 Revenue Code;
- 5 7. Religious, educational, charitable, or like corporations not organized or
6 conducted for pecuniary profit;
- 7 8. Corporations whose only owned or leased property located in this state
8 is located at the premises of a printer with which it has contracted for
9 printing, provided that:
- 10 a. The property consists of the final printed product, or copy from
11 which the printed product is produced; and
- 12 b. The corporation has no individuals receiving compensation in this
13 state as provided in KRS 141.901;
- 14 9. Public service corporations subject to tax under KRS 136.120;
- 15 10. Open-end registered investment companies organized under the laws of
16 this state and registered under the Investment Company Act of 1940;
- 17 11. Any property or facility which has been certified as a fluidized bed
18 energy production facility as defined in KRS 211.390;
- 19 12. An alcohol production facility as defined in KRS 247.910;
- 20 13. Real estate investment trusts as defined in Section 856 of the Internal
21 Revenue Code;
- 22 14. Regulated investment companies as defined in Section 851 of the
23 Internal Revenue Code;
- 24 15. Real estate mortgage investment conduits as defined in Section 860D of
25 the Internal Revenue Code;
- 26 16. Personal service corporations as defined in Section 269A(b)(1) of the
27 Internal Revenue Code;

- 1 17. Cooperatives described in Sections 521 and 1381 of the Internal
2 Revenue Code, including farmers' agricultural and other cooperatives
3 organized or recognized under KRS Chapter 272, advertising
4 cooperatives, purchasing cooperatives, homeowners associations
5 including those described in Section 528 of the Internal Revenue Code,
6 political organizations as defined in Section 527 of the Internal Revenue
7 Code, and rural electric and rural telephone cooperatives; or
- 8 18. Publicly traded partnerships as defined by Section 7704(b) of the
9 Internal Revenue Code that are treated as partnerships for federal tax
10 purposes under Section 7704(c) of the Internal Revenue Code, or their
11 publicly traded partnership affiliates. "Publicly traded partnership
12 affiliates" shall include any limited liability company or limited
13 partnership for which at least eighty percent (80%) of the limited
14 liability company member interests or limited partner interests are
15 owned directly or indirectly by the publicly traded partnership; and
- 16 (b) For taxable years beginning on or after January 1, 2021:
- 17 1. Insurance companies, including farmers' or other mutual hail, cyclone,
18 windstorm, or fire insurance companies, insurers, and reciprocal
19 underwriters;
- 20 2. Corporations or other entities exempt under Section 501 of the Internal
21 Revenue Code;
- 22 3. Religious, educational, charitable, or like corporations not organized or
23 conducted for pecuniary profit;
- 24 4. Corporations whose only owned or leased property located in this state
25 is located at the premises of a printer with which it has contracted for
26 printing, provided that:
- 27 a. The property consists of the final printed product, or copy from

- 1 which the printed product is produced; and
- 2 b. The corporation has no individuals receiving compensation in this
- 3 state as provided in KRS 141.901;
- 4 5. Public service corporations subject to tax under KRS 136.120;
- 5 6. Open-end registered investment companies organized under the laws of
- 6 this state and registered under the Investment Company Act of 1940;
- 7 7. Any property or facility which has been certified as a fluidized bed
- 8 energy production facility as defined in KRS 211.390;
- 9 8. An alcohol production facility as defined in KRS 247.910;
- 10 9. Real estate investment trusts as defined in Section 856 of the Internal
- 11 Revenue Code;
- 12 10. Regulated investment companies as defined in Section 851 of the
- 13 Internal Revenue Code;
- 14 11. Real estate mortgage investment conduits as defined in Section 860D of
- 15 the Internal Revenue Code;
- 16 12. Personal service corporations as defined in Section 269A(b)(1) of the
- 17 Internal Revenue Code;
- 18 13. Cooperatives described in Sections 521 and 1381 of the Internal
- 19 Revenue Code, including farmers' agricultural and other cooperatives
- 20 organized or recognized under KRS Chapter 272, advertising
- 21 cooperatives, purchasing cooperatives, homeowners associations
- 22 including those described in Section 528 of the Internal Revenue Code,
- 23 political organizations as defined in Section 527 of the Internal Revenue
- 24 Code, and rural electric and rural telephone cooperatives; or
- 25 14. Publicly traded partnerships as defined by Section 7704(b) of the
- 26 Internal Revenue Code that are treated as partnerships for federal tax
- 27 purposes under Section 7704(c) of the Internal Revenue Code, or their

1 publicly traded partnership affiliates. "Publicly traded partnership
2 affiliates" shall include any limited liability company or limited
3 partnership for which at least eighty percent (80%) of the limited
4 liability company member interests or limited partner interests are
5 owned directly or indirectly by the publicly traded partnership.

6 (7) (a) As used in this subsection, "qualified exempt organization" means an entity
7 listed in subsection (6)(a) and (b) of this section and shall not include any
8 entity whose exempt status has been disallowed by the Internal Revenue
9 Service.

10 (b) Notwithstanding any other provisions of this section, any limited liability
11 pass-through entity that is owned in whole or in part by a qualified exempt
12 organization shall, in calculating its Kentucky gross receipts or Kentucky
13 gross profits, exclude the proportionate share of its Kentucky gross receipts or
14 Kentucky gross profits attributable to the ownership interest of the qualified
15 exempt organization.

16 (c) Any limited liability pass-through entity that reduces Kentucky gross receipts
17 or Kentucky gross profits in accordance with paragraph (b) of this subsection
18 shall disregard the ownership interest of the qualified exempt organization in
19 determining the amount of credit available under subsection (3) of this
20 section.

21 (d) The Department of Revenue may promulgate an administrative regulation to
22 further define "qualified exempt organization" to include an entity for which
23 exemption is constitutionally or legally required, or to exclude any entity
24 created primarily for tax avoidance purposes with no legitimate business
25 purpose.

26 (8) The credit permitted by subsection (3) of this section shall flow through multiple
27 layers of limited liability pass-through entities and shall be claimed by the taxpayer

1 who ultimately pays the tax on the income of the limited liability pass-through
2 entity.

3 ➔Section 9. KRS 141.044 is amended to read as follows:

4 (1) For taxable years beginning on or after January 1, 2019, every corporation and
5 limited liability pass-through entity subject to taxation under KRS 141.040 and
6 141.0401 shall make estimated tax payments if the taxes imposed by KRS 141.040
7 and 141.0401 for the taxable year can reasonably be expected to exceed five
8 thousand dollars (\$5,000).

9 (2) Estimated tax payments for the taxes imposed under KRS 141.040 and 141.0401
10 shall be made at the same time and calculated in the same manner as estimated tax
11 payments for federal income tax purposes under 26 U.S.C. sec. 6655, except:

12 (a) The estimated liabilities for the taxes imposed under KRS 141.040 and
13 141.0401 shall be used to make the estimated payments;

14 (b) Any provisions in 26 U.S.C. sec. 6655 that apply for federal tax purposes but
15 do not apply to the taxes imposed under KRS 141.040 and 141.0401;

16 (c) The addition to tax identified by 26 U.S.C. sec. 6655(a) shall instead be
17 considered a penalty under KRS 131.180;

18 (d) The tax interest rate identified under KRS 131.183 shall be used to determine
19 the underpayment rate instead of the rate under 26 U.S.C. sec. 6621;~~and~~

20 (e) Any waiver of penalties shall be performed as provided in KRS 131.175; and

21 (f) 1. A refund of taxes collected under this section shall include interest at
22 the tax interest rate as defined in KRS 131.010(6).

23 2. Interest shall not begin to accrue until ninety (90) days after the latest
24 of:

25 a. The due date of the return;

26 b. The date the return was filed;

27 c. The date the tax was paid;

- 1 *d. The last day prescribed by law for filing the return; or*
 2 *e. The date an amended return claiming a refund is filed.*

- 3 *3. No refund shall be made of any estimated tax paid unless a return is*
 4 *filed as required by this chapter.*

5 (3) The department may promulgate administrative regulations to implement this
 6 section.

7 ➔Section 10. 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 *Section 11 of this Act* ~~KRS~~
 14 ~~141.200~~];
- 15 (c) "Kentucky revenue passenger miles" means the total revenue passenger miles
 16 within the borders of Kentucky for all flight stages that either originate or
 17 terminate in this state;
- 18 (d) "Passenger airline" means a person or corporation engaged primarily in the
 19 carriage by aircraft of passengers in interstate commerce;
- 20 (e) "Provider" means any corporation engaged in the business of providing:
 21 1. Communications service as defined in KRS 136.602;
 22 2. Cable service as defined in KRS 136.602; or
 23 3. Internet access as defined in 47 U.S.C. sec. 151;
- 24 (f) "Qualified air freight forwarder" means a person that:
 25 1. Is engaged primarily in the facilitation of the transportation of property
 26 by air;
 27 2. Does not itself operate aircraft; and

- 1 3. Is in the same affiliated group as an affiliated airline; and
- 2 (g) "Revenue passenger miles" means miles calculated in accordance with 14
- 3 C.F.R. Part 241.
- 4 (2) (a) For purposes of apportioning business income to this state for taxable years
- 5 beginning prior to January 1, 2018:
- 6 1. Passenger airlines shall determine the property, payroll, and sales factors
- 7 as follows:
- 8 a. Except as modified by this subdivision, the property factor shall be
- 9 determined as provided in KRS 141.901. Aircraft operated by a
- 10 passenger airline shall be included in both the numerator and
- 11 denominator of the property factor. Aircraft shall be included in
- 12 the numerator of the property factor by determining the product of:
- 13 i. The total average value of the aircraft operated by the
- 14 passenger airline; and
- 15 ii. A fraction, the numerator of which is the Kentucky revenue
- 16 passenger miles of the passenger airline for the taxable year
- 17 and the denominator of which is the total revenue passenger
- 18 miles of the passenger airline for the taxable year;
- 19 b. Except as modified by this subdivision, the payroll factor shall be
- 20 determined as provided in KRS 141.901. Compensation paid
- 21 during the tax period by a passenger airline to flight personnel
- 22 shall be included in the numerator of the payroll factor by
- 23 determining the product of:
- 24 i. The total amount paid during the taxable year to flight
- 25 personnel; and
- 26 ii. A fraction, the numerator of which is the Kentucky revenue
- 27 passenger miles of the passenger airline for the taxable year

- 1 and the denominator of which is the total revenue passenger
2 miles of the passenger airline for the taxable year; and
- 3 c. Except as modified by this subdivision, the sales factor shall be
4 determined as provided in KRS 141.901. Transportation
5 revenues shall be included in the numerator of the sales
6 factor by determining the product of:
- 7 i. The total transportation revenues of the passenger airline for
8 the taxable year; and
- 9 ii. A fraction, the numerator of which is the Kentucky revenue
10 passenger miles for the taxable year and the denominator of
11 which is the total revenue passenger miles for the taxable
12 year; and
- 13 2. Qualified air freight forwarders shall determine the property, payroll,
14 and sales factors as follows:
- 15 a. The property factor shall be determined as provided in KRS
16 141.901;
- 17 b. The payroll factor shall be determined as provided in KRS
18 141.901; and
- 19 c. Except as modified by this subparagraph, the sales factor shall be
20 determined as provided in KRS 141.901. Freight forwarding
21 revenues shall be included in the numerator of the sales factor by
22 determining the product of:
- 23 i. The total freight forwarding revenues of the qualified air
24 freight forwarder for the taxable year; and
- 25 ii. A fraction, the numerator of which is miles operated in
26 Kentucky by the affiliated airline and the denominator of
27 which is the total miles operated by the affiliated airline.

- 1 (b) For purposes of apportioning income to this state for taxable years beginning
2 on or after January 1, 2018, except as modified by this paragraph, the
3 apportionment fraction shall be determined as provided in KRS 141.120,
4 except that:
- 5 1. Transportation revenues shall be determined to be in this state by
6 multiplying the total transportation revenues by a fraction, the numerator
7 of which is the Kentucky revenue passenger miles for the taxable year
8 and the denominator of which is the total revenue passenger miles for
9 the taxable year; and
 - 10 2. Freight forwarding revenues shall be determined to be in this state by
11 multiplying the total freight forwarding revenues by a fraction, the
12 numerator of which is miles operated in Kentucky by the affiliated
13 airline and the denominator of which is the total miles operated by the
14 affiliated airline.
- 15 (3) For purposes of apportioning income to this state for taxable years beginning on or
16 after January 1, 2018, the apportionment fraction for a provider shall continue to be
17 calculated using a three (3) factor formula as provided in KRS 141.901.
- 18 (4) (a) A corporation may elect the allocation and apportionment methods for the
19 corporation's apportionable income provided for in paragraphs (b) and (c) of
20 this subsection. The election, if made, shall be irrevocable for a period of five
21 (5) years.
- 22 (b) All business income derived directly or indirectly from the sale of
23 management, distribution, or administration services to or on behalf of
24 regulated investment companies, as defined under the Internal Revenue Code
25 of 1986, as amended, including trustees, and sponsors or participants of
26 employee benefit plans which have accounts in a regulated investment
27 company, shall be apportioned to this state only to the extent that shareholders

1 of the investment company are domiciled in this state as follows:

- 2 1. Total apportionable income shall be multiplied by a fraction, the
3 numerator of which shall be Kentucky receipts from the services for the
4 tax period and the denominator of which shall be the total receipts
5 everywhere from the services for the tax period;
- 6 2. For purposes of subparagraph 1. of this paragraph, Kentucky receipts
7 shall be determined by multiplying total receipts for the taxable year
8 from each separate investment company for which the services are
9 performed by a fraction. The numerator of the fraction shall be the
10 average of the number of shares owned by the investment company's
11 shareholders domiciled in this state at the beginning of and at the end of
12 the investment company's taxable year, and the denominator of the
13 fraction shall be the average of the number of the shares owned by the
14 investment company shareholders everywhere at the beginning of and at
15 the end of the investment company's taxable year; and
- 16 3. Nonapportionable income shall be allocated to this state as provided in
17 KRS 141.120.

18 (c) All apportionable income derived directly or indirectly from the sale of
19 securities brokerage services by a business which operates within the
20 boundaries of any area of the Commonwealth, which on June 30, 1992, was
21 designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2)
22 before that statute was renumbered in 1992, shall be apportioned to this state
23 only to the extent that customers of the securities brokerage firm are
24 domiciled in this state. The portion of business income apportioned to
25 Kentucky shall be determined by multiplying the total business income from
26 the sale of these services by a fraction determined in the following manner:

- 27 1. The numerator of the fraction shall be the brokerage commissions and

- 1 total margin interest paid in respect of brokerage accounts owned by
2 customers domiciled in Kentucky for the brokerage firm's taxable year;
- 3 2. The denominator of the fraction shall be the brokerage commissions and
4 total margin interest paid in respect of brokerage accounts owned by all
5 of the brokerage firm's customers for that year; and
- 6 3. Nonapportionable income shall be allocated to this state as provided in
7 KRS 141.120.
- 8 (5) Public service companies and financial organizations required by KRS 141.010 to
9 allocate and apportion net income shall allocate and apportion that income as
10 follows:
- 11 (a) Nonapportionable income shall be allocated to this state as provided in KRS
12 141.120;
- 13 (b) Apportionable income shall be apportioned to this state as provided by KRS
14 141.120. Receipts shall be determined as provided by administrative
15 regulations promulgated by the department; and
- 16 (c) An affiliated group required to file a consolidated return under ***Section 11 of***
17 ***this Act***~~[KRS 141.200]~~ that includes a public service company, a provider of
18 communications services or multichannel video programming services as
19 defined in KRS 136.602, or a financial organization shall determine the
20 amount of receipts as provided by administrative regulations promulgated by
21 the department.
- 22 (6) A corporation:
- 23 (a) That owns an interest in a limited liability pass-through entity; or
24 (b) That owns an interest in a general partnership;
- 25 shall include the proportionate share of receipts of the limited liability pass-through
26 entity or general partnership when apportioning income. The phrases "an interest in
27 a limited liability pass-through entity" and "an interest in a general partnership"

1 shall extend to each level of multiple-tiered pass-through entities.

2 (7) The department shall promulgate administrative regulations to detail the sourcing of
3 the following receipts related to financial institutions:

4 (a) Receipts from the lease of real property;

5 (b) Receipts from the lease of tangible personal property;

6 (c) Interest, fees, and penalties imposed in connection with loans secured by real
7 property;

8 (d) Interest, fees, and penalties imposed in connection with loans not secured by
9 real property;

10 (e) Net gains from the sale of loans;

11 (f) Receipts from fees, interest, and penalties charged to card holders;

12 (g) Net gains from the sale of credit card receivables;

13 (h) Card issuer's reimbursement fees;

14 (i) Receipts from merchant discount;

15 (j) Receipts from ATM fees;

16 (k) Receipts from loan servicing fees;

17 (l) Receipts from other services;

18 (m) Receipts from the financial institution's investment assets and activity and
19 trading assets and activity; and

20 (n) All other receipts.

21 ➔Section 11. KRS 141.201 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) "Affiliated group" means affiliated group as defined in Section 1504(a) of the
25 Internal Revenue Code and related regulations;

26 (b) "Consolidated return" means a Kentucky corporation income tax return filed
27 by members of an affiliated group in accordance with this section~~[-The~~

1 ~~determinations and computations required by this chapter shall be made in~~
2 ~~accordance with Section 1502 of the Internal Revenue Code and related~~
3 ~~regulations, except as required by differences between this chapter and the~~
4 ~~Internal Revenue Code. Corporations exempt from taxation under KRS~~
5 ~~141.040 shall not be included in the return];~~

6 (c) "Separate return" means a Kentucky corporation income tax return in which
7 only the transactions and activities of a single corporation are considered in
8 making all determinations and computations necessary to calculate taxable net
9 income, tax due, and credits allowed in accordance with this chapter;

10 (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the
11 Internal Revenue Code; and

12 (e) "Election period" means the forty-eight (48) month period provided for in
13 subsection (4)(d) of this section.

14 (3) Every corporation doing business in this state, except those *corporations listed as*
15 *exempt from taxation under KRS 141.040(1)(a) and (b)*, shall, for each taxable
16 year:

17 (a) 1. File a combined report, if the corporation is a member of unitary
18 business group as provided in KRS 141.202; or

19 2. Make an election to file a consolidated return with all members of the
20 affiliated group as provided in this section; or

21 (b) File a separate return, if paragraph (a) of this subsection does not apply.

22 (4) (a) An affiliated group, whether or not filing a federal consolidated return, may
23 elect to file a consolidated return which includes all members of the affiliated
24 group.

25 (b) 1. An affiliated group electing to file a consolidated return under paragraph
26 (a) of this subsection shall be treated for all purposes as a single
27 corporation under this chapter.

- 1 **2. The determinations and computations required by this chapter shall**
2 **be made in accordance with Section 1502 of the Internal Revenue**
3 **Code and related regulations, except as required by differences**
4 **between this chapter and the Internal Revenue Code.**
- 5 **3. Corporations listed as exempt from taxation under KRS 141.040(1)(a)**
6 **and (b) shall not be included in the return.**
- 7 **4.** All transactions between corporations included in the consolidated
8 return shall be eliminated in computing net income as provided in KRS
9 141.039(2), and determining the apportionment fraction in accordance
10 with KRS 141.120.
- 11 (c) Any election made in accordance with paragraph (a) of this subsection shall be
12 made on a form prescribed by the department and shall be submitted to the
13 department on or before the due date of the return, including extensions, for
14 the first taxable year for which the election is made.
- 15 (d) Any election to file a consolidated return pursuant to paragraph (a) of this
16 subsection shall be binding on both the department and the affiliated group for
17 a period beginning with the first month of the first taxable year for which the
18 election is made and ending with the conclusion of the taxable year in which
19 the forty-eighth consecutive calendar month expires.
- 20 (e) For each taxable year for which an affiliated group has made an election
21 provided in paragraph (a) of this subsection, the consolidated return shall
22 include all corporations which are members of the affiliated group.
- 23 (5) Each corporation included as part of an affiliated group filing a consolidated return
24 shall be jointly and severally liable for the income tax liability computed on the
25 consolidated return, except that any corporation which was not a member of the
26 affiliated group for the entire taxable year shall be jointly and severally liable only
27 for that portion of the Kentucky consolidated income tax liability attributable to that

1 portion of the year that the corporation was a member of the affiliated group.

2 (6) Every corporation return or report required by this chapter shall be executed by one
3 (1) of the following officers of the corporation: the president, vice president,
4 secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting
5 officer. The department may require a further or supplemental report of further
6 information and data necessary for computation of the tax.

7 (7) In the case of a corporation doing business in this state that carries on transactions
8 with stockholders or with other corporations related by stock ownership, by
9 interlocking directorates, or by some other method, the department shall require
10 information necessary to make possible accurate assessment of the income derived
11 by the corporation from sources within this state. To make possible this assessment,
12 the department may require the corporation to file supplementary returns showing
13 information respecting the business of any or all individuals and corporations
14 related by one (1) or more of these methods to the corporation. The department may
15 require the return to show in detail the record of transactions between the
16 corporation and any or all other related corporations or individuals.

17 ➔Section 12. KRS 141.202 is amended to read as follows:

18 (1) This section shall apply to taxable years beginning on or after January 1, 2019.

19 (2) As used in this section:

20 (a) "Combined group" means the group of all corporations whose income and
21 apportionment factors are required to be taken into account as provided in
22 subsection (3) of this section in determining the taxpayer's share of the net
23 income or loss apportionable to this state. A combined group shall include
24 only corporations, the voting stock of which is more than fifty percent (50%)
25 owned, directly or indirectly, by a common owner or owners;

26 (b) "Corporation" has the same meaning as in KRS 141.010, including an
27 organization of any kind treated as a corporation for tax purposes under KRS

1 141.040, wherever located, which if it were doing business in this state would
2 be a taxpayer, and the business conducted by a pass-through entity which is
3 directly or indirectly held by a corporation shall be considered the business of
4 the corporation to the extent of the corporation's distributive share of the pass-
5 through entity income, inclusive of guaranteed payments;

6 (c) "Doing business in a tax haven" means being engaged in activity sufficient for
7 that tax haven jurisdiction to impose a tax under United States constitutional
8 standards;

9 (d) 1. "Tax haven" means a jurisdiction that, during the taxable year has no or
10 nominal effective tax on the relevant income and:

11 a. Has laws or practices that prevent effective exchange of
12 information for tax purposes with other governments on taxpayers
13 benefitting from the tax regime;

14 b. Has a tax regime which lacks transparency. A tax regime lacks
15 transparency if the details of legislative, legal, or administrative
16 provisions are not open and apparent or are not consistently
17 applied among similarly situated taxpayers, or if the information
18 needed by tax authorities to determine a taxpayer's correct tax
19 liability, such as accounting records and underlying
20 documentation, is not adequately available;

21 c. Facilitates the establishment of foreign-owned entities without the
22 need for a local substantive presence or prohibits these entities
23 from having any commercial impact on the local economy;

24 d. Explicitly or implicitly excludes the jurisdiction's resident
25 taxpayers from taking advantage of the tax regime's benefits or
26 prohibits enterprises that benefit from the regime from operating in
27 the jurisdiction's domestic market; or

- 1 e. Has created a tax regime which is favorable for tax avoidance,
2 based upon an overall assessment of relevant factors, including
3 whether the jurisdiction has a significant untaxed offshore
4 financial or other services sector relative to its overall economy.
- 5 2. "Tax haven" does not include a jurisdiction that has entered into a
6 comprehensive income tax treaty with the United States, which the
7 Secretary of the Treasury has determined is satisfactory for purposes of
8 Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code;
- 9 (e) "Taxpayer" means any corporation subject to the tax imposed under this
10 chapter;
- 11 (f) "Unitary business" means a single economic enterprise that is made up either
12 of separate parts of a single corporation or of a commonly controlled group of
13 corporations that are sufficiently interdependent, integrated, and interrelated
14 through their activities so as to provide a synergy and mutual benefit that
15 produces a sharing or exchange of value among them and a significant flow of
16 value to the separate parts. For purposes of this section, the term "unitary
17 business" shall be broadly construed, to the extent permitted by the United
18 States Constitution; and
- 19 (g) "United States" means the fifty (50) states of the United States, the District of
20 Columbia, and United States' territories and possessions.
- 21 (3) (a) Except as provided in KRS 141.201, a taxpayer engaged in a unitary business
22 with one (1) or more other corporations shall file a combined report which
23 includes the income, determined under subsection (5) of this section, and the
24 apportionment fraction, determined under KRS 141.120 and paragraph (d) of
25 this subsection, of all corporations that are members of the unitary business,
26 and any other information as required by the department. The combined report
27 shall be filed on a waters-edge basis under subsection (8) of this section.

- 1 (b) The department may, by administrative regulation, require that the combined
2 report include the income and associated apportionment factors of any
3 corporations that are not included as provided by paragraph (a) of this
4 subsection, but that are members of a unitary business, in order to reflect
5 proper apportionment of income of the entire unitary businesses. Authority to
6 require combination by administrative regulation under this paragraph
7 includes authority to require combination of corporations that are not, or
8 would not be combined, if the corporation were doing business in this state.
- 9 (c) In addition, if the department determines that the reported income or loss of a
10 taxpayer engaged in a unitary business with any corporation not included as
11 provided by paragraph (a) of this subsection represents an avoidance or
12 evasion of tax by the taxpayer, the department may, on a case-by-case basis,
13 require all or any part of the income and associated apportionment factors of
14 the corporation be included in the taxpayer's combined report.
- 15 (d) With respect to the inclusion of associated apportionment factors as provided
16 in paragraph (a) of this subsection, the department may require the inclusion
17 of any one (1) or more additional factors which will fairly represent the
18 taxpayer's business activity in this state, or the employment of any other
19 method to effectuate a proper reflection of the total amount of income subject
20 to apportionment and an equitable allocation and apportionment of the
21 taxpayer's income.
- 22 (e) A unitary business shall consider the combined gross receipts and combined
23 income from all sources of all members under subsection (8) of this section,
24 including eliminating entries for transactions among the members under
25 subsection (8)(e) of this section.
- 26 (f) Notwithstanding paragraphs (a) to (e) of this subsection, a consolidated return
27 may be filed as provided in KRS 141.201 if the taxpayer makes an election

1 according to KRS 141.201.

2 (4) The use of a combined report does not disregard the separate identities of the
3 taxpayer members of the combined group. Each taxpayer member is responsible for
4 tax based on its taxable income or loss apportioned or allocated to this state, which
5 shall include, in addition to the other types of income, the taxpayer member's share
6 of apportionable income of the combined group, where apportionable income of the
7 combined group is calculated as a summation of the individual net incomes of all
8 members of the combined group. A member's net income is determined by
9 removing all but apportionable income, expense, and loss from that member's total
10 income as provided in subsection (5) of this section.

11 (5) (a) Each taxpayer member is responsible for tax based on its taxable income or
12 loss apportioned or allocated to this state, which shall include:

- 13 1. Its share of any income apportionable to this state of each of the
14 combined groups of which it is a member, determined under subsection
15 (6) of this section;
- 16 2. Its share of any income apportionable to this state of a distinct business
17 activity conducted within and without the state wholly by the taxpayer
18 member, determined under KRS 141.120;
- 19 3. Its income from a business conducted wholly by the taxpayer member
20 entirely within the state;
- 21 4. Its income sourced to this state from the sale or exchange of capital or
22 assets, and from involuntary conversions, as determined under
23 subsection (8)(~~g~~)(~~k~~) of this section;
- 24 5. Its nonapportionable income or loss allocable to this state, determined
25 under KRS 141.120;
- 26 6. Its income or loss allocated or apportioned in an earlier year, required to
27 be taken into account as state source income during the income year,

1 other than a net operating loss; and

2 7. Its net operating loss carryover.

3 (b) No tax credit or post-apportionment deduction earned by one (1) member of
4 the group, but not fully used by or allowed to that member, may be used in
5 whole or in part by another member of the group or applied in whole or in part
6 against the total income of the combined group, except as provided in
7 paragraph (c) of this subsection.

8 (c) If the taxable income computed pursuant to KRS 141.039 results in a net loss
9 for a taxpayer member of the combined group, that taxpayer member has a
10 Kentucky net operating loss, subject to the net operating loss limitations and
11 carry forward provisions of KRS 141.011. No prior year net operating loss
12 carryforward shall be available to entities that were not doing business in this
13 state in the year in which the loss was incurred. A Kentucky net operating loss
14 carryover incurred by a taxpayer member of a combined group shall be
15 deducted from income or loss apportioned to this state pursuant to this section
16 as follows:

17 1. For taxable years beginning on or after the first day of the initial taxable
18 year for which a combined unitary tax return is required under this
19 section, if the computation of a combined group's Kentucky net income
20 before apportionment to this state results in a net operating loss, a
21 taxpayer member of the group may carry over its share of the net
22 operating loss as apportioned to this state, as calculated under this
23 section and in accordance with KRS 141.120 or 141.121, and it shall be
24 deductible from a taxpayer member's apportioned net income derived
25 from the unitary business in a future tax year to the extent that the
26 carryover and deduction is otherwise consistent with KRS 141.011;

27 2. Where a taxpayer member of a combined group has a Kentucky net

1 operating loss carryover derived from a loss incurred by a combined
2 group in a tax year beginning on or after the first day of the initial tax
3 year for which a combined unitary tax return is required under this
4 section, then the taxpayer member may share the net operating loss
5 carryover with other taxpayer members of the combined group if the
6 other taxpayer members were members of the combined group in the tax
7 year that the loss was incurred. Any amount of net operating loss
8 carryover that is deducted by another taxpayer member of the combined
9 group shall reduce the amount of net operating loss carryover that may
10 be carried over by the taxpayer member that originally incurred the loss;

11 3. Where a taxpayer member of a combined group has a net operating loss
12 carryover derived from a loss incurred in a tax year prior to the initial
13 tax year for which a combined unitary tax return is required under this
14 section, the carryover shall remain available to be deducted by that
15 taxpayer member and any other taxpayer members of the combined
16 group, but in no case shall the deduction reduce any taxpayer member's
17 Kentucky apportioned taxable income by more than fifty percent (50%)
18 in any taxable year, other than the taxpayer member that originally
19 incurred the net operating loss, in which case no limitation is provided
20 except as provided by Section 172 of the Internal Revenue Code. Any
21 net operating loss carryover that is not utilized in a particular taxable
22 year shall be carried over by the taxpayer member that generated the loss
23 and utilized in the future consistent with the limitations of this
24 subparagraph; or

25 4. Where a taxpayer member of a combined group has a net operating loss
26 carryover derived from a loss incurred in a tax year during which the
27 taxpayer member was not a taxpayer member of the combined group, the

1 carryover shall remain available to be deducted by that taxpayer member
2 or other taxpayer members, but in no case shall the deduction reduce any
3 taxpayer member's Kentucky apportioned taxable income by more than
4 fifty percent (50%) in any taxable year, other than the taxpayer member
5 that originally incurred the net operating loss, in which case no
6 limitation is provided except as provided by Section 172 of the Internal
7 Revenue Code. Any net operating loss carryover that is not utilized in a
8 particular taxable year, shall be carried over by the taxpayer member that
9 generated the loss and utilized in the future consistent with the
10 limitations of this subparagraph.

11 (6) The taxpayer's share of the business income apportionable to this state of each
12 combined group of which it is a member shall be the product of:

13 (a) The apportionable income of the combined group, determined under
14 subsection (7) of this section; and

15 (b) The taxpayer member's apportionment fraction, determined under KRS
16 141.120, including in the sales factor numerator the taxpayer's sales associated
17 with the combined group's unitary business in this state, and including in the
18 denominator the sales of all members of the combined group, including the
19 taxpayer, which sales are associated with the combined group's unitary
20 business wherever located. The sales of a pass-through entity shall be included
21 in the determination of the partner's apportionment percentage in proportion to
22 a ratio, the numerator of which is the amount of the partner's distributive share
23 of the pass-through entity's unitary income included in the income of the
24 combined group as provided in subsection (8) of this section and the
25 denominator of which is the amount of pass-through entity's total unitary
26 income.

27 (7) The apportionable income of a combined group is determined as follows:

- 1 (a) The total income of the combined group is the sum of the income of each
2 member of the combined group determined under federal income tax laws, as
3 adjusted for state purposes, as if the member were not consolidated for federal
4 purposes; and
- 5 (b) From the total income of the combined group determined under subsection (8)
6 of this section, subtract any income and add any expense or loss, other than
7 the apportionable income, expense, or loss of the combined group.
- 8 (8) To determine the total income of the combined group, taxpayer members shall take
9 into account all or a portion of the income and apportionment factor of only the
10 following members otherwise included in the combined group as provided in
11 subsection (3) of this section:
- 12 (a) The entire income and apportionment percentage of any member, incorporated
13 in the United States or formed under the laws of any state, the District of
14 Columbia, or any territory or possession of the United States, that earns less
15 than eighty percent (80%) of its income from sources outside of the United
16 States, the District of Columbia, or any territory or possession of the United
17 States;
- 18 (b) Any member that earns more than twenty percent (20%) of its income, directly
19 or indirectly, from intangible property or service related activities that are
20 deductible against the apportionable income of other members of the
21 combined group, to the extent of that income and the apportionment factor
22 related to that income. If a non-United States corporation is includible as a
23 member in the combined group, to the extent that the non-United States
24 corporation's income is excluded from United States taxation pursuant to the
25 provisions of a comprehensive income tax treaty, the income or loss is not
26 includible in the combined group's net income or loss. The member's expenses
27 or apportionment factors attributable to income that is excluded from United

1 States taxation pursuant to the provisions of a comprehensive income tax
2 treaty are not to be included in the combined report;

3 (c) The entire income and apportionment factor of any member that is doing
4 business in a tax haven. If the member's business activity within a tax haven is
5 entirely outside the scope of the laws, provisions, and practices that cause the
6 jurisdiction to meet the definition established in subsection (2)(d) of this
7 section, the activity of the member shall be treated as not having been
8 conducted in a tax haven;

9 (d) If a unitary business includes income from a pass-through entity, the income
10 to be included in the total income of the combined group shall be the member
11 of the combined group's direct and indirect distributive share of the pass-
12 through entity's unitary income;

13 (e) Income from an intercompany transaction between members of the same
14 combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13.
15 Upon the occurrence of any of the following events, deferred income resulting
16 from an intercompany transaction between members of a combined group
17 shall be restored to the income of the seller, and shall be apportionable income
18 earned immediately before the event:

19 1. The object of a deferred intercompany transaction is:

20 a. Resold by the buyer to an entity that is not a member of the
21 combined group;

22 b. Resold by the buyer to an entity that is a member of the combined
23 group for use outside the unitary business in which the buyer and
24 seller are engaged; or

25 c. Converted by the buyer to a use outside the unitary business in
26 which the buyer and seller are engaged; or

27 2. The buyer and seller are no longer members of the same combined

1 group, regardless of whether the members remain unitary;

2 (f) A charitable expense incurred by a member of a combined group shall, to the
3 extent allowable as a deduction provided by Section 170 of the Internal
4 Revenue Code, be subtracted first from the apportionable income of the
5 combined group, subject to the income limitations of that section applied to
6 the entire apportionable income of the group, and any remaining amount shall
7 then be treated as a nonapportionable expense allocable to the member that
8 incurred the expense, subject to the income limitations of that section applied
9 to the nonapportionable income of that specific member. Any charitable
10 deduction disallowed under this paragraph, but allowed as a carryover
11 deduction in a subsequent year, shall be treated as originally incurred in the
12 subsequent year by the same member, and this paragraph shall apply in the
13 subsequent year in determining the allowable deduction in that year;

14 (g) Gain or loss from the sale or exchange of capital assets, property described by
15 Section 1231(a)(3) of the Internal Revenue Code, and property subject to an
16 involuntary conversion shall be removed from the total separate net income of
17 each member of a combined group and shall be apportioned and allocated as
18 follows:

19 1. For each class of gain or loss, including short-term capital, long-term
20 capital, Internal Revenue Code Section 1231, and involuntary
21 conversions, all members' gain and loss for the class shall be combined,
22 without netting between the classes, and each class of net gain or loss
23 separately apportioned to each member using the member's
24 apportionment percentage determined under subsection (6) of this
25 section;

26 2. Each taxpayer member shall then net its apportioned business gain or
27 loss for all classes, including any apportioned gain and loss from other

- 1 combined groups, against the taxpayer member's nonapportionable gain
2 and loss for all classes allocated to this state, using the rules of Sections
3 1231 and 1222 of the Internal Revenue Code, without regard to any of
4 the taxpayer member's gains or losses from the sale or exchange of
5 capital assets, Internal Revenue Code Section 1231 property, and
6 involuntary conversions which are nonapportionable items allocated to
7 another state;
- 8 3. Any resulting state source income or loss, if the loss is not subject to the
9 limitations of Section 1211 of the Internal Revenue Code, of a taxpayer
10 member produced by the application of subparagraphs 1. and 2. of this
11 paragraph shall then be applied to all other state source income or loss of
12 that member; and
- 13 4. Any resulting state source loss of a member that is subject to the
14 limitations of Section 1211 of the Internal Revenue Code shall be
15 carried forward by that member, and shall be treated as state source
16 short-term capital loss incurred by that member for the year for which
17 the carryover applies; and
- 18 (h) Any expense of one (1) member of the unitary group which is directly or
19 indirectly attributable to the nonapportionable or exempt income of another
20 member of the unitary group shall be allocated to that other member as
21 corresponding nonapportionable or exempt expense, as appropriate.
- 22 (9) (a) As a filing convenience, and without changing the respective liability of the
23 group members, members of a combined reporting group shall annually
24 designate one (1) taxpayer member of the combined group to file a single
25 return in the form and manner prescribed by the department, in lieu of filing
26 their own respective returns.
- 27 (b) The taxpayer member designated to file the single return shall consent to act

1 as surety with respect to the tax liability of all other taxpayers properly
2 included in the combined report, and shall agree to act as agent on behalf of
3 those taxpayers for the taxable year for matters relating to the combined
4 report. If for any reason the surety is unwilling or unable to perform its
5 responsibilities, tax liability may be assessed against the taxpayer members.

