

1 AN ACT relating to revenue and declaring an emergency.

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

3 → Section 1. KRS 48.115 is amended to read as follows:

- 4 (1) The revenue estimates for the general fund and the road fund required by KRS
5 48.120 shall be based on a consensus revenue forecast. The~~[planning report,]~~
6 preliminary revenue estimates~~[,]~~ and official revenue estimates required by KRS
7 48.120 shall be developed by the consensus forecasting group. The members of the
8 consensus forecasting group shall be jointly selected by the state budget director
9 and the Legislative Research Commission. The members shall be knowledgeable
10 about the state and national economy and the revenue and financial conditions of
11 the Commonwealth.
- 12 (2) If the Legislative Research Commission or state budget director determines that a
13 revision to the official revenue estimates is needed, the Legislative Research
14 Commission or state budget director shall request a revision from the consensus
15 forecasting group. The revised revenue estimates shall become the official revenue
16 estimates.
- 17 (3) The enacted budget reduction plan required by KRS 48.130 shall be implemented
18 only:
- 19 (a) Upon the issuance of an official revenue estimate from the consensus
20 forecasting group reflecting a revenue shortfall of five percent (5%) or less; or
21 (b) At the end of a fiscal year, upon the existence of an actual revenue shortfall of
22 five percent (5%) or less, as determined by the Office of State Budget
23 Director.
- 24 (4) The state budget director shall coordinate with the Department of Revenue and the
25 Transportation Cabinet to ensure that the financial and revenue data required for the
26 forecasting process is made available to the consensus forecasting group.
- 27 (5) Staff for the consensus forecasting group shall be provided by the Legislative

1 Research Commission.

2 → Section 2. KRS 48.120 is amended to read as follows:

- 3 (1) By September 30~~[August 15]~~ of each odd-numbered year, the Office of State
4 Budget Director, in conjunction with the consensus forecasting group, shall provide
5 to each branch of government preliminary revenue estimates~~[a budget planning
6 report]~~. The preliminary revenue estimates~~[budget planning report]~~ shall include:
- 7 (a) A baseline analysis and projections of economic conditions and outlook;
 - 8 (b) Any potential consequences of the analysis and projections for the
9 Commonwealth's fiscal condition;
 - 10 (c) The revenue estimates and implications for the general fund and road fund for
11 the current fiscal year and next two (2)~~[four (4)]~~ fiscal years; and
 - 12 (d) Projections of personal income, employment, and economic indicators that
13 reflect economic conditions.
- 14 ~~(2) [By October 15 of each odd-numbered year, the Office of State Budget Director
15 shall provide to each branch of government preliminary revenue estimates made by
16 the consensus forecast group for the general fund and road fund for the current and
17 next two (2) fiscal years, including explanatory statements, and a comparative
18 record of the actual revenues of these funds for each of the last two (2) years
19 concluded.~~
- 20 ~~(3)~~ On or before the fifteenth legislative day, the Office of State Budget Director shall
21 certify and present to the Legislative Research Commission~~[General Assembly]~~ the
22 official revenue estimates made by the consensus forecasting group for the general
23 fund and road fund for the current and next two (2) fiscal years.
- 24 ~~(3)~~~~(4)~~ Appropriations made in the branch budget bills enacted for each branch of
25 government shall be based upon the official revenue estimates presented to the
26 Legislative Research Commission~~[General Assembly]~~ by the Office of State
27 Budget Director under subsection (2)~~(3)~~ of this section, as modified by the

1 General Assembly.

2 ~~(4)~~~~(5)~~ The enacted estimates shall become the official revenue estimates of the
3 Commonwealth upon the branch budget bills becoming law, and shall remain the
4 official revenue estimates of the Commonwealth until revised by the consensus
5 forecasting group as provided in KRS 48.115.

6 → Section 3. KRS 132.0225 is amended to read as follows:

7 (1) (a) A taxing district that does not elect to attempt to set a rate that will produce
8 more than four percent (4%) in additional revenue, exclusive of revenue from
9 new property as defined in KRS 132.010, over the amount of revenue
10 produced by the compensating tax rate as defined in KRS 132.010 shall
11 establish a final tax rate within forty-five (45) days of the department's
12 certification of the county's property tax roll.

13 *(b) For boards of education, the forty-five (45) days shall begin from the date of*
14 *the department's certification to the chief state school officer as required by*
15 *KRS 160.470(4).*

16 (c) A city that does not elect to have city ad valorem taxes collected by the sheriff
17 as provided in KRS 91A.070(1) shall be exempt from *the forty-five (45)*
18 *day*~~[this]~~ deadline.

19 (d) Any nonexempt taxing district that fails to meet *the forty-five (45) day*~~[this]~~
20 deadline shall be required to use the compensating tax rate for that year's
21 property tax bills.

22 (2) A taxing district that elects to attempt to set a rate that will produce more than four
23 percent (4%) in additional revenue, exclusive of revenue from new property as
24 defined in KRS 132.010, over the amount of revenue produced by the compensating
25 tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.

26 → Section 4. KRS 138.472 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Department" means the Kentucky Department of Revenue;
- 2 (b) "Gross receipts" means the total consideration received for the:
- 3 1. Rental of a vehicle, including the daily or hourly rental fee, fees charged
- 4 for using the services, charges for insurance protection plans, fuel
- 5 charges, pickup and delivery fees, late fees, and any charges for any
- 6 services necessary to complete the rental transaction made by a:
- 7 a. Peer-to-peer car sharing company; or
- 8 b. Motor vehicle rental company; and
- 9 2. Charges made to provide the service to a user, including any charges for
- 10 time or mileage, fees for using the services, and any charges for any
- 11 services necessary to complete the transaction made by a:
- 12 a. TNC;
- 13 b. Taxicab; or
- 14 c. Limousine service provider;
- 15 (c) The following terms have the same meaning as in KRS 281.010:
- 16 1. **"Human service transportation delivery"**;
- 17 **2.** "Limousine";
- 18 **3.**~~[2.]~~ "Peer-to-peer car sharing certificate";
- 19 **4.**~~[3.]~~ "Peer-to-peer car sharing company";
- 20 **5.**~~[4.]~~ "Peer-to-peer car sharing driver";
- 21 **6.**~~[5.]~~ "Peer-to-peer car sharing program";
- 22 **7.**~~[6.]~~ "Shared vehicle";
- 23 **8.**~~[7.]~~ "Shared vehicle driver";
- 24 **9.**~~[8.]~~ "Taxicab";
- 25 **10.**~~[9.]~~ "Transportation network company" or "TNC";
- 26 **11.**~~[10.]~~ "Transportation network company service" or "TNC service"; and
- 27 **12.**~~[11.]~~ "U-Drive-It";

1 (d) "Motor vehicle rental company" has the same meaning as in KRS 281.687;
2 and

3 (e) "Person" means the individual or the entity required to be the holder of any
4 of the following certificates in KRS 281.630:

- 5 1. Limousine;
- 6 2. Peer-to-peer car sharing;
- 7 3. Taxicab;
- 8 4. Transportation network; and
- 9 5. U-Drive-It.

10 (2) (a) An excise tax is imposed upon every person for the privilege of providing a
11 motor vehicle for sharing or for rent, with or without a driver, within the
12 Commonwealth.

13 (b) The tax is imposed at the rate of six percent (6%) of the gross receipts derived
14 from the:

- 15 ~~1.(a)~~ Rental of a shared vehicle by a peer-to-peer car sharing company;
- 16 ~~2.(b)~~ Rental of a vehicle by a motor vehicle renting company;
- 17 ~~3.(c)~~ Sales of TNC services;
- 18 ~~4.(d)~~ Sales of taxicab services; and
- 19 ~~5.(e)~~ Sales of limousine services.

20 (c) Excluded from the tax are receipts derived from the provision of human
21 service transportation delivery.

22 (3) (a) The tax imposed under subsection (2) of this section shall be administered and
23 collected by the department. Revenues generated from the tax shall be
24 deposited into the general fund.

25 (b) On or before the twentieth day of the month following each calendar month,
26 a return for the preceding month shall be filed with the department by every
27 person required to pay the tax in a form prescribed by the department.

- 1 (4) The tax imposed by subsection (2) of this section shall be the direct obligation of
2 the peer-to-peer car sharing company, the motor vehicle renting company, the TNC,
3 the taxicab service provider, and the limousine service provider, but it may be
4 charged to and collected from the user of the service. The tax shall be remitted to
5 the department each month on forms and pursuant to administrative regulations
6 promulgated by the department.
- 7 (5) (a) As soon as practicable after each return is received, the department shall
8 examine and audit the return. If the amount of taxes computed by the
9 department is greater than the amount returned by the person, the excess shall
10 be assessed by the department within four (4) years from the date the return
11 was filed, except as provided in paragraph (c) of this subsection, and except
12 that in the case of a failure to file a return or of a fraudulent return the excess
13 may be assessed at any time. A notice of such assessment shall be mailed to
14 the person.
- 15 (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed
16 before the last day prescribed by law for the filing thereof shall be considered
17 as filed on such last day.
- 18 (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this
19 subsection, in the case of a return where the amount of taxes computed by the
20 department is greater by twenty-five percent (25%) or more than the amount
21 returned by the person, the excess shall be assessed by the department within
22 six (6) years from the date the return was filed.
- 23 (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle
24 Regulation to void the certificate issued to a:
- 25 (a) Limousine certificate holder;
26 (b) Peer-to-peer car sharing certificate holder;
27 (c) Taxicab certificate holder;

1 (d) TNC certificate holder; or

2 (e) U-Drive-It certificate holder.

3 (7) If a person fails or refuses to file a return or furnish any information requested in
4 writing, the department may, from any information in its possession, make an
5 estimate of the certificate holder's total trip costs and issue an assessment against
6 the certificate holder based on the estimated trip cost charges and add a penalty of
7 ten percent (10%) of the amount of the assessment so determined. This penalty shall
8 be in addition to all other applicable penalties provided by law.

9 ~~(8) If any person fails to make and file a return required by subsection (4) of this~~
10 ~~section on or before the due date of the return, or if the taxes, or portion thereof, is~~
11 ~~not paid on or before the date prescribed for its payment, then, unless it is shown to~~
12 ~~the satisfaction of the department that the failure is due to a reasonable cause, five~~
13 ~~percent (5%) of the taxes found to be due shall be added to the tax for each thirty~~
14 ~~(30) days or fraction thereof elapsing between the due date of the return and the~~
15 ~~date on which filed, but the total penalty shall not exceed twenty five percent (25%)~~
16 ~~of the tax; provided, however, that in no case shall the penalty be less than ten~~
17 ~~dollars (\$10).~~

18 ~~(9)~~ If the tax imposed by subsection (2) of this section is not paid on or before the date
19 prescribed for its payment, there shall be collected, as a part of the tax, interest upon
20 the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the
21 date prescribed for its payment until payment is actually made.

22 ~~(9)~~~~(10)~~ Notwithstanding any other provisions of this chapter to the contrary, the
23 president, vice president, secretary, treasurer, or any other person holding any
24 equivalent corporate office of any corporation subject to the provisions of this
25 chapter shall be personally and individually liable, both jointly and severally, for
26 the taxes imposed under this chapter, and neither the corporate dissolution nor
27 withdrawal of the corporation from the state nor the cessation of holding any

1 corporate office shall discharge the foregoing liability of any person. The personal
 2 and individual liability shall apply to each and every person holding the corporate
 3 office at the time the taxes become or became due. No person will be personally
 4 and individually liable pursuant to this section who had no authority in the
 5 management of the business or financial affairs of the corporation at the time that
 6 the taxes imposed by this chapter become or became due. "Taxes" as used in this
 7 section shall include interest accrued at the rate provided by KRS 139.650 and all
 8 applicable penalties imposed under this chapter and all applicable penalties and fees
 9 imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

10 ~~(10)~~[(11)] Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-
 11 306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a
 12 limited liability company, the partners of a limited liability partnership, and the
 13 general partners of a limited liability limited partnership, or any other person
 14 holding any equivalent office of a limited liability company, limited liability
 15 partnership, or limited liability limited partnership subject to the provisions of this
 16 chapter, shall be personally and individually liable, both jointly and severally, for
 17 the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability
 18 company, limited liability partnership, or limited liability limited partnership from
 19 the state, or the cessation of holding any office shall not discharge the liability of
 20 any person. The personal and individual liability shall apply to each and every
 21 manager of a limited liability company, partner of a limited liability partnership,
 22 and general partner of a limited liability limited partnership at the time the taxes
 23 become or became due. No person shall be personally and individually liable under
 24 this subsection who had no authority to collect, truthfully account for, or pay over
 25 any tax imposed by this chapter at the time that the taxes imposed by this chapter
 26 become or became due. "Taxes" as used in this section shall include interest
 27 accrued at the rate provided by KRS 131.183, all applicable penalties imposed

1 under this chapter, and all applicable penalties and fees imposed under KRS
2 131.180, 131.410 to 131.445, and 131.990.

3 ~~(11)~~~~(12)~~ Any person who violates any of the provisions of this section shall be subject
4 to the uniform civil penalties imposed pursuant to KRS 131.180.

5 → Section 5. KRS 138.475 (Effective January 1, 2024) is amended to read as
6 follows:

7 (1) As used in this section:

8 (a) "Electric motorcycle" means the same as "motorcycle" or "motor scooter" as
9 defined in KRS 186.010, that is powered by a:

- 10 1. Battery or equivalent energy storage device that can be charged with an
11 electric plug using an external electricity source; or
- 12 2. Combination of an internal combustion engine and electric motor;

13 (b) "Electric vehicle" means any vehicle that has plug-in charging capability,
14 regardless of whether the vehicle is powered by:

- 15 1. An electric motor only; or
- 16 2. A combination of an internal combustion engine and electric power; and

17 (c) "Hybrid vehicle" means any vehicle that does not have plug-in charging
18 capability and is powered by a combination of an internal combustion engine
19 and an electric motor.

20 (2) At the time of initial registration, and each year upon annual vehicle registration
21 renewal, the county clerk shall collect, as required under KRS 186.050, from the
22 registrants of electric motorcycles, electric vehicles, and hybrid vehicles the electric
23 vehicle ownership fees established under subsections (3) and (4) of this section.

24 (3) The electric vehicle ownership fees shall be:

- 25 (a) One hundred twenty dollars (\$120) for electric vehicles; and
- 26 (b) Sixty dollars (\$60) for electric motorcycles or hybrid vehicles.

27 (4) The Department of Revenue shall adjust the fees established in subsection (3) of

1 this section, on the same schedule and in the same manner as the adjustments to the
2 electric vehicle power taxes under KRS 138.477, except that:

3 (a) Adjustment to the fees shall be rounded to the nearest dollar; and

4 (b) Any adjustment of fees shall not result in a decrease below the base fees
5 established in subsection (3) of this section.