6 ➔Section 13. KRS 141.205 is amended to read as follows:

- 7 (1) As used in this section:
- 8 (a) "Intangible property" means franchises, patents, patent applications, trade
9 names, trademarks, service marks, copyrights, trade secrets, and similar types
10 of intangible assets;
- 11 (b) "Intangible expenses" includes the following only to the extent that the
12 amounts are allowed as deductions or costs in determining taxable net income
13 before the application of any net operating loss deduction provided under
14 Chapter 1 of the Internal Revenue Code:
- 15 1. Expenses, losses, and costs for, related to, or in connection directly or
16 indirectly with the direct or indirect acquisition, use, maintenance,
17 management, ownership, sale, exchange, or any other disposition of
18 intangible property;
 - 19 2. Losses related to, or incurred in connection directly or indirectly with,
20 factoring transactions or discounting transactions;
 - 21 3. Royalty, patent, technical, and copyright fees;
 - 22 4. Licensing fees; and
 - 23 5. Other similar expenses and costs;
- 24 (c) "Intangible interest expense" means only those amounts which are directly or
25 indirectly allowed as deductions under Section 163 of the Internal Revenue
26 Code for purposes of determining taxable income under that code, to the
27 extent that the amounts are directly or indirectly for, related to, or connected

- 1 to the direct or indirect acquisition, use, maintenance, management,
2 ownership, sale, exchange, or any other disposition of intangible property;
- 3 (d) "Management fees" includes but is not limited to expenses and costs paid for
4 services pertaining to accounts receivable and payable, employee benefit
5 plans, insurance, legal, payroll, data processing, purchasing, tax, financial and
6 securities, accounting, reporting and compliance services or similar services,
7 only to the extent that the amounts are allowed as a deduction or cost in
8 determining taxable net income before application of the net operating loss
9 deduction for the taxable year provided under Chapter 1 of the Internal
10 Revenue Code;
- 11 (e) "Affiliated group" has the same meaning as ~~provided~~ in Section 11 of this
12 Act~~[KRS 141.200]~~;
- 13 (f) "Foreign corporation" means a corporation that is organized under the laws of
14 a country other than the United States and that would be a related member if it
15 were a domestic corporation;
- 16 (g) "Related member" means a person that, with respect to the entity during all or
17 any portion of the taxable year, is:
- 18 1. A person or entity that has, directly or indirectly, at least fifty percent
19 (50%) of the equity ownership interest in the taxpayer, as determined
20 under Section 318 of the Internal Revenue Code;
 - 21 2. A component member as defined in Section 1563(b) of the Internal
22 Revenue Code;
 - 23 3. A person to or from whom there is attribution of stock ownership in
24 accordance with Section 1563(e) of the Internal Revenue Code; or
 - 25 4. A person that, notwithstanding its form of organization, bears the same
26 relationship to the taxpayer as a person described in subparagraphs 1. to
27 3. of this paragraph;

- 1 (h) "Recipient" means a related member or foreign corporation to whom the item
2 of income that corresponds to the intangible interest expense, the intangible
3 expense, or the management fees, is paid;
- 4 (i) "Unrelated party" means a person that has no direct, indirect, beneficial or
5 constructive ownership interest in the recipient; and in which the recipient has
6 no direct, indirect, beneficial or constructive ownership interest;
- 7 (j) "Disclosure" means that the entity shall provide the following information to
8 the Department of Revenue with its tax return regarding a related party
9 transaction:
- 10 1. The name of the recipient;
- 11 2. The state or country of domicile of the recipient;
- 12 3. The amount paid to the recipient; and
- 13 4. A description of the nature of the payment made to the recipient;
- 14 (k) "Other related party transaction" means a transaction which:
- 15 1. Is undertaken by an entity which was not required to file a consolidated
16 return under Section 11 of this Act~~[KRS 141.200]~~;
- 17 2. Is undertaken by an entity, directly or indirectly, with one (1) or more of
18 its stockholders, members, partners, or affiliated entities; and
- 19 3. Is not within the scope of subsections (2) and (3) of this section;
- 20 (l) "Related party costs" means intangible expense, intangible interest expense,
21 management fees and any costs or expenses associated with other related party
22 transactions; and
- 23 (m) "Entity" means any taxpayer other than a natural person.
- 24 (2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct
25 an intangible expense, an intangible interest expense, or a management fee directly
26 or indirectly paid, accrued or incurred to, or in connection directly or indirectly with
27 one (1) or more direct or indirect transactions with one (1) or more related members

1 or with a foreign corporation as defined in subsection (1) of this section, or with an
2 entity that would be included in the affiliated group based upon ownership interest
3 if it were organized as a corporation.

4 (3) The disallowance of deductions provided by subsection (2) of this section shall not
5 apply if:

6 (a) The entity and the recipient are both included in the same consolidated
7 Kentucky corporation income tax return for the relevant taxable year; or

8 (b) The entity makes a disclosure, and establishes by a preponderance of the
9 evidence that:

10 1. The payment made to the recipient was subject to, in its state or country
11 of commercial domicile, a net income tax, or a franchise tax measured
12 by, in whole or in part, net income. If the recipient is a foreign
13 corporation, the foreign nation shall have in force a comprehensive
14 income tax treaty with the United States; and

15 2. The recipient is engaged in substantial business activities separate and
16 apart from the acquisition, use, licensing, management, ownership, sale,
17 exchange, or any other disposition of intangible property, or in the
18 financing of related members, as evidenced by the maintenance of
19 permanent office space and full-time employees dedicated to the
20 maintenance and protection of intangible property; and

21 3. The transaction giving rise to the intangible interest expense, intangible
22 expense, or management fees between the entity and the recipient was
23 made at a commercially reasonable rate and at terms comparable to an
24 arm's-length transaction; or

25 (c) The entity makes a disclosure, and establishes by preponderance of the
26 evidence that the recipient regularly engages in transactions with one (1) or
27 more unrelated parties on terms identical to that of the subject transaction; or

1 (d) The entity and the Department of Revenue agree in writing to the application
2 or use of an alternative method of apportionment under KRS 141.120.

3 (4) An entity subject to the tax imposed by this chapter may deduct expenses or costs
4 associated with an other related party transaction only in an amount equal to the
5 amount which would have resulted if the other related party transaction had been
6 carried out at arm's length. In any dispute between the department and the entity
7 with respect to the amount which would have resulted if the transaction had been
8 carried out at arm's length, the entity shall bear the burden of establishing the
9 amount by a preponderance of the evidence.

10 (5) Nothing in this section shall be deemed to prohibit an entity from deducting a
11 related party cost in an amount permitted by this section, provided that the entity
12 has incurred related party costs equal to or greater than the amounts permitted by
13 this section.

14 (6) If it is determined by the department that the amount of a deduction claimed by an
15 entity with respect to a related party cost is greater than the amount permitted by
16 this section, the net income of the entity shall be adjusted to reflect the amount of
17 the related party cost permitted by this section.

18 (7) For tax periods ending before January 1, 2005, in the case of entities not required to
19 file a consolidated or combined return under subsection (1) of this section that
20 carried on transactions with stockholders or affiliated entities directly or indirectly,
21 the department shall adjust the net income of such entities to an amount that would
22 result if such transactions were carried on at arm's length.

23 ➔Section 14. KRS 141.206 is amended to read as follows:

24 (1) Every pass-through entity doing business in this state shall, on or before the
25 fifteenth day of the fourth month following the close of its annual accounting
26 period, file a copy of its federal tax return with the form prescribed and furnished by
27 the department.

- 1 (2) (a) Pass-through entities shall calculate~~[determine]~~ net income in the same
2 manner as in the case of an individual under KRS 141.019~~[141.010]~~ and the
3 adjustment required under Sections 703(a) and 1363(b) of the Internal
4 Revenue Code.
- 5 (b) Computation of net income under this section and the computation of the
6 partner's, member's, or shareholder's distributive share shall be computed as
7 nearly as practicable identical with those required for federal income tax
8 purposes except to the extent required by differences between this chapter and
9 the federal income tax law and regulations.
- 10 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
11 member, or shareholder in a pass-through entity shall be liable for income tax only
12 in their individual, fiduciary, or corporate capacities, and no income tax shall be
13 assessed against the net income of any pass-through entity, except as required:
- 14 (a) For S corporations under~~[by]~~ KRS 141.040; and
15 (b) *For a partnership level audit under Section 57 of this Act.*
- 16 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
17 section, except publicly traded partnerships as described in KRS
18 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the
19 distributive share, whether distributed or undistributed, of each:
- 20 1. Nonresident individual partner, member, or shareholder; and
 - 21 2. Corporate partner or member that is doing business in Kentucky only
22 through its ownership interest in a pass-through entity.
- 23 (b) Withholding shall be at the maximum rate provided in KRS 141.020 or
24 141.040.
- 25 (5) (a) Effective for taxable years beginning after December 31, 2018, every pass-
26 through entity required to withhold Kentucky income tax as provided by
27 subsection (4) of this section shall pay estimated tax for the taxable year if:

- 1 1. For a nonresident individual partner, member, or shareholder, the
2 estimated tax liability can reasonably be expected to exceed five
3 hundred dollars (\$500); or
- 4 2. For a corporate partner or member that is doing business in Kentucky
5 only through its ownership interest in a pass-through entity, the
6 estimated tax liability can reasonably be expected to exceed five
7 thousand dollars (\$5,000).
- 8 (b) The payment of estimated tax shall contain the information and shall be filed
9 as provided in KRS 141.207.
- 10 (6) (a) If a pass-through entity demonstrates to the department that a partner,
11 member, or shareholder has filed an appropriate tax return for the prior year
12 with the department, then the pass-through entity shall not be required to
13 withhold on that partner, member, or shareholder for the current year unless
14 the exemption from withholding has been revoked pursuant to paragraph (b)
15 of this subsection.
- 16 (b) 1. An exemption from withholding shall be considered revoked if the
17 partner, member, or shareholder does not file and pay all taxes due in a
18 timely manner.
- 19 2. An exemption so revoked shall be reinstated only with permission of the
20 department.
- 21 3. If a partner, member, or shareholder who has been exempted from
22 withholding does not file a return or pay the tax due, the department may
23 require the pass-through entity to pay to the department the amount that
24 should have been withheld, up to the amount of the partner's, member's,
25 or shareholder's ownership interest in the entity.
- 26 4. The pass-through entity shall be entitled to recover a payment made
27 pursuant to this paragraph from the partner, member, or shareholder on

1 whose behalf the payment was made.

2 (7) In determining the tax under this chapter, a resident individual, estate, or trust that is
3 a partner, member, or shareholder in a pass-through entity shall take into account
4 the partner's, member's, or shareholder's total distributive share of the pass-through
5 entity's items of income, loss, deduction, and credit.

6 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
7 that is a partner, member, or shareholder in a pass-through entity required to file a
8 return under subsection (1) of this section shall take into account:

9 (a) 1. If the pass-through entity is doing business only in this state, the
10 partner's, member's, or shareholder's total distributive share of the pass-
11 through entity's items of income, loss, and deduction; or

12 2. If the pass-through entity is doing business both within and without this
13 state, the partner's, member's, or shareholder's distributive share of the
14 pass-through entity's items of income, loss, and deduction multiplied by
15 the apportionment fraction of the pass-through entity as prescribed in
16 subsection (11) of this section; and

17 (b) The partner's, member's, or shareholder's total distributive share of credits of
18 the pass-through entity.

19 (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member
20 in a pass-through entity shall take into account the corporation's distributive share of
21 the pass-through entity's items of income, loss, and deduction and:

22 (a) 1. For taxable years beginning on or after January 1, 2007, but prior to
23 January 1, 2018, shall include the proportionate share of the sales,
24 property, and payroll of the limited liability pass-through entity or
25 general partnership in computing its own apportionment factor; and

26 2. For taxable years beginning on or after January 1, 2018, shall include the
27 proportionate share of the sales of the limited liability pass-through

1 entity or general partnership in computing its own apportionment factor;

2 and

3 (b) Credits from the partnership.

4 (10) (a) If a pass-through entity is doing business both within and without this state,
5 the pass-through entity shall compute and furnish to each partner, member, or
6 shareholder the numerator and denominator of each factor of the
7 apportionment fraction determined in accordance with subsection (11) of this
8 section.

9 (b) For purposes of determining an apportionment fraction under paragraph (a) of
10 this subsection, if the pass-through entity is:

11 1. Doing business both within and without this state; and

12 2. A partner or member in another pass-through entity;

13 then the pass-through entity shall be deemed to own the pro rata share of the
14 property owned or leased by the other pass-through entity, and shall also
15 include its pro rata share of the other pass-through entity's payroll and sales.

16 (c) The phrases "a partner or member in another pass-through entity" and "doing
17 business both within and without this state" shall extend to each level of
18 multiple-tiered pass-through entities.

19 (d) The attribution to the pass-through entity of the pro rata share of property,
20 payroll and sales from its role as a partner or member in another pass-through
21 entity will also apply when determining the pass-through entity's ultimate
22 apportionment factor for property, payroll and sales as required under
23 subsection (11) of this section.

24 (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity
25 doing business within and without the state shall compute an apportionment
26 fraction, the numerator of which is the property factor, representing twenty-
27 five percent (25%) of the fraction, plus the payroll factor, representing twenty-

1 five percent (25%) of the fraction, plus the sales factor, representing fifty
2 percent (50%) of the fraction, with each factor determined in the same manner
3 as provided in KRS 141.901, and the denominator of which is four (4),
4 reduced by the number of factors, if any, having no denominator, provided
5 that if the sales factor has no denominator, then the denominator shall be
6 reduced by two (2).

7 (b) For taxable years beginning on or after January 1, 2018, a pass-through entity
8 doing business within and without the state shall compute an apportionment
9 fraction as provided in KRS 141.120.

10 (12) Resident individuals, estates, or trusts that are partners in a partnership, members of
11 a limited liability company electing partnership tax treatment for federal income tax
12 purposes, owners of single member limited liability companies, or shareholders in
13 an S corporation which does not do business in this state are subject to tax under
14 KRS 141.020 on federal net income, gain, deduction, or loss passed through the
15 partnership, limited liability company, or S corporation.

16 (13) An S corporation election made in accordance with Section 1362 of the Internal
17 Revenue Code for federal tax purposes is a binding election for Kentucky tax
18 purposes.

19 (14) (a) Nonresident individuals shall not be taxable on investment income distributed
20 by a qualified investment partnership. For purposes of this subsection, a
21 "qualified investment partnership" means a pass-through entity that, during the
22 taxable year, holds only investments that produce income that would not be
23 taxable to a nonresident individual if held or owned individually.

24 (b) A qualified investment partnership shall be subject to all other provisions
25 relating to a pass-through entity under this section and shall not be subject to
26 the tax imposed under KRS 141.040 or 141.0401.

27 (15) (a) 1. A pass-through entity may file a composite income tax return on behalf

- 1 of electing nonresident individual partners, members, or shareholders.
- 2 2. The pass-through entity shall report and pay on the composite income
3 tax return income tax at the highest marginal rate provided in this
4 chapter on any portion of the partners', members', or shareholders' pro
5 rata or distributive shares of income of the pass-through entity from
6 doing business in this state or deriving income from sources within this
7 state. Payments made pursuant to subsection (5) of this section shall be
8 credited against any tax due.
- 9 3. The pass-through entity filing a composite return shall still make
10 estimated tax payments if required to do so by subsection (5) of this
11 section, and shall remain subject to any penalty under KRS 141.044 and
12 141.305 for any underpayment of estimated tax determined under KRS
13 141.044 or 141.305.
- 14 4. The partners', members', or shareholders' pro rata or distributive share of
15 income shall include all items of income or deduction used to compute
16 adjusted gross income on the Kentucky return that is passed through to
17 the partner, member, or shareholder by the pass-through entity, including
18 but not limited to interest, dividend, capital gains and losses, guaranteed
19 payments, and rents.
- 20 (b) A nonresident individual partner, member, or shareholder whose only source
21 of income within this state is distributive share income from one (1) or more
22 pass-through entities may elect to be included in a composite return filed
23 pursuant to this section.
- 24 (c) A nonresident individual partner, member, or shareholder that has been
25 included in a composite return may file an individual income tax return and
26 shall receive credit for tax paid on the partner's behalf by the pass-through
27 entity.

1 (d) A pass-through entity shall deliver to the department a return upon a form
2 prescribed by the department showing the total amounts paid or credited to its
3 electing nonresident individual partners, members, or shareholders, the
4 amount paid in accordance with this subsection, and any other information the
5 department may require. A pass-through entity shall furnish to its nonresident
6 partner, member, or shareholder annually, but not later than the fifteenth day
7 of the fourth month after the end of its taxable year, a record of the amount of
8 tax paid on behalf of the partner, member, or shareholder on a form prescribed
9 by the department.

10 ➔Section 15. KRS 141.383 is amended to read as follows:

11 (1) As used in this section:

- 12 (a) "Above-the-line production crew" means the same as defined in KRS
13 148.542;
- 14 (b) "Approved company" means the same as defined in KRS 148.542;
- 15 (c) "Below-the-line production crew" means the same as defined in KRS 148.542;
- 16 (d) "Cabinet" means the same as defined in KRS 148.542;
- 17 (e) "Office" means the same as defined in KRS 148.542;
- 18 (f) "Qualifying expenditure" means the same as defined in KRS 148.542;
- 19 (g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;
- 20 (h) "Secretary" means the same as defined in KRS 148.542; and
- 21 (i) "Tax incentive agreement" means the same as defined in KRS 148.542.

22 (2) (a) There is hereby created a tax credit against the tax imposed under KRS
23 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in
24 KRS 141.0205.

25 (b) The incentive available under paragraph (a) of this section is:

- 26 1. A refundable credit for applications approved prior to April 27, 2018;
27 and

- 1 2. A nonrefundable and nontransferable credit for applications approved on
2 or after April 27, 2018.
- 3 (c) 1. Beginning on April 27, 2018, the total tax incentive approved under
4 KRS 148.544 shall be limited to one hundred million dollars
5 (\$100,000,000) for calendar year 2018 and each calendar year thereafter.
- 6 2. On April 27, 2018, if applications have been approved during the 2018
7 calendar year which exceed the amount in subparagraph 1. of this
8 paragraph~~[(a) of this subsection]~~, the Kentucky Film Office shall
9 immediately cease in approving any further applications for tax
10 incentives.
- 11 (3) An approved company may receive a refundable tax credit on and after July 1,
12 2010, but only for applications approved prior to April 27, 2018, if:
- 13 (a) The cabinet has received notification from the office that the approved
14 company has satisfied all requirements of KRS 148.542 to 148.546; and
- 15 (b) The approved company has provided a detailed cost report and sufficient
16 documentation to the office, which has been forwarded by the office to the
17 cabinet, that:
- 18 1. The purchases of qualifying expenditures were made after the execution
19 of the tax incentive agreement; and
- 20 2. The approved company has withheld income tax as required by KRS
21 141.310 on all qualified payroll expenditures.
- 22 (4) Interest shall not be allowed or paid on any refundable credits provided under this
23 section.
- 24 (5) The cabinet shall promulgate administrative regulations in accordance with KRS
25 Chapter 13A to administer this section.
- 26 (6) On or before September 1, 2010, and on or before each September 1 thereafter, for
27 the immediately preceding fiscal year, the cabinet shall report to the office the

1 names of the approved companies and the amounts of refundable income tax credit
2 claimed.

3 ➔Section 16. KRS 141.900 is amended to read as follows:

4 The definitions in this section are the same as the definitions appearing in KRS 141.010
5 prior to its repeal and reenactment in Section 53 of 2018 Ky. Acts chs. 171 and 207. For
6 taxable years beginning prior to January 1, 2018, as used in this chapter, unless the
7 context requires otherwise:

- 8 (1) "Commissioner" means the commissioner of the department;
- 9 (2) "Department" means the Department of Revenue;
- 10 (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December
11 31, 2015, exclusive of any amendments made subsequent to that date, other than
12 amendments that extend provisions in effect on December 31, 2015, that would
13 otherwise terminate, and as modified by KRS 141.0101;
- 14 (4) "Dependent" means those persons defined as dependents in the Internal Revenue
15 Code;
- 16 (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal
17 Revenue Code;
- 18 (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal
19 Revenue Code;
- 20 (7) "Individual" means a natural person;
- 21 (8) "Modified gross income" means the greater of:
 - 22 (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code
23 of 1986, including any subsequent amendments in effect on December 31 of
24 the taxable year, and adjusted as follows:
 - 25 1. Include interest income derived from obligations of sister states and
26 political subdivisions thereof; and
 - 27 2. Include lump-sum pension distributions taxed under the special

- 1 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- 2 (b) Adjusted gross income as defined in subsection (10) of this section and
3 adjusted to include lump-sum pension distributions taxed under the special
4 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 5 (9) "Gross income," in the case of taxpayers other than corporations, means "gross
6 income" as defined in Section 61 of the Internal Revenue Code;
- 7 (10) "Adjusted gross income," in the case of taxpayers other than corporations, means
8 gross income as defined in subsection (9) of this section minus the deductions
9 allowed individuals by Section 62 of the Internal Revenue Code and as modified by
10 KRS 141.0101 and adjusted as follows, except that deductions shall be limited to
11 amounts allocable to income subject to taxation under the provisions of this chapter,
12 and except that nothing in this chapter shall be construed to permit the same item to
13 be deducted more than once:
- 14 (a) Exclude income that is exempt from state taxation by the Kentucky
15 Constitution and the Constitution and statutory laws of the United States and
16 Kentucky;
- 17 (b) Exclude income from supplemental annuities provided by the Railroad
18 Retirement Act of 1937 as amended and which are subject to federal income
19 tax by Public Law 89-699;
- 20 (c) Include interest income derived from obligations of sister states and political
21 subdivisions thereof;
- 22 (d) Exclude employee pension contributions picked up as provided for in KRS
23 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
24 and 161.540 upon a ruling by the Internal Revenue Service or the federal
25 courts that these contributions shall not be included as gross income until such
26 time as the contributions are distributed or made available to the employee;
- 27 (e) Exclude Social Security and railroad retirement benefits subject to federal

- 1 income tax;
- 2 (f) Include, for taxable years ending before January 1, 1991, all overpayments of
3 federal income tax refunded or credited for taxable years;
- 4 (g) Deduct, for taxable years ending before January 1, 1991, federal income tax
5 paid for taxable years ending before January 1, 1990;
- 6 (h) Exclude any money received because of a settlement or judgment in a lawsuit
7 brought against a manufacturer or distributor of "Agent Orange" for damages
8 resulting from exposure to Agent Orange by a member or veteran of the
9 Armed Forces of the United States or any dependent of such person who
10 served in Vietnam;
- 11 (i) 1. For taxable years ending prior to December 31, 2005, exclude the
12 applicable amount of total distributions from pension plans, annuity
13 contracts, profit-sharing plans, retirement plans, or employee savings
14 plans. The "applicable amount" shall be:
- 15 a. Twenty-five percent (25%), but not more than six thousand two
16 hundred fifty dollars (\$6,250), for taxable years beginning after
17 December 31, 1994, and before January 1, 1996;
- 18 b. Fifty percent (50%), but not more than twelve thousand five
19 hundred dollars (\$12,500), for taxable years beginning after
20 December 31, 1995, and before January 1, 1997;
- 21 c. Seventy-five percent (75%), but not more than eighteen thousand
22 seven hundred fifty dollars (\$18,750), for taxable years beginning
23 after December 31, 1996, and before January 1, 1998; and
- 24 d. One hundred percent (100%), but not more than thirty-five
25 thousand dollars (\$35,000), for taxable years beginning after
26 December 31, 1997.
- 27 2. For taxable years beginning after December 31, 2005, exclude up to

1 forty-one thousand one hundred ten dollars (\$41,110) of total
2 distributions from pension plans, annuity contracts, profit-sharing plans,
3 retirement plans, or employee savings plans.

4 3. As used in this paragraph:

5 a. "Distributions" includes but is not limited to any lump-sum
6 distribution from pension or profit-sharing plans qualifying for the
7 income tax averaging provisions of Section 402 of the Internal
8 Revenue Code; any distribution from an individual retirement
9 account as defined in Section 408 of the Internal Revenue Code;
10 and any disability pension distribution;

11 b. "Annuity contract" has the same meaning as set forth in Section
12 1035 of the Internal Revenue Code; and

13 c. "Pension plans, profit-sharing plans, retirement plans, or employee
14 savings plans" means any trust or other entity created or organized
15 under a written retirement plan and forming part of a stock bonus,
16 pension, or profit-sharing plan of a public or private employer for
17 the exclusive benefit of employees or their beneficiaries and
18 includes plans qualified or unqualified under Section 401 of the
19 Internal Revenue Code and individual retirement accounts as
20 defined in Section 408 of the Internal Revenue Code;

21 (j) 1. a. Exclude the portion of the distributive share of a shareholder's net
22 income from an S corporation subject to the franchise tax imposed
23 under KRS 136.505 or the capital stock tax imposed under KRS
24 136.300; and

25 b. Exclude the portion of the distributive share of a shareholder's net
26 income from an S corporation related to a qualified subchapter S
27 subsidiary subject to the franchise tax imposed under KRS

1 136.505 or the capital stock tax imposed under KRS 136.300.

2 2. The shareholder's basis of stock held in a S corporation where the S
3 corporation or its qualified subchapter S subsidiary is subject to the
4 franchise tax imposed under KRS 136.505 or the capital stock tax
5 imposed under KRS 136.300 shall be the same as the basis for federal
6 income tax purposes;

7 (k) Exclude, to the extent not already excluded from gross income, any amounts
8 paid for health insurance, or the value of any voucher or similar instrument
9 used to provide health insurance, which constitutes medical care coverage for
10 the taxpayer, the taxpayer's spouse, and dependents, or for any person
11 authorized to be provided excludable coverage by the taxpayer pursuant to the
12 federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-
13 148, or the Health Care and Education Reconciliation Act of 2010, Pub. L.
14 No. 111-152, during the taxable year. Any amounts paid by the taxpayer for
15 health insurance that are excluded pursuant to this paragraph shall not be
16 allowed as a deduction in computing the taxpayer's net income under
17 subsection (11) of this section;

18 (l) Exclude income received for services performed as a precinct worker for
19 election training or for working at election booths in state, county, and local
20 primary, regular, or special elections;

21 (m) Exclude any amount paid during the taxable year for insurance for long-term
22 care as defined in KRS 304.14-600;

23 (n) Exclude any capital gains income attributable to property taken by eminent
24 domain;

25 (o) Exclude any amount received by a producer of tobacco or a tobacco quota
26 owner from the multistate settlement with the tobacco industry, known as the
27 Master Settlement Agreement, signed on November 22, 1998;

- 1 (p) Exclude any amount received from the secondary settlement fund, referred to
2 as "Phase II," established by tobacco companies to compensate tobacco
3 farmers and quota owners for anticipated financial losses caused by the
4 national tobacco settlement;
- 5 (q) Exclude any amount received from funds of the Commodity Credit
6 Corporation for the Tobacco Loss Assistance Program as a result of a
7 reduction in the quantity of tobacco quota allotted;
- 8 (r) Exclude any amount received as a result of a tobacco quota buydown program
9 that all quota owners and growers are eligible to participate in;
- 10 (s) Exclude state Phase II payments received by a producer of tobacco or a
11 tobacco quota owner;
- 12 (t) Exclude all income from all sources for active duty and reserve members and
13 officers of the Armed Forces of the United States or National Guard who are
14 killed in the line of duty, for the year during which the death occurred and the
15 year prior to the year during which the death occurred. For the purposes of this
16 paragraph, "all income from all sources" shall include all federal and state
17 death benefits payable to the estate or any beneficiaries; and
- 18 (u) For taxable years beginning on or after January 1, 2010, exclude all military
19 pay received by active duty members of the Armed Forces of the United
20 States, members of reserve components of the Armed Forces of the United
21 States, and members of the National Guard, including compensation for state
22 active duty as described in KRS 38.205;
- 23 (11) "Net income," in the case of taxpayers other than corporations, means adjusted
24 gross income as defined in subsection (10) of this section, minus:
- 25 (a) The deduction allowed by KRS 141.0202 as it existed prior to January 1,
26 2018;
- 27 (b) Any amount paid for vouchers or similar instruments that provide health

- 1 insurance coverage to employees or their families;
- 2 (c) For taxable years beginning on or after January 1, 2010, the amount of
3 domestic production activities deduction calculated at six percent (6%) as
4 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
5 beginning before 2010; and
- 6 (d) 1. All the deductions allowed individuals by Chapter 1 of the Internal
7 Revenue Code as modified by KRS 141.0101 except:
- 8 a. Any deduction allowed by the Internal Revenue Code for state or
9 foreign taxes measured by gross or net income, including state and
10 local general sales taxes allowed in lieu of state and local income
11 taxes under the provisions of Section 164(b)(5) of the Internal
12 Revenue Code;
- 13 b. Any deduction allowed by the Internal Revenue Code for amounts
14 allowable under KRS 140.090(1)(h) in calculating the value of the
15 distributive shares of the estate of a decedent, unless there is filed
16 with the income return a statement that such deduction has not
17 been claimed under KRS 140.090(1)(h);
- 18 c. The deduction for personal exemptions allowed under Section 151
19 of the Internal Revenue Code and any other deductions in lieu
20 thereof;
- 21 d. For taxable years beginning on or after January 1, 2010, the
22 domestic production activities deduction allowed under Section
23 199 of the Internal Revenue Code;
- 24 e. Any deduction for amounts paid to any club, organization, or
25 establishment which has been determined by the courts or an
26 agency established by the General Assembly and charged with
27 enforcing the civil rights laws of the Commonwealth, not to afford

1 full and equal membership and full and equal enjoyment of its
2 goods, services, facilities, privileges, advantages, or
3 accommodations to any person because of race, color, religion,
4 national origin, or sex, except nothing shall be construed to deny a
5 deduction for amounts paid to any religious or denominational
6 club, group, or establishment or any organization operated solely
7 for charitable or educational purposes which restricts membership
8 to persons of the same religion or denomination in order to
9 promote the religious principles for which it is established and
10 maintained;

11 f. Any deduction directly or indirectly allocable to income which is
12 either exempt from taxation or otherwise not taxed under this
13 chapter;

14 g. The itemized deduction limitation established in 26 U.S.C. sec. 68
15 shall be determined using the applicable amount from 26 U.S.C.
16 sec. 68 as it existed on December 31, 2006; and

17 h. A taxpayer may elect to claim the standard deduction allowed by
18 KRS 141.081 instead of itemized deductions allowed pursuant to
19 26 U.S.C. sec. 63 and as modified by this section; and

20 2. Nothing in this chapter shall be construed to permit the same item to be
21 deducted more than once;

22 (12) "Gross income," in the case of corporations, means "gross income" as defined in
23 Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and
24 adjusted as follows:

25 (a) Exclude income that is exempt from state taxation by the Kentucky
26 Constitution and the Constitution and statutory laws of the United States;

27 (b) Exclude all dividend income received after December 31, 1969;

- 1 (c) Include interest income derived from obligations of sister states and political
2 subdivisions thereof;
- 3 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
4 covered by Section 631(c) of the Internal Revenue Code if the corporation
5 does not claim any deduction for percentage depletion, or for expenditures
6 attributable to the making and administering of the contract under which such
7 disposition occurs or to the preservation of the economic interests retained
8 under such contract;
- 9 ~~(e) Include in the gross income of lessors income tax payments made by lessees
10 to lessors, under the provisions of Section 110 of the Internal Revenue Code,
11 and exclude such payments from the gross income of lessees;~~
- 12 ~~(f)~~ Include the amount calculated under KRS 141.205;
- 13 ~~(f)~~~~(g)~~ Ignore the provisions of Section 281 of the Internal Revenue Code in
14 computing gross income;
- 15 ~~(g)~~~~(h)~~ Exclude income from "safe harbor leases" (Section 168(f)(8) of the
16 Internal Revenue Code);
- 17 ~~(h)~~~~(i)~~ Exclude any amount received by a producer of tobacco or a tobacco
18 quota owner from the multistate settlement with the tobacco industry, known
19 as the Master Settlement Agreement, signed on November 22, 1998;
- 20 ~~(i)~~~~(j)~~ Exclude any amount received from the secondary settlement fund,
21 referred to as "Phase II," established by tobacco companies to compensate
22 tobacco farmers and quota owners for anticipated financial losses caused by
23 the national tobacco settlement;
- 24 ~~(j)~~~~(k)~~ Exclude any amount received from funds of the Commodity Credit
25 Corporation for the Tobacco Loss Assistance Program as a result of a
26 reduction in the quantity of tobacco quota allotted;
- 27 ~~(k)~~~~(4)~~ Exclude any amount received as a result of a tobacco quota buydown

1 program that all quota owners and growers are eligible to participate in;

2 ~~(L)(m)~~ For taxable years beginning after December 31, 2004, and before
3 January 1, 2007, exclude the distributive share income or loss received from a
4 corporation defined in subsection (24)(b) of this section whose income has
5 been subject to the tax imposed by KRS 141.040. The exclusion provided in
6 this paragraph shall also apply to a taxable year that begins prior to January 1,
7 2005, if the tax imposed by KRS 141.040 is paid on the distributive share
8 income by a corporation defined in subparagraphs 2. to 8. of subsection
9 (24)(b) of this section with a return filed for a period of less than twelve (12)
10 months that begins on or after January 1, 2005, and ends on or before
11 December 31, 2005. This paragraph shall not be used to delay payment of the
12 tax imposed by KRS 141.040; and

13 ~~(m)(n)~~ Exclude state Phase II payments received by a producer of tobacco or a
14 tobacco quota owner;

15 (13) "Net income," in the case of corporations, means "gross income" as defined in
16 subsection (12) of this section minus:

17 (a) The deduction allowed by KRS 141.0202 as it existed prior to January 1,
18 2018;

19 (b) Any amount paid for vouchers or similar instruments that provide health
20 insurance coverage to employees or their families;

21 (c) For taxable years beginning on or after January 1, 2010, the amount of
22 domestic production activities deduction calculated at six percent (6%) as
23 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
24 beginning before 2010; and

25 (d) All the deductions from gross income allowed corporations by Chapter 1 of
26 the Internal Revenue Code and as modified by KRS 141.0101, except:

27 1. Any deduction for a state tax which is computed, in whole or in part, by

- 1 reference to gross or net income and which is paid or accrued to any
2 state of the United States, the District of Columbia, the Commonwealth
3 of Puerto Rico, any territory or possession of the United States, or to any
4 foreign country or political subdivision thereof;
- 5 2. The deductions contained in Sections 243,~~244,~~ 245, and 247 of the
6 Internal Revenue Code;
- 7 3. The provisions of Section 281 of the Internal Revenue Code shall be
8 ignored in computing net income;
- 9 4. Any deduction directly or indirectly allocable to income which is either
10 exempt from taxation or otherwise not taxed under the provisions of this
11 chapter, and nothing in this chapter shall be construed to permit the
12 same item to be deducted more than once;
- 13 5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of
14 the Internal Revenue Code);
- 15 6. Any deduction for amounts paid to any club, organization, or
16 establishment which has been determined by the courts or an agency
17 established by the General Assembly and charged with enforcing the
18 civil rights laws of the Commonwealth, not to afford full and equal
19 membership and full and equal enjoyment of its goods, services,
20 facilities, privileges, advantages, or accommodations to any person
21 because of race, color, religion, national origin, or sex, except nothing
22 shall be construed to deny a deduction for amounts paid to any religious
23 or denominational club, group, or establishment or any organization
24 operated solely for charitable or educational purposes which restricts
25 membership to persons of the same religion or denomination in order to
26 promote the religious principles for which it is established and
27 maintained;

- 1 7. Any deduction prohibited by KRS 141.205;
- 2 8. Any dividends-paid deduction of any captive real estate investment trust;
- 3 and
- 4 9. For taxable years beginning on or after January 1, 2010, the domestic
- 5 production activities deduction allowed under Section 199 of the
- 6 Internal Revenue Code;
- 7 (14) (a) "Taxable net income," in the case of corporations that are taxable in this state,
- 8 means "net income" as defined in subsection (13) of this section;
- 9 (b) "Taxable net income," in the case of corporations that are taxable in this state
- 10 and taxable in another state, means "net income" as defined in subsection (13)
- 11 of this section and as allocated and apportioned under KRS 141.901. A
- 12 corporation is taxable in another state if, in any state other than Kentucky, the
- 13 corporation is required to file a return for or pay a net income tax, franchise
- 14 tax measured by net income, franchise tax for the privilege of doing business,
- 15 or corporate stock tax;
- 16 (c) "Taxable net income," in the case of homeowners' associations as defined in
- 17 Section 528(c) of the Internal Revenue Code, means "taxable income" as
- 18 defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the
- 19 provisions of subsection (3) of this section, the Internal Revenue Code
- 20 sections referred to in this paragraph shall be those code sections in effect for
- 21 the applicable tax year; and
- 22 (d) "Taxable net income," in the case of a corporation that meets the requirements
- 23 established under Section 856 of the Internal Revenue Code to be a real estate
- 24 investment trust, means "real estate investment trust taxable income" as
- 25 defined in Section 857(b)(2) of the Internal Revenue Code, except that a
- 26 captive real estate investment trust shall not be allowed any deduction for
- 27 dividends paid;

- 1 (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue
2 Code;
- 3 (16) "Taxable year" means the calendar year or fiscal year ending during such calendar
4 year, upon the basis of which net income is computed, and in the case of a return
5 made for a fractional part of a year under the provisions of this chapter or under
6 regulations prescribed by the commissioner, "taxable year" means the period for
7 which the return is made;
- 8 (17) "Resident" means an individual domiciled within this state or an individual who is
9 not domiciled in this state, but maintains a place of abode in this state and spends in
10 the aggregate more than one hundred eighty-three (183) days of the taxable year in
11 this state;
- 12 (18) "Nonresident" means any individual not a resident of this state;
- 13 (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal
14 Revenue Code;
- 15 (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal
16 Revenue Code;
- 17 (21) "Number of withholding exemptions claimed" means the number of withholding
18 exemptions claimed in a withholding exemption certificate in effect under KRS
19 141.325, except that if no such certificate is in effect, the number of withholding
20 exemptions claimed shall be considered to be zero (0);
- 21 (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue
22 Code and includes other income subject to withholding as provided in Section
23 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- 24 (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the
25 Internal Revenue Code;
- 26 (24) (a) For taxable years beginning before January 1, 2005, and after December 31,
27 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of

1 the Internal Revenue Code; and

2 (b) For taxable years beginning after December 31, 2004, and before January 1,
3 2007, "corporations" means:

- 4 1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue
5 Code;
- 6 2. S corporations as defined in Section 1361(a) of the Internal Revenue
7 Code;
- 8 3. A foreign limited liability company as defined in KRS 275.015;
- 9 4. A limited liability company as defined in KRS 275.015;
- 10 5. A professional limited liability company as defined in KRS 275.015;
- 11 6. A foreign limited partnership as defined in KRS 362.2-102(9);
- 12 7. A limited partnership as defined in KRS 362.2-102(14);
- 13 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-
14 101(7) or (8);
- 15 9. A real estate investment trust as defined in Section 856 of the Internal
16 Revenue Code;
- 17 10. A regulated investment company as defined in Section 851 of the
18 Internal Revenue Code;
- 19 11. A real estate mortgage investment conduit as defined in Section 860D of
20 the Internal Revenue Code;
- 21 12. A financial asset securitization investment trust as defined in Section
22 860L of the Internal Revenue Code; and
- 23 13. Other similar entities created with limited liability for their partners,
24 members, or shareholders.

25 For purposes of this paragraph, "corporation" shall not include any publicly
26 traded partnership as defined by Section 7704(b) of the Internal Revenue Code
27 that is treated as a partnership for federal tax purposes under Section 7704(c)

1 of the Internal Revenue Code or its publicly traded partnership affiliates. As
2 used in this paragraph, "publicly traded partnership affiliates" shall include
3 any limited liability company or limited partnership for which at least eighty
4 percent (80%) of the limited liability company member interests or limited
5 partner interests are owned directly or indirectly by the publicly traded
6 partnership;

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

- 8 (a) Being organized under the laws of this state;
- 9 (b) Having a commercial domicile in this state;
- 10 (c) Owning or leasing property in this state;
- 11 (d) Having one (1) or more individuals performing services in this state;
- 12 (e) Maintaining an interest in a pass-through entity doing business in this state;
- 13 (f) Deriving income from or attributable to sources within this state, including
14 deriving income directly or indirectly from a trust doing business in this state,
15 or deriving income directly or indirectly from a single-member limited
16 liability company that is doing business in this state and is disregarded as an
17 entity separate from its single member for federal income tax purposes; or
- 18 (g) Directing activities at Kentucky customers for the purpose of selling them
19 goods or services.