6 (5) The electric vehicle ownership fees collected under this section shall be
7 transferred[~~:-~~

8 ~~(a) Fifty percent (50%) to the general fund; and~~

9 ~~(b) Fifty percent (50%)]] to the road fund.~~

10 → Section 6. KRS 139.010 is amended to read as follows:

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

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

13 1. The right of entrance to a display, program, sporting event, music
14 concert, performance, play, show, movie, exhibit, fair, or other
15 entertainment or amusement event or venue; and

16 2. The privilege of using facilities or participating in an event or activity,
17 including but not limited to:

18 a. Bowling centers;

19 b. Skating rinks;

20 c. Health spas;

21 d. Swimming pools;

22 e. Tennis courts;

23 f. Weight training facilities;

24 g. Fitness and recreational sports centers; and

25 h. Golf courses, both public and private;

26 regardless of whether the fee paid is per use or in any other form,
27 including but not limited to an initiation fee, monthly fee, membership

- 1 fee, or combination thereof.
- 2 (b) "Admissions" does not include:
- 3 1. Any fee paid to enter or participate in a fishing tournament; or
- 4 2. Any fee paid for the use of a boat ramp for the purpose of allowing
- 5 boats to be launched into or hauled out from the water;
- 6 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
- 7 which is to attract public attention to a product, person, business, or organization, or
- 8 to attempt to sell, popularize, or secure financial support for a product, person,
- 9 business, or organization. As used in this definition, "product" means tangible
- 10 personal property, an item transferred electronically, or a service;
- 11 (3) "Business" includes any activity engaged in by any person or caused to be engaged
- 12 in by that person with the object of gain, benefit, or advantage, either direct or
- 13 indirect;
- 14 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 15 (5) (a) "Cosmetic surgery services" means modifications to all areas of the head,
- 16 neck, and body to enhance appearance through surgical and medical
- 17 techniques.
- 18 (b) "Cosmetic surgery services" does not include surgery services that are
- 19 medically necessary to reconstruct or correct dysfunctional areas of the
- 20 face~~reconstruction of facial~~ and body~~defects~~ due to birth disorders,
- 21 trauma, burns, or disease;
- 22 (6) "Department" means the Department of Revenue;
- 23 (7) (a) "Digital audio-visual works" means a series of related images which, when
- 24 shown in succession, impart an impression of motion, with accompanying
- 25 sounds, if any.
- 26 (b) "Digital audio-visual works" includes movies, motion pictures, musical
- 27 videos, news and entertainment programs, and live events.

- 1 (c) "Digital audio-visual works" shall not include video greeting cards, video
2 games, and electronic games;
- 3 (8) (a) "Digital audio works" means works that result from the fixation of a series of
4 musical, spoken, or other sounds.
- 5 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
6 readings of books or other written materials, speeches, or other sound
7 recordings.
- 8 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
9 mail;
- 10 (9) (a) "Digital books" means works that are generally recognized in the ordinary and
11 usual sense as books, including any literary work expressed in words,
12 numbers, or other verbal or numerical symbols or indicia if the literary work
13 is generally recognized in the ordinary or usual sense as a book.
- 14 (b) "Digital books" shall not include digital audio-visual works, digital audio
15 works, periodicals, magazines, newspapers, or other news or information
16 products, chat rooms, or Web logs;
- 17 (10) (a) "Digital code" means a code which provides a purchaser with a right to obtain
18 one (1) or more types of digital property. A "digital code" may be obtained by
19 any means, including electronic mail messaging or by tangible means,
20 regardless of the code's designation as a song code, video code, or book code.
- 21 (b) "Digital code" shall not include a code that represents:
- 22 1. A stored monetary value that is deducted from a total as it is used by the
23 purchaser; or
- 24 2. A redeemable card, gift card, or gift certificate that entitles the holder to
25 select specific types of digital property;
- 26 (11) (a) "Digital property" means any of the following which is transferred
27 electronically:

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

1 (14) (a) "Executive employee recruitment services" means services provided by a
 2 person to locate potential candidates to fill open senior-level management
 3 positions.

4 (b) "Executive employee recruitment services" includes but is not limited to
 5 making a detailed list of client requirements, researching and identifying
 6 potential candidates, performing pre-screening interviews, and providing
 7 contract and salary negotiations;

8 (15) (a) "Extended warranty services" means services provided through a service
 9 contract agreement between the contract provider and the purchaser where the
 10 purchaser agrees to pay compensation for the contract and the provider agrees
 11 to repair, replace, support, or maintain tangible personal property, digital
 12 property,~~[-or]~~ real property, or prewritten computer software access services
 13 according to the terms of the contract.

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

19 (16)~~[(15)]~~ (a) "Finished artwork" means final art that is used for actual reproduction
 20 by photomechanical or other processes or for display purposes.

21 (b) "Finished artwork" includes:

- 22 1. Assemblies;
- 23 2. Charts;
- 24 3. Designs;
- 25 4. Drawings;
- 26 5. Graphs;
- 27 6. Illustrative materials;

- 1 7. Lettering;
- 2 8. Mechanicals;
- 3 9. Paintings; and
- 4 10. Paste-ups;

5 ~~(17)~~~~(16)~~ (a) "Gross receipts" and "sales price" mean the total amount or
6 consideration, including cash, credit, property, and services, for which
7 tangible personal property, digital property, or services are sold, leased, or
8 rented, valued in money, whether received in money or otherwise, without
9 any deduction for any of the following:

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

27 (b) "Gross receipts" and "sales price" shall include consideration received by the

1 retailer from a third party if:

- 2 1. The retailer actually receives consideration from a third party and the
3 consideration is directly related to a price reduction or discount on the
4 sale to the purchaser;
- 5 2. The retailer has an obligation to pass the price reduction or discount
6 through to the purchaser;
- 7 3. The amount of consideration attributable to the sale is fixed and
8 determinable by the retailer at the time of the sale of the item to the
9 purchaser; and
- 10 4. One (1) of the following criteria is met:
 - 11 a. The purchaser presents a coupon, certificate, or other
12 documentation to the retailer to claim a price reduction or discount
13 where the coupon, certificate, or documentation is authorized,
14 distributed, or granted by a third party with the understanding that
15 the third party will reimburse any seller to whom the coupon,
16 certificate, or documentation is presented;
 - 17 b. The price reduction or discount is identified as a third-party price
18 reduction or discount on the invoice received by the purchaser or
19 on a coupon, certificate, or other documentation presented by the
20 purchaser; or
 - 21 c. The purchaser identifies himself or herself to the retailer as a
22 member of a group or organization entitled to a price reduction or
23 discount. A "preferred customer" card that is available to any
24 patron does not constitute membership in such a group.

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

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

- 1 a sale;
- 2 2. Interest, financing, and carrying charges from credit extended on the
- 3 sale of tangible personal property, digital property, or services, if the
- 4 amount is separately stated on the invoice, bill of sale, or similar
- 5 document given to the purchaser;
- 6 3. Any taxes legally imposed directly on the purchaser that are separately
- 7 stated on the invoice, bill of sale, or similar document given to the
- 8 purchaser; or
- 9 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
- 10 are separately stated on the invoice, bill of sale, or similar document
- 11 given to the purchaser.

12 (d) As used in this subsection, "third party" means a person other than the

13 purchaser;

14 ~~(18)~~~~(17)~~ "In this state" or "in the state" means within the exterior limits of the

15 Commonwealth and includes all territory within these limits owned by or ceded to

16 the United States of America;

17 ~~(19)~~~~(18)~~ "Industrial processing" includes:

- 18 (a) Refining;
- 19 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
- 20 (c) Mining, quarrying, fabricating, and industrial assembling;
- 21 (d) The processing and packaging of raw materials, in-process materials, and
- 22 finished products; and
- 23 (e) The processing and packaging of farm and dairy products for sale;

24 ~~(20)~~~~(19)~~ (a) "Lease or rental" means any transfer of possession or control of tangible

25 personal property for a fixed or indeterminate term for consideration. A lease

26 or rental shall include future options to:

- 27 1. Purchase the property; or

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

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

- 6 1. A transfer of possession or control of property under a security
7 agreement or deferred payment plan that requires the transfer of title
8 upon completion of the required payments;
- 9 2. A transfer of possession or control of property under an agreement that
10 requires the transfer of title upon completion of the required payments
11 and payment of an option price that does not exceed the greater of one
12 hundred dollars (\$100) or one percent (1%) of the total required
13 payments; or
- 14 3. Providing tangible personal property and an operator for the tangible
15 personal property for a fixed or indeterminate period of time. To qualify
16 for this exclusion, the operator must be necessary for the equipment to
17 perform as designed, and the operator must do more than maintain,
18 inspect, or setup the tangible personal property.

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

22 **(21) (a) "Lobbying services" means the act of promoting or securing passage of**
23 **legislation or an attempt to influence or sway a public official or other**
24 **public servant toward a desired action, including but not limited to the**
25 **support of or opposition to a project or the passage, amendment, defeat,**
26 **approval, or veto of any legislation, regulation, rule, or ordinance;**

27 **(b) "Lobbying services" includes but is not limited to the performance of**

1 **activities described as executive agency lobbying activities as defined in KRS**
 2 **11A.201, activities described under the definition of lobby in KRS 6.611,**
 3 **and any similar activities performed at the local, state, or federal levels;**

4 ~~(22)~~~~(20)~~ (a) "Machinery for new and expanded industry" means machinery:

5 1. Directly used in the manufacturing or industrial processing process of:

6 a. Tangible personal property at a plant facility;

7 b. Distilled spirits or wine at a plant facility or on the premises of a
 8 distiller, rectifier, winery, or small farm winery licensed under
 9 KRS 243.030 that includes a retail establishment on the premises;

10 or

11 c. Malt beverages at a plant facility or on the premises of a brewer or
 12 microbrewery licensed under KRS 243.040 that includes a retail
 13 establishment;

14 2. Which is incorporated for the first time into:

15 a. A plant facility established in this state; or

16 b. Licensed premises located in this state; and

17 3. Which does not replace machinery in the plant facility or licensed
 18 premises unless that machinery purchased to replace existing machinery:

19 a. Increases the consumption of recycled materials at the plant
 20 facility by not less than ten percent (10%);

21 b. Performs different functions;

22 c. Is used to manufacture a different product; or

23 d. Has a greater productive capacity, as measured in units of
 24 production, than the machinery being replaced.

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

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

2 ~~(23)~~⁽²¹⁾ "Manufacturing" means any process through which material having little or
3 no commercial value for its intended use before processing has appreciable
4 commercial value for its intended use after processing by the machinery;{

5 ~~(22) "Marketing services" means developing marketing objectives and policies, sales
6 forecasting, new product developing and pricing, licensing, and franchise planning;}~~

7 ~~(24)~~⁽²³⁾ "Marketplace" means any physical or electronic means through which one (1)
8 or more retailers may advertise and sell tangible personal property, digital property,
9 or services, or lease tangible personal property or digital property, such as a catalog,
10 Internet Web site, or television or radio broadcast, regardless of whether the
11 tangible personal property, digital property, or retailer is physically present in this
12 state;

13 ~~(25)~~⁽²⁴⁾ (a) "Marketplace provider" means a person, including any affiliate of the
14 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of
15 this paragraph as follows:

- 16 1. The person directly or indirectly:
 - 17 a. Lists, makes available, or advertises tangible personal property,
18 digital property, or services for sale by a marketplace retailer in a
19 marketplace owned, operated, or controlled by the person;
 - 20 b. Facilitates the sale of a marketplace retailer's product through a
21 marketplace by transmitting or otherwise communicating an offer
22 or acceptance of a retail sale of tangible personal property, digital
23 property, or services between a marketplace retailer and a
24 purchaser in a forum including a shop, store, booth, catalog,
25 Internet site, or similar forum;
 - 26 c. Owns, rents, licenses, makes available, or operates any electronic
27 or physical infrastructure or any property, process, method,

- 1 copyright, trademark, or patent that connects marketplace retailers
2 to purchasers for the purpose of making retail sales of tangible
3 personal property, digital property, or services;
- 4 d. Provides a marketplace for making retail sales of tangible personal
5 property, digital property, or services, or otherwise facilitates retail
6 sales of tangible personal property, digital property, or services,
7 regardless of ownership or control of the tangible personal
8 property, digital property, or services, that are the subject of the
9 retail sale;
- 10 e. Provides software development or research and development
11 activities related to any activity described in this subparagraph, if
12 the software development or research and development activities
13 are directly related to the physical or electronic marketplace
14 provided by a marketplace provider;
- 15 f. Provides or offers fulfillment or storage services for a marketplace
16 retailer;
- 17 g. Sets prices for a marketplace retailer's sale of tangible personal
18 property, digital property, or services;
- 19 h. Provides or offers customer service to a marketplace retailer or a
20 marketplace retailer's customers, or accepts or assists with taking
21 orders, returns, or exchanges of tangible personal property, digital
22 property, or services sold by a marketplace retailer; or
- 23 i. Brands or otherwise identifies sales as those of the marketplace
24 provider; and
- 25 2. The person directly or indirectly:
- 26 a. Collects the sales price or purchase price of a retail sale of tangible
27 personal property, digital property, or services;

- 1 b. Provides payment processing services for a retail sale of tangible
2 personal property, digital property, or services;
- 3 c. Through terms and conditions, agreements, or arrangements with a
4 third party, collects payment in connection with a retail sale of
5 tangible personal property, digital property, or services from a
6 purchaser and transmits that payment to the marketplace retailer,
7 regardless of whether the person collecting and transmitting the
8 payment receives compensation or other consideration in exchange
9 for the service; or
- 10 d. Provides a virtual currency that purchasers are allowed or required
11 to use to purchase tangible personal property, digital property, or
12 services.

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

17 ~~(26)~~~~(25)~~ "Marketplace retailer" means a seller that makes retail sales through any
18 marketplace owned, operated, or controlled by a marketplace provider;

19 ~~(27)~~~~(26)~~ (a) "Occasional sale" includes:

- 20 1. A sale of tangible personal property or digital property not held or used
21 by a seller in the course of an activity for which he or she is required to
22 hold a seller's permit, provided such sale is not one (1) of a series of
23 sales sufficient in number, scope, and character to constitute an activity
24 requiring the holding of a seller's permit. In the case of the sale of the
25 entire, or a substantial portion of the nonretail assets of the seller, the
26 number of previous sales of similar assets shall be disregarded in
27 determining whether or not the current sale or sales shall qualify as an

1 occasional sale; or

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

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

10 ~~(28)~~~~(27)~~ (a) "Other direct mail" means any direct mail that is not advertising and
11 promotional direct mail, regardless of whether advertising and promotional
12 direct mail is included in the same mailing.

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

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

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

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

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

25 ~~(29)~~~~(28)~~ "Person" includes any individual, firm, copartnership, joint venture,
26 association, social club, fraternal organization, corporation, estate, trust, business
27 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or

1 agency, or any other group or combination acting as a unit;

2 ~~(30)~~~~(29)~~ "Permanent," as the term applies to digital property, means perpetual or for an
3 indefinite or unspecified length of time;

4 ~~(31)~~~~(30)~~ (a) "Photography and photofinishing services" means:

- 5 1. The taking, developing, or printing of an original photograph; or
- 6 2. Image editing, including shadow removal, tone adjustments, vertical and
7 horizontal alignment and cropping, composite image creation,
8 formatting, watermarking printing, and delivery of an original
9 photograph in the form of tangible personal property, digital property, or
10 other media.

11 (b) "Photography and photofinishing services" does not include photography
12 services necessary for medical or dental health;

13 ~~(32)~~~~(31)~~ "Plant facility" means a single location that is exclusively dedicated to
14 manufacturing or industrial processing activities. A location shall be deemed to be
15 exclusively dedicated to manufacturing or industrial processing activities even if
16 retail sales are made there, provided that the retail sales are incidental to the
17 manufacturing or industrial processing activities occurring at the location. The term
18 "plant facility" shall not include any restaurant, grocery store, shopping center, or
19 other retail establishment;

20 ~~(33)~~~~(32)~~ (a) "Prewritten computer software" means:

- 21 1. Computer software, including prewritten upgrades, that are not designed
22 and developed by the author or other creator to the specifications of a
23 specific purchaser;
- 24 2. Software designed and developed by the author or other creator to the
25 specifications of a specific purchaser when it is sold to a person other
26 than the original purchaser; or
- 27 3. Any portion of prewritten computer software that is modified or

1 enhanced in any manner, where the modification or enhancement is
 2 designed and developed to the specifications of a specific purchaser,
 3 unless there is a reasonable, separately stated charge on an invoice or
 4 other statement of the price to the purchaser for the modification or
 5 enhancement.