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

23 (26) "Pass-through entity" means any partnership, S corporation, limited liability
24 company, limited liability partnership, limited partnership, or similar entity
25 recognized by the laws of this state that is not taxed for federal purposes at the
26 entity level, but instead passes to each partner, member, shareholder, or owner their
27 proportionate share of income, deductions, gains, losses, credits, and any other

1 similar attributes;

2 (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal
3 Revenue Code;

4 (28) "Limited liability pass-through entity" means any pass-through entity that affords
5 any of its partners, members, shareholders, or owners, through function of the laws
6 of this state or laws recognized by this state, protection from general liability for
7 actions of the entity; and

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

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

12 2. The real estate investment trust does not have enough shareholders or
13 owners to be required to register with the Securities and Exchange
14 Commission; and

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

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

20 b. Ten percent (10%), if the corporation occupies property owned,
21 constructively owned, or controlled by the real estate investment
22 trust.

23 The total ownership interest of a corporation shall be determined by
24 aggregating all interests owned or constructively owned by a
25 corporation;

26 2. For the purposes of this paragraph:

27 a. "Corporation" means a corporation taxable under KRS 141.040,

1 and includes an affiliated group as defined in KRS 141.200, that is
2 required to file a consolidated return pursuant to the provisions of
3 KRS 141.200; and

4 b. "Owned or constructively owned" means owning shares or having
5 an ownership interest in the real estate investment trust, or owning
6 an interest in an entity that owns shares or has an ownership
7 interest in the real estate investment trust. Constructive ownership
8 shall be determined by looking across multiple layers of a
9 multilayer pass-through structure; and

10 (c) The real estate investment trust is not owned by another real estate investment
11 trust.

12 ➔Section 17. KRS 141.985 is amended to read as follows:

13 (1) Except for the addition to tax required when an underpayment of estimated tax
14 occurs under KRS 141.044 and 141.305, any tax imposed by this chapter, whether
15 assessed by the department, or the taxpayer, or any installment or portion of the tax
16 is not paid on or before the date prescribed for its payment, there shall be collected,
17 as a part of the tax, interest upon the unpaid amount at the tax interest rate as
18 defined in KRS 131.010(6) from the date prescribed for its payment until payment
19 is actually made to the department.

20 (2) Interest shall be assessed, collected, and paid in the same manner as if it were a
21 deficiency.

22 (3) *For purposes of this section, any addition to tax provided in Section 9 of this Act*
23 *and KRS 141.305 shall be considered a penalty.*

24 ➔Section 18. KRS 154.60-040 is amended to read as follows:

25 (1) *As used in this section:*

26 (a) 1. *"Agricultural assets" means:*

27 *a. Agricultural land which has been appraised by an individual*

1 certified by the Real Estate Appraisers Board created under KRS
 2 324A.015; and

3 b. Buildings, facilities, machinery, equipment, agricultural
 4 products, or horticultural products, if:

5 i. Owned by the same selling farmer owning the agricultural
 6 land sold to a beginning farmer;

7 ii. Purchased at the same time and in the same transaction
 8 with the agricultural land; and

9 iii. Purchased with the intent to be used on the purchased
 10 agricultural land.

11 2. "Agricultural assets" does not mean:

12 a. A personal residence or any other residential structures; and

13 b. Any agricultural assets that have been previously included in an
 14 approved application for the Kentucky selling farmer tax credit;

15 (b) "Agricultural land" means:

16 1. Any land located entirely in Kentucky that is zoned or permitted for
 17 farming, if the jurisdiction where the land is located has enacted an
 18 ordinance for zoning or permitting; and

19 2. a. Is a tract of land of at least ten (10) contiguous acres in area for
 20 a farming operation for agricultural products; or

21 b. Is a tract of land of at least five (5) contiguous acres in area for a
 22 farming operation for aquaculture or horticultural products;
 23 owned by the selling farmer prior to the sale;

24 (c) "Agricultural products" means:

25 1. Livestock or livestock products;

26 2. Poultry or poultry products;

27 3. Milk or milk products; or

- 1 4. Field crops and other crops, including timber if approved by the
2 authority;
- 3 (d) "Aquaculture" means the farming of fish, crustaceans, mollusks, aquatic
4 plants, algae, or other similar organisms;
- 5 (e) "Farm product" means aquaculture, agricultural products, or horticultural
6 products;
- 7 (f) 1. "Farming operation" means the management and operation of
8 agricultural assets for the purpose of pursuing a profitable
9 commercial business venture to produce agricultural products,
10 horticultural products, or both for sale.
- 11 2. "Farming operation" does not mean any:
- 12 a. Hobby farm, as determined by the Internal Revenue Service;
13 b. Nonprofit venture;
14 c. Farm used primarily for storing agricultural products or
15 horticultural products; or
16 d. Farm used to grow or raise agricultural products or
17 horticultural products primarily for use by the immediate family
18 members or owners of the agricultural assets;
- 19 (g) "Horticultural products" means orchards, fruits, vegetables, nuts, flowers,
20 or ornamental plants; and
- 21 (h) "Immediate family member" means any of the following in relation to any
22 owner or spouse of the owner of the agricultural assets:
- 23 1. Parent or grandparent;
24 2. Children or their spouses; or
25 3. Siblings or their spouses.
- 26 (2) Any incentive offered to an eligible company under the selling farmer tax credit
27 program shall be negotiated by Cabinet for Economic Development officials and

1 shall be subject to approval by the authority.

2 (3) The purpose of the selling farmer tax credit program is to promote the continued
 3 use of agricultural land in Kentucky for farming purposes by granting a tax
 4 credit to a selling farmer who agrees to sell agricultural assets to a beginning
 5 farmer.

6 (4) Selling farmers wanting to sell agricultural assets may be eligible for a tax credit
 7 up to five percent (5%) of the selling price of qualifying agricultural assets,
 8 subject to:

9 (a) A twenty-five thousand dollar (\$25,000) cap for each taxable year of the
 10 selling farmer;

11 (b) A one hundred thousand dollar (\$100,000) lifetime cap for each selling
 12 farmer; and

13 (c) A proration by the authority based on the overall cap shared between the
 14 small business tax credit program and the selling farmer tax credit program
 15 cap of three million dollars (\$3,000,000) under KRS 154.60-020.

16 (5) The tax credit allowed in subsection (4) of this section may be claimed under
 17 Section 19 of this Act.

18 (6) In order to be eligible to receive approval for a tax credit, a selling farmer shall
 19 have], at a minimum:

20 (a) 1. a. Be registered with the Kentucky Secretary of State; and

21 b. Be in good standing with the Kentucky Secretary of State; or

22 2. If not required to be registered with the Kentucky Secretary of State,
 23 be a resident of Kentucky;

24 (b) Prior to a sale of agricultural assets, be a small business with fifty (50) or
 25 fewer full-time employees and be the sole legal owner of agricultural assets
 26 sold to a beginning farmer;

27 (c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily

1 *engaged in the business of selling agricultural assets for profit and not*
 2 *engaged in farming as a primary business activity;*

3 *(d) Not be a bank or any other similar lending or financial institution;*

4 *(e) Not be:*

5 *1. An owner, partner, member, shareholder, or trustee;*

6 *2. A spouse of an owner, partner, member, shareholder, or trustee;*

7 *3. An immediate family member of any of the owners, partners,*
 8 *members, shareholders, or trustees;*

9 *of the beginning farmer to whom the selling farmer is seeking to sell*
 10 *agricultural assets;*

11 *(f) 1. Demonstrate*~~[Demonstrated the active use,]~~ *management*~~[,]~~ *and*
 12 *operation of real and personal property for the production of a farm*
 13 *product;*

14 *2. Execute*~~[Executed]~~ *and effectuate*~~[effectuated]~~ *a purchase contract to*
 15 *sell agricultural land with a beginning farmer for an amount evidenced*
 16 *by an appraisal; and*

17 *(g)(b) Sell, convey, and transfer*~~[Sold, conveyed, and transferred]~~ *ownership*
 18 *of related agricultural*~~[land and]~~ *assets to a beginning farmer.*

19 *(7) In order for the selling farmer to qualify for the tax credit, a beginning farmer*
 20 *shall, at a minimum:*

21 *(a) 1. a. Be registered with the Kentucky Secretary of State; and*

22 *b. Be in good standing with the Kentucky Secretary of State; or*

23 *2. If not required to be registered with the Kentucky Secretary of State,*
 24 *be a resident of Kentucky;*

25 *(b) Possess all licenses, registrations, and experience needed to legally operate*
 26 *a farming operation within the jurisdiction for the agricultural land*
 27 *purchased from a selling farmer;*

1 (c) Not previously have held an ownership interest in agricultural land used for
 2 a farming operation for a period exceeding ten (10) years prior to entering
 3 into an agreement to purchase agricultural assets from a selling farmer;

4 (d) Not have an ownership interest in any of the agricultural assets included in
 5 the transaction with the selling farmer; and

6 (e) Provide a majority of the management, and materially participate in the
 7 operation of a for-profit farming operation located in Kentucky and
 8 purchased from a selling farmer, with the intent to continue a for-profit
 9 farming operation on the purchased agricultural land for a minimum of
 10 five (5) years after the sale date.

11 ~~(8)(2)~~ The selling farmer shall submit an application after consummation of the sale,
 12 transfer of title, and conveyance of agricultural~~[a farm and farming]~~ assets together
 13 with all information necessary for the authority to determine eligibility for the tax
 14 credit.

15 ~~(9)(3)~~ An application for the selling farmer ~~[farmer small business]~~ tax credit shall
 16 contain, at a minimum, information about the:

17 (a) Selling farmer and purchasing beginning farmer eligibility;

18 (b) Purchase contract and closing statement;

19 (c) Documentation, such as a deed, title conveyance for the transfer of assets,
 20 including verification of Kentucky residency; and

21 (d) Any other information the authority may require to determine eligibility for
 22 the credit.

23 (10) For each approved application, the authority shall transmit to the Department of
 24 Revenue sufficient information about the selling farmer to ensure compliance
 25 with this section and Section 19 of this Act, including the amount of approved tax
 26 credit allowed to the selling farmer.

27 ~~(11)(4)~~ (a) ~~The maximum amount of the farmer small business tax credit for an~~

1 ~~approved selling farmer in each calendar year shall not exceed twenty five~~
 2 ~~thousand dollars (\$25,000) and shall be prorated based on factors determined~~
 3 ~~by the authority.~~

4 ~~(b) The maximum amount of credit an individual may claim over a lifetime shall~~
 5 ~~not exceed one hundred thousand dollars (\$100,000).~~

6 ~~(c) The credit shall be claimed on the tax return for the year during which the~~
 7 ~~credit was approved. Unused credits may be carried forward for up to five (5)~~
 8 ~~years.~~

9 ~~(5)}~~ Beginning January 1, 2020, the authority may approve selling farmer ~~[farmer small~~
 10 ~~business] tax credits[for selling farmers].~~

11 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 12 READ AS FOLLOWS:

13 **(1) The selling farmers tax credit permitted by Section 18 of this Act:**

14 **(a) Shall be nonrefundable and nontransferable; and**

15 **(b) May be claimed against the taxes imposed in KRS 141.020 or 141.040 and**
 16 **141.0401, with the ordering of the credit as provided in Section 20 of this**
 17 **Act.**

18 **(2) (a) The maximum amount of credit that may be claimed by a selling farmer in**
 19 **each taxable year is limited to:**

20 **1. No more than the total amount of credit approved by the Kentucky**
 21 **Economic Development Finance Authority;**

22 **2. Twenty-five thousand dollars (\$25,000) in any taxable year; and**

23 **3. No more than one hundred thousand dollars (\$100,000) total tax**
 24 **credit over the lifetime of the selling farmer.**

25 **(b) The credit shall be first claimed on the tax return for the taxable year**
 26 **during which the credit was approved.**

27 **(c) Any unused credit in a taxable year may be carried forward for up to five**

1 (5) taxable years and, if not utilized within the five (5) year period, shall be
2 lost.

3 (3) In order for the General Assembly to evaluate the fulfillment of the purpose
4 stated in Section 18 of this Act, the department shall provide the following
5 information, on a cumulative basis, for each selling farmer, for each taxable
6 year:

7 (a) The location, by county, of the agricultural assets sold to a beginning
8 farmer and approved for a tax credit under Section 18 of this Act;

9 (b) The total amount of tax credit approved by the Kentucky Economic
10 Development Finance Authority for each selling farmer;

11 (c) The amount of tax credit claimed for each selling farmer in each taxable
12 year; and

13 (d) 1. In the case of all taxpayers other than corporations, based on ranges
14 of adjusted gross income of no larger than five thousand dollars
15 (\$5,000) for the taxable year, the total amount of tax credits claimed
16 and the number of returns claiming a tax credit for each adjusted
17 gross income range; and

18 2. 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, the
20 total amount of tax credit claimed and the number of returns claiming
21 a tax credit for each net income range.

22 (4) The report required by subsection (3) of this section shall be submitted to the
23 Interim Joint Committee on Appropriations and Revenue beginning no later than
24 November 1, 2021, and no later than each November 1 thereafter, as long as the
25 credit is claimed on any return processed by the department.

26 ➔Section 20. KRS 141.0205 is amended to read as follows:

27 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax

1 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
2 the credits shall be determined as follows:

- 3 (1) The nonrefundable business incentive credits against the tax imposed by KRS
4 141.020 shall be taken in the following order:
- 5 (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - 6 (b) The economic development credits computed under KRS 141.347, 141.381,
7 141.384, Section 19 of this Act, 141.400, 141.401, 141.403, 141.407,
8 141.415, 154.12-207, and 154.12-2088;
 - 9 (c) The qualified farming operation credit permitted by KRS 141.412;
 - 10 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - 11 (e) The health insurance credit permitted by KRS 141.062;
 - 12 (f) The tax paid to other states credit permitted by KRS 141.070;
 - 13 (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - 14 (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - 15 (i) The tax credit for cash contributions in investment funds permitted by KRS
16 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
17 154.20-258;
 - 18 (j) The research facilities credit permitted by KRS 141.395;
 - 19 (k) The employer High School Equivalency Diploma program incentive credit
20 permitted under KRS 151B.402;
 - 21 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - 22 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - 23 (n) The clean coal incentive credit permitted by KRS 141.428;
 - 24 (o) The ethanol credit permitted by KRS 141.4242;
 - 25 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - 26 (q) The energy efficiency credits permitted by KRS 141.436;
 - 27 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;

- 1 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 2 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 3 (u) The distilled spirits credit permitted by KRS 141.389;
- 4 (v) The angel investor credit permitted by KRS 141.396;
- 5 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 6 on or after April 27, 2018;~~and~~
- 7 (x) The inventory credit permitted by KRS 141.408; ***and***
- 8 ***(y) The renewable chemical production credit permitted by Section 25 of this***
- 9 ***Act.***
- 10 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 11 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 12 shall be taken in the following order:
- 13 (a) The individual credits permitted by KRS 141.020(3);
- 14 (b) The credit permitted by KRS 141.066;
- 15 (c) The tuition credit permitted by KRS 141.069;
- 16 (d) The household and dependent care credit permitted by KRS 141.067; and
- 17 (e) The income gap credit permitted by KRS 141.066.
- 18 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 19 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 20 taken in the following order:
- 21 (a) The individual withholding tax credit permitted by KRS 141.350;
- 22 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 23 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
- 24 171.397(1)(b); and
- 25 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 26 approved prior to April 27, 2018.
- 27 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the

- 1 tax imposed by KRS 141.040.
- 2 (5) The following nonrefundable credits shall be applied against the sum of the tax
3 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
4 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 5 (a) The economic development credits computed under KRS 141.347, 141.381,
6 141.384, Section 19 of this Act, 141.400, 141.401, 141.403, 141.407,
7 141.415, 154.12-207, and 154.12-2088;
- 8 (b) The qualified farming operation credit permitted by KRS 141.412;
- 9 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 10 (d) The health insurance credit permitted by KRS 141.062;
- 11 (e) The unemployment credit permitted by KRS 141.065;
- 12 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 13 (g) The coal conversion credit permitted by KRS 141.041;
- 14 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
15 ending prior to January 1, 2008;
- 16 (i) The tax credit for cash contributions to investment funds permitted by KRS
17 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
18 154.20-258;
- 19 (j) The research facilities credit permitted by KRS 141.395;
- 20 (k) The employer High School Equivalency Diploma program incentive credit
21 permitted by KRS 151B.402;
- 22 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 23 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 24 (n) The clean coal incentive credit permitted by KRS 141.428;
- 25 (o) The ethanol credit permitted by KRS 141.4242;
- 26 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 27 (q) The energy efficiency credits permitted by KRS 141.436;

- 1 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
2 permitted by KRS 141.437;
- 3 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 4 (t) The railroad expansion credit permitted by KRS 141.386;
- 5 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 6 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 7 (w) The distilled spirits credit permitted by KRS 141.389;
- 8 (x) The film industry credit permitted by KRS 141.383 for applications approved
9 on or after April 27, 2018;~~and~~
- 10 (y) The inventory credit permitted by KRS 141.408; ***and***
- 11 ***(z) The renewable chemical production credit permitted by Section 25 of this***
12 ***Act.***

- 13 (6) After the application of the nonrefundable credits in subsection (5) of this section,
14 the refundable credits shall be taken in the following order:
- 15 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 16 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
17 171.397(1)(b); and
- 18 (c) The film industry tax credit permitted by KRS 141.383 for applications
19 approved prior to April 27, 2018.

20 ➔Section 21. KRS 131.190 is amended to read as follows:

- 21 (1) No present or former commissioner or employee of the department, present or
22 former member of a county board of assessment appeals, present or former property
23 valuation administrator or employee, present or former secretary or employee of the
24 Finance and Administration Cabinet, former secretary or employee of the Revenue
25 Cabinet, or any other person, shall intentionally and without authorization inspect or
26 divulge any information acquired by him of the affairs of any person, or information
27 regarding the tax schedules, returns, or reports required to be filed with the

1 department or other proper officer, or any information produced by a hearing or
2 investigation, insofar as the information may have to do with the affairs of the
3 person's business.

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

- 5 (a) Information required in prosecutions for making false reports or returns of
6 property for taxation, or any other infraction of the tax laws;
- 7 (b) Any matter properly entered upon any assessment record, or in any way made
8 a matter of public record;
- 9 (c) Furnishing any taxpayer or his properly authorized agent with information
10 respecting his own return;
- 11 (d) Testimony provided by the commissioner or any employee of the department
12 in any court, or the introduction as evidence of returns or reports filed with the
13 department, in an action for violation of state or federal tax laws or in any
14 action challenging state or federal tax laws;
- 15 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
16 energy resources assessed under KRS 132.820, or owners of surface land
17 under which the unmined minerals lie, factual information about the owner's
18 property derived from third-party returns filed for that owner's property, under
19 the provisions of KRS 132.820, that is used to determine the owner's
20 assessment. This information shall be provided to the owner on a confidential
21 basis, and the owner shall be subject to the penalties provided in KRS
22 131.990(2). The third-party filer shall be given prior notice of any disclosure
23 of information to the owner that was provided by the third-party filer;
- 24 (f) Providing to a third-party purchaser pursuant to an order entered in a
25 foreclosure action filed in a court of competent jurisdiction, factual
26 information related to the owner or lessee of coal, oil, gas reserves, or any
27 other mineral resources assessed under KRS 132.820. The department may

- 1 promulgate an administrative regulation establishing a fee schedule for the
2 provision of the information described in this paragraph. Any fee imposed
3 shall not exceed the greater of the actual cost of providing the information or
4 ten dollars (\$10);
- 5 (g) Providing information to a licensing agency, the Transportation Cabinet, or
6 the Kentucky Supreme Court under KRS 131.1817;
- 7 (h) Statistics of gasoline and special fuels gallonage reported to the department
8 under KRS 138.210 to 138.448;
- 9 (i) Providing any utility gross receipts license tax return information that is
10 necessary to administer the provisions of KRS 160.613 to 160.617 to
11 applicable school districts on a confidential basis;
- 12 (j) Providing documents, data, or other information to a third party pursuant to an
13 order issued by a court of competent jurisdiction; or
- 14 (k) Providing information to the Legislative Research Commission under:
- 15 1. KRS 139.519 for purposes of the sales and use tax refund on building
16 materials used for disaster recovery;
- 17 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 18 3. KRS 141.437 for purposes of the ENERGY STAR home and the
19 ENERGY STAR manufactured home credits;
- 20 4. KRS 148.544 for purposes of the film industry incentives;
- 21 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
22 tax credits and the job assessment fees;
- 23 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 24 7. KRS 141.396 for purposes of the angel investor tax credit;
- 25 8. KRS 141.389 for purposes of the distilled spirits credit;
- 26 9. KRS 141.408 for purposes of the inventory credit; ~~and~~
- 27 10. KRS 141.390 for purposes of the recycling and composting credit;

1 *11. Section 19 of this Act for purposes of the selling farmer tax credit; and*

2 *12. Section 25 of this Act for purposes of the renewable chemical*
3 *production credit.*

4 (3) The commissioner shall make available any information for official use only and on
5 a confidential basis to the proper officer, agency, board or commission of this state,
6 any Kentucky county, any Kentucky city, any other state, or the federal government,
7 under reciprocal agreements whereby the department shall receive similar or useful
8 information in return.

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

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

21 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
22 submissions for the 1989 tax year, the department may make public or divulge only
23 those portions of mine maps submitted by taxpayers to the department pursuant to
24 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
25 out parcel areas. These electronic maps shall not be relied upon to determine actual
26 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
27 required under KRS Chapters 350 and 352 shall not be construed to constitute land

1 surveying or boundary surveys as defined by KRS 322.010 and any administrative
2 regulations promulgated thereto.

3 →Section 22. KRS 154.60-005 is amended to read as follows:

4 This subchapter shall be known as the small business tax credit and selling farmer tax
5 credit programs~~[program]~~.

6 →Section 23. KRS 154.60-020 is amended to read as follows:

7 (1) The authority shall develop a Small Business Development Credit Program in
8 consultation with the Office of Entrepreneurship to assist new or existing small
9 businesses operating in the Commonwealth. The nonrefundable credit shall be
10 allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The
11 ordering of credits shall be as provided in KRS 141.0205.

12 (2) The authority shall determine the terms, conditions, and requirements for
13 application for the credit, in consultation with the Office of Entrepreneurship,
14 subject to the provisions of subsection (3) of this section. The application shall
15 contain identification information about the number of eligible positions created
16 and filled, a calculation of the base employment of the small business, verification
17 of investment of five thousand dollars (\$5,000) or more in qualifying equipment or
18 technology, and other information the authority may specify to determine eligibility
19 for the credit.

20 (3) (a) The maximum amount of credits that may be committed in each fiscal year by
21 the authority and shared between the small business tax credit program and
22 the selling farmer ~~[farmer small business]~~ tax credit program shall be capped
23 at three million dollars (\$3,000,000).

24 (b) In order to be eligible to receive final approval for a credit, a small business
25 shall, within the twenty-four (24) month period immediately preceding the
26 application submission date:

27 1. Create and fill one (1) or more eligible positions over the base

1 employment; and

2 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or
3 technology.

4 (c) Each eligible position that is created and filled shall be maintained for twelve
5 (12) months. If a full-time employee filling a newly created eligible position
6 ceases to be employed by the small business for any reason, that employee
7 shall be replaced within forty-five (45) days in order for the eligible position
8 to maintain its eligible status, in addition to meeting all other applicable
9 requirements.

10 (d) The small business shall submit all information necessary for the authority to
11 determine credit eligibility for each year, and the amount of credit for which
12 the small business is eligible.

13 (e) The maximum amount of credit for each small business for each year shall not
14 exceed twenty-five thousand dollars (\$25,000).

15 (f) The credit shall be claimed on the tax return for the year during which the
16 credit was approved. Unused credits may be carried forward for up to five (5)
17 years.

18 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO
19 READ AS FOLLOWS:

20 *(1) (a) The department shall create and administer the renewable chemical*
21 *production program by promulgating administrative regulations under KRS*
22 *Chapter 13A and authorizing tax credits for that production.*

23 *(b) The department may consult with the chemical engineering departments of*
24 *any university to create and administer the renewable chemical production*
25 *program that may best serve this Commonwealth.*

26 *(c) The department shall coordinate with the Department of Revenue related to*
27 *awarding tax credits while remaining within the annual biodiesel,*

1 renewable diesel, and renewable chemical tax credit cap provided in Section
2 26 of this Act.

3 (2) To be eligible for receiving the renewable chemical production tax credit under
4 Section 25 of this Act, a business shall:

5 (a) Be physically located in this state;

6 (b) Operate for profit;

7 (c) Organize, expand, or locate in this state on or after July 1, 2020;

8 (d) 1. Create new jobs and retain those jobs for at least four (4) years; or

9 2. Invest a substantial amount of new capital in the Commonwealth and
10 maintain that capital for at least four (4) years;

11 (e) Certify to the department:

12 1. That the business:

13 a. Has not applied for and will not receive economic development
14 incentives under KRS Chapter 154 for the jobs created or capital
15 investment made under the renewable chemical production
16 program; and

17 b. Is in compliance with all agreements entered into under the
18 renewable chemical production program or other programs
19 administered by the department; and

20 2. The date that the business first qualified as an eligible business;

21 (f) Not provide professional services, health care services, medical treatments,
22 or engage in retail operations; and

23 (g) Not relocate operations from another area of the state or reduce operations
24 in another area of the state while seeking this incentive. To determine
25 whether a project meets the requirement under this paragraph, the
26 department shall:

27 1. Consider a project that does not create new jobs or invest a substantial

- 1 amount of new capital a relocation or reduction in operations; and
- 2 2. Require sufficient data from the business related to jobs created and
- 3 the amount of substantial capital investment before the business
- 4 applies for this incentive and for four (4) years following the approval
- 5 of this incentive to ensure that new jobs or substantial capital
- 6 investment have occurred and remain productive in this state;
- 7 (3) (a) Before being approved for the tax credit permitted by Section 25 of this Act,
- 8 an eligible business shall enter into an agreement with the department for
- 9 the successful completion of all requirements of the program.
- 10 (b) As part of the agreement, the eligible business shall agree to:
- 11 1. Collect and provide all information required by the department,
- 12 allowing the department and the Department of Revenue to maintain
- 13 the annual tax credit cap and to fulfill each of the reporting and
- 14 compliance obligations under this section and Section 25 of this Act;
- 15 and
- 16 2. Agree to allow information about the production of renewable
- 17 chemicals and the related tax credit to be shared with the Interim
- 18 Joint Committee on Appropriations and Revenue.
- 19 (c) The business shall not receive a tax credit for renewable chemicals
- 20 produced before the date the business first qualified as an eligible business.
- 21 (4) (a) The department may impose a nonrefundable compliance cost fee of five
- 22 hundred dollars (\$500), collected by the department at the time a business
- 23 applies for participation in the program.
- 24 (b) An eligible business shall fulfill all the requirements of the program and the
- 25 agreement before receiving a tax credit or entering into a subsequent
- 26 agreement under this section.
- 27 (c) The department may decline to enter into a subsequent agreement under

1 this section or award a tax credit if an agreement is not successfully
2 fulfilled.

3 (5) (a) After the production of renewable chemicals by an eligible business, the
4 business shall apply, in the manner prescribed by the department, for the
5 renewable chemicals tax credit. The application shall include the following
6 information:

- 7 1. A description of the renewable chemicals produced in this state;
- 8 2. The amount or volume of renewable chemicals produced;
- 9 3. The costs associated with the production of the renewable chemicals;
- 10 4. The amount of gross receipts generated by the sale of the renewable
11 chemicals; and
- 12 5. Any other information required by the department in order to
13 establish and verify eligibility under the program.

14 (b) The department may accept applications on a continuous basis or may
15 establish, by administrative regulation, an annual application deadline.

16 (6) Upon establishing that all requirements of the program and the agreement have
17 been fulfilled, the department shall certify the amount of preliminary tax credit
18 for the applicant to the Department of Revenue.

19 (7) (a) The department shall work with the Department of Revenue to provide all
20 information necessary to ensure compliance with KRS Chapter 141 by the
21 successful tax credit applicant.

22 (b) On or before December 31, 2020, and on or before each December 31
23 thereafter, the department shall submit to the Department of Revenue all
24 information received from each eligible business related to the renewable
25 chemical tax credit.

26 (c) When the Department of Revenue receives the information provided under
27 paragraph (b) of this subsection, the Department of Revenue shall consider

1 the renewable chemical tax credit applications together with the total
 2 amount of approved credit for all biodiesel producers, biodiesel blenders,
 3 and renewable diesel producers required in Section 27 of this Act.

4 (8) The renewable chemical production program shall sunset on December 31, 2024.

5 (9) (a) Failure to fulfill any requirement of the program or any of the terms and
 6 obligations of an agreement entered into under this section by an eligible
 7 business shall:

8 1. Result in the rescission of the tax credit permitted by Section 25 of this
 9 Act by the department; and

10 2. Subject the eligible business to the repayment of all tax credits
 11 claimed.

12 (b) Upon the rescission of any tax credit, the department shall report to the
 13 Department of Revenue, within thirty (30) days, all information necessary
 14 by the Department of Revenue to ensure compliance with KRS Chapter 141.

15 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) (a) An eligible business that:

18 1. Has entered into an agreement under subsection (3) of Section 24 of
 19 this Act;

20 2. Receives certification from the Department of Agriculture of the
 21 preliminary tax credit under subsection (6) of Section 24 of this Act;
 22 and

23 3. Receives authorization from the department regarding the amount of
 24 tax credit that is allowed;

25 may claim the renewable chemical production tax credit in an amount
 26 equal to the amount authorized by the department as provided in Section 27
 27 of this Act.

- 1 **(b) For taxable years beginning on or after January 1, 2021, the renewable**
2 **chemical production tax credit shall be nonrefundable, nontransferable,**
3 **and allowed against taxes imposed by KRS 141.020 or 141.040 and**
4 **141.0401, with the ordering of the credits as provided in Section 20 of this**
5 **Act.**
- 6 **(c) 1. Any amount of credit that a taxpayer is unable to utilize during a**
7 **taxable year may be carried forward for use in a succeeding taxable**
8 **year for a period not to exceed three (3) taxable years.**
- 9 **2. Any amount of credit not used within the three (3) taxable years shall**
10 **be lost.**
- 11 **3. No amount of credit may be carried back to a prior taxable year by**
12 **any taxpayer.**
- 13 **(2) If the eligible business is a pass-through entity, the eligible business may apply**
14 **the credit against the limited liability entity tax imposed by KRS 141.0401, and**
15 **shall pass the credit through to its members, partners, or shareholders in the**
16 **same proportion as the distributive share of income or loss is passed through.**
- 17 **(3) If the Department of Agriculture rescinds any tax credit under subsection (9) of**
18 **Section 24 of this Act, the repayment of any tax credit by the taxpayer shall be:**
- 19 **(a) Considered a tax payment due and payable to the Kentucky State Treasurer;**
20 **and**
- 21 **(b) Collected by the department in the same manner as failure to pay the tax**
22 **shown due or required to be shown due with the filing of that return.**
- 23 **(4) (a) In order for the General Assembly to evaluate the renewable chemical tax**
24 **credit program, the department, in cooperation with the Department of**
25 **Agriculture, shall submit to the Interim Joint Committee on Appropriations**
26 **and Revenue a cumulative report describing the activities of the program by**
27 **taxable year.**

1 **(b) The report shall include:**

- 2 **1. The aggregate number of pounds, by each type of renewable**
3 **chemicals produced in this state, for all successful tax credit**
4 **applicants under the program;**
- 5 **2. The aggregate gross receipts from sales, by each type of renewable**
6 **chemicals produced in this state, for all successful tax credit**
7 **applicants under the program;**
- 8 **3. The number of employees located in this state of all successful tax**
9 **credit applicants during the calendar year immediately preceding the**
10 **calendar year for which the successful applicants first applied for a**
11 **tax credit under the program;**
- 12 **4. The number of employees located in this state of all successful tax**
13 **credit applicants during each calendar year that the tax credit is**
14 **claimed;**
- 15 **5. The number of tax credit certificates and aggregate amount of tax**
16 **credits awarded under the program for each calendar year; and**
- 17 **6. For each eligible business issued a renewable chemical production tax**
18 **credit during each taxable year:**
- 19 **a. The county within which the eligible business is producing the**
20 **renewable chemical;**
- 21 **b. The amount of the tax credit claimed by the eligible business;**
- 22 **c. The manner in which the eligible business first qualified as an**
23 **eligible business, whether by organizing, expanding, or locating**
24 **in this state;**
- 25 **d. The amount of renewable chemical production tax credit**
26 **claimed during each taxable year; and**
- 27 **e. Any repayment of incentives by the business, if the business does**

1 **not meet the requirements of the agreement.**

2 ➔Section 26. KRS 141.422 is amended to read as follows:

3 As used in KRS 141.422 to 141.425:

- 4 (1) "Annual biodiesel and renewable diesel tax credit cap" means:
- 5 (a) For calendar years beginning prior to January 1, 2008, one million five
- 6 hundred thousand dollars (\$1,500,000);
- 7 (b) For the calendar year beginning on January 1, 2008, five million dollars
- 8 (\$5,000,000); ~~and~~
- 9 (c) For calendar years beginning on or after January 1, 2009, **but before January**
- 10 **1, 2021,** ten million dollars (\$10,000,000);
- 11 (2) **"Annual biodiesel, renewable diesel, and renewable chemical tax credit cap"**
- 12 **means, for calendar years beginning on or after January 1, 2021, ten million**
- 13 **dollars (\$10,000,000);**
- 14 **(3)** "Annual cellulosic ethanol tax credit cap" means five million dollars (\$5,000,000),
- 15 unless the annual cellulosic ethanol tax credit cap is modified pursuant to KRS
- 16 141.4248, in which case the cap established by KRS 141.4248 shall be the annual
- 17 cellulosic ethanol tax credit cap for that year. Any adjustments to the annual
- 18 cellulosic ethanol tax credit cap made pursuant to KRS 141.4248 shall be made on
- 19 an annual basis and shall not carry forward to subsequent years;
- 20 ~~(4)~~~~(3)~~ "Annual ethanol tax credit cap" means five million dollars (\$5,000,000),
- 21 unless the annual credit cap is modified pursuant to KRS 141.4248, in which case
- 22 the cap established by KRS 141.4248 shall be the annual ethanol tax credit cap for
- 23 that year. Any adjustments to the annual ethanol tax credit cap made pursuant to
- 24 KRS 141.4248 shall be made on an annual basis and shall not carry forward to
- 25 subsequent years;
- 26 ~~(5)~~~~(4)~~ "Biodiesel" means a renewable, biodegradeable, mono alkyl ester combustible
- 27 liquid that is derived from agriculture crops, agriculture plant oils, agriculture

1 residues, animal fats, or waste products that meets current American Society for
2 Testing and Materials specification D6751 for biodiesel fuel (B100) blend stock
3 distillate fuels;

4 ~~(6)~~~~(5)~~ "Biodiesel producer" means an entity that manufactures biodiesel at a location
5 in this Commonwealth;

6 ~~(7)~~~~(6)~~ "Cellulosic ethanol" means ethyl alcohol for use as motor fuel that meets the
7 current American Society for Testing and Materials specification D4806 for ethanol
8 that is produced from cellulosic biomass materials of any lignocellulosic or
9 hemicellulosic matter that is available on a renewable or recurring basis, including:

- 10 (a) Plant wastes from industrial processes such as sawdust and paper pulp;
11 (b) Energy crops grown specifically for fuel production such as switchgrass; or
12 (c) Agricultural plant residues such as corn stover, rice hulls, sugarcane, and
13 cereal straws;

14 ~~(8)~~~~(7)~~ "Cellulosic ethanol producer" means an entity that uses cellulosic biomass
15 materials to manufacture cellulosic ethanol at a location in this Commonwealth;

16 ~~(9)~~~~(8)~~ "Blended biodiesel" means a blend of biodiesel with petroleum diesel so that
17 the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater);

18 ~~(10)~~~~(9)~~ "Ethanol" means ethyl alcohol produced from corn, soybeans, or wheat for use
19 as a motor fuel that meets the current American Society for Testing and Materials
20 specification D4806 for ethanol;

21 ~~(11)~~~~(10)~~ "Ethanol-based tax credits" means the cellulosic ethanol tax credit provided
22 for in KRS 141.4244 and the ethanol tax credit provided for in KRS 141.4242;

23 ~~(12)~~~~(11)~~ "Ethanol producer" means an entity that uses corn, soybeans, or wheat to
24 manufacture ethanol at a location in this Commonwealth;

25 ~~(13)~~~~(12)~~ "Renewable diesel" means a renewable, biodegradable, non-ester
26 combustible liquid that:

- 27 (a) Is derived from biomass resources as defined in KRS 152.715; and

1 (b) Meets the current American Society for Testing and Materials Specification
 2 D396 for fuel oils intended for use in various types of fuel-oil-burning
 3 equipment; D975 for diesel fuel oils suitable for various types of diesel fuel
 4 engines; or D1655 for aviation turbine fuels; and

5 ~~(14)~~~~(13)~~ "Renewable diesel producer" means an entity that manufactures renewable
 6 diesel at a location in this Commonwealth.

7 →Section 27. KRS 141.423 is amended to read as follows:

8 (1) (a) A biodiesel producer, biodiesel blender, or renewable diesel producer shall be
 9 entitled to a nonrefundable tax credit against the taxes imposed by KRS
 10 141.020 or 141.040 and KRS 141.0401 in an amount certified by the
 11 department under subsection (4) of this section.

12 (b) The credit rate shall be:

- 13 1. One dollar (\$1) per biodiesel gallon produced by a biodiesel producer;~~;~~
 14 2. One dollar (\$1) per gallon of biodiesel used in the blending process by a
 15 biodiesel blender;~~;~~ and
 16 3. One dollar (\$1) per gallon of renewable diesel produced by a renewable
 17 diesel producer;~~;~~

18 unless the total amount of approved credit for all biodiesel producers,
 19 biodiesel blenders, and renewable diesel producers exceeds the annual
 20 biodiesel and renewable diesel tax credit cap ***for calendar years beginning***
 21 ***prior to January 1, 2021, or the annual biodiesel, renewable diesel, and***
 22 ***renewable chemical tax credit cap for calendar years beginning on or after***
 23 ***January 1, 2021.***

24 (c) ***For calendar years beginning prior to January 1, 2021,*** if the total amount
 25 of approved credit for all biodiesel producers, biodiesel blenders, and
 26 renewable diesel producers exceeds the annual biodiesel and renewable diesel
 27 tax credit cap, the department shall determine the amount of credit each

1 biodiesel producer, biodiesel blender, and renewable diesel producer receives
 2 by multiplying the annual biodiesel and renewable diesel tax credit cap by a
 3 fraction, the numerator of which is the amount of approved credit for the
 4 biodiesel producer, biodiesel blender, and renewable diesel producer and the
 5 denominator of which is the total approved credit for all biodiesel producers,
 6 biodiesel blenders, and renewable diesel producers.