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

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

12 ~~(34)~~~~(33)~~ "Prewritten computer software access services" means the right of access to
 13 prewritten computer software where the object of the transaction is to use the
 14 prewritten computer software while possession of the prewritten computer software
 15 is maintained by the seller or a third party, wherever located, regardless of whether
 16 the charge for the access or use is on a per use, per user, per license, subscription, or
 17 some other basis;

18 ~~(35)~~~~(34)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
 19 lease, or rental, conditional or otherwise, in any manner or by any means
 20 whatsoever, of:

- 21 1. Tangible personal property;
- 22 2. An extended warranty service;
- 23 3. Digital property transferred electronically; or
- 24 4. Services included in KRS 139.200;
- 25 for a consideration.

26 (b) "Purchase" includes:

- 27 1. When performed outside this state or when the customer gives a resale

1 certificate, the producing, fabricating, processing, printing, or imprinting
 2 of tangible personal property for a consideration for consumers who
 3 furnish either directly or indirectly the materials used in the producing,
 4 fabricating, processing, printing, or imprinting;

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

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

12 ~~(36)~~~~(35)~~ "Recycled materials" means materials which have been recovered or diverted
 13 from the solid waste stream and reused or returned to use in the form of raw
 14 materials or products;

15 ~~(37)~~~~(36)~~ "Recycling purposes" means those activities undertaken in which materials
 16 that would otherwise become solid waste are collected, separated, or processed in
 17 order to be reused or returned to use in the form of raw materials or products;

18 ~~(38)~~~~(37)~~ "Remote retailer" means a retailer with no physical presence in this state;

19 ~~(39)~~~~(38)~~ (a) "Repair, replacement, or spare parts" means any tangible personal
 20 property used to maintain, restore, mend, or repair machinery or equipment.

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

23 ~~(40)~~~~(39)~~ (a) "Retailer" means:

24 1. Every person engaged in the business of making retail sales of tangible
 25 personal property, digital property, or furnishing any services in a retail
 26 sale included in KRS 139.200;

27 2. Every person engaged in the business of making sales at auction of

1 tangible personal property or digital property owned by the person or
2 others for storage, use or other consumption, except as provided in
3 paragraph (c) of this subsection;

- 4 3. Every person making more than two (2) retail sales of tangible personal
5 property, digital property, or services included in KRS 139.200 during
6 any twelve (12) month period, including sales made in the capacity of
7 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
8 4. Any person conducting a race meeting under the provision of KRS
9 Chapter 230, with respect to horses which are claimed during the
10 meeting.

11 (b) When the department determines that it is necessary for the efficient
12 administration of this chapter to regard any salesmen, representatives,
13 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
14 employers under whom they operate or from whom they obtain the tangible
15 personal property, digital property, or services sold by them, irrespective of
16 whether they are making sales on their own behalf or on behalf of the dealers,
17 distributors, supervisors or employers, the department may so regard them and
18 may regard the dealers, distributors, supervisors or employers as retailers for
19 purposes of this chapter.

- 20 (c) 1. Any person making sales at a charitable auction for a qualifying entity
21 shall not be a retailer for purposes of the sales made at the charitable
22 auction if:
- 23 a. The qualifying entity, not the person making sales at the auction, is
24 sponsoring the auction;
- 25 b. The purchaser of tangible personal property at the auction directly
26 pays the qualifying entity sponsoring the auction for the property
27 and not the person making the sales at the auction; and

- 1 c. The qualifying entity, not the person making sales at the auction, is
2 responsible for the collection, control, and disbursement of the
3 auction proceeds.
- 4 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
5 the qualifying entity sponsoring the auction shall be the retailer for
6 purposes of the sales made at the charitable auction.
- 7 3. For purposes of this paragraph, "qualifying entity" means a resident:
8 a. Church;
9 b. School;
10 c. Civic club; or
11 d. Any other nonprofit charitable, religious, or educational
12 organization;
- 13 ~~(41)~~~~(40)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
14 sublease, or subrent;
- 15 ~~(42)~~~~(41)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
16 device and that may be used to alert the customer with respect to a
17 communication.
- 18 (b) "Ringtones" shall not include ringback tones or other digital files that are not
19 stored on the purchaser's communications device;
- 20 ~~(43)~~~~(42)~~ (a) "Sale" means:
21 1. The furnishing of any services included in KRS 139.200;
22 2. Any transfer of title or possession, exchange, barter, lease, or rental,
23 conditional or otherwise, in any manner or by any means whatsoever,
24 of:
25 a. Tangible personal property; or
26 b. Digital property transferred electronically;
27 for a consideration.

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

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

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

15 ~~(44)~~~~(43)~~ "Seller" includes every person engaged in the business of selling tangible
 16 personal property, digital property, or services of a kind, the gross receipts from the
 17 retail sale of which are required to be included in the measure of the sales tax, and
 18 every person engaged in making sales for resale;

19 ~~(45)~~~~(44)~~ (a) "Storage" includes any keeping or retention in this state for any purpose
 20 except sale in the regular course of business or subsequent use solely outside
 21 this state of tangible personal property, ~~or~~ digital property, or prewritten
 22 computer software access services purchased from a retailer.

23 (b) "Storage" does not include the keeping, retaining, or exercising any right or
 24 power over tangible personal property for the purpose of subsequently
 25 transporting it outside the state for use thereafter solely outside the state, or
 26 for the purpose of being processed, fabricated, or manufactured into, attached
 27 to, or incorporated into, other tangible personal property to be transported

1 outside the state and thereafter used solely outside the state;

2 ~~(46)~~~~(45)~~ "Tangible personal property" means personal property which may be seen,
3 weighed, measured, felt, or touched, or which is in any other manner perceptible to
4 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
5 and prewritten computer software;

6 ~~(47)~~~~(46)~~ "Taxpayer" means any person liable for tax under this chapter;

7 ~~(48)~~~~(47)~~ "Telemarketing services" means services provided via telephone, facsimile,
8 electronic mail, ***text messages***, or other modes of communications, ***including but***
9 ***not limited to various forms of social media***, to another person, which are
10 unsolicited by that person, for the purposes of:

- 11 (a) 1. Promoting products or services;
12 2. Taking orders; or
13 3. Providing information or assistance regarding the products or services;
14 or
15 (b) Soliciting contributions;

16 ~~(49)~~~~(48)~~ "Transferred electronically" means accessed or obtained by the purchaser by
17 means other than tangible storage media; and

18 ~~(50)~~~~(49)~~ (a) "Use" includes the exercise of:

- 19 1. Any right or power over tangible personal property or digital property
20 incident to the ownership of that property, or by any transaction in
21 which possession is given, or by any transaction involving digital
22 property or tangible personal property where the right of access is
23 granted; or
24 2. Any right or power to benefit ***from*** any services subject to tax under
25 KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~.