7 **(d) For calendar years beginning on or after January 1, 2021, if the total**
 8 **amount of approved credit for all biodiesel producers, biodiesel blenders,**
 9 **renewable diesel producers, and renewable chemical producers exceeds the**
 10 **annual biodiesel, renewable diesel, and renewable chemical tax credit cap,**
 11 **the department shall determine the amount of credit each biodiesel**
 12 **producer, biodiesel blender, renewable diesel producer, and renewable**
 13 **chemical producer receives by multiplying the annual biodiesel, renewable**
 14 **diesel, and renewable chemical tax credit cap by a fraction, the numerator**
 15 **of which is the amount of approved credit for the each producer and the**
 16 **denominator of which is the total approved credit for all producers.**

17 **(e)**~~(b)~~ The credit allowed under paragraph (a) of this subsection shall be
 18 applied both to the income tax imposed under KRS 141.020 or 141.040 and to
 19 the limited liability entity tax imposed under KRS 141.0401, with the ordering
 20 of credits as provided in KRS 141.0205.

21 (2) Re-blending of blended biodiesel shall not qualify for the credit provided under this
 22 section.

23 (3) The credit **allowed in subsection (1) of this section** shall not be carried forward to a
 24 return for any other period.

25 (4) **(a)** Each biodiesel producer, biodiesel blender, and renewable diesel producer
 26 eligible for the credit provided under subsection (1) of this section shall file a
 27 tax credit claim for biodiesel gallons produced or blended in this state or for

1 renewable diesel produced in this state on forms prescribed by the department
 2 by the fifteenth day of the first month following the close of the preceding
 3 calendar year.

4 **(b)** The department shall determine the amount of the approved credit based on
 5 the amount of biodiesel produced, biodiesel blended,~~[or]~~ renewable diesel
 6 produced, **or renewable chemical produced** in this state during the preceding
 7 calendar year and issue a credit certificate to the biodiesel producer, biodiesel
 8 blender,~~[or]~~ renewable diesel producer, **or renewable chemical producer** by
 9 the fifteenth day of the fourth month following the close of the calendar year.

10 (5) In the case of a biodiesel producer, biodiesel blender,~~[or]~~ renewable diesel
 11 producer, **or renewable chemical producer** that has a fiscal year end for purposes of
 12 computing the tax imposed by KRS 141.020, 141.040, and 141.0401, the amount of
 13 approved credit shall be claimed on the return filed for the first fiscal year ending
 14 after the close of the preceding calendar year.

15 ➔Section 28. KRS 141.0101 is amended to read as follows:

16 (1) (a) The provisions of subsections (2) to (11) of this section shall apply to taxable
 17 years beginning before January 1, 1994.

18 (b) The provisions of subsections (12) to (15) of this section shall apply to taxable
 19 years beginning after December 31, 1993.

20 (c) The provisions of subsection (16) of this section apply to property placed in
 21 service after September 10, 2001.

22 (2) For property placed in service prior to January 1, 1990, in lieu of the depreciation
 23 and expense deductions allowed under Internal Revenue Code Sections 168 and
 24 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and
 25 tear, and obsolescence of property used in a trade or business shall be allowed and
 26 computed as set out in subsections (3) to (11) of this section. For property placed in
 27 service after December 31, 1989, the depreciation and expense deductions allowed

- 1 under Sections 168 and 179 of the Internal Revenue Code shall be allowed.
- 2 (3) Effective August 1, 1985, "reasonable allowance" as used in subsection (2) of this
3 section shall mean depreciation computed in accordance with Section 167 of the
4 Internal Revenue Code and related regulations in effect on December 31, 1980, for
5 all property placed in service on or after January 1, 1981, except as provided in
6 subsections (6) to (8) of this section.
- 7 (4) Depreciation of property placed in service prior to January 1, 1981, shall be
8 computed under Section 167 of the Internal Revenue Code, and the method elected
9 thereunder at the time the property was first placed in service or as changed with the
10 approval of the Commissioner of Internal Revenue Service or as required by
11 changes in federal regulations.
- 12 (5) Taxpayers other than corporations shall be allowed to deduct as depreciation on
13 recovery property placed in service before August 1, 1985, an amount calculated
14 under Section 168 of the Internal Revenue Code subject to the provisions of
15 subsections (6) and (8) of this section. Corporations with a taxable year beginning
16 on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for
17 depreciation on recovery property placed in service prior to August 1, 1985, using
18 either of the following alternative methods:
- 19 (a) Dividing the total of the deductions allowed under Internal Revenue Code
20 Section 168 by one and four tenths (1.4); and
- 21 (b) Calculating the deduction that would be allowed or allowable under the
22 provisions of Section 167 of the Internal Revenue Code.
- 23 (6) Recovery property placed in service on or after January 1, 1981, and before August
24 1, 1985, and subject to transition under subsection (8) of this section, shall be
25 subject to depreciation under Section 167 of the Internal Revenue Code, restricted
26 to the straight line method therein provided over the remaining useful life of such
27 assets.

- 1 (7) Depreciation of property placed in service on or after August 1, 1985, shall be
2 computed under Section 167 of the Internal Revenue Code.
- 3 (8) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost
4 Recovery System (ACRS) depreciation, to the depreciation allowed or allowable
5 under this section shall be reported in the first taxable year beginning on or after
6 August 1, 1985. To implement the transition, the following adjustments shall be
7 made:
- 8 (a) Taxpayers other than corporations shall use the adjusted Kentucky basis for
9 property placed in service on or after January 1, 1981. "Adjusted Kentucky
10 basis" means the basis used for determining depreciation under Section 168 of
11 the Internal Revenue Code less the allowed or allowable depreciation and
12 adjustment for election to expense an asset (Section 179 of the Internal
13 Revenue Code);
- 14 (b) Corporations shall adjust the federal unadjusted basis by increasing such basis
15 by the ACRS depreciation not allowed as a deduction in determining
16 Kentucky net income for tax years beginning after June 30, 1984, less allowed
17 or allowable ACRS depreciation for federal income tax purposes.
18 Corporations will not be permitted to adjust the basis by the ACRS
19 depreciation not allowed for Kentucky income tax purposes in tax years
20 beginning on or before June 30, 1984.
- 21 (9) A taxpayer may elect to treat the cost of property placed in service on or before July
22 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in
23 effect on December 31, 1981, except that the aggregate cost which may be expensed
24 for corporations shall not exceed five thousand dollars (\$5,000). A taxpayer may
25 elect to treat the cost of property placed in service on or after August 1, 1985, as an
26 expense as provided in Section 179 of the Internal Revenue Code in effect on
27 December 31, 1980. Computations, limitations, definitions, exceptions, and other

1 provisions of Section 179 of the Internal Revenue Code and related regulations shall
2 be construed to govern the computation of the allowable deduction.

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

7 (a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced
8 by any basis adjustment made by the taxpayer under Section 48(q)(1) of the
9 Internal Revenue Code and any expense allowed and utilized under Section
10 179 of the Internal Revenue Code (First Year Expense) in determining
11 Kentucky net income in prior years, and

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

17 (c) Compute the gain or loss by subtracting the adjusted basis from the value
18 received from the disposition of the depreciable property, and

19 (d) Compute the recapture of depreciation required under Sections 1245 through
20 1256 of the Internal Revenue Code and related regulations, and

21 (e) Unless otherwise provided in this subsection the provisions of the Internal
22 Revenue Code and related regulations governing the determination of capital
23 gains or losses shall apply for Kentucky income tax purposes.

24 (11) Unless otherwise provided by this chapter, the basis of property placed in service
25 prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis,
26 adjusted or unadjusted, required to be used under Section 167 of the Internal
27 Revenue Code in effect on December 31, 1980.

- 1 (12) As used in this subsection to subsection (14) of this section:
- 2 (a) "Transition property" means any property placed in service before the first day
3 of the first taxable year beginning after December 31, 1993, and owned by the
4 taxpayer on the first day of the first taxable year beginning after December 31,
5 1993.
- 6 (b) "Adjusted Kentucky basis" means the amount computed in accordance with
7 the provisions of paragraph (b) of subsection (10) of this section for transition
8 property.
- 9 (c) "Adjusted federal basis" means the original cost, or, in the case of Section 338
10 property, the adjusted grossed-up basis of transition property less:
- 11 1. Any basis adjustments required by the Internal Revenue Code for
12 credits; and
- 13 2. The total accumulated depreciation and election to expense deductions
14 allowed or allowable for federal income tax purposes.
- 15 (d) "Section 338 property" means property to which an adjusted grossed-up basis
16 has been allocated pursuant to a valid election made by a purchasing
17 corporation under the provisions of Section 338 of the Internal Revenue Code.
- 18 (e) "Transition amount" means the net difference between the adjusted Kentucky
19 basis and the adjusted federal basis of all transition property determined as of
20 the first day of the first taxable year beginning after December 31, 1993.
- 21 (13) For taxable years beginning after December 31, 1993, the amounts of depreciation
22 and election to expense deductions, allowed or allowable, the basis of assets,
23 adjusted or unadjusted, and the gain or loss from the sale or other disposition of
24 assets shall be the same for Kentucky income tax purposes as determined under
25 Chapter 1 of the Internal Revenue Code.
- 26 (14) For taxable years beginning after December 31, 1993, the transition amount
27 computed in accordance with the provisions of paragraph (e) of subsection (12) of

1 this section shall be reported by the taxpayer as follows:

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

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

13 (b) In the first taxable year beginning after December 31, 1993 and the three (3)
14 succeeding taxable years, if the transition amount exceeds one hundred
15 thousand dollars (\$100,000), or if the transition amount does not exceed one
16 hundred thousand dollars (\$100,000) and the taxpayer elects the provision of
17 this paragraph with the filing of the income tax return for the first taxable year
18 beginning after December 31, 1993, the taxpayer shall:

- 19 1. Deduct from gross income twenty-five percent (25%) of the transition
20 amount if the adjusted Kentucky basis of transition property exceeds the
21 adjusted federal basis of transition property; or
- 22 2. Add to gross income twenty-five percent (25%) of the transition amount
23 if the adjusted federal basis of transition property exceeds the adjusted
24 Kentucky basis of transition property.

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

1 taxpayer shall:

- 2 1. Deduct from gross income the total transition amount if the adjusted
3 Kentucky basis of transition property exceeds the adjusted federal basis
4 of transition property; or
- 5 2. Add to gross income the total transition amount if the adjusted federal
6 basis of transition property exceeds the adjusted Kentucky basis of
7 transition property.

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

15 (16) (a) For property placed in service after September 10, 2001, only the depreciation
16 deduction allowed under Section 168 of the Internal Revenue Code in effect
17 on December 31, 2001, exclusive of any amendments made subsequent to that
18 date, shall be allowed.

19 (b) For property placed in service after September 10, 2001, but prior to January
20 1, 2020, only the expense deduction allowed under Section 179 of the Internal
21 Revenue Code in effect on December 31, 2001, exclusive of any amendments
22 made subsequent to that date, shall be allowed.

23 (c) For property placed in service on or after January 1, 2020, only the expense
24 deduction allowed under Section 179 of the Internal Revenue Code in effect
25 on December 31, 2003, exclusive of any amendments made subsequent to that
26 date, shall be allowed, **except that the phase-out provisions of Section 179 of**
27 **the Internal Revenue Code, limiting the qualifying investment in property,**

1 shall not apply.

2 ➔Section 29. KRS 224.50-868 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Motor vehicle" means every vehicle intended primarily for use and
 5 operation on the public highways that is self-propelled, including a low-
 6 speed motor vehicle as defined in KRS 186.010;

7 (b) "Semitrailer" means any vehicle:

8 1. Designed:

9 a. As temporary living quarters for recreation, camping, or travel;

10 or

11 b. For carrying persons or property;

12 2. Designed for being drawn by a motor vehicle; and

13 3. Constructed that:

14 a. Some part of its weight; or

15 b. Some part of its load;

16 rests upon or is carried by another vehicle; and

17 (c) "Trailer" means any vehicle:

18 1. Designed:

19 a. As temporary living quarters for recreation, camping, or travel;

20 or

21 b. For carrying persons or property;

22 2. Designed for being drawn by a motor vehicle; and

23 3. Constructed that:

24 a. No part of its weight; and

25 b. No part of its load;

26 rests upon or is carried by another vehicle.

27 (2) (a) 1. Prior to July 1, 2018, a person purchasing a new motor vehicle tire in

1 Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the
 2 purchase of that tire. The fee shall not be subject to the Kentucky sales
 3 tax.

4 2. Beginning July 1, 2018, but prior to July 1, 2020, a fee is hereby
 5 imposed upon a retailer at the rate of two dollars (\$2) for each new
 6 motor vehicle tire sold in Kentucky. The fee shall be subject to the
 7 Kentucky sales tax.

8 3. **Beginning July 1, 2020, but prior to July 1, 2024, a fee is hereby**
 9 **imposed upon a retailer at the rate of two dollars (\$2) for each new**
 10 **motor vehicle, trailer, or semitrailer tire sold in Kentucky. The fee**
 11 **shall be subject to the Kentucky sales tax.**

12 **4.** A retailer may pass the fee imposed by this paragraph on to the
 13 purchaser of the new tire.

14 (b) **1.** A new tire is a tire that has never been placed on a motor vehicle,
 15 **trailer, or semitrailer** wheel rim.

16 **2.** **A new tire**~~[, but it]~~ is not a tire placed on a motor vehicle, **trailer, or**
 17 **semitrailer** prior to its original retail sale or a recapped tire.~~]~~

18 ~~(c) The term "motor vehicle" as used in this section shall mean "motor vehicle" as~~
 19 ~~defined in KRS 138.450.]~~

20 ~~(3)~~~~(2)~~ When a retailer sells a new motor vehicle tire in Kentucky to replace another
 21 tire, the tire that is replaced becomes a waste tire subject to the waste tire program.
 22 The retailer shall encourage the purchaser of the new tire to leave the waste tire with
 23 the retailer or meet the following requirements:

24 (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

25 (b) Deliver the waste tire to a person registered in accordance with the waste tire
 26 program; or

27 (c) Reuse the waste tire for its original intended purpose or an agricultural

1 purpose.

2 ~~(4)~~~~(3)~~ (a) A retailer shall report to the Department of Revenue on or before the
3 twentieth day of each month the number of new motor vehicle tires sold
4 during the preceding month and the number of waste tires received from
5 customers that month.

6 (b) The report shall be filed on forms and contain information as the Department
7 of Revenue may require.

8 (c) The retailer shall be allowed to retain an amount equal to five percent (5%) of
9 the fees due, provided the amount due is not delinquent at the time of
10 payment.

11 ~~(5)~~~~(4)~~ A retailer shall:

12 (a) Accept from the purchaser of a new tire, if offered, for each new motor
13 vehicle tire sold, a waste tire of similar size and type; and

14 (b) Post notice at the place where retail sales are made that state law requires:

15 1. The retailer to accept, if offered, a waste tire for each new motor vehicle
16 tire sold and that a person purchasing a new motor vehicle tire to replace
17 another tire shall comply with subsection (2) of this section; and

18 2. The two dollar (\$2) new tire fee is used by the state to oversee the
19 management of waste tires, including cleaning up abandoned waste tire
20 piles and preventing illegal dumping of waste tires.

21 ~~(6)~~~~(5)~~ A retailer shall comply with the requirements of the recordkeeping system for
22 waste tires established by KRS 224.50-874.

23 ~~(7)~~~~(6)~~ A retailer shall transfer waste tires only to a person who presents a letter from
24 the cabinet approving the registration issued under KRS 224.50-858 or a copy of a
25 solid waste disposal facility permit issued by the cabinet, unless the retailer is
26 delivering the waste tires to a destination outside Kentucky and the waste tires will
27 remain in the retailer's possession until they reach that destination.

1 ~~(8)~~~~(7)~~ The cabinet shall, in conjunction with the Waste Tire Working Group,
2 develop the informational fact sheet to be made publicly available on the cabinet's
3 Web site and available in print upon request. The fact sheet shall identify ways to
4 properly dispose of the waste tire and present information on the problems caused
5 by improper waste tire disposal.

6 ➔Section 30. KRS 224.50-855 is amended to read as follows:

- 7 (1) The Waste Tire Working Group is hereby established and shall be attached to the
8 cabinet for administrative purposes and staff support.
- 9 (2) The Waste Tire Working Group shall have the following eight (8) members:
- 10 (a) The director of the Division of Waste Management or his or her designee who
11 shall be an ex officio member and also serve as chair;
- 12 (b) The manager of the Recycling and Local Assistance Branch within the
13 Division of Waste Management or his or her designee who shall be an ex
14 officio member;
- 15 (c) One (1) representative of the Kentucky Department of Agriculture, to be
16 selected by the Commissioner of Agriculture and appointed by the Governor
17 for an initial term of two (2) years and who may be reappointed;
- 18 (d) Two (2) representatives of the Solid Waste Coordinators of Kentucky selected
19 by the Solid Waste Coordinators of Kentucky and appointed by the Governor
20 for an initial term of three (3) years and who may be reappointed;
- 21 (e) One (1) county judge/executive appointed by the Governor from a list of three
22 (3) nominees submitted by the Kentucky County Judge/Executive Association
23 for an initial term of three (3) years and who may be reappointed;
- 24 (f) One (1) mayor of a Kentucky city appointed by the Governor from a list of
25 three (3) nominees submitted by the Kentucky League of Cities; and
- 26 (g) One (1) representative of private industry engaged in the business of retail tire
27 sales appointed by the Governor for an initial term of three (3) years and who

1 may be reappointed.

2 (3) The members of the Waste Tire Working Group identified in paragraphs (c), (d),
3 (e), (f), and (g) of subsection (2) of this section shall receive travel-related expenses
4 but no salary as compensation.

5 (4) The first meeting of the Waste Tire Working Group shall be no later than August
6 15, 2011. The working group shall meet at least twice a year or more frequently at
7 the call of the chair.

8 (5) The Waste Tire Working Group shall:

9 (a) Provide advice and input to the cabinet regarding:

10 1. The administration and implementation of alternative methods for
11 controlling the local accumulation of waste tires;

12 2. Developing the concept of a core fee for waste tires;

13 3. Improving the manifest system that tracks tires from point of sale to
14 point of disposal;

15 4. Developing ways to assist local governments with direct grants for waste
16 tire disposal; and

17 5. Developing an informational fact sheet on proper waste tire disposal
18 under~~pursuant to~~ KRS 224.50-868~~(3)~~~~(2)~~ and ~~(8)~~~~(7)~~ to be made
19 available on the cabinet's Web site and available in print upon request;

20 (b) Serve as an advisory body to the cabinet in the development of a formula that
21 the cabinet will use to apportion the money in the waste tire trust fund
22 established by KRS 224.50-880 for crumb rubber grants, tire amnesties, and
23 tire-derived fuel, and to return a portion of the waste tire funds to local
24 governments during Commonwealth Cleanup Week for waste tire disposal;
25 and

26 (c) Provide advice and input to the cabinet on the data development and
27 preparation of the waste tire report mandated under KRS 224.50-872.

1 ➔Section 31. KRS 224.60-130 is amended to read as follows:

2 (1) The Energy and Environment Cabinet, Department for Environmental Protection,
3 Division of Waste Management, shall:

4 (a) Establish by administrative regulation the policy, guidelines, and procedures
5 to administer the financial responsibility and petroleum storage tank accounts
6 of the petroleum storage tank environmental assurance fund. In adopting
7 administrative regulations to carry out this section, the division may
8 distinguish between types, classes, and ages of petroleum storage tanks. The
9 division may establish a range of amounts to be paid from the fund, or may
10 base payments on methods such as pay for performance, task order, or firm
11 fixed pricing, which are designed to provide incentives for contractors to more
12 tightly control corrective action costs, and shall establish criteria to be met by
13 persons who contract to perform corrective action to be eligible for
14 reimbursement from the fund. The criteria may include the certification of
15 individuals, partnerships, and companies. Criteria shall be established to
16 certify laboratories that contract to perform analytical testing related to the
17 underground storage tank program. Owners and operators shall have all
18 required analytical testing performed by a certified laboratory to be eligible for
19 fund participation. Persons who contract with petroleum storage tank owners
20 or operators shall not be paid more than the amount authorized by the division
21 for reimbursement from the fund for the performance of corrective action. At
22 a minimum, the division shall promulgate administrative regulations that will
23 insure an unobligated balance in the fund adequate to meet financial assurance
24 requirements and corrective action requirements of KRS 224.60-135(2) and
25 (4). If the unobligated balance in the fund is not adequate to meet the
26 requirements of this paragraph, the division shall obligate funds necessary to
27 meet these requirements;

- 1 (b) Establish by administrative regulation the criteria to be met to be eligible to
2 participate in the financial responsibility and petroleum storage tank accounts
3 and to receive reimbursement from these accounts. The division may establish
4 eligibility criteria for the petroleum storage tank account based upon the
5 financial ability of the petroleum storage tank owner or operator. Owners or
6 operators seeking coverage under the petroleum storage tank account shall file
7 for eligibility and for financial assistance with the division. To ensure cost
8 effectiveness, the division shall promulgate administrative regulations
9 specifying the circumstances under which prior approval of corrective action
10 costs shall be required for those costs to be eligible for reimbursement from
11 the fund. In promulgating administrative regulations to carry out this section,
12 the division may distinguish between types, classes, and ages of petroleum
13 storage tanks and the degree of compliance of the facility with any
14 administrative regulations of the cabinet promulgated pursuant to KRS
15 224.60-105 or applicable federal regulations;
- 16 (c) Establish a financial responsibility account within the fund which may be used
17 by petroleum storage tank owners and operators to demonstrate financial
18 responsibility as required by administrative regulations of the cabinet or the
19 federal regulations applicable to petroleum storage tanks, consistent with the
20 intent of the General Assembly as set forth in KRS 224.60-120(5). The
21 account shall receive four-tenths of one cent (\$0.004) from the one and four-
22 tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received
23 in this state pursuant to KRS 224.60-145. To be eligible to use this account to
24 demonstrate compliance with financial responsibility requirements of the
25 cabinet or federal regulations, or to receive reimbursement from this account
26 for taking corrective action and for compensating third parties for bodily
27 injury and property damage, the petroleum storage tank owner or operator

1 shall meet the eligibility requirements established by administrative regulation
2 promulgated by the division;

3 (d) Establish a small operator assistance account within the fund which may be
4 used by the division to make or participate in the making of loans, to purchase
5 or participate in the purchase of the loans, which purchase may be from
6 eligible lenders, or to insure loans made by eligible lenders;

7 (e) Establish a petroleum storage tank account within the fund to be used to pay
8 the costs of corrective action due to a release from a petroleum storage tank
9 not eligible for reimbursement from the financial responsibility account.
10 Reimbursements of corrective action projects performed under the petroleum
11 storage tank account shall be carried out on or before July 15, ~~2028~~[2024].
12 Any corrective action costs incurred after this date shall not be eligible for
13 reimbursement under the petroleum storage tank account. The account shall
14 receive one cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on
15 each gallon of gasoline and special fuels received in this state pursuant to
16 KRS 224.60-145. This account shall not be used to compensate third parties
17 for bodily injury and property damage. Within three (3) months after July 15,
18 2004, the division shall develop a plan to address the payment of claims and
19 completion of corrective action at facilities eligible for reimbursement from
20 this account. The division shall establish a ranking system to be used for the
21 distribution of amounts from this account for the purpose of corrective action.
22 In promulgating administrative regulations to carry out this section, the
23 division shall consider the financial ability of the petroleum storage tank
24 owner or operator to perform corrective action and the extent of damage
25 caused by a release into the environment from a petroleum storage tank;

26 (f) Hear complaints brought before the division regarding the payment of claims
27 from the fund in accordance with KRS 224.10-410 to 224.10-470;

- 1 (g) Establish and maintain necessary offices within this state, appoint employees
2 and agents as necessary, and prescribe their duties and compensation;
- 3 (h) Employ, in accordance with the procedures found in KRS 45A.690 to
4 45A.725 for awarding personal service contracts, a qualified actuary to
5 perform actuarial studies, as directed by the division, for determining an
6 appropriate reserve in the financial responsibility account and the petroleum
7 storage tank account sufficient to satisfy the obligations in each account for all
8 eligible facilities and to satisfy future liabilities and expenses necessary to
9 operate each account. The division shall, by administrative regulation, set the
10 entry level for participation in the fund;
- 11 (i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-
12 105 to 224.60-160, including reasonable costs of administering the fund, the
13 procurement of legal services, and the procurement of analytical testing
14 services when necessary to confirm the accuracy of analytical testing results
15 obtained by a petroleum storage tank owner or operator. The expenditures
16 shall be paid from the appropriate account;
- 17 (j) Establish a small operators' tank removal account within the fund to reimburse
18 the reasonable cost of tank system removal for small owners and operators.
19 The account shall not be used when an owner or operator is removing the tank
20 with the intention of replacing or upgrading the tank. In promulgating
21 administrative regulations to carry out this paragraph, the division may
22 distinguish among owners and operators based on income and types and
23 classes of tanks. The division shall not place a limit on the number of tanks
24 that an owner or operator has in order to be eligible to participate in the
25 program and receive reimbursement under this paragraph;
- 26 (k) Establish by administrative regulation the policy, guidelines, and procedures
27 to perform financial audits of any petroleum storage tank owner or operator

1 receiving reimbursement from the fund or any entity contracting or
2 subcontracting to provide corrective action services for facilities eligible for
3 fund reimbursement. Financial audits shall be limited to those files, records,
4 computer records, receipts, and other documents related to corrective action
5 performed at a facility where the costs of corrective action have been
6 reimbursed by the fund. Files, records, computer records, receipts, and other
7 documents related to corrective action reimbursed by the fund shall be subject
8 to a financial audit for a period of three (3) years after the date of final
9 reimbursement from the fund. Results of the audits shall be protected from
10 disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may
11 be contracted for or personnel may be employed as needed to implement the
12 requirements of this paragraph;

13 (l) Be authorized to enter and inspect any facility intending to seek
14 reimbursement for the cost of corrective action to determine the
15 reasonableness and necessity of the cost of corrective action. The division may
16 collect soil or water samples or require storage tank owners or operators to
17 split samples with the division for analytical testing. Refusal to allow entry
18 and inspection of a facility or refusal to allow the division to collect or split
19 samples shall make the facility ineligible for fund participation;

20 (m) Have inspectors on site at all tank system removals. Failure to comply with
21 this provision shall make the facility ineligible for fund participation. A
22 petroleum storage tank owner or operator may request through certified mail
23 that the division schedule an inspector to be present at an upcoming tank
24 removal. If the request is made at least two (2) weeks before the time for the
25 removal and an inspector fails to be present at the time scheduled, the tank
26 removal may proceed without making the facility ineligible for fund
27 participation unless the owner is notified by the division no later than ten (10)

1 days prior to the proposed date that an inspector is not available on the
2 proposed date, in which event a representative of the division shall contact the
3 operator and schedule a new date. If no inspector is present at the rescheduled
4 date, the removal may then proceed without penalty; and

5 (n) Establish that the deadline for submission of final reimbursement requests
6 under the petroleum storage tank account is two (2) years after receipt of a no
7 further action letter.

8 (2) The division may advise the cabinet on the promulgation of administrative
9 regulations concerning petroleum storage tanks.

10 (3) The division may sue and be sued in its own name.

11 (4) The division may transfer funds from the petroleum storage tank account to the
12 small operator tank removal account as needed to satisfy the obligations, future
13 liabilities, and expenses necessary to operate that account. The division may transfer
14 funds to the financial responsibility account as needed to maintain within that
15 account sufficient funds to demonstrate financial responsibility and to ensure
16 payment of claims as provided in subsection (1)(c) of this section.

17 ➔Section 32. KRS 224.60-142 is amended to read as follows:

18 (1) To be eligible to participate in the fund, the owner of any petroleum storage tank
19 containing motor fuels installed and placed in operation after July 15, 2004, shall
20 register the petroleum storage tank with the cabinet as required by KRS 224.60-105
21 prior to applying for participation in the financial responsibility account.

22 (2) The owner of any petroleum storage tank containing motor fuels currently existing,
23 or removed from the ground after January 1, 1974, shall register the petroleum
24 storage tank containing motor fuels with the cabinet prior to applying to the fund,
25 and shall register the petroleum storage tank containing motor fuels by July 15,
26 2021. Owners or operators may submit affidavits and applications relevant to
27 current petroleum storage tank accounts through July 15, 2025~~[2021]~~.

1 ➔Section 33. KRS 224.60-145 is amended to read as follows:

- 2 (1) Except as provided in subsection (2) of this section, there is established a petroleum
3 environmental assurance fee to be paid by dealers on each gallon of gasoline and
4 special fuels received in this state.
- 5 (2) All deductions detailed in KRS 138.240(2) and all credits detailed in KRS 138.358
6 are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a
7 statement supporting a claimed exemption, an additional statement shall not be
8 required for claiming exemption from the fee.
- 9 (3) The fee shall be reported and paid to the Department of Revenue at the same time
10 and in the same manner as is required for the reporting and payment of the gasoline
11 and special fuels taxes as provided by law.
- 12 (4) The petroleum environmental assurance fee shall be set at one and four-tenths cent
13 (\$0.014) for each gallon. Four-tenths of a cent (\$0.004) per gallon shall be
14 deposited in the financial responsibility account and one cent (\$0.01) shall be
15 deposited in the petroleum storage tank account.
- 16 (5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year
17 thereafter, the state budget director shall review the balance of each account to
18 determine if a surplus exists. "Surplus" means funds in excess of the amounts
19 necessary to satisfy the obligations in each account for all eligible facilities, to
20 satisfy future liabilities and expenses necessary to operate each account, and to
21 maintain an appropriate reserve in the financial responsibility account to
22 demonstrate financial responsibility and compensate for third-party claims. The
23 state budget director shall report the determination to the Interim Joint Committee
24 on Appropriations and Revenue. After a determination that a surplus exists, the
25 surplus shall be transferred to a restricted account and retained until appropriated by
26 the General Assembly.
- 27 (6) All provisions of law related to the Department of Revenue's administration and

1 enforcement of the gasoline and special fuels tax and all other powers generally
2 conveyed to the Department of Revenue by the Kentucky Revised Statutes for the
3 assessment and collection of taxes shall apply with regard to the fee levied by KRS
4 224.60-105 to 224.60-160.

5 (7) The Department of Revenue shall refund the fee imposed by KRS 224.60-145(1) to
6 any person who paid the fee provided they are entitled to a refund of motor fuel tax
7 under KRS 138.344 to KRS 138.355 and to any person who paid the fee on
8 transactions exempted under KRS 224.60-145(2).

9 (8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606,
10 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142,
11 and this section to the contrary, the small operator assistance account and small
12 operator tank removal account established under KRS 224.60-130 shall continue in
13 effect until July 15, 2025~~[2024]~~, and thereafter until all eligible claims related to
14 tanks registered by that date are resolved, and sufficient money shall be allocated to
15 and maintained in that account to assure prompt payment of all eligible claims, and
16 to provide for removal of tanks for eligible owners and operators as directed by this
17 chapter.

18 ➔Section 34. KRS 139.010 is amended to read as follows:

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

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

- 21 1. The right of entrance to a display, program, sporting event, music
22 concert, performance, play, show, movie, exhibit, fair, or other
23 entertainment or amusement event or venue; and
- 24 2. The privilege of using facilities or participating in an event or activity,
25 including but not limited to:
 - 26 a. Bowling centers;
 - 27 b. Skating rinks;

- 1 c. Health spas;
- 2 d. Swimming pools;
- 3 e. Tennis courts;
- 4 f. Weight training facilities;
- 5 g. Fitness and recreational sports centers; and
- 6 h. Golf courses, both public and private;
- 7 regardless of whether the fee paid is per use or in any other form,
- 8 including but not limited to an initiation fee, monthly fee, membership
- 9 fee, or combination thereof.
- 10 (b) "Admissions" does not include:
- 11 1. Any fee paid to enter or participate in a fishing tournament; or
- 12 2. Any fee paid for the use of a boat ramp for the purpose of allowing boats
- 13 to be launched into or hauled out from the water;
- 14 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
- 15 which is to attract public attention to a product, person, business, or organization, or
- 16 to attempt to sell, popularize, or secure financial support for a product, person,
- 17 business, or organization. As used in this definition, "product" means tangible
- 18 personal property, an item transferred electronically, or a service;
- 19 (3) "Business" includes any activity engaged in by any person or caused to be engaged
- 20 in by that person with the object of gain, benefit, or advantage, either direct or
- 21 indirect;
- 22 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 23 (5) "Department" means the Department of Revenue;
- 24 (6) (a) "Digital audio-visual works" means a series of related images which, when
- 25 shown in succession, impart an impression of motion, with accompanying
- 26 sounds, if any.
- 27 (b) "Digital audio-visual works" includes movies, motion pictures, musical

1 videos, news and entertainment programs, and live events.

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

4 (7) (a) "Digital audio works" means works that result from the fixation of a series of
5 musical, spoken, or other sounds.

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

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

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

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

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

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

23 1. A stored monetary value that is deducted from a total as it is used by the
24 purchaser; or

25 2. A redeemable card, gift card, or gift certificate that entitles the holder to
26 select specific types of digital property;

27 (10) (a) "Digital property" means any of the following which is transferred

1 electronically:

2 1. Digital audio works;

3 2. Digital books;

4 3. Finished artwork;

5 4. Digital photographs;

6 5. Periodicals;

7 6. Newspapers;

8 7. Magazines;

9 8. Video greeting cards;

10 9. Audio greeting cards;

11 10. Video games;

12 11. Electronic games; or

13 12. Any digital code related to this property.

14 (b) "Digital property" shall not include digital audio-visual works or satellite
15 radio programming;

16 (11) (a) "Direct mail" means printed material delivered or distributed by United States
17 mail or other delivery service to a mass audience or to addressees on a mailing
18 list provided by the purchaser or at the direction of the purchaser when the
19 cost of the items are not billed directly to the recipient.

20 (b) "Direct mail" includes tangible personal property supplied directly or
21 indirectly by the purchaser to the direct mail retailer for inclusion in the
22 package containing the printed material.

23 (c) "Direct mail" does not include multiple items of printed material delivered to
24 a single address;

25 (12) "Directly used in the manufacturing or industrial processing process" means the
26 process ~~[within a plant facility]~~ that commences with the movement of raw
27 materials from storage into a continuous, unbroken, integrated process and ends

1 when the finished product is packaged and ready for sale;

2 (13) (a) "Extended warranty services" means services provided through a service
3 contract agreement between the contract provider and the purchaser where the
4 purchaser agrees to pay compensation for the contract and the provider agrees
5 to repair, replace, support, or maintain tangible personal property or digital
6 property according to the terms of the contract if:

- 7 1. The service contract agreement is sold or purchased on or after July 1,
8 2018; and
- 9 2. The tangible personal property or digital property for which the service
10 contract agreement is provided is subject to tax under this chapter or
11 under KRS 138.460.

12 (b) "Extended warranty services" does not include the sale of a service contract
13 agreement for tangible personal property to be used by a small telephone
14 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
15 KRS 65.7621 to deliver communications services as defined in KRS 136.602
16 or broadband as defined in KRS 278.5461;

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

19 (b) "Finished artwork" includes:

- 20 1. Assemblies;
- 21 2. Charts;
- 22 3. Designs;
- 23 4. Drawings;
- 24 5. Graphs;
- 25 6. Illustrative materials;
- 26 7. Lettering;
- 27 8. Mechanicals;

1 9. Paintings; and

2 10. Paste-ups;

3 (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration,
4 including cash, credit, property, and services, for which tangible personal
5 property, digital property, or services are sold, leased, or rented, valued in
6 money, whether received in money or otherwise, without any deduction for
7 any of the following:

8 1. The retailer's cost of the tangible personal property, digital property, or
9 services sold;

10 2. The cost of the materials used, labor or service cost, interest, losses, all
11 costs of transportation to the retailer, all taxes imposed on the retailer, or
12 any other expense of the retailer;

13 3. Charges by the retailer for any services necessary to complete the sale;

14 4. Delivery charges, which are defined as charges by the retailer for the
15 preparation and delivery to a location designated by the purchaser
16 including transportation, shipping, postage, handling, crating, and
17 packing;

18 5. Any amount for which credit is given to the purchaser by the retailer,
19 other than credit for tangible personal property or digital property traded
20 when the tangible personal property or digital property traded is of like
21 kind and character to the property purchased and the property traded is
22 held by the retailer for resale; and

23 6. The amount charged for labor or services rendered in installing or
24 applying the tangible personal property, digital property, or service sold.

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

27 1. The retailer actually receives consideration from a third party and the

1 consideration is directly related to a price reduction or discount on the
2 sale to the purchaser;

3 2. The retailer has an obligation to pass the price reduction or discount
4 through to the purchaser;

5 3. The amount of consideration attributable to the sale is fixed and
6 determinable by the retailer at the time of the sale of the item to the
7 purchaser; and

8 4. One (1) of the following criteria is met:

9 a. The purchaser presents a coupon, certificate, or other
10 documentation to the retailer to claim a price reduction or discount
11 where the coupon, certificate, or documentation is authorized,
12 distributed, or granted by a third party with the understanding that
13 the third party will reimburse any seller to whom the coupon,
14 certificate, or documentation is presented;

15 b. The price reduction or discount is identified as a third-party price
16 reduction or discount on the invoice received by the purchaser or
17 on a coupon, certificate, or other documentation presented by the
18 purchaser; or

19 c. The purchaser identifies himself or herself to the retailer as a
20 member of a group or organization entitled to a price reduction or
21 discount. A "preferred customer" card that is available to any
22 patron does not constitute membership in such a group.

23 (c) "Gross receipts" and "sales price" shall not include:

24 1. Discounts, including cash, term, or coupons that are not reimbursed by a
25 third party and that are allowed by a retailer and taken by a purchaser on
26 a sale;

27 2. Interest, financing, and carrying charges from credit extended on the sale

- 1 of tangible personal property, digital property, or services, if the amount
2 is separately stated on the invoice, bill of sale, or similar document given
3 to the purchaser; or
- 4 3. Any taxes legally imposed directly on the purchaser that are separately
5 stated on the invoice, bill of sale, or similar document given to the
6 purchaser.
- 7 (d) As used in this subsection, "third party" means a person other than the
8 purchaser;
- 9 (16) "In this state" or "in the state" means within the exterior limits of the
10 Commonwealth and includes all territory within these limits owned by or ceded to
11 the United States of America;
- 12 (17) "Industrial processing" includes:
- 13 (a) Refining;
- 14 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
- 15 (c) Mining, quarrying, fabricating, and industrial assembling;
- 16 (d) The processing and packaging of raw materials, in-process materials, and
17 finished products; and
- 18 (e) The processing and packaging of farm and dairy products for sale;
- 19 (18) (a) "Lease or rental" means any transfer of possession or control of tangible
20 personal property for a fixed or indeterminate term for consideration. A lease
21 or rental shall include future options to:
- 22 1. Purchase the property; or
- 23 2. Extend the terms of the agreement and agreements covering trailers
24 where the amount of consideration may be increased or decreased by
25 reference to the amount realized upon sale or disposition of the property
26 as defined in 26 U.S.C. sec. 7701(h)(1).
- 27 (b) "Lease or rental" shall not include:

- 1 1. A transfer of possession or control of property under a security
2 agreement or deferred payment plan that requires the transfer of title
3 upon completion of the required payments;
- 4 2. A transfer of possession or control of property under an agreement that
5 requires the transfer of title upon completion of the required payments
6 and payment of an option price that does not exceed the greater of one
7 hundred dollars (\$100) or one percent (1%) of the total required
8 payments; or
- 9 3. Providing tangible personal property and an operator for the tangible
10 personal property for a fixed or indeterminate period of time. To qualify
11 for this exclusion, the operator must be necessary for the equipment to
12 perform as designed, and the operator must do more than maintain,
13 inspect, or setup the tangible personal property.
- 14 (c) This definition shall apply regardless of the classification of a transaction
15 under generally accepted accounting principles, the Internal Revenue Code, or
16 other provisions of federal, state, or local law;
- 17 (19) (a) "Machinery for new and expanded industry" means machinery:
- 18 1. Directly used in the manufacturing or industrial processing process of:
- 19 a. Tangible personal property at a plant facility;
- 20 b. Distilled spirits or wine at a plant facility or on the premises of a
21 distiller, rectifier, winery, or small farm winery licensed under
22 KRS 243.030 that includes a retail establishment on the
23 premises; or
- 24 c. Malt beverages at a plant facility or on the premises of a brewer
25 or microbrewery licensed under KRS 243.040 that includes a
26 retail establishment;
- 27 2. Which is incorporated for the first time into;

- 1 a. A plant facility established in this state; or
- 2 b. Licensed premises located in this state; and
- 3 3. Which does not replace machinery in the plant facility or licensed
- 4 premises unless that machinery purchased to replace existing machinery:
- 5 a. Increases the consumption of recycled materials at the plant
- 6 facility by not less than ten percent (10%);
- 7 b. Performs different functions;
- 8 c. Is used to manufacture a different product; or
- 9 d. Has a greater productive capacity, as measured in units of
- 10 production, than the machinery being replaced.
- 11 (b) "Machinery for new and expanded industry" does not include repair,
- 12 replacement, or spare parts of any kind, regardless of whether the purchase of
- 13 repair, replacement, or spare parts is required by the manufacturer or seller as
- 14 a condition of sale or as a condition of warranty;
- 15 (20) "Manufacturing" means any process through which material having little or no
- 16 commercial value for its intended use before processing has appreciable commercial
- 17 value for its intended use after processing by the machinery;
- 18 (21) "Marketplace" means any physical or electronic means through which one (1) or
- 19 more retailers may advertise and sell tangible personal property, digital property, or
- 20 services, or lease tangible personal property or digital property, such as a catalog,
- 21 Internet Web site, or television or radio broadcast, regardless of whether the
- 22 tangible personal property, digital property, or retailer is physically present in this
- 23 state;
- 24 (22) (a) "Marketplace provider" means a person, including any affiliate of the person,
- 25 that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this
- 26 paragraph as follows:
- 27 1. The person directly or indirectly:

- 1 a. Lists, makes available, or advertises tangible personal property,
2 digital property, or services for sale by a marketplace retailer in a
3 marketplace owned, operated, or controlled by the person;
- 4 b. Facilitates the sale of a marketplace retailer's product through a
5 marketplace by transmitting or otherwise communicating an offer
6 or acceptance of a retail sale of tangible personal property, digital
7 property, or services between a marketplace retailer and a
8 purchaser in a forum including a shop, store, booth, catalog,
9 Internet site, or similar forum;
- 10 c. Owns, rents, licenses, makes available, or operates any electronic
11 or physical infrastructure or any property, process, method,
12 copyright, trademark, or patent that connects marketplace retailers
13 to purchasers for the purpose of making retail sales of tangible
14 personal property, digital property, or services;
- 15 d. Provides a marketplace for making retail sales of tangible personal
16 property, digital property, or services, or otherwise facilitates retail
17 sales of tangible personal property, digital property, or services,
18 regardless of ownership or control of the tangible personal
19 property, digital property, or services, that are the subject of the
20 retail sale;
- 21 e. Provides software development or research and development
22 activities related to any activity described in this subparagraph, if
23 the software development or research and development activities
24 are directly related to the physical or electronic marketplace
25 provided by a marketplace provider;
- 26 f. Provides or offers fulfillment or storage services for a marketplace
27 retailer;

- 1 g. Sets prices for a marketplace retailer's sale of tangible personal
2 property, digital property, or services;
- 3 h. Provides or offers customer service to a marketplace retailer or a
4 marketplace retailer's customers, or accepts or assists with taking
5 orders, returns, or exchanges of tangible personal property, digital
6 property, or services sold by a marketplace retailer; or
- 7 i. Brands or otherwise identifies sales as those of the marketplace
8 provider; and
- 9 2. The person directly or indirectly:
- 10 a. Collects the sales price or purchase price of a retail sale of tangible
11 personal property, digital property, or services;
- 12 b. Provides payment processing services for a retail sale of tangible
13 personal property, digital property, or services;
- 14 ~~c. Charges, collects, or otherwise receives selling fees, listing fees,
15 referral fees, closing fees, fees for inserting or making available
16 tangible personal property, digital property, or services on a
17 marketplace, or receives other consideration from the facilitation
18 of a retail sale of tangible personal property, digital property, or
19 services, regardless of ownership or control of the tangible
20 personal property, digital property, or services that are the subject
21 of the retail sale;~~
- 22 ~~d. Through terms and conditions, agreements, or arrangements with a
23 third party, collects payment in connection with a retail sale of
24 tangible personal property, digital property, or services from a
25 purchaser and transmits that payment to the marketplace retailer,
26 regardless of whether the person collecting and transmitting the
27 payment receives compensation or other consideration in exchange~~

1 for the service; or

2 ~~d.[e.]~~ Provides a virtual currency that purchasers are allowed or required
3 to use to purchase tangible personal property, digital property, or
4 services.

5 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
6 requirements of this subsection through the ownership, operation, or control
7 of a digital distribution service, digital distribution platform, online portal, or
8 application store;

9 (23) "Marketplace retailer" means a seller that makes retail sales through any
10 marketplace owned, operated, or controlled by a marketplace provider;

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

12 1. A sale of tangible personal property or digital property not held or used
13 by a seller in the course of an activity for which he or she is required to
14 hold a seller's permit, provided such sale is not one (1) of a series of
15 sales sufficient in number, scope, and character to constitute an activity
16 requiring the holding of a seller's permit. In the case of the sale of the
17 entire, or a substantial portion of the nonretail assets of the seller, the
18 number of previous sales of similar assets shall be disregarded in
19 determining whether or not the current sale or sales shall qualify as an
20 occasional sale; or

21 2. Any transfer of all or substantially all the tangible personal property or
22 digital property held or used by a person in the course of such an activity
23 when after such transfer the real or ultimate ownership of such property
24 is substantially similar to that which existed before such transfer.

25 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
26 other persons holding an interest in a corporation or other entity are regarded
27 as having the "real or ultimate ownership" of the tangible personal property or

1 digital property of such corporation or other entity;

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

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

6 1. Transactional direct mail that contains personal information specific to
7 the addressee, including but not limited to invoices, bills, statements of
8 account, and payroll advices;

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

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

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

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

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

23 (28) "Plant facility" means a single location that is exclusively dedicated to
24 manufacturing or industrial processing activities. A location shall be deemed to be
25 exclusively dedicated to manufacturing or industrial processing activities even if
26 retail sales are made there, provided that the retail sales are incidental to the
27 manufacturing or industrial processing activities occurring at the location. The term

1 "plant facility" shall not include any restaurant, grocery store, shopping center, or
2 other retail establishment;

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

- 4 1. Computer software, including prewritten upgrades, that are not designed
5 and developed by the author or other creator to the specifications of a
6 specific purchaser;
- 7 2. Software designed and developed by the author or other creator to the
8 specifications of a specific purchaser when it is sold to a person other
9 than the original purchaser; or
- 10 3. Any portion of prewritten computer software that is modified or
11 enhanced in any manner, where the modification or enhancement is
12 designed and developed to the specifications of a specific purchaser,
13 unless there is a reasonable, separately stated charge on an invoice or
14 other statement of the price to the purchaser for the modification or
15 enhancement.

16 (b) When a person modifies or enhances computer software of which the person
17 is not the author or creator, the person shall be deemed to be the author or
18 creator only of the modifications or enhancements the person actually made.

19 (c) The combining of two (2) or more prewritten computer software programs or
20 portions thereof does not cause the combination to be other than prewritten
21 computer software;

22 (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,
23 or rental, conditional or otherwise, in any manner or by any means
24 whatsoever, of:

- 25 1. Tangible personal property;
- 26 2. An extended warranty service;
- 27 3. Digital property transferred electronically; or

- 1 4. Services included in KRS 139.200;
2 for a consideration.
- 3 (b) "Purchase" includes:
- 4 1. When performed outside this state or when the customer gives a resale
5 certificate, the producing, fabricating, processing, printing, or imprinting
6 of tangible personal property for a consideration for consumers who
7 furnish either directly or indirectly the materials used in the producing,
8 fabricating, processing, printing, or imprinting;
- 9 2. A transaction whereby the possession of tangible personal property or
10 digital property is transferred but the seller retains the title as security for
11 the payment of the price; and
- 12 3. A transfer for a consideration of the title or possession of tangible
13 personal property or digital property which has been produced,
14 fabricated, or printed to the special order of the customer, or of any
15 publication;
- 16 (31) "Recycled materials" means materials which have been recovered or diverted from
17 the solid waste stream and reused or returned to use in the form of raw materials or
18 products;
- 19 (32) "Recycling purposes" means those activities undertaken in which materials that
20 would otherwise become solid waste are collected, separated, or processed in order
21 to be reused or returned to use in the form of raw materials or products;
- 22 (33) "Remote retailer" means a retailer with no physical presence in this state;
- 23 (34) (a) "Repair, replacement, or spare parts" means any tangible personal property
24 used to maintain, restore, mend, or repair machinery or equipment.
- 25 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
26 industrial tools;
- 27 (35) (a) "Retailer" means:

- 1 1. Every person engaged in the business of making retail sales of tangible
2 personal property, digital property, or furnishing any services in a retail
3 sale included in KRS 139.200;
 - 4 2. Every person engaged in the business of making sales at auction of
5 tangible personal property or digital property owned by the person or
6 others for storage, use or other consumption, except as provided in
7 paragraph (c) of this subsection;
 - 8 3. Every person making more than two (2) retail sales of tangible personal
9 property, digital property, or services included in KRS 139.200 during
10 any twelve (12) month period, including sales made in the capacity of
11 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
 - 12 4. Any person conducting a race meeting under the provision of KRS
13 Chapter 230, with respect to horses which are claimed during the
14 meeting.
- 15 (b) When the department determines that it is necessary for the efficient
16 administration of this chapter to regard any salesmen, representatives,
17 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
18 employers under whom they operate or from whom they obtain the tangible
19 personal property, digital property, or services sold by them, irrespective of
20 whether they are making sales on their own behalf or on behalf of the dealers,
21 distributors, supervisors or employers, the department may so regard them and
22 may regard the dealers, distributors, supervisors or employers as retailers for
23 purposes of this chapter.
- 24 (c) 1. Any person making sales at a charitable auction for a qualifying entity
25 shall not be a retailer for purposes of the sales made at the charitable
26 auction if:
 - 27 a. The qualifying entity, not the person making sales at the auction, is

- 1 sponsoring the auction;
- 2 b. The purchaser of tangible personal property at the auction directly
- 3 pays the qualifying entity sponsoring the auction for the property
- 4 and not the person making the sales at the auction; and
- 5 c. The qualifying entity, not the person making sales at the auction, is
- 6 responsible for the collection, control, and disbursement of the
- 7 auction proceeds.
- 8 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
- 9 the qualifying entity sponsoring the auction shall be the retailer for
- 10 purposes of the sales made at the charitable auction.
- 11 3. For purposes of this paragraph, "qualifying entity" means a resident:
- 12 a. Church;
- 13 b. School;
- 14 c. Civic club; or
- 15 d. Any other nonprofit charitable, religious, or educational
- 16 organization;
- 17 (36) "Retail sale" means any sale, lease, or rental for any purpose other than resale,
- 18 sublease, or subrent;
- 19 (37) (a) "Ringtones" means digitized sound files that are downloaded onto a device
- 20 and that may be used to alert the customer with respect to a communication.
- 21 (b) "Ringtones" shall not include ringback tones or other digital files that are not
- 22 stored on the purchaser's communications device;
- 23 (38) (a) "Sale" means:
- 24 1. The furnishing of any services included in KRS 139.200;
- 25 2. Any transfer of title or possession, exchange, barter, lease, or rental,
- 26 conditional or otherwise, in any manner or by any means whatsoever, of:
- 27 a. Tangible personal property; or

1 b. Digital property transferred electronically;
2 for a consideration.

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

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

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

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

21 (40) (a) "Storage" includes any keeping or retention in this state for any purpose
22 except sale in the regular course of business or subsequent use solely outside
23 this state of tangible personal property or digital property purchased from a
24 retailer.

25 (b) "Storage" does not include the keeping, retaining, or exercising any right or
26 power over tangible personal property for the purpose of subsequently
27 transporting it outside the state for use thereafter solely outside the state, or for

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

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

8 (42) "Taxpayer" means any person liable for tax under this chapter;

9 (43) "Transferred electronically" means accessed or obtained by the purchaser by means
10 other than tangible storage media; and

11 (44) (a) "Use" includes the exercise of:

12 1. Any right or power over tangible personal property or digital property
13 incident to the ownership of that property, or by any transaction in which
14 possession is given, or by any transaction involving digital property
15 where the right of access is granted; or

16 2. Any right or power to benefit from extended warranty services.

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

19 1. Selling tangible personal property or digital property in the regular
20 course of business; or

21 2. Subsequently transporting tangible personal property outside the state
22 for use thereafter solely outside the state, or for the purpose of being
23 processed, fabricated, or manufactured into, attached to, or incorporated
24 into, other tangible personal property to be transported outside the state
25 and thereafter used solely outside the state.

26 ➔Section 35. KRS 139.470 is amended to read as follows:

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

- 1 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
2 state of, tangible personal property or digital property which this state is prohibited
3 from taxing under the Constitution or laws of the United States, or under the
4 Constitution of this state;
- 5 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
6 of:
- 7 (a) Nonreturnable and returnable containers when sold without the contents to
8 persons who place the contents in the container and sell the contents together
9 with the container; and
- 10 (b) Returnable containers when sold with the contents in connection with a retail
11 sale of the contents or when resold for refilling;
- 12 As used in this section the term "returnable containers" means containers of a kind
13 customarily returned by the buyer of the contents for reuse. All other containers are
14 "nonreturnable containers";
- 15 (3) Gross receipts from occasional sales of tangible personal property or digital
16 property and the storage, use, or other consumption in this state of tangible personal
17 property or digital property, the transfer of which to the purchaser is an occasional
18 sale;
- 19 (4) Gross receipts from sales of tangible personal property to a common carrier,
20 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
21 freight is paid in advance or the shipment is made freight charges collect, to a point
22 outside this state and the property is actually transported to the out-of-state
23 destination for use by the carrier in the conduct of its business as a common carrier;
- 24 (5) Gross receipts from sales of tangible personal property sold through coin-operated
25 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
26 retailer is primarily engaged in making the sales and maintains records satisfactory
27 to the department. As used in this subsection, "bulk vending machine" means a

1 vending machine containing unsorted merchandise which, upon insertion of a coin,
2 dispenses the same in approximately equal portions, at random and without
3 selection by the customer;

4 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
5 other statutory or constitutional agency of the state and gross receipts from sales to
6 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
7 apply only to purchases of tangible personal property, digital property, or services
8 for use solely in the government function. A purchaser not qualifying as a
9 governmental agency or unit shall not be entitled to the exemption even though the
10 purchaser may be the recipient of public funds or grants;

11 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
12 residents for use in heating, water heating, cooking, lighting, and other
13 residential uses. As used in this subsection, "fuel" shall include but not be
14 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
15 Determinations of eligibility for the exemption shall be made by the
16 department;

17 (b) In making the determinations of eligibility, the department shall exempt from
18 taxation all gross receipts derived from sales:

- 19 1. Classified as "residential" by a utility company as defined by applicable
20 tariffs filed with and accepted by the Public Service Commission;
- 21 2. Classified as "residential" by a municipally owned electric distributor
22 which purchases its power at wholesale from the Tennessee Valley
23 Authority;
- 24 3. Classified as "residential" by the governing body of a municipally owned
25 electric distributor which does not purchase its power from the
26 Tennessee Valley Authority, if the "residential" classification is
27 reasonably consistent with the definitions of "residential" contained in

1 tariff filings accepted and approved by the Public Service Commission
2 with respect to utilities which are subject to Public Service Commission
3 regulation.

4 If the service is classified as residential, use other than for "residential"
5 purposes by the customer shall not negate the exemption;

6 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
7 billed to an owner or operator of a multi-unit residential rental facility or
8 mobile home and recreational vehicle park other than residential
9 classification; and

10 (d) The exemption shall apply also to residential property which may be held by
11 legal or equitable title, by the entireties, jointly, in common, as a
12 condominium, or indirectly by the stock ownership or membership
13 representing the owner's or member's proprietary interest in a corporation
14 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

15 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
16 exempt from sales and use tax in its state of residence when that agency,
17 organization, or institution gives proof of its tax-exempt status to the retailer and the
18 retailer maintains a file of the proof;

19 (9) (a) Gross receipts derived from the sale of ~~[the following]~~ tangible personal
20 property, **as provided in paragraph (b) of this subsection**, to a manufacturer
21 or industrial processor if the property is to be directly used in the
22 manufacturing or industrial processing process of:

23 **1. Tangible personal property at a plant facility;**

24 **2. Distilled spirits or wine at a plant facility or on the premises of a**
25 **distiller, rectifier, winery, or small farm winery licensed under KRS**
26 **243.030 that includes a retail establishment on the premises; or**

27 **3. Malt beverages at a plant facility or on the premises of a brewer or**

1 *microbrewery licensed under KRS 243.040 that includes a retail*
2 *establishment;*

3 and which will be for sale.~~[-]~~

4 **(b) *The following tangible personal property shall qualify for exemption under***
5 ***this subsection:***

- 6 1. Materials which enter into and become an ingredient or component part
7 of the manufactured product;
- 8 2. Other tangible personal property which is directly used in the
9 manufacturing or industrial processing process, if the property has a
10 useful life of less than one (1) year. Specifically these items are
11 categorized as follows:
- 12 a. Materials. This refers to the raw materials which become an
13 ingredient or component part of supplies or industrial tools exempt
14 under subdivisions b. and c. below;
- 15 b. Supplies. This category includes supplies such as lubricating and
16 compounding oils, grease, machine waste, abrasives, chemicals,
17 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
18 dyes, refrigerants, and explosives. The supplies indicated above
19 need not come in direct contact with a manufactured product to be
20 exempt. "Supplies" does not include repair, replacement, or spare
21 parts of any kind; and
- 22 c. Industrial tools. This group is limited to hand tools such as jigs,
23 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
24 and to tools attached to a machine such as molds, grinding balls,
25 grinding wheels, dies, bits, and cutting blades. Normally, for
26 industrial tools to be considered directly used in the manufacturing
27 or industrial processing process, they shall come into direct contact

1 with the product being manufactured or processed; and

2 3. Materials and supplies that are not reusable in the same manufacturing
3 or industrial processing process at the completion of a single
4 manufacturing or processing cycle. A single manufacturing cycle shall
5 be considered to be the period elapsing from the time the raw materials
6 enter into the manufacturing process until the finished product emerges
7 at the end of the manufacturing process.

8 ~~(c)~~~~(b)~~ The property described in paragraph ~~(b)~~~~(a)~~ of this subsection shall be
9 regarded as having been purchased for resale.

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

15 ~~(e)~~~~(d)~~ The exemption provided in this subsection does not include repair,
16 replacement, or spare parts;

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

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

1 (a) As used in this subsection:

2 1. "Catalogs" means tangible personal property that is printed to the special
3 order of the purchaser and composed substantially of information
4 regarding goods and services offered for sale; and

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

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

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

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

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

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

25 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
26 ultimate storage, use, or other consumption outside this state and delivered to a
27 common carrier in this state for delivery outside this state, regardless of whether the

1 carrier is selected by the purchaser or retailer, or is an agent or representative of the
2 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
3 purchaser's destination;

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

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

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

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

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

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

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

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

- 1 2. Allows residents of Kentucky to remove the vehicle from that state
2 within a specific period for subsequent registration and use in Kentucky
3 without payment of that state's sales tax;
- 4 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
5 trailer as defined in KRS 189.010(17);
- 6 (21) Gross receipts from the collection of:
- 7 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 8 (b) The charge imposed by KRS 65.7629(3);
- 9 (c) The fee imposed by KRS 65.7634; and
- 10 (d) The service charge imposed by KRS 65.7636;
- 11 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
12 maintain tangible personal property directly used in manufacturing or industrial
13 processing process of:
- 14 **(a) Tangible personal property at a plant facility;**
- 15 **(b) Distilled spirits or wine at a plant facility or on the premises of a distiller,**
16 **rectifier, winery, or small farm winery licensed under KRS 243.030; or**
- 17 **(c) Malt beverages at a plant facility or on the premises of a brewer or**
18 **microbrewery licensed under KRS 243.040~~, and~~**
- 19 that is not otherwise exempt under subsection (9) of this section or KRS
20 139.480(10), if the charges for labor or services are separately stated on the invoice,
21 bill of sale, or similar document given to purchaser;
- 22 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to
23 January 1, 2019, gross receipts derived from the sale of those services if the
24 gross receipts were less than six thousand dollars (\$6,000) during calendar
25 year 2018. When gross receipts from these services exceed six thousand
26 dollars (\$6,000) in a calendar year:
- 27 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that

1 calendar year; and

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

3 (b) The exemption provided in this subsection shall not apply to a person also
4 engaged in the business of selling tangible personal property, digital property,
5 or services included in KRS 139.200(2)(a) to (f); and

6 (24) (a) For persons that first begin making sales of services included in KRS
7 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from
8 the sale of those services if the gross receipts are less than six thousand dollars
9 (\$6,000) within the first calendar year of operation. When gross receipts from
10 these services exceed six thousand dollars (\$6,000) in a calendar year:

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

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

14 (b) The exemption provided in this subsection shall not apply to a person that is
15 also engaged in the business of selling tangible personal property, digital
16 property, or services included in KRS 139.200(2)(a) to (f).

17 ➔Section 36. KRS 189A.050 is amended to read as follows:

18 (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall
19 be sentenced to pay a service fee of ***four hundred twenty-five dollars (\$425)***~~three~~
20 ~~hundred seventy-five dollars (\$375)~~, which shall be in addition to all other
21 penalties authorized by law.

22 (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS
23 534.020 and KRS 534.060.

24 (3) The first fifty dollars (\$50) of each service fee imposed by this section shall be paid
25 into the general fund, ***the second fifty dollars (\$50) of each service fee imposed by***
26 ***this section shall be paid to the ignition interlock administration fund established***
27 ***in Section 38 of this Act,*** and the remainder of the revenue collected from the

1 service fee imposed by this section shall be utilized as follows:

2 (a) Twelve percent (12%)~~[of the amount collected]~~ shall be transferred to the
3 Department of Kentucky State Police forensic laboratory for the acquisition,
4 maintenance, testing, and calibration of alcohol concentration testing
5 instruments and the training of laboratory personnel to perform these tasks;

6 (b) Twenty percent (20%)~~[of the service fee collected pursuant to this section]~~
7 shall be allocated to the Department of Public Advocacy;

8 (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for
9 training of prosecutors for the prosecution of persons charged with violations
10 of this chapter and for obtaining expert witnesses in cases involving the
11 prosecution of persons charged with violations of this chapter or any other
12 offense in which driving under the influence is a factor in the commission of
13 the offense charged;

14 (d) Sixteen percent (16%)~~[of the amount collected]~~ shall be transferred as
15 follows:

16 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust
17 fund established under KRS 211.476; and

18 2. Fifty percent (50%) shall be credited to the Cabinet for Health and
19 Family Services, Department for Behavioral Health, Developmental and
20 Intellectual Disabilities, for the purposes of providing direct services to
21 individuals with brain injuries that may include long-term supportive
22 services and training and consultation to professionals working with
23 individuals with brain injuries. As funding becomes available under this
24 subparagraph, the cabinet may promulgate administrative regulations
25 pursuant to KRS Chapter 13A to implement the services permitted by
26 this subparagraph;

27 (e) Any amount specified by a specific statute shall be transferred as provided in

1 that statute;

2 (f) Forty-six percent (46%)~~[of the amount collected]~~ shall be transferred to be
3 utilized to fund enforcement of this chapter and for the support of jails,
4 recordkeeping, treatment, and educational programs authorized by this chapter
5 and by the Department of Public Advocacy; and

6 (g) The remainder~~[of the amount collected]~~ shall be transferred to the general
7 fund.

8 (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be
9 placed in trust and agency accounts that shall not lapse.

10 ➔Section 37. KRS 189A.350 (Effective July 1, 2020) is amended to read as
11 follows:

12 (1) (a) The Transportation Cabinet shall:

- 13 1. Issue ignition interlock license application forms and other forms
14 necessary for the implementation of ignition interlock licenses;
- 15 2. Create a uniform ignition interlock certificate of installation to be
16 provided to a defendant by an ignition interlock provider upon
17 installation of an ignition interlock device;
- 18 3. Create an ignition interlock license. The ignition interlock license may
19 be a regular driver's or operator's license with an ignition interlock
20 restriction printed on the license;
- 21 4. Require a person issued an ignition interlock license to maintain motor
22 vehicle insurance for the duration of his or her ignition interlock license;
- 23 5. Certify ignition interlock devices approved for use in the
24 Commonwealth;
- 25 6. Publish and periodically update on the Transportation Cabinet Web site
26 a list of contact information, including a link to the Web site of each
27 certified ignition interlock device provider, with the entity appearing

1 first on the list changing on a statistically random basis each time a
2 unique visitor visits the list of the approved ignition interlock installers
3 and the approved servicing and monitoring entities;

4 7. Monitor the ignition interlock device service locations of providers and
5 create a random or designated selection process to require a provider to
6 provide ignition interlock device services in any area of the
7 Commonwealth which the Transportation Cabinet determines is
8 underserved by providers; and

9 8. Except as provided in paragraph (b) of this subsection, promulgate
10 administrative regulations to carry out the provisions of this section.

11 (b) The Transportation Cabinet shall not create any ignition interlock license or
12 device violations in administrative regulations. The sole ignition interlock
13 license or device violations are established in this chapter.

14 (2) No model of ignition interlock device shall be certified for use in the
15 Commonwealth unless it meets or exceeds standards promulgated by the
16 Transportation Cabinet pursuant to this section.

17 (3) In bidding for a contract with the Transportation Cabinet to provide ignition
18 interlock devices and servicing or monitoring or both, the ignition interlock device
19 provider shall take into account that some defendants will not be able to pay the full
20 amount of the fees established pursuant to KRS 189A.340(7)(a).

21 (4) Any contract between the cabinet and an ignition interlock device provider shall
22 include the following:

23 (a) A requirement that the provider accept reduced payments as a full payment for
24 all purposes from persons determined to be at or below two hundred percent
25 (200%) of the federal poverty guidelines by the Transportation Cabinet as
26 provided by KRS 189A.340(7)(c);

27 (b) A requirement that no unit of state or local government and no public officer

- 1 or employee shall be liable for the cost of purchasing or installing the ignition
2 interlock device or associated costs;
- 3 (c) A requirement that the provider agree to a price for the cost of leasing or
4 purchasing an ignition interlock device and any associated servicing or
5 monitoring fees during the duration of the contract. This price shall not be
6 increased but may be reduced during the duration of the contract;
- 7 (d) Requirements and standards for the servicing, inspection, and monitoring of
8 the ignition interlock device;
- 9 (e) Provisions for training for service center technicians and clients;
- 10 (f) A requirement that the provider electronically transmit reports on driving
11 activity within seven (7) days of servicing an ignition interlock device to the
12 Transportation Cabinet, prosecuting attorney, and defendant;
- 13 (g) Requirements for a transition plan for the ignition interlock device provider
14 before the provider leaves the state to ensure that continuous monitoring is
15 achieved and to provide a minimum forty-five (45) day notice to the cabinet of
16 any material change to the design of the ignition interlock device, or any
17 changes to the provider's installation, servicing, or monitoring capabilities;
- 18 (h) A requirement that, before beginning work, the ignition interlock device
19 provider have and maintain insurance as approved by the cabinet, including
20 provider's public liability and property damage insurance, in an amount
21 determined by the cabinet, that covers the cost of defects or problems with
22 product design, materials, workmanship during manufacture, calibration,
23 installation, device removal, or any use thereof;
- 24 (i) A provision requiring that an ignition interlock provider agree to hold
25 harmless and indemnify any unit of state or local government, public officer,
26 or employee from all claims, demands, and actions, as a result of damage or
27 injury to persons or property which may arise, directly or indirectly, out of any

- 1 action or omission by the ignition interlock provider relating to the
 2 installation, service, repair, use, or removal of an ignition interlock device;
- 3 (j) A requirement that a warning label to be affixed to each ignition interlock
 4 device upon installation. The label shall contain a warning that any person
 5 who tampers with, circumvents, or otherwise misuse the device commits a
 6 violation of law under KRS 189A.345;
- 7 (k) A requirement that a provider will remove an ignition interlock device without
 8 cost, if the device is found to be defective;
- 9 (l) A requirement that a provider have at least one (1) ignition interlock device
 10 service location in each Transportation Cabinet highway district; and
- 11 (m) A requirement that a provider accept assignments to provide ignition interlock
 12 device services in areas of the Commonwealth which the Transportation
 13 Cabinet determines are underserved by providers in accordance with
 14 subsection (1) of this section.

15 **(5) (a) The Transportation Cabinet may require ignition interlock device providers**
 16 **to pay the following fees:**

17 **1. An application fee not to exceed five hundred dollars (\$500);**

18 **2. An annual renewal fee not to exceed two hundred dollars (\$200);**

19 **3. An annual service inspection fee not to exceed one hundred dollars**
 20 **(\$100); or**

21 **4. A revisit fee for a failed inspection not to exceed one hundred fifty**
 22 **dollars (\$150).**

23 **(b) Any fees collected pursuant to this subsection shall be paid to the ignition**
 24 **interlock administration fund established in Section 38 of this Act.**

25 ➔SECTION 38. A NEW SECTION OF KRS CHAPTER 189A IS CREATED
 26 TO READ AS FOLLOWS:

27 **(1) The ignition interlock administration fund is created as a restricted fund. The**

1 restricted fund shall consist of funds deposited pursuant to Sections 36 and 37 of
 2 this Act. The Transportation Cabinet shall administer the fund.

3 (2) The funds deposited pursuant to:

4 (a) Section 36 of this Act shall be appropriated to the Department of Vehicle
 5 Regulation; and

6 (b) Section 37 of this Act shall be appropriated to the Office of Highway Safety;
 7 for administrative costs associated with ignition interlock pursuant to this
 8 chapter.

9 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of
 10 the fiscal year shall not lapse but shall be carried forward into the succeeding
 11 fiscal year to be used for the purposes set forth in subsection (2) of this section.

12 (4) Any interest earned on moneys in the fund shall become a part of the fund and
 13 shall not lapse.

14 ➔Section 39. KRS 138.146 is amended to read as follows:

15 (1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer
 16 takes possession within this state of untax-paid cigarettes.

17 (2) (a) The cigarette tax shall be paid by the purchase of stamps by a resident
 18 wholesaler within forty-eight (48) hours after the wholesaler receives the
 19 cigarettes.

20 (b) A stamp shall be affixed to each package of an aggregate denomination not
 21 less than the amount of the cigarette tax on the package.

22 (c) The affixed stamp shall be prima facie evidence of payment of the cigarette
 23 tax.

24 (d) Unless stamps have been previously affixed, they shall be affixed by each
 25 resident wholesaler prior to the delivery of any cigarettes to a retail location or
 26 any person in this state.

27 (e) The evidence of cigarette tax payment shall be affixed to each individual

1 package of cigarettes by a nonresident wholesaler prior to the introduction or
2 importation of the cigarettes into the territorial limits of this state.

3 (f) The evidence of cigarette tax payment shall be affixed by an unclassified
4 acquirer within twenty-four (24) hours after the cigarettes are received by the
5 unclassified acquirer.

6 (3) (a) The department shall by regulation prescribe the form of cigarette tax
7 evidence, the method and manner of the sale and distribution of cigarette tax
8 evidence, and the method and manner that tax evidence shall be affixed to the
9 cigarettes.

10 (b) All cigarette tax evidence prescribed by the department shall be designed and
11 furnished in a fashion to permit identification of the person that affixed the
12 cigarette tax evidence to the particular package of cigarettes, by means of
13 numerical rolls or other mark on the cigarette tax evidence.

14 (c) The department shall maintain for at least three (3) years information
15 identifying the person that affixed the cigarette tax evidence to each package
16 of cigarettes. This information shall not be kept confidential or exempt from
17 disclosure to the public through open records.

18 (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the
19 department shall allow as compensation to any licensed wholesaler an amount
20 of tax evidence equal to thirty cents (\$0.30) face value for each three dollars
21 (\$3) of tax evidence purchased at face value and attributable to the tax
22 assessed in KRS 138.140(1)(a). No compensation shall be allowed for tax
23 evidence purchased at face value attributable to the surtaxes imposed in KRS
24 138.140(1)(b) or (c).

25 (b) The department shall have the power to withhold compensation as provided in
26 paragraph (a) of this subsection from any licensed wholesaler for failure to
27 abide by any provisions of KRS 138.130 to 138.205 or any administrative

1 regulations promulgated thereunder. Any refund or credit for unused cigarette
2 tax evidence shall be reduced by the amount allowed as compensation at the
3 time of purchase.

4 (5) (a) Payment for units of cigarette tax evidence shall be made at the time the
5 units are sold, unless the licensed wholesaler:

6 1. Has filed with the department a bond, issued by a corporation
7 authorized to do surety business in Kentucky, in an amount equal to
8 or greater than the amount of payment for the units of cigarette tax
9 evidence purchased, plus all penalties, interest, and collection fees
10 applicable to that amount, should the taxpayer default on the
11 payment; and

12 2. Has registered and agrees to make the payment of tax to the
13 department electronically.

14 (b) Except as provided in paragraph (c) of this subsection, if the licensed
15 wholesaler qualifies under paragraph (a) of this subsection, the licensed
16 wholesaler shall have ten (10) days from the date of purchase to remit
17 payment of cigarette tax, without the assessment of civil penalties under
18 KRS 131.180 or interest under KRS 131.183 during the ten (10) day period.

19 (c) 1. The ten (10) day payment period under paragraph (b) of this
20 subsection shall not apply to the payment for units of cigarette tax
21 evidence during the last ten (10) days of the month of June during
22 each fiscal year.

23 2. All payments for units of cigarette tax evidence made under paragraph
24 (b) of this subsection during the month of June shall be made the
25 earlier of:

26 a. The ten (10) day period; or

27 b. June 25.

1 (d) If the licensed wholesaler does not make the payment of cigarette tax within
 2 the ten (10) day period, or within the period of time under paragraph (c) of
 3 this subsection, the department shall:

4 1. Revoke the license required under KRS 138.195;

5 2. Issue a demand for payment in an amount equal to the cigarette tax
 6 evidence purchased, plus all penalties, interest, and collection fees
 7 applicable to that amount; and

8 3. Require immediate payment of the bond.

9 (6) (a) The bond required under subsection (5) of this section shall be on a form
 10 and with a surety approved by the department.

11 (b) The licensed wholesaler shall be named as the principal obligor and the
 12 department shall be named as the obligee within the bond.

13 (c) The bond shall be conditioned upon the payment by the licensed wholesaler
 14 of all cigarette tax imposed by the Commonwealth.

15 (d) The provisions of KRS 131.110 shall not apply to the demand for payment
 16 required under paragraph (c)2. of subsection (5) of this section.

17 (7) (a) No tax evidence may be affixed, or used in any way, by any person other than
 18 the person purchasing the evidence from the department.

19 (b) Tax evidence may not be transferred or negotiated, and may not, by any
 20 scheme or device, be given, bartered, sold, traded, or loaned to any other
 21 person.

22 (c) Unaffixed tax evidence may be returned to the department for credit or refund
 23 for any reason satisfactory to the department.

24 ~~(8)~~~~(6)~~ (a) In the event any retailer receives into his possession cigarettes to which
 25 evidence of Kentucky tax payment is not properly affixed, the retailer shall,
 26 within twenty-four (24) hours, notify the department of the receipt.

27 (b) The notification to the department shall be in writing, stating the name of the

1 person from whom the cigarettes were received and the quantity of those
2 cigarettes.

3 (c) The written notice may be:

- 4 1. Given to any field agent of the department; or
- 5 2. Directed to the commissioner of the Department of Revenue, Frankfort,
6 Kentucky.

7 (d) If the notice is given by means of the United States mail, it shall be sent by
8 certified mail.

9 (e) Any such cigarettes shall be retained by the retailer, and not sold, for a period
10 of fifteen (15) days after giving the notice provided in this subsection.

11 (f) The retailer may, at his option, pay the tax due on those cigarettes according to
12 administrative regulations prescribed by the department, and proceed to sell
13 those cigarettes after the payment.

14 ~~(9)~~(7) (a) Cigarettes stamped with the cigarette tax evidence of another state shall
15 at no time be commingled with cigarettes on which the Kentucky cigarette tax
16 evidence has been affixed.

17 (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine
18 operator may hold cigarettes stamped with the tax evidence of another state
19 for any period of time, subsection (2) of this section notwithstanding.

20 ➔Section 40. KRS 139.495 is amended to read as follows:

21 (1) The taxes imposed by this chapter shall apply to:

22 (a) Resident, nonprofit educational, charitable, or religious institutions which
23 have qualified for exemption from income taxation under Section 501(c)(3) of
24 the Internal Revenue Code; and

25 (b) Any resident, single member limited liability company that is:

- 26 1. Wholly owned and controlled by a resident or nonresident, nonprofit
27 educational, charitable, or religious institution which has qualified for

1 exemption from income taxation under Section 501(c)(3) of the Internal
2 Revenue Code; and

3 2. Disregarded as an entity separate from the resident or nonresident,
4 nonprofit educational, charitable, or religious institution for federal
5 income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2;

6 as provided in this section.