26 (b) "Use" does not include the keeping, retaining, or exercising any right or
27 power over;

- 1 **1.** Tangible personal property or digital property for the purpose of:
- 2 **a.**~~[1.]~~ Selling tangible personal property or digital property in the regular
- 3 course of business; or
- 4 **b.**~~[2.]~~ Subsequently transporting tangible personal property outside the
- 5 state for use thereafter solely outside the state, or for the purpose
- 6 of being processed, fabricated, or manufactured into, attached to,
- 7 or incorporated into, other tangible personal property to be
- 8 transported outside the state and thereafter used solely outside the
- 9 state; **or**

- 10 **2. Prewritten computer software access services purchased for use**
- 11 **outside the state and transferred electronically outside the state for use**
- 12 **thereafter solely outside the state.**

13 ➔ Section 7. KRS 139.200 is amended to read as follows:

14 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross

15 receipts derived from:

16 (1) Retail sales of:

17 (a) Tangible personal property, regardless of the method of delivery, made within

18 this Commonwealth; and

19 (b) Digital property regardless of whether:

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

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

22 or

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

24 (2) The furnishing of the following services:

25 (a) The rental of any room or rooms, lodgings, campsites, or accommodations

26 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,

27 recreational vehicle parks, or any other place in which rooms, lodgings,

- 1 campsites, or accommodations are regularly furnished to transients for a
2 consideration. The tax shall not apply to rooms, lodgings, campsites, or
3 accommodations supplied for a continuous period of thirty (30) days or more
4 to a person;
- 5 (b) Sewer services;
- 6 (c) The sale of admissions, except:
- 7 1. Admissions to enter the grounds or enclosure of any track licensed
8 under KRS Chapter 230 at which live horse racing or historical horse
9 racing is being conducted under the jurisdiction of the Kentucky Horse
10 Racing Commission;
- 11 2. Admissions taxed under KRS 229.031;
- 12 3. Admissions that are charged by nonprofit educational, charitable, or
13 religious institutions and for which an exemption is provided under KRS
14 139.495; and
- 15 4. Admissions that are charged by nonprofit civic, governmental, or other
16 nonprofit organizations and for which an exemption is provided under
17 KRS 139.498;
- 18 (d) Prepaid calling service and prepaid wireless calling service;
- 19 (e) Intrastate, interstate, and international communications services as defined in
20 KRS 139.195, except the furnishing of pay telephone service as defined in
21 KRS 139.195;
- 22 (f) Distribution, transmission, or transportation services for natural gas that is for
23 storage, use, or other consumption in this state, excluding those services
24 furnished:
- 25 1. For natural gas that is classified as residential use as provided in KRS
26 139.470(7); or
- 27 2. To a seller or reseller of natural gas;

- 1 (g) Landscaping services, including but not limited to:
- 2 1. Lawn care and maintenance services;
- 3 2. Tree trimming, pruning, or removal services;
- 4 3. Landscape design and installation services;
- 5 4. Landscape care and maintenance services; and
- 6 5. Snow plowing or removal services;
- 7 (h) Janitorial services, including but not limited to residential and commercial
- 8 cleaning services, and carpet, upholstery, and window cleaning services;
- 9 (i) Small animal veterinary services, excluding veterinary services for equine,
- 10 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and
- 11 cervids;
- 12 (j) Pet care services, including but not limited to grooming and boarding
- 13 services, pet sitting services, and pet obedience training services;
- 14 (k) Industrial laundry services, including but not limited to industrial uniform
- 15 supply services, protective apparel supply services, and industrial mat and rug
- 16 supply services;
- 17 (l) Non-coin-operated laundry and dry cleaning services;
- 18 (m) Linen supply services, including but not limited to table and bed linen supply
- 19 services and nonindustrial uniform supply services;
- 20 (n) Indoor skin tanning services, including but not limited to tanning booth or
- 21 tanning bed services and spray tanning services;
- 22 (o) Non-medical diet and weight reducing services;
- 23 (p) Extended warranty services;
- 24 (q) Photography and photofinishing services;
- 25 ~~(r) Marketing services;~~
- 26 ~~(s) Telemarketing services;~~
- 27 (s)~~(t)~~ Public opinion and research polling services;

- 1 ~~(t)~~~~(u)~~ Lobbying services;
- 2 ~~(u)~~~~(v)~~ Executive employee recruitment services;
- 3 ~~(v)~~~~(w)~~ Web site design and development services;
- 4 ~~(w)~~~~(x)~~ Web site hosting services;
- 5 ~~(x)~~~~(y)~~ Facsimile transmission services;
- 6 ~~(y)~~~~(z)~~ Private mailroom services, including:
 - 7 1. Presorting mail and packages by postal code;
 - 8 2. Address barcoding;
 - 9 3. Tracking;
 - 10 4. Delivery to postal service; and
 - 11 5. Private mailbox rentals;
- 12 ~~(z)~~~~(aa)~~ Bodyguard services;
- 13 ~~(aa)~~~~(ab)~~ Residential and nonresidential security system monitoring services,
 14 **excluding separately stated onsite security guard services;**
- 15 ~~(ab)~~~~(ac)~~ Private investigation services;
- 16 ~~(ac)~~~~(ad)~~ Process server services;
- 17 ~~(ad)~~~~(ae)~~ Repossession of tangible personal property services;
- 18 ~~(ae)~~~~(af)~~ Personal background check services;
- 19 ~~(af)~~~~(ag)~~ Parking services;
 - 20 1. Including:
 - 21 a. Valet services; and
 - 22 b. The use of parking lots and parking structures; but
 - 23 2. Excluding any parking services at an educational institution;
- 24 ~~(ag)~~~~(ah)~~ Road and travel services provided by automobile clubs as defined in
 25 KRS 281.010;
- 26 ~~(ah)~~~~(ai)~~ Condominium time-share exchange services;
- 27 ~~(ai)~~~~(aj)~~ Rental of space for meetings, conventions, short-term business uses,

- 1 entertainment events, weddings, banquets, parties, and other short-term social
2 events;
- 3 ~~(aj)~~~~(ak)~~ Social event planning and coordination services;
- 4 ~~(ak)~~~~(al)~~ Leisure, recreational, and athletic instructional services;
- 5 ~~(al)~~~~(am)~~ Recreational camp tuition and fees;
- 6 ~~(am)~~~~(an)~~ Personal fitness training services;
- 7 ~~(an)~~~~(ao)~~ Massage services, except when medically necessary;
- 8 ~~(ao)~~~~(ap)~~ Cosmetic surgery services;
- 9 ~~(ap)~~~~(aq)~~ Body modification services, including tattooing, piercing, scarification,
10 branding, tongue splitting, transdermal and subdermal implants, ear pointing,
11 teeth pointing, and any other modifications that are not necessary for medical
12 or dental health;
- 13 ~~(aq)~~~~(ar)~~ **Laboratory** testing services, ~~excluding laboratory~~~~except~~ testing:
- 14 **1.** For medical, educational, or veterinary reasons; **or**
- 15 **2.** **Required by a federal, state, or local statute, regulation, court order,**
16 **or other government-related requirement;**
- 17 ~~(ar)~~~~(as)~~ Interior decorating and design services;
- 18 ~~(as)~~~~(at)~~ Household moving services;
- 19 ~~(at)~~~~(au)~~ Specialized design services, including the design of clothing, costumes,
20 fashion, furs, jewelry, shoes, textiles, and lighting;
- 21 ~~(au)~~~~(av)~~ Lapidary services, including cutting, polishing, and engraving precious
22 stones;
- 23 ~~(av)~~~~(aw)~~ Labor and services to repair or maintain commercial refrigeration
24 equipment and systems when no tangible personal property is sold in that
25 transaction including service calls and trip charges;
- 26 ~~(aw)~~~~(ax)~~ Labor to repair or alter apparel, footwear, watches, or jewelry when no
27 tangible personal property is sold in that transaction; and

1 ~~(ax)~~~~(ay)~~ Prewritten computer software access services.

2 ➔ Section 8. KRS 139.202 is amended to read as follows:

3 Excluded from the additional taxable services imposed by KRS 139.200(2)(q) to
4 ~~(ax)~~~~(ay)~~ are gross receipts derived from:

5 (1) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed price
6 sales contract executed on or before February 25, 2022; and

7 (2) A lease or rental agreement entered into on or before February 25, 2022.