7 (2) (a) Tax does not apply to:

8 1. Sales of tangible personal property, digital property, or services to these
9 institutions or limited liability companies described in subsection (1) of
10 this section, provided the tangible personal property, digital property, or
11 service is to be used solely in this state within the educational,
12 charitable, or religious function;

13 2. Sales of food to students in school cafeterias or lunchrooms;

14 3. Sales by school bookstores of textbooks, workbooks, and other course
15 materials;

16 4. Sales by nonprofit, school sponsored clubs and organizations, provided
17 such sales do not include tickets for athletic events;

18 5. Sales of admissions, **including the sales of admissions to a golf course**
19 **when the admission is the result of a fundraising event**, by nonprofit
20 educational, charitable, or religious institutions described in subsection
21 (1) of this section. **All other sales of admissions to a golf course by**
22 **these institutions are not exempt from tax under this section**; or

23 6. a. Fundraising event sales made by nonprofit educational, charitable,
24 or religious institutions and limited liability companies described
25 in subsection (1) of this section.

26 b. For the purposes of this subparagraph, "fundraising event sales"
27 does not include sales related to the operation of a retail business,

1 including but not limited to thrift stores, bookstores, surplus
2 property auctions, recycle and reuse stores, or any ongoing
3 operations in competition with for-profit retailers.

4 (b) The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of this
5 subsection shall not apply to sales generated by or arising at a tourism
6 development project approved under KRS 148.851 to 148.860.

7 (3) An institution shall be entitled to a refund equal to twenty-five percent (25%) of the
8 tax collected on its sale of donated goods if the refund is used exclusively as
9 reimbursement for capital construction costs of additional retail locations in this
10 state, provided the institution:

11 (a) Routinely sells donated items;

12 (b) Provides job training and employment to individuals with workplace
13 disadvantages and disabilities;

14 (c) Spends at least seventy-five percent (75%) of its annual revenue on job
15 training, job placement, or other related community services;

16 (d) Submits a refund application to the department within sixty (60) days after the
17 new retail location opens for business; and

18 (e) Provides records of capital construction costs for the new retail location and
19 any other information the department deems necessary to process the refund.

20 The maximum refund allowed for any location shall not exceed one million dollars
21 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost
22 of construction of any new facilities or the purchase and renovation of any existing
23 facilities, but does not include the cost of real property other than real property
24 designated as a brownfield site as defined in KRS 65.680(4).

25 (4) Notwithstanding any other provision of law to the contrary, refunds under
26 subsection (3) of this section shall be made directly to the institution. Interest shall
27 not be allowed or paid on the refund. The department may examine any refund

1 within four (4) years from the date the refund application is received. Any
2 overpayment shall be subject to the interest provisions of KRS 131.183 and the
3 penalty provisions of KRS 131.180.

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

7 ➔Section 41. KRS 139.498 is amended to read as follows:

8 (1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as
9 described in KRS 139.495 and 139.497, the taxes imposed by this chapter do
10 not apply to:

11 1. The sale of admissions, including the sales of admissions to a golf
12 course when the admission is the result of a fundraising event. All
13 other sales of admissions to a golf course by these organizations are
14 not exempt from tax under this section; or

15 2. a. Fundraising event sales.

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

21 (b) The exemption provided in subparagraph 1. of paragraph (a) of this subsection
22 shall not apply to the sale of admissions to a public facility that qualifies for a
23 sales tax rebate under KRS 139.533.

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

26 ➔Section 42. KRS 139.200 is amended to read as follows:

27 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross

1 receipts derived from:

2 (1) Retail sales of:

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

5 (b) Digital property regardless of whether:

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

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

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

9 (2) The furnishing of the following:

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

17 (b) Sewer services;

18 (c) The sale of admissions, except:

19 1. Admissions to racetracks taxed under KRS 138.480;

20 2. Admissions to historical sites exempt under KRS 139.482;

21 3. Admissions taxed under KRS 229.031;

22 4. Admissions ***that are*** charged by nonprofit educational, charitable, or
23 religious institutions ***and for which an exemption is provided***~~[exempt]~~
24 under KRS 139.495; and

25 5. Admissions ***that are*** charged by nonprofit civic, governmental, or other
26 nonprofit organizations ***and for which an exemption is***
27 ***provided***~~[exempt]~~ under KRS 139.498;

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

- 1 (m) Linen supply services, including but not limited to table and bed linen supply
2 services and nonindustrial uniform supply services;
- 3 (n) Indoor skin tanning services, including but not limited to tanning booth or
4 tanning bed services and spray tanning services;
- 5 (o) Non-medical diet and weight reducing services;
- 6 (p) Limousine services, if a driver is provided; and
- 7 (q) Extended warranty services.

8 ➔Section 43. KRS 45A.077 is amended to read as follows:

- 9 (1) A public-private partnership delivery method may be utilized as provided in this
10 section and administrative regulations promulgated thereunder. State contracts
11 using this method shall be awarded by competitive negotiation.
- 12 (2) A contracting body utilizing a public-private partnership shall continue to be
13 responsible for oversight of any function that is delegated to or otherwise performed
14 by a private partner.
- 15 (3) On or before December 31, 2016, the secretary of the Finance and Administration
16 Cabinet shall promulgate administrative regulations setting forth criteria to be used
17 in determining when a public-private partnership is to be used for a particular
18 project. The administrative regulations shall reflect the intent of the General
19 Assembly to promote and encourage the use of public-private partnerships in the
20 Commonwealth. The secretary shall consult with design-builders, construction
21 managers, contractors, design professionals including engineers and architects, and
22 other appropriate professionals during the development of these administrative
23 regulations.
- 24 (4) A request for proposal for a project utilizing a public-private partnership shall
25 include at a minimum:
- 26 (a) The parameters of the proposed public-private partnership agreement;
- 27 (b) The duties and responsibilities to be performed by the private partner or

- 1 partners;
- 2 (c) The methods of oversight to be employed by the contracting body;
- 3 (d) The duties and responsibilities that are to be performed by the contracting
4 body and any other partners to the contract;
- 5 (e) The evaluation factors and the relative weight of each to be used in the scoring
6 of awards;
- 7 (f) Plans for financing and operating the qualifying project and the revenues,
8 service payments, bond financings, and appropriations of public funds needed
9 for the qualifying project;
- 10 (g) Comprehensive documentation of the experience, capabilities, capitalization
11 and financial condition, and other relevant qualifications of the private entity;
- 12 (h) The ability of a private partner or partners to quickly respond to the needs
13 presented in the request for proposal, and the importance of economic
14 development opportunities represented by the qualifying project. In evaluating
15 proposals, preference shall be given to a plan that includes the involvement of
16 small businesses as subcontractors, to the extent that small businesses can
17 provide services in a competitive manner, unless any preference interferes
18 with the qualification for federal or other funds; and
- 19 (i) Other information required by the contracting body or the cabinet to evaluate
20 the proposals submitted by respondents and the overall proposed public-
21 private partnership.
- 22 (5) A private entity desiring to be a private partner shall demonstrate to the satisfaction
23 of the contracting body or the cabinet that it is capable of performing any duty,
24 responsibility, or function it may be authorized or directed to perform as part of the
25 public-private partnership agreement.
- 26 (6) When a request for proposal for a project utilizing a public-private partnership is
27 issued for a capital project, the contracting body shall transmit a copy of the request

1 for proposal to the Capital Projects and Bond Oversight Committee staff, clearly
2 identifying to the staff that a public-private partnership is being utilized. The
3 contracting body shall submit the final contract to the Capital Projects and Bond
4 Oversight Committee under KRS 45.763 before work may be begun on the project.

5 (7) A request for proposal or other solicitation may be canceled, or all proposals may be
6 rejected, if it is determined in writing that the action is taken in the best interest of
7 the Commonwealth and approved by the purchasing officer.

8 (8) (a) Beginning July 1, 2022~~[2020]~~, in the case of any public-private partnership for
9 a capital project with an aggregate value of twenty-five million dollars
10 (\$25,000,000) or more, the project shall be authorized by the General
11 Assembly, by inclusion in the branch budget bill or by any other means
12 specified by the General Assembly, explicitly identifying and authorizing the
13 utilization of a public-private partnership delivery method for the applicable
14 capital project. The authorization of a capital project required by this
15 subsection is in addition to any other statutorily required authorization for a
16 capital project.

17 (b) The provisions of this subsection shall not apply to any public-private
18 partnership project made public through a request for proposal or a public
19 notice of an unsolicited proposal issued prior to July 1, 2022~~[2020]~~.

20 (9) Any corporation as described by KRS 45.750(2)(c), or as created under the
21 Kentucky Revised Statutes as a governmental agency and instrumentality of the
22 Commonwealth, that manages its capital construction program shall:

23 (a) Adhere to the administrative regulations promulgated under this section when
24 utilizing a public-private partnership for financing capital projects;

25 (b) Report to legislative committees as specified in this section; and

26 (c) Submit public-private partnership agreements issued by it to the General
27 Assembly for authorization as provided in subsection (8) of this section.

1 (10) (a) The governing body of a postsecondary institution that manages its capital
2 construction program under KRS 164A.580 shall report to the Capital Projects
3 and Bond Oversight Committee staff as specified in this section.

4 (b) Any provision of a public-private partnership agreement issued by a
5 postsecondary institution which provides for a lease by or to the
6 postsecondary institution shall be valid and enforceable if approved by the
7 governing board of the institution.

8 (11) (a) A person or business may submit an unsolicited proposal to a governmental
9 body, which may receive the unsolicited proposal.

10 (b) Within ninety (90) days of receiving an unsolicited proposal, a governmental
11 body may elect to consider further action on the proposal, at which point the
12 governmental body shall provide public notice of the proposal. Discussion of
13 the project shall not be deemed a solicitation of the project or its concepts
14 after public notice is given. The public notice shall:

15 1. Provide specific information regarding the proposed nature, timing, and
16 scope of the unsolicited proposal, except that trade secrets, financial
17 records, or other records of the person or business making the proposal
18 shall not be posted unless otherwise agreed to by the governmental body
19 and the person or business; and

20 2. Provide for a notice period for the submission of competing proposals as
21 follows:

22 a. Unsolicited proposals valued below five million dollars
23 (\$5,000,000) shall be posted for thirty (30) days;

24 b. Unsolicited proposals valued between five million dollars
25 (\$5,000,000) and twenty-five million dollars (\$25,000,000) shall
26 be posted for sixty (60) days; and

27 c. Unsolicited proposals valued over twenty-five million dollars

1 (\$25,000,000) shall be posted for ninety (90) days.

2 (c) Upon the end of the notice period provided under paragraph (b)2. of this
3 subsection, the governmental body may consider the unsolicited proposal and
4 any competing proposals received. If the governmental body determines it is
5 in the best interest of the Commonwealth to implement some or all of the
6 concepts contained within the unsolicited proposal or competing proposals
7 received by it, the governmental body may begin an open, competitive
8 procurement process to do so pursuant to this chapter.

9 (d) An unsolicited proposal shall be deemed rejected if no written response is
10 received from the governmental body within ninety (90) days of submission,
11 during which time the governmental body has not taken any action on the
12 proposal under paragraph (b) of this subsection.

13 ➔Section 44. KRS 132.285 is amended to read as follows:

14 (1) (a) Except as provided in subsection (3) of this section, any city may by ordinance
15 elect to use the annual county assessment for property situated within the city
16 as a basis of ad valorem tax levies ordered or approved by the legislative body
17 of the city.

18 (b) Any city making the election provided in paragraph (a) of this subsection shall
19 notify the department and property valuation administrator prior to the next
20 succeeding assessment to be used for city levies. In such event the assessment
21 finally determined for county tax purposes shall serve as a basis of all city
22 levies for the fiscal year commencing on or after the county assessment date.

23 (c) Each city which elects to use the county assessment shall annually appropriate
24 and pay each fiscal year to the office of the property valuation administrator
25 for deputy and other authorized personnel allowance, supplies, maps and
26 equipment, and other authorized expenses of the office one-half of one cent
27 (\$0.005) for each one hundred dollars (\$100) of assessment, except that sums

- 1 paid shall not be:
- 2 1. Less than two hundred fifty dollars (\$250); or
- 3 2. More than:
- 4 a. Forty thousand dollars (\$40,000) in a city having an assessment
- 5 subject to city tax of less than two billion dollars
- 6 (\$2,000,000,000);
- 7 b. Fifty thousand dollars (\$50,000) in a city having an assessment
- 8 subject to city tax of two billion dollars (\$2,000,000,000) or more,
- 9 but less than three billion dollars (\$3,000,000,000);~~or~~
- 10 c. Sixty thousand dollars (\$60,000) in a city having an assessment
- 11 subject to city tax of three billion dollars (\$3,000,000,000) ***but less***
- 12 ***than six billion dollars (\$6,000,000,000);*** ~~or~~~~more~~
- 13 ***d. One hundred thousand dollars (\$100,000) in a city having an***
- 14 ***assessment subject to city tax of six billion dollars***
- 15 ***(\$6,000,000,000) or more.***
- 16 (d) This allowance shall be based on the assessment as of the previous January 1.
- 17 (e) Each property valuation administrator shall file a claim with the city for the
- 18 county assessment, which shall include the recapitulation submitted to the city
- 19 pursuant to KRS 133.040(2).
- 20 (f) The city shall order payment in an amount not to exceed the appropriation
- 21 authorized by this section.
- 22 (g) The property valuation administrator shall be required to account for all
- 23 moneys paid to his or her office by the city and any funds unexpended by the
- 24 close of each fiscal year shall carry over to the next fiscal year.
- 25 (h) Notwithstanding any statutory provisions to the contrary, the assessment dates
- 26 for the city shall conform to the corresponding dates for the county, and the
- 27 city may by ordinance establish additional financial and tax procedures that

- 1 will enable it effectively to adopt the county assessment.
- 2 (i) The legislative body of any city adopting the county assessment may fix the
3 time for levying the city tax rate, due and delinquency dates for taxes, and any
4 other dates that will enable it effectively to adopt the county assessment,
5 notwithstanding any statutory provisions to the contrary.
- 6 (j) Any such city may, by ordinance, abolish any office connected with city
7 assessment and equalization.
- 8 (k) Any city which elects to use the county assessment shall have access to the
9 assessment records as soon as completed and may obtain a copy of that
10 portion of the records which represents the assessment of property within the
11 city by additional payment of the cost thereof.
- 12 (l) Once any city elects to use the county assessment, that action cannot be
13 revoked without notice to the department and the property valuation
14 administrator six (6) months prior to the next date as of which property is
15 assessed for state and county taxes.
- 16 (2) In the event any omitted property is assessed by the property valuation administrator
17 as provided by KRS 132.310, the assessment shall be considered as part of the
18 assessment adopted by the city according to subsection (1) of this section.
- 19 (3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities
20 shall use the assessment required to be made pursuant to KRS 132.487(5).
- 21 (4) Notwithstanding the provisions of subsection (1) of this section, each city which
22 elects to use the county assessment for ad valorem taxes levied for 1996 or
23 subsequent years, and which used the county assessment for ad valorem taxes levied
24 for 1995, shall appropriate and pay to the office of the property valuation
25 administrator for the purposes set out in subsection (1) of this section an amount
26 equal to the amount paid to the office of the property valuation administrator in
27 1995, or the amount required by the provisions of subsection (1) of this section,

1 whichever is greater.

2 ➔Section 45. KRS 132.590 is amended to read as follows:

- 3 (1) The compensation of the property valuation administrator shall be based on the
4 schedule contained in subsection (2) of this section as modified by subsection (3) of
5 this section. The compensation of the property valuation administrator shall be
6 calculated by the Department of Revenue annually. Should a property valuation
7 administrator for any reason vacate the office in any year during his term of office,
8 he shall be paid only for the calendar days actually served during the year.
- 9 (2) The salary schedule for property valuation administrators provides for nine (9)
10 levels of salary based upon the population of the county in the prior year as
11 determined by the United States Department of Commerce, Bureau of the Census
12 annual estimates. To implement the salary schedule, the department shall, by
13 November 1 of each year, certify for each county the population group applicable to
14 each county based on the most recent estimates of the United States Department of
15 Commerce, Bureau of the Census. The salary schedule provides four (4) steps for
16 yearly increments within each population group. Property valuation administrators
17 shall be paid according to the first step within their population group for the first
18 year or portion thereof they serve in office. Thereafter, each property valuation
19 administrator, on January 1 of each subsequent year, shall be advanced
20 automatically to the next step in the salary schedule until the maximum salary figure
21 for the population group is reached. If the county population as certified by the
22 department increases to a new group level, the property valuation administrator's
23 salary shall be computed from the new group level at the beginning of the next year.
24 A change in group level shall have no affect on the annual change in step. Prior to
25 assuming office, any person who has previously served as a property valuation
26 administrator must certify to the Department of Revenue the total number of years,
27 not to exceed four (4) years, that the person has previously served in the office. The

1 department shall place the person in the proper step based upon a formula of one (1)
 2 incremental step per full calendar year of service:

3 SALARY SCHEDULE

4	County Population	Steps and Salary			
5	by Group	for Property Valuation Administrators			
6	Group I	Step 1	Step 2	Step 3	Step 4
7	0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
8	Group II				
9	5,000-9,999	49,513	50,888	52,263	53,639
10	Group III				
11	10,000-19,999	53,639	55,014	56,389	57,765
12	Group IV				
13	20,000-29,999	55,702	57,765	59,828	61,891
14	Group V				
15	30,000-44,999	59,828	61,891	63,954	66,017
16	Group VI				
17	45,000-59,999	61,891	64,641	67,392	70,143
18	Group VII				
19	60,000-89,999	66,017	68,768	71,518	74,269
20	Group VIII				
21	90,000-499,999	68,080	71,518	74,957	78,395
22	Group IX				
23	500,000 and up	72,206	75,644	79,083	82,521

24 (3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section
 25 shall be increased by the amount of increase in the annual consumer price
 26 index as published by the United States Department of Commerce for the year
 27 ended December 31, 1999. This salary adjustment shall take effect on July 14,

1 2000, and shall not be retroactive to the preceding January 1.

2 (b) For each calendar year beginning after December 31, 2000, upon publication
3 of the annual consumer price index by the United States Department of
4 Commerce, the annual rate of salary for the property valuation administrator
5 shall be determined by applying the increase in the consumer price index to
6 the salary in effect for the previous year. This salary determination shall be
7 retroactive to the preceding January 1.

8 (c) In addition to the step increases based on service in office, each property
9 valuation administrator shall be paid an annual incentive of six hundred
10 eighty-seven dollars and sixty-seven cents (\$687.67) per calendar year for
11 each forty (40) hour training unit successfully completed based on continuing
12 service in that office and, except as provided in this subsection, completion of
13 at least forty (40) hours of approved training in each subsequent calendar year.
14 If a property valuation administrator fails without good cause, as determined
15 by the commissioner of the Kentucky Department of Revenue, to obtain the
16 minimum amount of approved training in any year, the officer shall lose all
17 training incentives previously accumulated. No property valuation
18 administrator shall receive more than one (1) training unit per calendar year
19 nor more than four (4) incentive payments per calendar year. Each property
20 valuation administrator shall be allowed to carry forward up to forty (40)
21 hours of training credit into the following calendar year for the purpose of
22 satisfying the minimum amount of training for that year. This amount shall be
23 increased by the consumer price index adjustments prescribed in paragraphs
24 (a) and (b) of this subsection. Each training unit shall be approved and
25 certified by the Kentucky Department of Revenue. Each unit shall be available
26 to property valuation administrators in each office based on continuing service
27 in that office. The Kentucky Department of Revenue shall promulgate

1 administrative regulations in accordance with KRS Chapter 13A to establish
2 guidelines for the approval and certification of training units.

3 (4) Notwithstanding any provision contained in this section, no property valuation
4 administrator holding office on July 14, 2000, shall receive any reduction in salary
5 or reduction in adjustment to salary otherwise allowable by the statutes in force on
6 July 14, 2000.

7 (5) Deputy property valuation administrators and other authorized personnel may be
8 advanced one (1) step in grade upon completion of twelve (12) months' continuous
9 service. The Department of Revenue may make grade classification changes
10 corresponding to any approved for department employees in comparable positions,
11 so long as the changes do not violate the integrity of the classification system.
12 Subject to availability of funds, the department may extend cost-of-living increases
13 approved for department employees to deputy property valuation administrators and
14 other authorized personnel, by advancement in grade.

15 (6) Beginning with the 1990-1992 biennium, the Department of Revenue shall prepare
16 a biennial budget request for the staffing of property valuation administrators'
17 offices. An equitable allocation of employee positions to each property valuation
18 administrator's office in the state shall be made on the basis of comparative
19 assessment work units. Assessment work units shall be determined from the most
20 current objective information available from the United States Bureau of the Census
21 and other similar sources of unbiased information. Beginning with the 1996-1998
22 biennium, assessment work units shall be based on parcel count per employee. The
23 total sum allowed by the state to any property valuation administrator's office as
24 compensation for deputies, other authorized personnel, and for other authorized
25 expenditures shall not exceed the amount fixed by the Department of Revenue.
26 However, each property valuation administrator's office shall be allowed as a
27 minimum such funds that are required to meet the federal minimum wage

1 requirements for two (2) full-time deputies.

2 (7) Beginning with the 1990-1992 biennium each property valuation administrator shall
3 submit by June 1 of each year for the following fiscal year to the Department of
4 Revenue a budget request for his office which shall be based upon the number of
5 employee positions allocated to his office under subsection (6) of this section and
6 upon the county and city funds available to his office and show the amount to be
7 expended for deputy and other authorized personnel including employer's share of
8 FICA and state retirement, and other authorized expenses of the office. The
9 Department of Revenue shall return to each property valuation administrator, no
10 later than July 1, an approved budget for the fiscal year.

11 (8) Each property valuation administrator may appoint any persons approved by the
12 Department of Revenue to assist him in the discharge of his duties. Each deputy
13 shall be more than twenty-one (21) years of age and may be removed at the pleasure
14 of the property valuation administrator. The salaries of deputies and other
15 authorized personnel shall be fixed by the property valuation administrator in
16 accordance with the grade classification system established by the Department of
17 Revenue and shall be subject to the approval of the Department of Revenue. The
18 Personnel Cabinet shall provide advice and technical assistance to the Department
19 of Revenue in the revision and updating of the personnel classification system,
20 which shall be equitable in all respects to the personnel classification systems
21 maintained for other state employees. Any deputy property valuation administrator
22 employed or promoted to a higher position may be examined by the Department of
23 Revenue in accordance with standards of the Personnel Cabinet, for the position to
24 which he is being appointed or promoted. No state funds available to any property
25 valuation administrator's office as compensation for deputies and other authorized
26 personnel or for other authorized expenditures shall be paid without authorization of
27 the Department of Revenue prior to the employment by the property valuation

1 administrator of deputies or other authorized personnel or the incurring of other
 2 authorized expenditures.

3 (9) Each county fiscal court shall annually appropriate and pay each fiscal year to the
 4 office of the property valuation administrator as its cost for use of the assessment, as
 5 required by KRS 132.280, an amount determined as follows:

6 Assessment Subject to
 7 County Tax of:

8	At Least	But Less Than	Amount
9	----	\$100,000,000	\$0.005 for each \$100 of the first
10			\$50,000,000 and \$0.002 for
11			each \$100 over \$50,000,000.
12	\$100,000,000	150,000,000	\$0.004 for each \$100 of the first
13			\$100,000,000 and \$0.002 for
14			each \$100 over \$100,000,000.
15	150,000,000	300,000,000	\$0.004 for each \$100 of the first
16			\$150,000,000 and \$0.003 for
17			each \$100 over \$150,000,000.
18	300,000,000	----	\$0.004 for each \$100.

19 (10) The total sum to be paid by the fiscal court to any property valuation administrator's
 20 office under the provisions of subsection (9) of this section shall not exceed the
 21 limits set forth in the following table:

22 Assessed Value of Property Subject to
 23 County Tax of:

24	At Least	But Less Than	Limit
25	----	\$700,000,000	\$25,000
26	\$700,000,000	1,000,000,000	35,000
27	1,000,000,000	2,000,000,000	50,000

1	2,000,000,000	2,500,000,000	75,000
2	2,500,000,000	5,000,000,000	100,000
3	5,000,000,000	7,500,000,000	175,000
4	7,500,000,000	<u>15,000,000,000</u>	<u>250,000</u>
5	<u>15,000,000,000</u>	-----	<u>400,000</u>

6 ~~{250,000}~~

7 This allowance shall be based on the assessment as of the previous January 1 and
8 shall be used for deputy and other personnel allowance, supplies, maps and
9 equipment, travel allowance for the property valuation administrator and his
10 deputies and other authorized personnel, and other authorized expenses of the
11 office.

12 (11) Annually, after appropriation by the county of funds required of it by subsection (9)
13 of this section, and no later than August 1, the property valuation administrator shall
14 file a claim with the county for that amount of the appropriation specified in his
15 approved budget for compensation of deputies and assistants, including employer's
16 shares of FICA and state retirement, for the fiscal year. The amount so requested
17 shall be paid by the county into the State Treasury by September 1, or paid to the
18 property valuation administrator and be submitted to the State Treasury by
19 September 1. These funds shall be expended by the Department of Revenue only for
20 compensation of approved deputies and assistants and the employer's share of FICA
21 and state retirement in the appropriating county. Any funds paid into the State
22 Treasury in accordance with this provision but unexpended by the close of the fiscal
23 year for which they were appropriated shall be returned to the county from which
24 they were received.

25 (12) After submission to the State Treasury or to the property valuation administrator of
26 the county funds budgeted for personnel compensation under subsection (11) of this
27 section, the fiscal court shall pay the remainder of the county appropriation to the

1 office of the property valuation administrator on a quarterly basis. Four (4) equal
2 payments shall be made on or before September 1, December 1, March 1, and June
3 1 respectively. Any unexpended county funds at the close of each fiscal year shall
4 be retained by the property valuation administrator, except as provided in KRS
5 132.601(2). During county election years the property valuation administrator shall
6 not expend in excess of forty percent (40%) of the allowances available to his office
7 from county funds during the first five (5) months of the fiscal year in which the
8 general election is held.

9 (13) The provisions of this section shall apply to urban-county governments and
10 consolidated local governments. In an urban-county government and a consolidated
11 local government, all the rights and obligations conferred on fiscal courts or
12 consolidated local governments by the provisions of this section shall be exercised
13 by the urban-county government or consolidated local government.

14 (14) When an urban-county form of government is established through merger of
15 existing city and county governments as provided in KRS Chapter 67A or when a
16 consolidated local government is established through merger of existing city and
17 county governments as provided by KRS Chapter 67C, the annual county
18 assessment shall be presumed to have been adopted as if the city had exercised the
19 option to adopt as provided in KRS 132.285~~], and the annual amount to be~~
20 ~~appropriated to the property valuation administrator's office shall be the combined~~
21 ~~amount that is required of the county under this section and that required of the city~~
22 ~~under KRS 132.285, except that the total shall not exceed one hundred thousand~~
23 ~~dollars (\$100,000) for any urban-county government or consolidated local~~
24 ~~government with an assessment subject to countywide tax of less than five billion~~
25 ~~dollars (\$5,000,000,000), one hundred seventy-five thousand dollars (\$175,000) for~~
26 ~~an urban-county government or consolidated local government with an assessment~~
27 ~~subject to countywide tax between five billion dollars (\$5,000,000,000) and seven~~

1 billion five hundred million dollars (\$7,500,000,000), and two hundred fifty
 2 thousand dollars (\$250,000) for an urban county government or consolidated local
 3 government with an assessment subject to countywide tax in excess of seven billion
 4 five hundred million dollars (\$7,500,000,000)}. For purposes of this subsection, the
 5 amount to be considered as the assessment for purposes of KRS 132.285 shall be
 6 the amount subject to taxation for full urban services.

7 (15) Notwithstanding the provisions of subsection (9) of this section, the amount
 8 appropriated and paid by each county fiscal court to the office of the property
 9 valuation administrator for 1996 and subsequent years shall be equal to the amount
 10 paid to the office of the property valuation administrator for 1995, or the amount
 11 required by the provisions of subsections (9) and (10) of this section, whichever is
 12 greater.

13 ➔SECTION 46. A NEW SECTION OF KRS CHAPTER 143 IS CREATED TO
 14 READ AS FOLLOWS:

15 **(1) A taxpayer engaged in severing or processing coal within this Commonwealth**
 16 **that has paid the tax imposed under KRS 143.020 may apply for a refund equal to**
 17 **the amount of tax paid under KRS 143.020 if the coal is transported directly to a**
 18 **market outside of North America.**

19 **(2) To apply for the refund allowed under subsection (1) of this section the taxpayer**
 20 **shall file an application for refund with the department and submit all**
 21 **information and documentation necessary to substantiate that the tax was paid**
 22 **upon the coal which was transported directly to a market outside of North**
 23 **America.**

24 **(3) The refund process allowed under subsection (1) of this section is available**
 25 **beginning on or after August 1, 2020, but before July 1, 2022, and limited during**
 26 **any calendar year to the export of a combined total of ten million (10,000,000)**
 27 **tons of coal subject to the tax imposed under KRS 143.020 and exported through**

1 **United States coal export terminals to markets outside of North America.**

2 ➔Section 47. KRS 103.200 is amended to read as follows:

3 As used in KRS 103.200 to 103.285:

- 4 (1) "Building" or "industrial building" means any land and building or buildings
5 (including office space related and subordinate to any of the facilities enumerated
6 below), any facility or other improvement thereon, and all real and personal
7 properties, including operating equipment and machinery deemed necessary in
8 connection therewith, whether or not now in existence, which shall be suitable for
9 the following or any combination thereof:
- 10 (a) Any activity, business, or industry for the manufacturing, processing or
11 assembling of any commercial product, including agricultural, mining, or
12 manufactured products **and solar-generated electricity**, together with storage,
13 warehousing, and distribution facilities in respect thereof;
- 14 (b) Any undertaking involving the construction, reconstruction, and use of
15 airports, mass commuting facilities, ship canals, ports or port facilities, docks
16 or wharf facilities or harbor facilities, off-street parking facilities or of
17 railroads, monorails, or tramways, railway or airline terminals, cable
18 television, mass communication facilities, and related facilities;
- 19 (c) Any buildings, structures, and facilities, including the site thereof and
20 machinery, equipment, and furnishings suitable for use as health-care or
21 related facilities, including without limitation hospitals, clinics, nursing
22 homes, research facilities, extended or long-term care facilities, including
23 housing for the aged or the infirm and all buildings, structures, and facilities
24 deemed necessary or useful in connection therewith;
- 25 (d) Any nonprofit educational institution in any manner related to or in
26 furtherance of the educational purposes of such institution, including but not
27 limited to classroom, laboratory, housing, administrative, physical

- 1 educational, and medical research and treatment facilities;
- 2 (e) Any facilities for any recreation or amusement park, public park, or theme
3 park, including specifically facilities for the use of nonprofit entities in
4 making recreational and cultural benefits available to the public;
- 5 (f) Any facilities involving manufacturing and service industries which process
6 raw agricultural products, including timber, provide value-added functions, or
7 supply ingredients used for production of basic agricultural crops and
8 products;
- 9 (g) Any facilities incident to the development of industrial sites, including land
10 costs and the costs of site improvements thereon, such as grading, streets,
11 drainage, storm and sanitary sewers, and other facilities and structures
12 incidental to the use of such site or sites for industrial use;
- 13 (h) Any facilities for the furnishing of water, if available on reasonable demand to
14 members of the general public;
- 15 (i) Any facilities for the extraction, production, grading, separating, washing,
16 drying, preparing, sorting, loading, and distribution of mineral resources,
17 together with related facilities;
- 18 (j) Any convention or trade show facilities, together with all related and
19 subordinate facilities necessary to the development and proper utilization
20 thereof;
- 21 (k) Any facilities designed and constructed to be used as hotels and/or motels,
22 together with all related and subordinate facilities necessary to the operation
23 thereof, including site preparation and similar facilities;
- 24 (l) Any activity designed for the preservation of residential neighborhoods,
25 provided that such activity receives approval of the heritage division and
26 insures the preservation of not fewer than four (4) family units;
- 27 (m) Any activity designed for the preservation of commercial or residential

1 buildings which are on the National Register of Historic Places or within an
2 area designated as a national historic district or approved by the heritage
3 division;

4 (n) Any activity, including new construction, designed for revitalization or
5 redevelopment of downtown business districts as designated by the issuer; and

6 (o) Any use by an entity recognized by the Internal Revenue Service as an
7 organization described in 26 U.S.C. sec. 501(c)(3) in any manner related to or
8 in the furtherance of that entity's exempt purposes where the use would also
9 qualify for federally tax-exempt financing under the rules applicable to a
10 qualified 501(c)(3) bond as defined in 26 U.S.C. sec. 145.

11 (2) "Bonds" or "negotiable bonds" means bonds, notes, variable rate bonds, commercial
12 paper bonds, bond anticipation notes, or any other obligations for the payment of
13 money issued by a city, county, or other authority pursuant to KRS 103.210 to
14 103.285.

15 (3) "Substantiating documentation" means an independent finding, study, report, or
16 assessment of the economic and financial impact of a project, which shall include a
17 review of customary business practices, terms, and conditions for similar types of
18 projects, both taxable and tax-exempt, in the current market environment.

19 ➔Section 48. KRS 95A.210 is amended to read as follows:

20 As used in KRS 95A.200 to 95A.300, unless the context otherwise requires:

21 (1) "Commission" means the Commission on Fire Protection Personnel Standards and
22 Education established pursuant to KRS 95A.020;

23 (2) "Established work schedule" means a work schedule adopted by or required of a
24 local government setting a recurring pattern for time on and off duty for
25 professional firefighters employed by the local government. An established work
26 schedule includes but is not limited to a schedule of twenty-four (24) consecutive
27 hours on duty, followed by forty-eight (48) consecutive hours off duty;

- 1 (3) "Executive director" means the executive director of the Commission on Fire
2 Protection Personnel Standards and Education;
- 3 (4) "Fund" means Firefighters Foundation Program Fund;
- 4 (5) "Local government" means any city, county, urban-county government, charter
5 county government, unified local government, consolidated local government, *air*
6 *board created under KRS Chapter 183*, or any combination thereof of the
7 Commonwealth;
- 8 (6) "Professional firefighter" means any member of a paid municipal fire department
9 organized under KRS Chapter 95, 67A, or 67C, a fire protection district organized
10 under KRS Chapter 75, ~~or~~ a county fire department created pursuant to KRS
11 Chapter 67, *or any firefighter employed by an air board created under KRS*
12 *Chapter 183*;
- 13 (7) "Program" means the Alan "Chip" Terry Professional Development and Wellness
14 Program for firefighters established in KRS 95A.292;
- 15 (8) "Scheduled overtime" means work by a professional firefighter in excess of forty
16 (40) hours per week which regularly recurs as part of an established work schedule;
17 and
- 18 (9) "Unscheduled overtime" means work by a professional firefighter in excess of forty
19 (40) hours per week which does not regularly recur as part of an established work
20 schedule.

21 ➔Section 49. KRS 65.710 is amended to read as follows:

22 In order to enable cities and counties to fulfill their obligations regarding the public
23 health, safety, and welfare, the General Assembly does hereby allow cities and counties to
24 contract with private persons, partnerships, or corporations for providing ambulance
25 service to the residents of such cities and counties subject to the following conditions:

- 26 (1) These contracts must be in writing and must be approved by the legislative body of
27 the city if a city is party thereto, or by the fiscal court in case a county is party

1 thereto.

2 (2) No contract shall be made with an ambulance service or other organization or
3 person unless the contract shall stipulate that at least one (1) person on each
4 ambulance run shall possess currently valid emergency medical technician
5 certification.

6 (3) All contracts made with any ambulance service or other organization or person shall
7 stipulate that all vehicles used for operation of the service comply with vehicle and
8 equipment administrative regulations issued by the Cabinet for Health and Family
9 Services.

10 (4) All contracts shall include the stipulation that at least two (2) trained persons, one
11 (1) driver and one (1) attendant, shall be carried on each ambulance for each
12 ambulance call which is covered by the contract.

13 (5) No contract shall be made for a period of time greater than four (4) years~~one (1)~~
14 ~~year~~.

15 (6) The vehicle, equipment, training, and personnel requirements of subsections (2),
16 (3), and (4) of this section shall also apply to the operation of an ambulance service
17 by a city or a county or by a city and a county jointly.

18 (7) No provisions of this section shall be construed as to limit the power of any city or
19 county to contract for or operate ambulance services under requirements which are
20 stricter than those of this section, or to require insurance, or bonding of contractors,
21 provided these provisions are not in conflict with the requirements of this section.

22 ➔Section 50. KRS 138.130 is amended to read as follows:

23 As used in KRS 138.130 to 138.205:

24 (1) (a) "Chewing tobacco" means any leaf tobacco that is not intended to be smoked
25 and includes loose leaf chewing tobacco, plug chewing tobacco, and twist
26 chewing tobacco.

27 (b) "Chewing tobacco" does not include snuff;

- 1 (2) ~~{(a)}~~ "Cigarettes" means any roll for smoking made wholly or in part of tobacco,
2 or any substitute for tobacco, irrespective of size or shape and whether or not
3 the tobacco is flavored, adulterated, or mixed with any other ingredient, the
4 wrapper or cover of which is made of paper or any other substance or
5 material, except tobacco~~};~~
- 6 ~~(b) "Cigarettes" does not include reference tobacco products or electronic~~
7 ~~cigarettes};~~
- 8 (3) "Cigarette tax" means the group of taxes consisting of:
- 9 (a) The tax imposed by KRS 138.140(1)(a);
10 (b) The surtax imposed by KRS 138.140(1)(b); and
11 (c) The surtax imposed by KRS 138.140(1)(c);
- 12 (4) (a) "Closed vapor cartridge" means a pre-filled disposable cartridge that:
- 13 1. Is intended to be used with or in a noncombustible product that
14 employs a heating element, battery, power source, electronic circuit, or
15 other electronic, chemical, or mechanical means, regardless of shape
16 or size, to deliver vaporized or aerosolized nicotine, non-nicotine
17 substances, or other materials to users that may be inhaling from the
18 product such as any electronic cigarette, electronic cigar, electronic
19 cigarillo, electronic pipe, or other similar product or device and every
20 variation thereof, regardless of whether marketed as such; and
- 21 2. Contains nicotine or non-nicotine substances or other material
22 consumed during the process of vaporization or aerosolization.
- 23 (b) "Closed vapor cartridge" does not include any product regulated as a drug
24 or device by the United States Food and Drug Administration under
25 Chapter V of the Food, Drug, and Cosmetic Act;
- 26 (5) "Department" means the Department of Revenue;
- 27 (6)~~{(5)}~~ "Distributor" means any person within this state in possession of tobacco

1 products or vapor products for resale within this state on which the tobacco
2 products tax imposed under KRS 138.140(2) has not been paid;

3 ~~(7)~~~~(6)~~ "Half-pound unit" means a consumer-sized container, pouch, or package:

4 (a) Containing at least four (4) ounces but not more than eight (8) ounces of
5 chewing tobacco by net weight;

6 (b) Produced by the manufacturer to be sold to consumers as a half-pound unit
7 and not produced to be divided or sold separately; and

8 (c) Containing one (1) individual container, pouch, or package;

9 ~~(8)~~~~(7)~~ "Manufacturer" means any person who manufactures or produces cigarettes or
10 tobacco products within or without this state;

11 ~~(9)~~~~(8)~~ "Nonresident wholesaler" means any person who purchases cigarettes directly
12 from the manufacturer and maintains a permanent location outside this state where
13 Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is
14 reported and paid;

15 ~~(10)~~~~(9)~~ (a) "Open vaping system" means:

16 1. Any noncombustible product that employs a heating element, battery,
17 power source, electronic circuit, or other electronic, chemical, or
18 mechanical means, regardless of shape or size and including the
19 component parts and accessories thereto, that uses a refillable liquid
20 solution to deliver vaporized or aerosolized nicotine, non-nicotine
21 substances, or other materials to users that may be inhaling from the
22 product such as any electronic cigarette, electronic cigar, electronic
23 cigarillo, electronic pipe, or similar product or device and every
24 variation thereof, regardless of whether marketed as such; and

25 2. Any liquid solution that is intended to be used with the product
26 described in subparagraph 1. of this paragraph.

27 (b) "Open vaping system" does not include any product regulated as a drug or

1 *device by the United States Food and Drug Administration under Chapter V*
2 *of the Food, Drug, and Cosmetic Act;*

3 (11) "Person" means any individual, firm, copartnership, joint venture, association,
4 municipal or private corporation whether organized for profit or not, the
5 Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or
6 any other group or combination acting as a unit;

7 (12)~~(10)~~ "Pound unit" means a consumer-sized container, pouch, or package:

8 (a) Containing more than eight (8) ounces but not more than sixteen (16) ounces
9 of chewing tobacco by net weight;

10 (b) Produced by the manufacturer to be sold to consumers as a pound unit and not
11 produced to be divided or sold separately; and

12 (c) Containing one (1) individual container, pouch, or package;

13 (13)~~(11)~~ "Reference~~[-tobacco]~~ products" means tobacco products, vapor products, or
14 cigarettes made by a manufacturer specifically for an accredited state college or
15 university to be held by the college or university until sale or transfer to a
16 laboratory, hospital, medical center, institute, college or university, manufacturer, or
17 other institution;

18 (14)~~(12)~~ "Resident wholesaler" means any person who purchases at least seventy-five
19 percent (75%) of all cigarettes purchased by the wholesaler directly from the
20 manufacturer on which the cigarette tax is unpaid, and who maintains an established
21 place of business in this state where the wholesaler attaches cigarette tax evidence
22 or receives untax-paid cigarettes;

23 (15)~~(13)~~ "Retail distributor" means a retailer who has obtained a retail distributor's
24 license under KRS 138.195;

25 (16)~~(14)~~ "Retailer" means any person who sells to a consumer or to any person for any
26 purpose other than resale;

27 (17)~~(15)~~ "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift,

1 offer for sale, advertising for sale, soliciting an order for cigarettes or tobacco
2 products, and distribution in any manner or by any means whatsoever;

3 ~~(18)~~~~(16)~~ "Sale at retail" means a sale to any person for any other purpose other than
4 resale;

5 ~~(19)~~~~(17)~~ "Single unit" means a consumer-sized container, pouch, or package:

6 (a) Containing less than four (4) ounces of chewing tobacco by net weight;

7 (b) Produced by the manufacturer to be sold to consumers as a single unit and not
8 produced to be divided or sold separately; and

9 (c) Containing one (1) individual container, pouch, or package;

10 ~~(20)~~~~(18)~~ (a) "Snuff" means tobacco that:

11 1. Is finely cut, ground, or powdered; and

12 2. Is not for smoking.

13 (b) "Snuff" includes snus;

14 ~~(21)~~~~(19)~~ "Sub-jobber" means any person who purchases cigarettes from a resident
15 wholesaler, nonresident wholesaler, or unclassified acquirer licensed under KRS
16 138.195 on which the cigarette tax has been paid and makes them available to
17 retailers for resale. No person shall make cigarettes available to retailers for resale
18 unless the person certifies and establishes to the satisfaction of the department that
19 firm arrangements have been made to regularly supply at least five (5) retail
20 locations with Kentucky tax-paid cigarettes for resale in the regular course of
21 business;

22 ~~(22)~~~~(20)~~ "Tax evidence" means any stamps, metered impressions, or other indicia
23 prescribed by the department by administrative regulation as a means of denoting
24 the payment of cigarette taxes;

25 ~~(23)~~~~(21)~~ "Tobacco products" means any smokeless tobacco products, smoking tobacco,
26 chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for
27 chewing or smoking, or both, or any kind or form of tobacco that is suitable to be

1 placed in an individual's oral cavity, except cigarettes;

2 ~~(24)~~~~(22)~~ "Tobacco products tax" means the tax imposed by KRS 138.140(2)~~(a)~~1. to 3.;

3 ~~(25)~~~~(23)~~ "Transporter" means any person transporting untax-paid cigarettes obtained
4 from any source to any destination within this state, other than cigarettes transported
5 by the manufacturer thereof;

6 ~~(26)~~~~(24)~~ "Unclassified acquirer" means any person in this state who acquires cigarettes
7 from any source on which the cigarette tax has not been paid, and who is not a
8 person otherwise required to be licensed under KRS 138.195;

9 ~~(27)~~~~(25)~~ "Untax-paid cigarettes" means any cigarettes on which the cigarette tax
10 imposed by KRS 138.140 has not been paid;

11 ~~(28)~~~~(26)~~ "Untax-paid tobacco or vapor products" means any tobacco products or vapor
12 products on which the~~tobacco products~~ tax imposed by KRS 138.140~~(2)~~ has not
13 been paid;~~and~~

14 ~~(29)~~ "Vapor products" means a closed vapor cartridge or an open vaping system;

15 ~~(30)~~ "Vapor products tax" means tax imposed under subsection (2)(a)4. and 5. of
16 Section 53 of this Act; and

17 ~~(31)~~~~(27)~~ "Vending machine operator" means any person who operates one (1) or more
18 cigarette vending machines.

19 ➔Section 51. KRS 138.132 is amended to read as follows:

20 (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid
21 tobacco products or vapor products held, owned, possessed, or in control of any
22 person other than as provided in KRS 138.130 to 138.205 are contraband and
23 subject to seizure and forfeiture as set out in this section.

24 (2) (a) If a retailer, who is not a licensed retail distributor, purchases tobacco
25 products or vapor products from a licensed distributor and the purchase
26 invoice does not contain the separate identification and display of the tobacco
27 products tax or vapor products tax, the retailer shall, within twenty-four (24)

- 1 hours, notify the department in writing.
- 2 (b) The notification shall include the name and address of the person from whom
3 the tobacco products or vapor products were purchased and a copy of the
4 purchase invoice.
- 5 (c) The tobacco products or vapor products for which the required information
6 was not included on the invoice shall be retained by the retailer, and not sold,
7 for a period of fifteen (15) days after giving the proper notice as required by
8 this subsection.
- 9 (d) After the fifteen (15) day period, the retailer may pay the tax due on the
10 tobacco products or vapor products described in paragraph (c) of this
11 subsection according to administrative regulations promulgated by the
12 department, and after which may proceed to sell the tobacco products or vapor
13 products.
- 14 (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products or
15 vapor products for resale from a person not licensed under KRS 138.195(7), which
16 is prohibited by KRS 138.140(2), the retailer may not sell those tobacco products or
17 vapor products until the retailer applies for and is granted a retail distributor's
18 license under KRS 138.195(7)(b).
- 19 (4) If, upon examination, the department determines that the retailer has failed to
20 comply with the provisions of subsection (3) of this section, the retailer shall pay all
21 tax and interest and applicable penalties due and the following shall apply:
- 22 (a) For the first offense, an additional penalty shall be assessed equal to ten
23 percent (10%) of the tax due;
- 24 (b) For a second offense within three (3) years or less of the first offense, an
25 additional penalty shall be assessed equal to twenty-five percent (25%) of the
26 tax due; and
- 27 (c) For a third offense or subsequent offense within three (3) years or less of the

1 first offense, the tobacco products or vapor products shall be contraband and
2 subject to seizure and forfeiture as provided in subsection (5) of this section.

3 (5) (a) Whenever a representative of the department finds contraband tobacco
4 products or contraband vapor products within the borders of this state, the
5 tobacco products or vapor products shall be immediately seized and stored in
6 a depository to be determined by the representative.

7 (b) At the time of seizure, the representative shall deliver to the person in whose
8 custody the tobacco products or vapor products are found a receipt for the
9 seized products. The receipt shall state on its face that any inquiry concerning
10 any tobacco products or vapor products seized shall be directed to the
11 commissioner of the Department of Revenue, Frankfort, Kentucky.

12 (c) Immediately upon seizure, the representative shall notify the commissioner of
13 the nature and quantity of the tobacco products or vapor products seized. Any
14 seized tobacco products or vapor products shall be held for a period of twenty
15 (20) days, and if after that period no person has claimed the tobacco products
16 or vapor products as his or her property, the commissioner shall cause the
17 tobacco products or vapor products to be destroyed.

18 (6) All fixtures, equipment, materials, and personal property used in substantial
19 connection with the sale or possession of tobacco products or vapor products
20 involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be
21 contraband and subject to seizure and forfeiture as follows:

22 (a) The department's representative shall seize the property and store the property
23 in a safe place selected by the representative; and

24 (b) The representative shall proceed as provided in KRS 138.165(2). The
25 commissioner shall cause the property to be sold after notice published
26 pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as
27 provided in KRS 138.165(2).

1 (7) The owner or any person having an interest in the fixtures, materials, or personal
2 property that has been seized as provided by subsection (6) of this section may
3 apply to the commissioner for remission of the forfeiture for good cause shown. If it
4 is shown to the satisfaction of the commissioner that the owner or person having an
5 interest in the property was without fault, the department shall remit the forfeiture.

6 (8) Any party aggrieved by an order entered under this section may appeal to the
7 Kentucky Claims Commission pursuant to KRS 49.220.

8 ➔Section 52. KRS 138.135 is amended to read as follows:

9 (1) (a) Every manufacturer, whether located in this state or outside this state, that
10 ships tobacco products or vapor products to a distributor, retailer, retail
11 distributor, or any other person located in this state shall file a report with the
12 department on or before the twentieth day of each month identifying all such
13 shipments made by the manufacturer during the preceding month. The
14 department, within its discretion, may allow a manufacturer to file the report
15 for periods other than monthly.

16 (b) The reports shall identify:

- 17 1. The names and addresses of the persons in this state to whom the
18 shipments were made;
- 19 2. The quantities of tobacco products and vapor products shipped, by type
20 of product and brand; and
- 21 3. Any other information the department may require.

22 (2) Each licensed distributor and each licensed retail distributor shall keep in each
23 licensed place of business complete and accurate records for that place of business,
24 including:

25 (a) Itemized invoices of:

- 26 1. Tobacco products and vapor products purchased, manufactured,
27 imported, or caused to be imported into this state from outside this state,

- 1 or shipped or transported to other distributors or retailers in this state or
 2 outside this state, including type of product and brand;
- 3 2. All sales of tobacco products and vapor products, including sales of
 4 tobacco products and vapor products manufactured or produced in this
 5 state, including type of product and brand; and
- 6 3. All tobacco products and vapor products transferred to retail outlets
 7 owned or controlled by the licensed distributor, including type of
 8 product and brand; and
- 9 (b) Any other records required by the department.
- 10 (3) Each retailer of tobacco products or vapor products shall keep complete and
 11 accurate records of all purchases of tobacco products or vapor products, including
 12 invoices that identify:
- 13 (a) The distributor's name and address;
- 14 (b) The name, quantity, and purchase price of the product purchased;
- 15 (c) The license number of the distributor licensed under KRS 138.195(7); and
- 16 (d) The tobacco products tax or the vapor products tax imposed by Section 53 of
 17 this Act~~[KRS 138.140]~~.
- 18 (4) All books, records, invoices, and documents required by this section shall be
 19 preserved, in a form prescribed by the department, for not less than four (4) years
 20 from the making of the records unless the department authorizes, in writing, the
 21 destruction of the records.
- 22 ➔Section 53. KRS 138.140 is amended to read as follows:
- 23 (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate
 24 rate of three cents (\$0.03) on each twenty (20) cigarettes.
- 25 (b) Effective July 1, 2018, a surtax shall be paid in addition to the tax levied in
 26 paragraph (a) of this subsection at a proportionate rate of one dollar and six
 27 cents (\$1.06) on each twenty (20) cigarettes.

1 (c) A surtax shall be paid in addition to the tax levied in paragraph (a) of this
 2 subsection and in addition to the surtax levied by paragraph (b) of this
 3 subsection, at a proportionate rate of one cent (\$0.01) on each twenty (20)
 4 cigarettes. The revenues from this surtax shall be deposited in the cancer
 5 research institutions matching fund created in KRS 164.043.

6 (d) The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be
 7 paid at the time that the tax imposed by paragraph (a) of this subsection is
 8 paid.

9 (2) (a) An excise tax is hereby imposed upon every distributor for the privilege of
 10 selling tobacco products in this state at the following rates:

- 11 1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-
 12 half (1-1/2) ounces or portion thereof by net weight sold;
- 13 2. Upon chewing tobacco at the rate of:
 - 14 a. Nineteen cents (\$0.19) per each single unit sold;
 - 15 b. Forty cents (\$0.40) per each half-pound unit sold; or
 - 16 c. Sixty-five cents (\$0.65) per each pound unit sold.

17 If the container, pouch, or package on which the tax is levied contains
 18 more than sixteen (16) ounces by net weight, the rate that shall be
 19 applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus
 20 nineteen cents (\$0.19) for each increment of four (4) ounces or portion
 21 thereof exceeding sixteen (16) ounces sold;~~and~~

22 3. Upon tobacco products sold, at the rate of fifteen percent (15%) of the
 23 actual price for which the distributor sells tobacco products, except snuff
 24 and chewing tobacco, within the Commonwealth;

25 4. Upon closed vapor cartridges, one dollar and fifty cents (\$1.50) per
 26 cartridge; and

27 5. Upon open vaping systems, fifteen percent (15%) of the actual price

1 **for which the distributor sells the open vaping system.**

2 (b) The net weight posted by the manufacturer on the container, pouch, or
3 package or on the manufacturer's invoice shall be used to calculate the tax due
4 on snuff or chewing tobacco.

5 (c) 1. A retailer located in this state shall not purchase tobacco products for
6 resale to consumers from any person within or outside this state unless
7 that person is a distributor licensed under KRS 138.195(7)(a) or the
8 retailer applies for and is granted a retail distributor's license under KRS
9 138.195(7)(b) for the privilege of purchasing untax-paid tobacco
10 products and remitting the tax as provided in this paragraph.

11 2. A licensed retail distributor of tobacco products shall be subject to the
12 excise tax as follows:

13 a. On purchases of untax-paid snuff, at the same rate levied by
14 paragraph (a)1. of this subsection;

15 b. On purchases of untax-paid chewing tobacco, at the same rates
16 levied by paragraph (a)2. of this subsection; ~~and~~

17 c. On purchases of untax-paid tobacco products, except snuff and
18 chewing tobacco, fifteen percent (15%) of the total purchase price
19 as invoiced by the retail distributor's supplier;

20 **d. On purchases of untax-paid closed vapor cartridges, at the same**
21 **rate levied by paragraph (a)4. of this subsection; and**

22 **e. On purchases of untax-paid open vaping systems, fifteen percent**
23 **(15%) of the total purchase price as invoiced by the retail**
24 **distributor's supplier.**

25 (d) 1. The licensed distributor that first possesses tobacco products **or vapor**
26 **products** for sale to a retailer in this state or for sale to a person who is
27 not licensed under KRS 138.195(7) shall be the distributor liable for the

1 tax imposed by this subsection except as provided in subparagraph 2. of
2 this paragraph.

3 2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco
4 products or vapor products to another distributor licensed under KRS
5 138.195(7)(a) without payment of the excise tax. In such case, the
6 purchasing licensed distributor shall be the distributor liable for the tax.

7 3. A licensed distributor or licensed retail distributor shall:

8 a. Identify and display the distributor's or retail distributor's license
9 number on the invoice to the retailer; and

10 b. Identify and display the excise tax separately on the invoice to the
11 retailer. If the excise tax is included as part of the product's sales
12 price, the licensed distributor or licensed retail distributor shall list
13 the total excise tax in summary form by tax type with invoice
14 totals.

15 4. It shall be presumed that the excise tax has not been paid if the licensed
16 distributor or licensed retail distributor does not comply with
17 subparagraph 3. of this paragraph.

18 (e) No tax shall be imposed on tobacco products or vapor products under this
19 subsection that are not within the taxing power of this state under the
20 Commerce Clause of the United States Constitution.

21 (3) (a) The taxes imposed by subsections (1) and (2) of this section:

22 1. Shall not apply to reference[~~tobacco~~] products; and

23 2. Shall be paid only once, regardless of the number of times the cigarettes
24 or tobacco products may be sold.

25 (b) The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this
26 section shall be reduced by:

27 1. Fifty percent (50%) on any product as to which a modified risk tobacco

- 1 product order is issued under 21 U.S.C. sec. 387k(g)(1); or
- 2 2. Twenty-five percent (25%) for any product as to which a modified risk
- 3 tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).
- 4 (4) A reference~~[tobacco]~~ product shall carry a marking labeling the contents as a
- 5 research cigarette, **research vapor product**, or a research tobacco product to be used
- 6 only for tobacco-health research and experimental purposes and shall not be offered
- 7 for sale, sold, or distributed to consumers.
- 8 (5) The department may prescribe forms and promulgate administrative regulations to
- 9 execute and administer the provisions of this section.
- 10 (6) The General Assembly recognizes that increasing taxes on tobacco products should
- 11 reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The
- 12 relative taxes on tobacco products proposed in this section reflect the growing data
- 13 from scientific studies suggesting that although smokeless tobacco poses some
- 14 risks, those health risks are significantly less than the risks posed by other forms of
- 15 tobacco products. Moreover, the General Assembly acknowledges that some in the
- 16 public health community recognize that tobacco harm reduction should be a
- 17 complementary public health strategy regarding tobacco products. Taxing tobacco
- 18 products according to relative risk is a rational tax policy and may well serve the
- 19 public health goal of reducing smoking-related mortality and morbidity and
- 20 lowering health care costs associated with tobacco-related disease.
- 21 (7) Any person subject to the taxes imposed under subsections (1) and (2) of this
- 22 section that:
- 23 (a) Files an application related to a modified risk tobacco product shall report to
- 24 the department that an application has been filed within thirty (30) days of that
- 25 filing; and
- 26 (b) Receives an order authorizing the marketing of a modified risk tobacco
- 27 product shall report to the department that an authorizing order has been

1 received.

2 (8) Upon receipt of the information required by subsection (7)(b) of this section, the
3 department shall reduce the tax imposed on the modified risk tobacco product as
4 required by subsection (3)(b) of this section on the first day of the calendar month
5 following the expiration of forty-five (45) days following receipt of the information
6 required by subsection (7)(b) of this section.

7 ➔Section 54. KRS 138.183 is amended to read as follows:

8 (1) Notwithstanding any other provision of this chapter to the contrary, the president,
9 vice president, secretary, treasurer, or any other person holding any equivalent
10 corporate office of any corporation subject to the provisions of KRS 138.130 to
11 138.205 shall be personally and individually liable, both jointly and severally, for
12 the taxes imposed by Section 53 of this Act~~cigarette tax and the tobacco products~~
13 ~~tax~~.

14 (2) Corporate dissolution, withdrawal of the corporation from the state, or the cessation
15 of holding any corporate office shall not discharge the liability of any person. The
16 personal and individual liability shall apply to every person holding a corporate
17 office at the time the tax becomes or became due.

18 (3) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or
19 predecessor law, or KRS 362.2-404(3) to the contrary, the managers of a limited
20 liability company, the partners of a limited liability partnership, and the general
21 partners of a limited liability limited partnership or any other person holding any
22 equivalent office of a limited liability company, limited liability partnership or
23 limited liability limited partnership subject to the provisions of KRS 138.130 to
24 138.205 shall be personally and individually liable, both jointly and severally, for
25 the taxes imposed by Section 53 of this Act~~cigarette tax and the tobacco products~~
26 ~~tax~~.

27 (4) Dissolution, withdrawal of the limited liability company, limited liability

1 partnership, or limited liability limited partnership from the state, or the cessation of
2 holding any office shall not discharge the liability of any person. The personal and
3 individual liability shall apply to every manager of a limited liability company,
4 partner of a limited liability partnership or general partner of a limited liability
5 limited partnership at the time the tax becomes or became due.

6 (5) No person shall be personally and individually liable under this section who had no
7 authority to collect, truthfully account for, or pay over any **tax imposed by Section**
8 **53 of this Act**~~[cigarette tax or tobacco products tax]~~ at the time the taxes imposed
9 become or became due.

10 (6) "Taxes" as used in this section include interest accrued at the rate provided by KRS
11 131.183, all applicable penalties imposed under the provisions of this chapter, and
12 all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to
13 131.445, and 131.990.

14 ➔Section 55. KRS 138.195 is amended to read as follows:

15 (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on
16 which the Kentucky cigarette tax has not been paid, nor act as a resident
17 wholesaler, nonresident wholesaler, vending machine operator, sub-jobber,
18 transporter or unclassified acquirer of such cigarettes without first obtaining a
19 license from the department as set out in this section.

20 (b) No person shall act as a distributor of tobacco products **or vapor products**
21 without first obtaining a license from the department as set out in this section.

22 (c) For licenses effective for periods beginning on or after July 1, 2015, no
23 individual, entity, or any other group or combination acting as a unit may be
24 eligible to obtain a license under this section if the individual, or any partner,
25 director, principal officer, or manager of the entity or any other group or
26 combination acting as a unit has been convicted of or entered a plea of guilty
27 or nolo contendere to:

- 1 1. A crime relating to the reporting, distribution, sale, or taxation of
2 cigarettes, ~~or~~ tobacco products, or vapor products; or
3 2. A crime involving fraud, falsification of records, improper business
4 transactions or reporting;
5 for ten (10) years from the expiration of probation or final discharge from
6 parole or maximum expiration of sentence.
- 7 (2) (a) Each resident wholesaler shall secure a separate license for each place of
8 business at which cigarette tax evidence is affixed or at which cigarettes on
9 which the Kentucky cigarette tax has not been paid are received.
- 10 (b) Each nonresident wholesaler shall secure a separate license for each place of
11 business at which evidence of Kentucky cigarette tax is affixed or from where
12 Kentucky cigarette tax is reported and paid.
- 13 (c) Each license shall be secured on or before July 1 of each year.
- 14 (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
15 or portion thereof, for which each license is secured.
- 16 (3) (a) Each sub-jobber shall secure a separate license for each place of business from
17 which cigarettes, upon which the cigarette tax has been paid, are made
18 available to retailers, whether the place of business is located within or
19 without this state.
- 20 (b) Each license shall be secured on or before July 1 of each year.
- 21 (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
22 or portion thereof, for which each license is secured.
- 23 (4) (a) Each vending machine operator shall secure a license for the privilege of
24 dispensing cigarettes, on which the cigarette tax has been paid, by vending
25 machines.
- 26 (b) Each license shall be secured on or before July 1 of each year.
- 27 (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or

- 1 portion thereof, for which each license is secured.
- 2 (d) No vending machine shall be operated within this Commonwealth without
3 having prominently affixed thereto the name of its operator and the license
4 number assigned to that operator by the department.
- 5 (e) The department shall prescribe by administrative regulation the manner in
6 which the information shall be affixed to the vending machine.
- 7 (5) (a) Each transporter shall secure a license for the privilege of transporting
8 cigarettes within this state.
- 9 (b) Each license shall be secured on or before July 1 of each year.
- 10 (c) Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion
11 thereof, for which each license is secured.
- 12 (d) No transporter shall transport any cigarettes without having in actual
13 possession an invoice or bill of lading therefor, showing:
- 14 1. The name and address of the consignor and consignee;
15 2. The date acquired by the transporter;
16 3. The name and address of the transporter;
17 4. The quantity of cigarettes being transported; and
18 5. The license number assigned to the transporter by the department.
- 19 (6) Each unclassified acquirer shall secure a license for the privilege of acquiring
20 cigarettes on which the cigarette tax has not been paid. The license shall be secured
21 on or before July 1 of each year. Each licensee shall pay the sum of fifty dollars
22 (\$50) for each year, or portion thereof, for which the license is secured.
- 23 (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco
24 products or vapor products in this state. Each license shall be secured on
25 or before July 1 of each year, and each licensee shall pay the sum of five
26 hundred dollars (\$500) for each year, or portion thereof, for which the
27 license is secured.

1 requesting a license or holding a license under this section to supply such
2 information concerning his business, sales or any privilege exercised, as is
3 deemed reasonably necessary for the regulation of the licensees, and to protect
4 the revenues of the state.

5 (b) Failure on the part of the applicant or licensee to:

- 6 1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
7 248.754 or any administrative regulations promulgated thereunder; or
- 8 2. Permit an inspection of premises, machines, or vehicles by an authorized
9 agent of the department at any reasonable time;

10 shall be grounds for the denial or revocation of any license issued by the
11 department, after due notice and a hearing by the department.

12 (c) The commissioner may assign a time and place for the hearing and may
13 appoint a conferee who shall conduct a hearing, receive evidence, and hear
14 arguments.

15 (d) The conferee shall thereupon file a report with the commissioner together with
16 a recommendation as to the denial or revocation of the license.

17 (e) From any denial or revocation made by the commissioner on the report, the
18 licensee may prosecute an appeal to the Kentucky Claims Commission
19 pursuant to KRS 49.220.

20 (f) Any person whose license has been revoked for the willful violation of any
21 provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
22 248.754 or any administrative regulations promulgated thereunder shall not be
23 entitled to any license provided for in this section, or have any interest in any
24 license, either disclosed or undisclosed, either as an individual, partnership,
25 corporation or otherwise, for a period of two (2) years after the revocation.

26 (10) No license issued pursuant to this section shall be transferable or negotiable except
27 that a license may be transferred between an individual and a corporation, if that

1 individual is the exclusive owner of that corporation, or between a subsidiary
2 corporation and its parent corporation.

3 (11) Every manufacturer located or doing business in this state and the first person to
4 import cigarettes into this state shall keep written records of all shipments of
5 cigarettes to persons within this state, and shall submit to the department monthly
6 reports of such shipments. All books, records, invoices, and documents required by
7 this section shall be preserved in a form prescribed by the department for not less
8 than four (4) years from the making of the records unless the department authorizes,
9 in writing, the destruction of the records.

10 (12) No person licensed under this section except nonresident wholesalers shall either
11 sell to or purchase from any other such licensee untax-paid cigarettes.

12 (13) (a) Licensed distributors of tobacco products or vapor products shall pay and
13 report the tobacco products tax or vapor products tax on or before the
14 twentieth day of the calendar month following the month in which the
15 possession or title of the tobacco products or vapor products are transferred
16 from the licensed distributor to retailers or consumers in this state, as the case
17 may be.

18 (b) Retailers who have applied for and been granted a retail distributor's license
19 for the privilege of purchasing tobacco products or vapor products from a
20 person who is not a distributor licensed under KRS 138.195(7)(a) shall report
21 and pay the tobacco products tax or vapor products tax on or before the
22 twentieth day of the calendar month following the month in which the
23 products are acquired by the licensed retail distributors.

24 (c) If the distributor or retail distributor timely reports and pays the tax due, the
25 distributor or retail distributor may deduct an amount equal to one percent
26 (1%) of the tax due.

27 (d) The department shall promulgate administrative regulations setting forth the

1 details of the reporting requirements.

2 (14) A tax return shall be filed for each reporting period whether or not tax is due.

3 (15) Any license issued by the department under this section shall not be construed to
4 waive or condone any violation that occurred or may have occurred prior to the
5 issuance of the license and shall not prevent subsequent proceedings against the
6 licensee.

7 (16) (a) The department may deny the issuance of a license under this section if:

8 1. The applicant has made any material false statement on the application
9 for the license; or

10 2. The applicant has violated any provision of KRS 131.600 to 131.630,
11 138.130 to 138.205, 248.754, or 248.756 or any administrative
12 regulations promulgated thereunder.

13 (b) If the department denies the applicant a license under this section, the
14 department shall notify the applicant of the grounds for the denial, and the
15 applicant may request a hearing and appeal the denial as provided in
16 subsection (9) of this section.

17 ➔Section 56. KRS 138.197 is amended to read as follows:

18 The department shall publish and maintain on its Web site an up-to-date list of tobacco
19 products and vapor products distributors licensed under KRS 138.195(7).

20 ➔SECTION 57. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
21 READ AS FOLLOWS:

22 **(1) As used in this section:**

23 **(a) "Administrative adjustment request" means an administrative adjustment**
24 **request filed by a partnership under Section 6227 of the Internal Revenue**
25 **Code;**

26 **(b) "Audited partnership" means a partnership subject to a partnership level**
27 **audit resulting in a federal adjustment;**

1 (c) "Corporate partner" means a partner that is subject to tax under KRS
2 141.040;

3 (d) "Direct partner" means a partner that holds an interest directly in a
4 partnership or pass-through entity;

5 (e) "Exempt partner" means a partner that is exempt from taxation under KRS
6 141.040 (a) or (b);

7 (f) 1. "Federal adjustment" means a change to an item or amount
8 determined under the Internal Revenue Code that is used by a
9 taxpayer to compute income tax owed to the Commonwealth, whether
10 that change results from action by the:

11 a. Internal Revenue Service, including a partnership level audit; or

12 b. Filing of an amended federal return, federal refund claim, or an
13 administrative adjustment request by the taxpayer.

14 2. A federal adjustment is positive to the extent that it increases net
15 income or taxable net income and is negative to the extent that it
16 decreases net income or taxable net income;

17 (g) "Federal adjustments report" includes methods or forms required by the
18 department for use by a taxpayer to report final federal adjustments,
19 including an amended income tax return, information return, or a uniform
20 multistate report;

21 (h) "Federal partnership representative" means the person:

22 1. The partnership designates for the taxable year as the partnership's
23 representative; or

24 2. The Internal Revenue Service has appointed to act as the federal
25 partnership representative, under Section 6223 (a) of the Internal
26 Revenue Code;

27 (i) "Final determination date" means the following:

- 1 1. a. Except as provided in subparagraphs 2. and 3. of this paragraph,
2 if the federal adjustment arises from any action by the Internal
3 Revenue Service, the final determination date is the first day on
4 which no federal adjustments arising from that action remain to
5 be finally determined, whether by Internal Revenue Service
6 decision with respect to which all rights of appeal have been
7 waived or exhausted, by agreement, or, if appealed or contested,
8 by a final decision with respect to which all rights of appeal have
9 been waived or exhausted.
- 10 b. For agreements required to be signed by the Internal Revenue
11 Service and the taxpayer, the final determination date is the date
12 upon which the last party signed the agreement;
- 13 2. For federal adjustments arising from any action by the Internal
14 Revenue Service, if the taxpayer filed as a member of a consolidated
15 return under KRS 141.201 or a combined report under KRS 141.202,
16 the final determination date means the first day on which no related
17 federal adjustments arising from that action remain to be finally
18 determined, as described in subparagraph 1. of this paragraph, for the
19 entire group; and
- 20 3. If the federal adjustment results from filing an amended federal
21 return, a federal refund claim, or an administrative adjustment
22 request, or if it is a federal adjustment reported on an amended federal
23 return or other similar report filed under Section 6225(c) of the
24 Internal Revenue Code, the final determination date means the day on
25 which the amended return, refund claim, administrative adjustment
26 request, or other similar report was filed;
- 27 (j) "Final federal adjustment" means a federal adjustment after the final

- 1 determination date for that federal adjustment has passed;
- 2 (k) "Indirect partner" means a partner in a partnership or pass-through entity
3 and that partnership or pass-through entity holds an interest directly, or
4 through another indirect partner, in a partnership or pass-through entity;
- 5 (l) "Nonresident partner" means an individual, trust, or estate partner that is
6 not a resident partner;
- 7 (m) "Partner" means a person that holds an interest directly or indirectly in a
8 partnership or other pass-through entity;
- 9 (n) "Partnership" means an entity subject to the provisions of Subchapter K of
10 Chapter 1 of the Internal Revenue Code;
- 11 (o) "Partnership level audit" means an examination by the Internal Revenue
12 Service at the partnership level under Subchapter C of Chapter 63 of the
13 Internal Revenue Code, as enacted by Pub. L. No. 114-74, which results in
14 a federal adjustment;
- 15 (p) "Pass-through entity" means an entity, other than a partnership, that is not
16 subject to tax under KRS 141.040;
- 17 (q) 1. "Reallocation adjustment" means a federal adjustment resulting from
18 a partnership level audit or an administrative adjustment request that
19 changes the shares of one (1) or more items of partnership income,
20 gain, loss, expense, or credit allocated to direct partners.
- 21 2. A positive reallocation adjustment means the portion of a reallocation
22 adjustment that would increase federal income for one (1) or more
23 direct partners.
- 24 3. A negative reallocation adjustment means the portion of a reallocation
25 adjustment that would decrease federal income for one (1) or more
26 direct partners;
- 27 (r) "Resident partner" means an individual, trust, or estate partner that is a

1 resident for the relevant taxable year;

2 (s) "Reviewed year" means the taxable year of a partnership that is subject to a
3 partnership level audit from which federal adjustments arise;

4 (t) "Taxpayer" has the same meaning as in KRS 131.010 and includes:

5 1. a. A partnership subject to a partnership level audit; or

6 b. A partnership that has made an administrative adjustment
7 request; and

8 2. A tiered partner of the partnership described in subparagraph 1. of
9 this paragraph; and

10 (u) "Tiered partner" means any partner that is a partnership or pass-through
11 entity.

12 (2) Except in the case of final federal adjustments that are required to be reported by
13 a partnership and its partners under subsection (3) of this section, and final
14 federal adjustments required to be reported for federal purposes under Section
15 6225(a)(2) of the Internal Revenue Code, a taxpayer shall report and pay any
16 income tax due with respect to final federal adjustments arising from any action:

17 (a) By the Internal Revenue Service; or

18 (b) Reported by the taxpayer on a timely filed amended federal income tax
19 return, including a return or other similar report filed under Section
20 6225(c)(2) of the Internal Revenue Code, or federal claim for refund;
21 by filing a federal adjustments report with the department for the reviewed year
22 and, if applicable, paying the additional tax owed by the taxpayer no later than
23 one hundred eighty (180) days after the final determination date.

24 (3) (a) Except for adjustments required to be reported for federal purposes under
25 Section 6225(a)(2) of the Internal Revenue Code, and the distributive share
26 of adjustments that have been reported as required under subsection (2) of
27 this section, partnerships and partners shall report final federal adjustments

1 arising from a partnership level audit or an administrative adjustment
2 request and make payments as under this subsection.

3 (b) 1. With respect to an action required or allowed to be taken by a
4 partnership under this subsection and a proceeding under KRS
5 131.110 with respect to that action, the state partnership representative
6 for the reviewed year shall have the sole authority to act on behalf of
7 the partnership, and the partnership's direct partners and indirect
8 partners shall be bound by those actions.

9 2. The state partnership representative for the reviewed year is the
10 partnership's federal partnership representative unless the partnership
11 designates in writing another person as its state partnership
12 representative.

13 3. The department may establish reasonable qualifications and
14 procedures for designating a person, other than the federal
15 partnership representative, to be the state partnership representative.

16 (c) Final federal adjustments subject to the requirements of this subsection,
17 except for those subject to a properly made election under subsection (4) of
18 this section, shall be reported as follows:

19 1. No later than ninety (90) days after the final determination date, the
20 partnership shall:

21 a. File with the department a completed federal adjustments report,
22 including all information required by the department;

23 b. Notify each of its direct partners of their distributive share of the
24 final federal adjustments, including all information required by
25 the department; and

26 c. File an amended composite return for direct partners or an
27 amended withholding return for direct partners as required

1 under Section 14 of this Act and pay the additional amount of
2 tax that would have been due had the final federal adjustments
3 been reported properly as required; and

4 2. No later than one hundred eighty (180) days after the final
5 determination date, each direct partner that is taxed under KRS
6 141.020 or 141.040 shall:

7 a. File a federal adjustments report reporting their distributive
8 share of the adjustments reported to them under subparagraph
9 1.b. of this paragraph; and

10 b. Pay any additional amount of tax due as if final federal
11 adjustments had been properly reported, plus any penalty due
12 under KRS 131.180 and interest due under KRS 131.183 and
13 minus any credit for related amounts paid or withheld and
14 remitted on behalf of the direct partner under subparagraph 1.c.
15 of this paragraph.

16 (4) An audited partnership making an election under this paragraph shall:

17 (a) No later than ninety (90) days after the final determination date, file a
18 completed federal adjustments report, including all information required by
19 the department, and notify the department that it is making the election
20 under this paragraph; and

21 (b) No later than one hundred eighty (180) days after the final determination
22 date, pay an amount, determined as follows, in lieu of taxes owed by its
23 direct and indirect partners:

24 1. Exclude from final federal adjustments the distributive share of these
25 adjustments reported to a direct exempt partner not subject to tax
26 under KRS 141.040(1)(a) or (b);

27 2. For the total distributive shares of the remaining final federal

- 1 adjustments reported to direct corporate partners subject to tax under
2 KRS 141.040, apportion and allocate the adjustments under Section
3 14 of this Act and multiply the resulting amount by the highest tax
4 rate for the taxable year under KRS 141.040;
- 5 3. For the total distributive shares of the remaining final federal
6 adjustments reported to nonresident direct partners subject to tax
7 under KRS 141.020, determine the amount of the adjustments under
8 Section 14 of this Act based on what would be subject to tax as
9 Kentucky-sourced income for a nonresident partner, and multiply the
10 resulting amount by the highest tax rate for the taxable year under
11 KRS 141.020;
- 12 4. For the total distributive shares of the remaining final federal
13 adjustments reported to tiered partners, determine the amount of the
14 adjustments which is of a type that it would be subject to tax under
15 Section 14 of this Act, less any amount that the audited partnership
16 can determine to the department's satisfaction that is not subject to
17 tax, and multiply that amount by the highest tax rate under KRS
18 141.020 or 141.040;
- 19 5. For the total distributive shares of the remaining final federal
20 adjustments reported to resident direct partners subject to tax under
21 KRS 141.020, multiply that amount by the highest tax rate under KRS
22 141.020; and
- 23 6. Add the amounts determined in subparagraphs 2. to 5. of this
24 paragraph, and remit the amount along with penalty due under KRS
25 131.180 and interest due under KRS 131.183.
- 26 (5) The election under subsection (4) of this section shall not apply to:
- 27 (a) The distributive share of final audit adjustments that under KRS 141.202

1 that are included in the unitary business income of any direct or indirect
2 corporate partner, provided that the audited partnership can reasonably
3 determine this;

4 (b) Any final federal adjustments resulting from an administrative adjustment
5 request; or

6 (c) Any audited partnership not otherwise subject to any reporting or payment
7 obligation to this state.