8 ➔ Section 9. KRS 139.260 is amended to read as follows:

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

14 (1) (a) Except as provided in paragraph (b) of this subsection, tangible personal
15 property or digital property unless the person takes from the purchaser a
16 certificate to the effect that the property is either:

- 17 1. Purchased for resale according to the provisions of KRS 139.270;
- 18 2. Purchased through a fully completed certificate of exemption or fully
19 completed Streamlined Sales and Use Tax Agreement Certificate of
20 Exemption in accordance with KRS 139.270; or
- 21 3. Purchased according to administrative regulations promulgated by the
22 department governing a direct pay authorization; or

23 (b) Tangible personal property to a purchaser claiming an agriculture exemption
24 under KRS 139.480(4) to (9), (11), (13) to (15), ~~(or) (23) to (30),~~ or (33)
25 unless the person obtains from the purchaser an agriculture exemption license
26 number or a fully completed Streamlined Sales and Use Tax Agreement
27 Certificate of Exemption that contains an agriculture exemption license

1 number in accordance with KRS 139.270;

2 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the
3 purchaser a certificate to the effect that the service is purchased through a fully
4 completed certificate of exemption or fully completed Streamlined Sales and Use
5 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

6 (3) A service included in KRS 139.200(2)(g) to ~~(ax)~~~~(ay)~~ unless the person takes from
7 the purchaser a certificate to the effect that the service is:

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

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

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

14 → Section 10. KRS 139.310 is amended to read as follows:

15 (1) An excise tax is hereby imposed on the storage, use, or other consumption in this
16 state of tangible personal property, digital property, and services listed under KRS
17 139.200(2)(p) to ~~(ax)~~~~(ay)~~ purchased for storage, use, or other consumption in this
18 state at the rate of six percent (6%) of the sales price.

19 (2) The excise tax applies to the purchase of digital property regardless of whether:

20 (a) The purchaser has the right to permanently use the goods;

21 (b) The purchaser's right to access or retain the digital property is not permanent;
22 or

23 (c) The purchaser's right of use is conditioned upon continued payment.

24 → Section 11. KRS 139.340 is amended to read as follows:

25 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
26 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
27 give to the purchaser a receipt therefor in the manner and form prescribed by the

1 department. The taxes collected or required to be collected by the retailer under this
 2 section shall be deemed to be held in trust for and on account of the
 3 Commonwealth.

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

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

17 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
 18 operating in this state under the authority of the retailer or its subsidiary for
 19 the purpose of selling, delivering, or the taking of orders for any tangible
 20 personal property, digital property, or any services subject to tax under KRS
 21 139.200(2)(p) to ~~(ax)~~~~(ay)~~. An unrelated printer with which a person has
 22 contracted for printing shall not be deemed to be a representative, agent,
 23 salesman, canvasser, or solicitor for the person;

24 (c) Any retailer soliciting orders for tangible personal property, digital property,
 25 or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from
 26 residents of this state on a continuous, regular, or systematic basis in which
 27 the solicitation of the order, placement of the order by the customer or the

- 1 payment for the order utilizes the services of any financial institution,
 2 telecommunication system, radio or television station, cable television
 3 service, print media, or other facility or service located in this state;
- 4 (d) Any retailer deriving receipts from the lease or rental of tangible personal
 5 property situated in this state;
- 6 (e) Any retailer soliciting orders for tangible personal property, digital property,
 7 or any services subject to tax under KRS 139.200(2)(p) to (ax)~~(ay)~~ from
 8 residents of this state on a continuous, regular, systematic basis if the retailer
 9 benefits from an agent or representative operating in this state under the
 10 authority of the retailer to repair or service tangible personal property or
 11 digital property sold by the retailer;
- 12 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
 13 either full-time or part-time, if the representative performs any activities that
 14 help establish or maintain a marketplace for the retailer, including receiving or
 15 exchanging returned merchandise; or
- 16 (g) 1. Any remote retailer selling tangible personal property or digital property
 17 delivered or transferred electronically to a purchaser in this state,
 18 including retail sales facilitated by a marketplace provider on behalf of
 19 the remote retailer, if:
- 20 a. The remote retailer sold tangible personal property or digital
 21 property that was delivered or transferred electronically to a
 22 purchaser in this state in two hundred (200) or more separate
 23 transactions in the previous calendar year or the current calendar
 24 year; or
- 25 b. The remote retailer's gross receipts derived from the sale of
 26 tangible personal property or digital property delivered or
 27 transferred electronically to a purchaser in this state in the previous

1 calendar year or current calendar year exceeds one hundred
2 thousand dollars (\$100,000).

3 2. Any remote retailer that meets either threshold provided in subparagraph
4 1. of this paragraph shall register for a sales and use tax permit and
5 collect the tax imposed by KRS 139.310 from the purchaser no later
6 than the first day of the calendar month that is at the most sixty (60)
7 days after either threshold is reached.

8 ➔Section 12. KRS 139.470 is amended to read as follows:

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

10 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
11 state of, tangible personal property or digital property which this state is prohibited
12 from taxing under the Constitution or laws of the United States, or under the
13 Constitution of this state;

14 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
15 of:

16 (a) Nonreturnable and returnable containers when sold without the contents to
17 persons who place the contents in the container and sell the contents together
18 with the container; and

19 (b) Returnable containers when sold with the contents in connection with a retail
20 sale of the contents or when resold for refilling;

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

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

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

1 legal, true, fixed, and permanent home and principal establishment, and
 2 to which, whenever the individual is absent, the individual has the
 3 intention of returning.

4 (c) Determinations of eligibility for the exemption shall be made by the
 5 department.

6 (d) The exemption shall apply ~~to~~ charges for sewer service, water, and fuel
 7 ~~are~~ billed to an owner or operator of a multi-unit residential rental facility or
 8 mobile home and recreational vehicle park if the ***owner or operator declares***
 9 ***that the*** sewer services, water, and fuel are purchased for ~~and declared by~~
 10 ~~the~~ Kentucky ***residents to be*** ~~resident as~~ used in ***the resident's*** ~~his or her~~
 11 place of domicile.

12 (e) The exemption shall apply also to residential property which may be held by
 13 legal or equitable title, by the entirety, jointly, in common, as a
 14 condominium, or indirectly by the stock ownership or membership
 15 representing the owner's or member's proprietary interest in a corporation
 16 owning a fee or a leasehold initially in excess of ninety-eight (98) years if the
 17 sewer services, water, and fuel are purchased for and declared by the
 18 Kentucky resident as used in his or her place of domicile;

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

23 (9) (a) Gross receipts derived from the sale of tangible personal property, as provided
 24 in paragraph (b) of this subsection, to a manufacturer or industrial processor if
 25 the property is to be directly used in the manufacturing or industrial
 26 processing process of:

27 1. Tangible personal property at a plant facility;

- 1 2. Distilled spirits or wine at a plant facility or on the premises of a
2 distiller, rectifier, winery, or small farm winery licensed under KRS
3 243.030 that includes a retail establishment on the premises; or
 - 4 3. Malt beverages at a plant facility or on the premises of a brewer or
5 microbrewery licensed under KRS 243.040 that includes a retail
6 establishment;
7 and which will be for sale.
- 8 (b) The following tangible personal property shall qualify for exemption under
9 this subsection:
- 10 1. Materials which enter into and become an ingredient or component part
11 of the manufactured product;
 - 12 2. Other tangible personal property which is directly used in the
13 manufacturing or industrial processing process, if the property has a
14 useful life of less than one (1) year. Specifically these items are
15 categorized as follows:
 - 16 a. Materials. This refers to the raw materials which become an
17 ingredient or component part of supplies or industrial tools exempt
18 under subdivisions b. and c. below;
 - 19 b. Supplies. This category includes supplies such as lubricating and
20 compounding oils, grease, machine waste, abrasives, chemicals,
21 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
22 dyes, refrigerants, and explosives. The supplies indicated above
23 need not come in direct contact with a manufactured product to be
24 exempt. "Supplies" does not include repair, replacement, or spare
25 parts of any kind; and
 - 26 c. Industrial tools. This group is limited to hand tools such as jigs,
27 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns

1 and to tools attached to a machine such as molds, grinding balls,
2 grinding wheels, dies, bits, and cutting blades. Normally, for
3 industrial tools to be considered directly used in the manufacturing
4 or industrial processing process, they shall come into direct
5 contact with the product being manufactured or processed; and

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

12 (c) The property described in paragraph (b) of this subsection shall be regarded as
13 having been purchased for resale.