8 (6) (a) The direct and indirect partners of an audited partnership that are tiered
9 partners and all of the partners of those tiered partners that are subject to
10 tax under KRS 141.020 and 141.040 are subject to the reporting and
11 payment requirements of subsection (3) of this section and the tiered
12 partners are entitled to make the elections provided in subsection (4) of this
13 section.

14 (b) The tiered partners or their partners shall make the required reports and
15 payments no later than ninety (90) days after the time for filing and
16 furnishing statements to tiered partners and the partners under Section
17 6226 of the Internal Revenue Code and the regulations thereunder.

18 (c) The department may promulgate administrative regulations to establish
19 procedures and interim time periods for:

20 1. The reports and payments required by tiered partners and their
21 partners;

22 2. Making the elections under this section;

23 3. The procedures related to the modified reporting and payment method
24 under subsection (7) of this section; or

25 4. A de minimis amount upon which a taxpayer shall not be required to
26 comply with this section.

27 (7) (a) Under procedures promulgated under KRS Chapter 13A by the department,

1 an audited partnership or a tiered partner may enter into an agreement with
2 the department to utilize an alternative reporting and payment method,
3 including applicable time requirements for any other provision of this
4 section, if the audited partnership or tiered partner demonstrates that the
5 requested method will reasonably provide for the reporting and payment of
6 taxes, penalties, and interest due under the provisions of this section.

7 (b) Application for approval of an alternative reporting and payment method
8 shall be made by the audited partnership or tiered partner within the times
9 established under subsection (4) or (6) of this section, as appropriate.

10 (8) (a) The election made under subsection (4) or (7) of this section is irrevocable,
11 unless the department, in its discretion, determines otherwise.

12 (b) If properly reported and paid by the audited partnership or tiered partner,
13 the amount determined under subsection (4) or (6) of this section shall be
14 treated as paid in lieu of taxes owed by its direct and indirect partners, to the
15 extent applicable, on the same final federal adjustments.

16 (c) The direct partners or indirect partners may not take any deduction or
17 credit for this amount or claim a refund of the amount in this state.

18 (d) Nothing in this subsection shall preclude a direct resident partner from
19 claiming a credit against taxes paid to this state under KRS Chapter 141,
20 any amounts paid by the audited partnership or tiered partner on the
21 resident partner's behalf to another state or local tax jurisdiction under
22 KRS 141.070.

23 (9) Nothing in this section prevents the department from assessing a direct partner or
24 an indirect partner for taxes they owe, using the best information available, in the
25 event that a partnership or tiered partner fails to timely make any report or
26 payment required by this section for any reason.

27 (10) The department shall assess additional tax, interest, and penalties resulting from

1 any final federal adjustments arising from an audit by the Internal Revenue
2 Service including a partnership level audit, reported by the taxpayer on an
3 amended federal income tax return, or as part of an administrative adjustment
4 request by the following dates:

5 (a) If a taxpayer files with the department a federal adjustments report or an
6 amended Kentucky tax return as required within the periods under this
7 section, the department may assess any amounts, including in-lieu-of
8 amounts, taxes, interest, and penalties arising from those federal
9 adjustments if the department issues a notice of the assessment to the
10 taxpayer no later than the expiration of the one (1) year period following
11 the date of filing with the department of the federal adjustments report; or

12 (b) If the taxpayer fails to file the federal adjustments report within the periods
13 specified in subsections (2) or (3) of this section, as appropriate, or the
14 federal adjustments report filed by the taxpayer omits final federal
15 adjustments or understates the correct amount of tax owed, the department
16 may assess any amounts, including in-lieu-of amounts, taxes, interest, and
17 penalties arising from the final federal adjustments, and absent fraud, if the
18 department issues a notice of the assessment to the taxpayer no later than
19 the expiration of the six (6) year period following the final determination
20 date.

21 (11) (a) A taxpayer may make estimated payments to the department, following the
22 applicable process under KRS 141.207, of the tax expected to result from a
23 pending Internal Revenue Service audit, prior to the due date of the federal
24 adjustments report, without having to file the report with the department.

25 (b) The estimated tax payments shall be credited against any tax liability
26 ultimately found to be due and will limit the accrual of further statutory
27 interest on that amount.

1 (c) If the estimated tax payments exceed the final tax liability and statutory
2 interest ultimately determined to be due, the taxpayer is entitled to a refund
3 or credit for the excess, provided the taxpayer filed a federal adjustments
4 report or claim for refund or credit of tax under this section no later than
5 one (1) year following the final determination date.

6 (12) (a) Except for final federal adjustments required to be reported for federal
7 purposes under Section 6225(a)(2) of this Internal Revenue Code, a
8 taxpayer may file a claim for refund or credit of tax arising from federal
9 adjustments made by the Internal Revenue Service on or before the latter
10 of:

11 1. The expiration of the last day for filing a claim for refund or credit
12 under KRS 134.580; or

13 2. One (1) year from the date a federal adjustments report under
14 subsection (2) or (3) of this section, as applicable, was due to the
15 department.

16 (b) The federal adjustments report shall serve as the means for the taxpayer to
17 report additional tax due, report a claim for refund or credit of tax, and
18 make other adjustments, including any net operating loss, resulting from
19 adjustments to the taxpayer's federal taxable income.

20 (13) (a) Unless otherwise agreed in writing by the taxpayer and the department, any
21 adjustments by the department or by the taxpayer made after the expiration
22 of the time allowed under Section 58 of this Act is limited to changes to the
23 taxpayer's tax liability arising from federal adjustments.

24 (b) The time periods provided for in this section may be extended, upon written
25 agreement between the taxpayer and the department, based on the
26 complexity of the federal adjustment or the number of direct partners or
27 tiered partners.

1 (c) The time period shall be automatically extended, upon written notice to the
 2 department, by sixty (60) days for an audited partnership or tiered partner
 3 which has ten thousand (10,000) or more direct partners.

4 (d) Any extension granted under this subsection for filing the federal
 5 adjustments report extends the last day prescribed by law for assessing any
 6 additional tax arising from the adjustments to federal taxable income and
 7 the period for filing a claim for refund or credit of taxes.

8 →Section 58. KRS 141.210 is amended to read as follows:

9 (1)~~As used in this section and KRS 141.235, unless the context requires otherwise:~~

10 (a)~~"Conclusion of the federal audit" means the date that the adjustments made by~~
 11 ~~the Internal Revenue Service to net income as reported on the taxpayer's~~
 12 ~~federal income tax return become final and unappealable; and~~

13 (b)~~"Final determination of the federal audit" means the revenue agent's report or~~
 14 ~~other documents reflecting the final and unappealable adjustments made by~~
 15 ~~the Internal Revenue Service.~~

16 (2)~~As soon as practicable after each return is received, the department shall examine~~
 17 ~~and audit it.~~

18 (2) (a) 1. If the amount of tax computed by the department is greater than the
 19 amount returned by the taxpayer, the additional tax shall be assessed and
 20 a notice of assessment mailed to the taxpayer by the department within
 21 four (4) years from the date the return was filed, except as otherwise
 22 provided in this subsection.

23 2.~~(a)~~ In the case of a failure to file a return or of a fraudulent return the
 24 additional tax may be assessed at any time.

25 3.~~(b)~~ In the case of a return where a taxpayer other than a corporation
 26 understates his net income or omits an amount properly includable in net
 27 income or both which understatement or omission or both is in excess of

1 twenty-five percent (25%) of the amount of net income stated in the
2 return the additional tax may be assessed at any time within six (6) years
3 after the return was filed.

4 ~~4.[(e)]~~ In the case of a return where a corporation understates its taxable
5 net income or omits an amount properly includable in taxable net
6 income or both, which understatement or omission or both is in excess
7 of twenty-five percent (25%) of the amount of taxable net income stated
8 in the return, the additional tax may be assessed at any time within six
9 (6) years after the return was filed.

10 ~~5.[(d)]~~ In the case of an assessment of additional tax relating directly to
11 adjustments resulting from a final ~~determination of a~~ federal
12 adjustment, as defined in Section 57 of this Act~~[audit]~~, the additional
13 tax may be assessed before the expiration of the times provided in
14 Section 57 of this Act~~[this subsection, or six months from the date the~~
15 ~~department receives the final determination of the federal audit from the~~
16 ~~taxpayer, whichever is later]~~.

17 ~~6.[(e)]~~ In the case of the assessment of additional tax resulting from a
18 decrease of a net operating loss deduction or a capital loss deduction,
19 resulting from the carryback of a loss which occurs in a taxable year
20 beginning after December 31, 1993, the additional tax may be assessed
21 at any time before the expiration of the times provided for in this
22 subsection for assessing additional tax for the taxable year which
23 resulted in the net operating loss or capital loss carryback.

24 **(b)** The times provided in this subsection may be extended by agreement between
25 the taxpayer and the department.

26 **(c)** For the purposes of this subsection, a return filed before the last day
27 prescribed by law for filing the return shall be considered as filed on the last

1 day.

2 ~~(d) [For taxable years beginning after December 31, 1993,]~~ Any extension granted
3 for filing the return shall also be considered as extending the last day
4 prescribed by law for filing the return.

5 (3) If any additional tax is assessed on account of any income which has been returned
6 for taxation by any other taxpayer, the department, with the consent of the other
7 taxpayer, his personal representatives, or heirs, shall reduce the amount of the
8 additional tax assessed for each year by the amount of the income tax paid for that
9 year by the other taxpayer on account of the income in question.

10 ~~[(4) Every taxpayer shall:~~

11 ~~(a) Notify the department in writing of every audit of the taxpayer's federal~~
12 ~~income tax return within thirty (30) days after the taxpayer has or should have~~
13 ~~had knowledge of the beginning of the audit by the Internal Revenue Service,~~
14 ~~and~~

15 ~~(b) Submit a copy of the final determination of the federal audit within one~~
16 ~~hundred eighty (180) days of the conclusion of the federal audit.]~~

17 ➔Section 59. KRS 141.235 is amended to read as follows:

18 (1) No suit shall be maintained in any court to restrain or delay the collection or
19 payment of the tax levied by this chapter.

20 (2) Any tax collected pursuant to the provisions of this chapter may be refunded or
21 credited in accordance with the provisions of KRS 134.580, except that:

22 (a) In any case where the assessment period contained in KRS 141.210 has been
23 extended by an agreement between the taxpayer and the department, the
24 limitation contained in this subsection shall be extended accordingly.

25 (b) If the claim for refund or credit relates directly to adjustments resulting from a
26 federal audit, the taxpayer shall file a claim for refund or credit within the time
27 provided ***in Section 57 of this Act***~~[for in this subsection or six (6) months~~

1 ~~from the conclusion of the federal audit, whichever is later].~~

2 (c) If the claim for refund or credit relates to an overpayment attributable to a net
3 operating loss carryback or capital loss carryback, resulting from a loss which
4 occurs in a taxable year beginning after December 31, 1993, the claim for
5 refund or credit shall be filed within the times prescribed in this subsection for
6 the taxable year of the net operating loss or capital loss which results in the
7 carryback.

8 For the purposes of this subsection and subsection (3) of this section, a return filed
9 before the last day prescribed by law for filing the return shall be considered as filed
10 on the last day.

11 (3) Overpayments as defined in KRS 134.580 of taxes collected pursuant to KRS
12 141.305, 141.310, or 141.315 shall be refunded or credited with interest at the tax
13 interest rate as defined in KRS 131.010(6). Effective for refunds issued after April
14 24, 2008, the interest shall not begin to accrue until ninety (90) days after the latest
15 of:

- 16 (a) The due date of the return;
17 (b) The date the return was filed;
18 (c) The date the tax was paid;
19 (d) The last day prescribed by law for filing the return; or
20 (e) The date an amended return claiming a refund is filed.

21 (4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to
22 this chapter is vested in the commissioner or his authorized agent. Amounts directed
23 to be refunded shall be paid out of the general fund.

24 ➔Section 60. KRS 132.195 is amended to read as follows:

25 (1) When any real or personal property which is exempt from taxation is leased or
26 possession is otherwise transferred to a natural person, association, partnership, or
27 corporation in connection with a business conducted for profit, the leasehold or

1 other interest in the property shall be subject to state and local taxation at the rate
 2 applicable to real or personal property levied by each taxing jurisdiction.

3 (2) Subsection (1) of this section shall not apply to interests in:

- 4 (a) Industrial buildings, as defined under KRS 103.200, owned and financed by a
 5 tax-exempt governmental unit or tax-exempt statutory authority under the
 6 provisions of KRS Chapter 103, the taxation of which is provided for under
 7 the provisions of KRS 132.020 and 132.200;
- 8 (b) Federal property for which payments are made in lieu of taxes in amounts
 9 equivalent to taxes which might otherwise be lawfully assessed;
- 10 (c) Property of any state-supported educational institution;
- 11 (d) Vending stand locations and facilities operated by blind persons under the
 12 auspices of the Division of Kentucky Business Enterprise, regardless of
 13 whether the property is owned by the federal, state, or a local government;
- 14 (e) Property of any free public library;~~[-or-]~~
- 15 (f) Property in Fayette County, Kentucky, administered by the Department of
 16 Military Affairs, Bluegrass Station Division;

17 **(g) All privately owned leasehold interests in residential property when the**
 18 **residential property is owned in fee simple by a purely public charity as of**
 19 **July 1, 2020:**

20 **1. When the real property includes a residential property unit that is:**

21 **a. Leased by the purely public charity for a period of at least one**
 22 **(1) year to an individual person who is fifty-five (55) years of age**
 23 **or older;**

24 **b. Maintained as the individual person's permanent residence**
 25 **under a lease agreement that:**

26 **i. Prohibits the lessee from subleasing the unit; and**

27 **ii. Provides that the lessee's possessory interest in the unit is**

1 terminable by the lessor upon the death of the lessee, the
 2 physical or mental inability of the lessee to continue to
 3 reside in the unit, or the lessee's relocation to a nursing
 4 home or similar assisted living facility; and

5 c. Constructed on or before July 1, 2020, or constructed after July
 6 1, 2020, on land that was privately owned in fee simple by the
 7 purely public charity on or before July 1, 2020;

8 2. If the fee simple ownership is transferred by the purely public charity
 9 after July 1, 2020, it shall be transferred to another purely public
 10 charity and the requirements established for the residential property
 11 unit in subparagraph 1. of this paragraph shall be maintained; and

12 3. The taxation of which is provided for under Sections 61 and 62 of this
 13 Act; or

14 (h) All privately owned leasehold interests in residential property owned in fee
 15 simple by a purely public charity, which is exempt from ad valorem taxation
 16 under Kentucky Constitution Section 170, when the residential property
 17 unit is leased by the purely public charity to an individual person who is:

18 1. Receiving medical or educational supportive services from the purely
 19 public charity; and

20 2. a. A postsecondary educational participant;

21 b. A minor;

22 c. Sick, disabled, or impoverished; or

23 d. Over the age of sixty-five (65).

24 (3) Taxes shall be assessed to lessees of exempt real or personal property and collected
 25 in the same manner as taxes assessed to owners of other real or personal property,
 26 except that taxes due under this section shall not become a lien against the property.
 27 When due, such taxes shall constitute a debt due from the lessee to the state, county,

1 school district, special district, or urban-county government for which the taxes
2 were assessed and if unpaid shall be recoverable by the state as provided in KRS
3 Chapter 134.

4 ➔Section 61. KRS 132.020 is amended to read as follows:

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

- 1 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the
2 operating property of railroads or railway companies that operate solely within
3 the Commonwealth;
- 4 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
5 held for sale in the regular course of business, which includes:
- 6 1. Machinery and equipment held in a retailer's inventory for sale or lease
7 originating under a floor plan financing arrangement;
 - 8 2. Motor vehicles:
 - 9 a. Held for sale in the inventory of a licensed motor vehicle dealer,
10 including licensed motor vehicle auction dealers, which are not
11 currently titled and registered in Kentucky and are held on an
12 assignment pursuant to KRS 186A.230; or
 - 13 b. That are in the possession of a licensed motor vehicle dealer,
14 including licensed motor vehicle auction dealers, for sale, although
15 ownership has not been transferred to the dealer;
 - 16 3. Raw materials, which includes distilled spirits and distilled spirits
17 inventory;
 - 18 4. In-process materials, which includes distilled spirits and distilled spirits
19 inventory, held for incorporation in finished goods held for sale in the
20 regular course of business; and
 - 21 5. Qualified heavy equipment;
- 22 (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
23 value of all:
- 24 1. Privately owned leasehold interests in industrial buildings, as defined
25 under KRS 103.200, owned and financed by a tax-exempt governmental
26 unit, or tax-exempt statutory authority under the provisions of KRS
27 Chapter 103, upon the prior approval of the Kentucky Economic

- 1 Development Finance Authority, except that the rate shall not apply to
 2 the proportion of value of the leasehold interest created through any
 3 private financing;
- 4 2. Qualifying voluntary environmental remediation property, provided the
 5 property owner has corrected the effect of all known releases of
 6 hazardous substances, pollutants, contaminants, petroleum, or petroleum
 7 products located on the property consistent with a corrective action plan
 8 approved by the Energy and Environment Cabinet pursuant to KRS
 9 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not
 10 financed through a public grant or the petroleum storage tank
 11 environmental assurance fund. This rate shall apply for a period of three
 12 (3) years following the Energy and Environment Cabinet's issuance of a
 13 No Further Action Letter or its equivalent, after which the regular tax
 14 rate shall apply;
- 15 3. Tobacco directed to be assessed for taxation;
- 16 4. Unmanufactured agricultural products;
- 17 5. Aircraft not used in the business of transporting persons or property for
 18 compensation or hire;~~and~~
- 19 6. Federally documented vessels not used in the business of transporting
 20 persons or property for compensation or hire, or for other commercial
 21 purposes; ***and***
- 22 ***7. Privately owned leasehold interests in residential property described in***
 23 ***subsection (2)(g) of Section 60 of this Act;***
- 24 (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
 25 of all:
- 26 1. Farm implements and farm machinery owned by or leased to a person
 27 actually engaged in farming and used in his farm operations;

- 1 2. Livestock and domestic fowl;
- 2 3. Tangible personal property located in a foreign trade zone established
- 3 pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in
- 4 accordance with the regulations of the United States Customs Service
- 5 and the Foreign Trade Zones Board; and
- 6 4. Property which has been certified as an alcohol production facility as
- 7 defined in KRS 247.910, or as a fluidized bed energy production facility
- 8 as defined in KRS 211.390; and
- 9 (h) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all
- 10 other property directed to be assessed for taxation shall be paid by the owner
- 11 or person assessed, except as provided in KRS 132.030, 132.200, 136.300,
- 12 and 136.320, providing a different tax rate for particular property.
- 13 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
- 14 shall be reduced to compensate for any increase in the aggregate assessed value of
- 15 real property to the extent that the increase exceeds the preceding year's assessment
- 16 by more than four percent (4%), excluding:
- 17 (a) The assessment of new property as defined in KRS 132.010(8);
- 18 (b) The assessment from property which is subject to tax increment financing
- 19 pursuant to KRS Chapter 65; and
- 20 (c) The assessment from leasehold property which is owned and financed by a
- 21 tax-exempt governmental unit, or tax-exempt statutory authority under the
- 22 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
- 23 one-half cents (\$0.015) pursuant to subsection (1)(f) of this section. In any
- 24 year in which the aggregate assessed value of real property is less than the
- 25 preceding year, the state rate shall be increased to the extent necessary to
- 26 produce the approximate amount of revenue that was produced in the
- 27 preceding year from real property.

1 (3) By July 1 each year, the department shall compute the state tax rate applicable to
2 real property for the current year in accordance with the provisions of subsection (2)
3 of this section and certify the rate to the county clerks for their use in preparing the
4 tax bills. If the assessments for all counties have not been certified by July 1, the
5 department shall, when either real property assessments of at least seventy-five
6 percent (75%) of the total number of counties of the Commonwealth have been
7 determined to be acceptable by the department, or when the number of counties
8 having at least seventy-five percent (75%) of the total real property assessment for
9 the previous year have been determined to be acceptable by the department, make
10 an estimate of the real property assessments of the uncertified counties and compute
11 the state tax rate.

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

15 (a) The revenue resulting from new property as defined in KRS 132.010(8);

16 (b) The revenue from property which is subject to tax increment financing
17 pursuant to KRS Chapter 65; and

18 (c) The revenue from leasehold property which is owned and financed by a tax-
19 exempt governmental unit, or tax-exempt statutory authority under the
20 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
21 one-half cents (\$0.015) pursuant to subsection (1) of this section;

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

24 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value
25 of unmined coal certified by the department after July 1, 1994, shall not be included
26 with the assessed value of other real property in determining the state real property
27 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also

1 be excluded from the provisions of subsection (2) of this section. The calculated
2 rate shall, however, be applied to unmined coal property, and the state revenue shall
3 be devoted to the program described in KRS 146.550 to 146.570, except that four
4 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to
5 the State Treasury and credited to the Office of Energy Policy for the purpose of
6 public education of coal-related issues.

7 ➔Section 62. KRS 132.200 is amended to read as follows:

8 All property subject to taxation for state purposes shall also be subject to taxation in the
9 county, city, school, or other taxing district in which it has a taxable situs, except the class
10 of property described in KRS 132.030 and the following classes of property, which shall
11 be subject to taxation for state purposes only:

- 12 (1) Farm implements and farm machinery owned by or leased to a person actually
13 engaged in farming and used in his farm operation;
- 14 (2) Livestock, ratite birds, and domestic fowl;
- 15 (3) Capital stock of savings and loan associations;
- 16 (4) Machinery actually engaged in manufacturing, products in the course of
17 manufacture, and raw material actually on hand at the plant for the purpose of
18 manufacture. The printing, publication, and distribution of a newspaper or operating
19 a job printing plant shall be deemed to be manufacturing;
- 20 (5) (a) Commercial radio and television equipment used to receive, capture, produce,
21 edit, enhance, modify, process, store, convey, or transmit audio or video
22 content or electronic signals which are broadcast over the air to an antenna;
- 23 (b) Equipment directly used or associated with the equipment identified in
24 paragraph (a) of this subsection, including radio and television towers used to
25 transmit or facilitate the transmission of the signal broadcast, but excluding
26 telephone and cellular communications towers; and
- 27 (c) Equipment used to gather or transmit weather information;

- 1 (6) Unmanufactured agricultural products. They shall be exempt from taxation for state
2 purposes to the extent of the value, or amount, of any unpaid nonrecourse loans
3 thereon granted by the United States government or any agency thereof, and except
4 that cities and counties may each impose an ad valorem tax of not exceeding one
5 and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash
6 value of all unmanufactured tobacco and not exceeding four and one-half cents
7 (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other
8 unmanufactured agricultural products, subject to taxation within their limits that are
9 not actually on hand at the plants of manufacturing concerns for the purpose of
10 manufacture, nor in the hands of the producer or any agent of the producer to whom
11 the products have been conveyed or assigned for the purpose of sale;
- 12 (7) All privately owned leasehold interest in industrial buildings, as defined under KRS
13 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt
14 statutory authority under the provisions of KRS Chapter 103, except that the rate
15 shall not apply to the proportion of value of the leasehold interest created through
16 any private financing;
- 17 (8) Tangible personal property which has been certified as a pollution control facility as
18 defined in KRS 224.1-300. In the case of tangible personal property certified as a
19 pollution control facility which is incorporated into a landfill facility, the tangible
20 personal property shall be presumed to remain tangible personal property for
21 purposes of this subsection if the tangible personal property is being used for its
22 intended purposes;
- 23 (9) Property which has been certified as an alcohol production facility as defined in
24 KRS 247.910;
- 25 (10) On and after January 1, 1977, the assessed value of unmined coal shall be included
26 in the formula contained in KRS 132.590(9) in determining the amount of county
27 appropriation to the office of the property valuation administrator;

- 1 (11) Tangible personal property located in a foreign trade zone established pursuant to
2 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the
3 regulations of the United States Customs Service and the Foreign Trade Zones
4 Board;
- 5 (12) Motor vehicles qualifying for permanent registration as historic motor vehicles
6 under the provisions of KRS 186.043. However, nothing herein shall be construed
7 to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- 8 (13) Property which has been certified as a fluidized bed energy production facility as
9 defined in KRS 211.390;
- 10 (14) All motor vehicles:
- 11 (a) Held for sale in the inventory of a licensed motor vehicle dealer, including
12 motor vehicle auction dealers, which are not currently titled and registered in
13 Kentucky and are held on an assignment pursuant to the provisions of KRS
14 186A.230;
- 15 (b) That are in the possession of a licensed motor vehicle dealer, including
16 licensed motor vehicle auction dealers, for sale, although ownership has not
17 been transferred to the dealer; and
- 18 (c) With a salvage title held by an insurance company;
- 19 (15) Machinery or equipment owned by a business, industry, or organization in order to
20 collect, source separate, compress, bale, shred, or otherwise handle waste materials
21 if the machinery or equipment is primarily used for recycling purposes as defined in
22 KRS 139.010;
- 23 (16) New farm machinery and other equipment held in the retailer's inventory for sale
24 under a floor plan financing arrangement by a retailer, as defined under KRS
25 365.800;
- 26 (17) New boats and new marine equipment held for retail sale under a floor plan
27 financing arrangement by a dealer registered under KRS 235.220;

- 1 (18) Aircraft not used in the business of transporting persons or property for
2 compensation or hire if an exemption is approved by the county, city, school, or
3 other taxing district in which the aircraft has its taxable situs;
- 4 (19) Federally documented vessels not used in the business of transporting persons or
5 property for compensation or hire or for other commercial purposes, if an
6 exemption is approved by the county, city, school, or other taxing district in which
7 the federally documented vessel has its taxable situs;
- 8 (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications
9 set by the New York Mercantile Exchange's special contract rules for metals, and
10 which is located or stored in a commodity warehouse and held on warrant, or for
11 which a written request has been made to a commodity warehouse to place it on
12 warrant, according to the rules and regulations of a trading facility. In this
13 subsection:
- 14 (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or
15 other facility that has been designated or approved by a trading facility as a
16 regular delivery point for a commodity on contracts of sale for future delivery;
17 and
- 18 (b) "Trading facility" means a facility that is designated by or registered with the
19 federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et
20 seq. "Trading facility" includes the Board of Trade of the City of Chicago, the
21 Chicago Mercantile Exchange, and the New York Mercantile Exchange;
- 22 (21) Qualifying voluntary environmental remediation property for a period of three (3)
23 years following the Energy and Environment Cabinet's issuance of a No Further
24 Action Letter or its equivalent, pursuant to the correction of the effect of all known
25 releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum
26 products located on the property consistent with a corrective action plan approved
27 by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or

1 224.60-135, and provided the cleanup was not financed through a public grant
2 program of the petroleum storage tank environmental assurance fund;

3 (22) Biotechnology products held in a warehouse for distribution by the manufacturer or
4 by an affiliate of the manufacturer. For the purposes of this section:

5 (a) "Biotechnology products" means those products that are applicable to the
6 prevention, treatment, or cure of a disease or condition of human beings and
7 that are produced using living organisms, materials derived from living
8 organisms, or cellular, subcellular, or molecular components of living
9 organisms. Biotechnology products does not include pharmaceutical products
10 which are produced from chemical compounds;

11 (b) "Warehouse" includes any establishment that is designed to house or store
12 biotechnology products, but does not include blood banks, plasma centers, or
13 other similar establishments;

14 (c) "Affiliate" means an individual, partnership, or corporation that directly or
15 indirectly owns or controls, or is owned or controlled by, or is under common
16 ownership or control with, another individual, partnership, or corporation;{
17 ~~and~~}

18 (23) Recreational vehicles held for sale in a retailer's inventory; and

19 (24) A privately owned leasehold interest in residential property described in
20 subsection (2)(g) of Section 60 of this Act, if an exemption is approved by the
21 county, city, school, or other taxing district in which the residential property is
22 located.

23 ➔Section 63. **Service Rates:** Notwithstanding KRS 45.253(6), the
24 Commonwealth Office of Technology shall maintain the rate schedule in effect in fiscal
25 year 2019-2020 for services rendered or materials furnished during the 2020-2022 fiscal
26 biennium, unless the services or materials are required by law to be furnished
27 gratuitously. Enterprise assessments and security assessments not directly related to

1 specific rated services shall not exceed fiscal year 2019-2020 levels.

2 ➔Section 64. **Kentucky Agricultural Finance Corporation:** Notwithstanding
3 KRS 247.978(2), the total amount of principal which a qualified applicant may owe the
4 Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.

5 ➔Section 65. **Administrative Fee on Infrastructure for Economic**
6 **Development Fund Projects:** A one-half of one percent administrative fee is authorized
7 to be paid to the Kentucky Infrastructure Authority for the administration of each project
8 funded by the Infrastructure for Economic Development Fund for Coal-Producing
9 Counties and the Infrastructure for Economic Development Fund for Tobacco Counties.
10 These administrative fees shall be paid, upon inception of the project, out of the fund
11 from which the project was allocated.

12 ➔Section 66. **Charges for Federal, State, and Local Audits:** Any additional
13 expenses incurred by the Auditor of Public Accounts for required audits of Federal Funds
14 shall be charged to the government or agency that is the subject of the audit. The Auditor
15 of Public Accounts receives General Fund appropriations for audits of the statewide
16 systems of personnel and payroll, cash and investments, revenue collection, and the state
17 accounting system. Any expenses incurred by the Auditor of Public Accounts for any
18 other audits shall be charged to the agency that is the subject of such audit. The Auditor
19 of Public Accounts shall maintain a record of all time and expenses for each audit or
20 investigation.

21 Any expenses incurred by the Auditor of Public Accounts for auditing individual
22 governmental entities when mandated by a legislative committee shall be charged to the
23 agency or entity receiving audit services.

24 ➔Section 67. **Personnel Board Operating Assessment:** Each agency of the
25 Executive Branch with employees covered by KRS Chapter 18A shall be assessed each
26 fiscal year the amount required for the operation of the Personnel Board. The agency
27 assessment shall be determined by the Secretary of the Finance and Administration

1 Cabinet based on the authorized full-time positions of each agency on July 1 of each year
2 of the biennium. The Secretary of the Finance and Administration Cabinet shall collect
3 the assessment.

4 →Section 68. **Water Withdrawal Fees:** The water withdrawal fees imposed by
5 the Kentucky River Authority shall not be subject to state and local taxes.
6 Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support
7 the operations of the Authority and for contractual services for water supply and quality
8 studies.

9 →Section 69. **Urgent Needs School Assistance:** If a school district receives an
10 allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A.,
11 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), 2016 Ky. Acts ch. 149, Part I, A.,
12 28., (4) and (5), or 2018 Ky. Acts ch. 169, Part I, A., 27., (3) and subsequently, as a result
13 of litigation or insurance, receives funds for the original facility, the school district shall
14 reimburse the Commonwealth an amount equal to that received for such purposes. If the
15 litigation or insurance receipts are less than the amount received, the district shall
16 reimburse the Commonwealth an amount equal to that received as a result of litigation or
17 insurance less the district's costs and legal fees in securing the judgment or payment. Any
18 funds received in this manner shall be deposited in the Budget Reserve Trust Fund
19 Account (KRS 48.705).

20 →Section 70. **Pro Rata Assessment:** The Personnel Cabinet shall collect a pro
21 rata assessment from all state agencies, in all three branches of government, and other
22 organizations that are supported by the System. Those collections shall be deposited and
23 retained in a Restricted Funds account within the Personnel Cabinet.

24 →Section 71. **Premium and Retaliatory Taxes:** Notwithstanding KRS 304.17B-
25 021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and
26 retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the
27 General Fund.

1 ➔Section 72. **Monthly Per Employee Health Insurance Benefits Assessment:**

2 The Personnel Cabinet shall collect a benefits assessment per month per employee
3 eligible for health insurance coverage in the state group for duly authorized use by the
4 Personnel Cabinet in administering its statutory and administrative responsibilities,
5 including but not limited to administration of the Commonwealth's health insurance
6 program.

7 ➔Section 73. **Publishing Requirements:** Notwithstanding KRS 83A.060,
8 91A.040, and Chapter 424, a county containing a population of more than 90,000 or any
9 city within a county containing a population of more than 90,000, as determined by the
10 2010 United States Census, may publish enacted ordinances, audits, and bid solicitations
11 by posting the full ordinance, the full audit report including the auditor's opinion letter, or
12 the bid solicitation on an Internet Web site maintained by the county or city government
13 for a period of at least one (1) year. If a county or city publishes ordinances, audits, or bid
14 solicitations on an Internet Web site, the county or city shall also publish an
15 advertisement, in a newspaper qualified in accordance with KRS 424.120, with a
16 description of the ordinances, audits, or bid solicitations published on the Internet Web
17 site, including the Uniform Resource Locator (URL) where the documents can be viewed.
18 Any advertisement required to be published in a newspaper under KRS Chapter 424 shall
19 contain the following statement at the end of the advertisement:

20 "This advertisement was paid for by [insert the name of the governmental body
21 required to advertise in a newspaper] using taxpayer dollars in the amount of \$[insert the
22 amount paid for the advertisement]."

23 ➔Section 74. KRS 39A.100 is amended to read as follows:

24 (1) In the event of the occurrence or threatened or impending occurrence of any of the
25 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the
26 Governor may declare, in writing, that a state of emergency exists. The Governor
27 shall have and may exercise the following emergency powers during the period in

- 1 which the state of emergency exists:
- 2 (a) To enforce all laws, and administrative regulations relating to disaster and
3 emergency response and to assume direct operational control of all disaster
4 and emergency response forces and activities in the Commonwealth;
- 5 (b) To require state agencies and to request local governments, local agencies, and
6 special districts to respond to the emergency or disaster in the manner
7 directed;
- 8 (c) To seize, take, or condemn property, excluding firearms and ammunition,
9 components of firearms and ammunition, or a combination thereof, for the
10 protection of the public or at the request of the President, the Armed Forces,
11 or the Federal Emergency Management Agency of the United States,
12 including:
- 13 1. All means of transportation and communication;
- 14 2. All stocks of fuel of whatever nature;
- 15 3. Food, clothing, equipment, materials, medicines, and all supplies; and
- 16 4. Facilities, including buildings and plants;
- 17 (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this
18 subsection among the inhabitants of the Commonwealth and to account to the
19 State Treasurer for any funds received for the property;
- 20 (e) To make compensation for the property seized, taken, or condemned under
21 paragraph (c) of this subsection;
- 22 (f) To exclude all nonessential, unauthorized, disruptive, or otherwise
23 uncooperative personnel from the scene of the emergency, and to command
24 those persons or groups assembled at the scene to disperse. A person who
25 refuses to leave an area in which a written order of evacuation has been issued
26 in accordance with a written declaration of emergency or a disaster may be
27 forcibly removed to a place of safety or shelter, or may, if this is resisted, be

- 1 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
2 options until all reasonable efforts for voluntary compliance have been
3 exhausted;
- 4 (g) To declare curfews and establish their limits;
- 5 (h) To prohibit or limit the sale or consumption of goods, excluding firearms and
6 ammunition, components of firearms and ammunition, or a combination
7 thereof, or commodities for the duration of the emergency;
- 8 (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the
9 duration of the emergency;
- 10 (j) Except as prohibited by this section or other law, to perform and exercise
11 other functions, powers, and duties deemed necessary to promote and secure
12 the safety and protection of the civilian population;
- 13 (k) To request any assistance from agencies of the United States as necessary and
14 appropriate to meet the needs of the people of the Commonwealth; and
- 15 (l) Upon the recommendation of the Secretary of State, to declare by executive
16 order a different time, ~~or~~ place, or manner for holding elections in an
17 election area for which a state of emergency has been declared for part or all
18 of the election area. The election shall be held within thirty-five (35) days
19 from the date of the suspended or delayed election. The State Board of
20 Elections shall establish procedures for election officials to follow. Any
21 procedures established under this paragraph shall be subject to the approval
22 of the Secretary of State and the Governor by respective executive orders.
- 23 (2) In the event of the occurrence or threatened or impending occurrence of any of the
24 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
25 the judgment of a local chief executive officer is of such severity or complexity as
26 to require the exercise of extraordinary emergency measures, the county
27 judge/executive of a county other than an urban-county government, or mayor of a

1 city or urban-county government, or chief executive of other local governments or
2 their designees as provided by ordinance of the affected county, city, or urban-
3 county may declare in writing that a state of emergency exists, and thereafter,
4 subject to any orders of the Governor, shall have and may exercise for the period as
5 the state of emergency exists or continues, the following emergency powers:

6 (a) To enforce all laws and administrative regulations relating to disaster and
7 emergency response and to direct all local disaster and emergency response
8 forces and operations in the affected county, city, urban-county, or charter
9 county;

10 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
11 personnel from the scene of the emergency, and to command persons or
12 groups of persons at the scene to disperse. A person who refuses to leave an
13 area in which a written order of evacuation has been issued in accordance with
14 a written declaration of emergency or a disaster may be forcibly removed to a
15 place of safety or shelter, or may, if this is resisted, be arrested by a peace
16 officer. Forcible removal or arrest shall not be exercised as options until all
17 reasonable efforts for voluntary compliance have been exhausted;

18 (c) To declare curfews and establish their limits;

19 (d) To order immediate purchase or rental of, contract for, or otherwise procure,
20 without regard to procurement codes or budget requirements, the goods and
21 services essential for protection of public health and safety or to maintain or to
22 restore essential public services; and

23 (e) To request emergency assistance from any local government or special district
24 and, through the Governor, to request emergency assistance from any state
25 agency and to initiate requests for federal assistance as are necessary for
26 protection of public health and safety or for continuation of essential public
27 services.

1 (3) Nothing in this section shall be construed to allow any governmental entity to
2 impose additional restrictions on the lawful possession, transfer, sale, transport,
3 carrying, storage, display, or use of firearms and ammunition or components of
4 firearms and ammunition.

5 ➔Section 75. The following KRS sections are repealed:

6 132.550 County clerk to compute amount due from each taxpayer -- Compensation of
7 clerk.

8 132.635 Application of KRS 132.590 and 132.630 to urban-county governments and
9 consolidated local governments.

10 189A.360 Nonrefundable application fee for ignition interlock license. (Effective July
11 1, 2020)

12 ➔Section 76. Sections 1 and 7 to 17 of this Act apply to taxable years beginning
13 on or after January 1, 2019.

14 ➔Section 77. Sections 34, 35, 39, 40 to 42, and 50 to 56 of this Act take effect
15 August 1, 2020.

16 ➔Section 78. Section 37 of this Act takes effect July 1, 2020.

17 ➔Section 79. Sections 60 to 62 of this Act apply to privately owned leasehold
18 interests in residential property assessed on or after January 1, 2021.

19 ➔Section 80. Sections 63 to 73 of this Act apply to the fiscal year beginning July
20 1, 2020, and ending June 30, 2021, and the fiscal year beginning July 1, 2021, and ending
21 June 30, 2022, and shall expire at the end of June 30, 2022.

22 ➔Section 81. Whereas many taxpayers are currently preparing to file returns, and
23 clarifications for these taxpayers are needed immediately, and whereas elections are an
24 inviolable part of the democratic process and the COVID 19 virus poses a risk to the
25 health and well-being of voters, an emergency is declared to exist, and this Act takes
26 effect upon its passage and approval by the Governor or upon its otherwise becoming
27 law.