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

19 (e) The exemption provided in this subsection does not include repair,
20 replacement, or spare parts;

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

25 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
26 use, or other consumption outside this state and delivered by the retailer's own
27 vehicle to a location outside this state, or delivered to the United States Postal

1 Service, a common carrier, or a contract carrier for delivery outside this state,
 2 regardless of whether the carrier is selected by the purchaser or retailer or an agent
 3 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
 4 shipping point or purchaser's destination.

5 (a) As used in this subsection:

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

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

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

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

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

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

26 (b) The retailer shall be responsible for establishing that delivery was made to a
 27 non-Kentucky location through shipping documents or other credible

- 1 evidence as determined by the department;
- 2 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
3 ultimate storage, use, or other consumption outside this state and delivered to a
4 common carrier in this state for delivery outside this state, regardless of whether the
5 carrier is selected by the purchaser or retailer, or is an agent or representative of the
6 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
7 purchaser's destination;
- 8 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
9 means an agreement whereby an amount, whether paid in money, credit, or
10 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
11 the quantity and unit price of tobacco products sold at retail that requires the retailer
12 to reduce the selling price of the product to the purchaser without the use of a
13 manufacturer's or wholesaler's coupon or redemption certificate;
- 14 (16) Gross receipts from the sale of tangible personal property or digital property
15 returned by a purchaser when the full sales price is refunded either in cash or credit.
16 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
17 required to purchase other tangible personal property or digital property at a price
18 greater than the amount charged for the property that is returned;
- 19 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
20 Chapter 138;
- 21 (18) The amount of any tax imposed by the United States upon or with respect to retail
22 sales, whether imposed on the retailer or the consumer, not including any
23 manufacturer's excise or import duty;
- 24 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
25 is:
- 26 (a) Sold to a Kentucky resident, registered for use on the public highways, and
27 upon which any applicable tax levied by KRS 138.460 has been paid; or

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

1 gross receipts were less than six thousand dollars (\$6,000) during calendar
 2 year 2018. When gross receipts from these services exceed six thousand
 3 dollars (\$6,000) in a calendar year:

- 4 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 5 calendar year; and
- 6 2. All gross receipts are subject to tax in subsequent calendar years.

7 (b) For persons selling services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ prior
 8 to January 1, 2023, gross receipts derived from the sale of those services if the
 9 gross receipts were less than six thousand dollars (\$6,000) during calendar
 10 year 2021. When gross receipts from these services exceed six thousand
 11 dollars (\$6,000) in a calendar year:

- 12 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 13 calendar year; and
- 14 2. All gross receipts are subject to tax in subsequent calendar years.

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

18 (24) (a) For persons that first begin making sales of services included in KRS
 19 139.200(2)(g) to (p) on or after January 1, 2019, gross receipts derived from
 20 the sale of those services if the gross receipts are less than six thousand dollars
 21 (\$6,000) within the first calendar year of operation. When gross receipts from
 22 these services exceed six thousand dollars (\$6,000) in a calendar year:

- 23 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 24 calendar year; and
- 25 2. All gross receipts are subject to tax in subsequent calendar years.

26 (b) For persons that first begin making sales of services included in KRS
 27 139.200(2)(q) to ~~(ax)~~~~(ay)~~ on or after January 1, 2023, gross receipts derived

1 from the sale of those services if the gross receipts are less than six thousand
 2 dollars (\$6,000) within the first calendar year of operation. When gross
 3 receipts from these services exceed six thousand dollars (\$6,000) in a calendar
 4 year:

- 5 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 6 calendar year; and
- 7 2. All gross receipts are subject to tax in subsequent calendar years.

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

11 → Section 13. KRS 139.480 is amended to read as follows:

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

- 15 (1) Locomotives or rolling stock, including materials for the construction, repair, or
 16 modification thereof, or fuel or supplies for the direct operation of locomotives and
 17 trains, used or to be used in interstate commerce;
- 18 (2) Coal for the manufacture of electricity;
- 19 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
 20 processing, mining, or refining and any related distribution, transmission, and
 21 transportation services for this energy that are billed to the user, to the extent
 22 that the cost of the energy or energy-producing fuels used, and related
 23 distribution, transmission, and transportation services for this energy that are
 24 billed to the user exceed three percent (3%) of the cost of production.
- 25 (b) Cost of production shall be computed on the basis of a plant facility, which
 26 shall include all operations within the continuous, unbroken, integrated
 27 manufacturing or industrial processing process that ends with a product

1 packaged and ready for sale.

2 (c) A person who performs a manufacturing or industrial processing activity for a
3 fee and does not take ownership of the tangible personal property that is
4 incorporated into, or becomes the product of, the manufacturing or industrial
5 processing activity is a toller. For periods on or after July 1, 2018, the costs of
6 the tangible personal property shall be excluded from the toller's cost of
7 production at a plant facility with tolling operations in place as of July 1,
8 2018.

9 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
10 tangible personal property shall be excluded from the toller's cost of
11 production if the toller:

- 12 1. Maintains a binding contract for periods after July 1, 2018, that governs
13 the terms, conditions, and responsibilities with a separate legal entity,
14 which holds title to the tangible personal property that is incorporated
15 into, or becomes the product of, the manufacturing or industrial
16 processing activity;
- 17 2. Maintains accounting records that show the expenses it incurs to fulfill
18 the binding contract that include but are not limited to energy or energy-
19 producing fuels, materials, labor, procurement, depreciation,
20 maintenance, taxes, administration, and office expenses;
- 21 3. Maintains separate payroll, bank accounts, tax returns, and other records
22 that demonstrate its independent operations in the performance of its
23 tolling responsibilities;
- 24 4. Demonstrates one (1) or more substantial business purposes for the
25 tolling operations germane to the overall manufacturing, industrial
26 processing activities, or corporate structure at the plant facility. A
27 business purpose is a purpose other than the reduction of sales tax

- 1 liability for the purchases of energy and energy-producing fuels; and
- 2 5. Provides information to the department upon request that documents
- 3 fulfillment of the requirements in subparagraphs 1. to 4. of this
- 4 paragraph and gives an overview of its tolling operations with an
- 5 explanation of how the tolling operations relate and connect with all
- 6 other manufacturing or industrial processing activities occurring at the
- 7 plant facility;
- 8 (4) Livestock of a kind the products of which ordinarily constitute food for human
- 9 consumption, provided the sales are made for breeding or dairy purposes and by or
- 10 to a person regularly engaged in the business of farming;
- 11 (5) Poultry for use in breeding or egg production;
- 12 (6) Farm work stock for use in farming operations;
- 13 (7) Seeds, the products of which ordinarily constitute food for human consumption or
- 14 are to be sold in the regular course of business, and commercial fertilizer to be
- 15 applied on land, the products from which are to be used for food for human
- 16 consumption or are to be sold in the regular course of business; provided such sales
- 17 are made to farmers who are regularly engaged in the occupation of tilling and
- 18 cultivating the soil for the production of crops as a business, or who are regularly
- 19 engaged in the occupation of raising and feeding livestock or poultry or producing
- 20 milk for sale; and provided further that tangible personal property so sold is to be
- 21 used only by those persons designated above who are so purchasing;
- 22 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
- 23 used in the production of crops as a business, or in the raising and feeding of
- 24 livestock or poultry, the products of which ordinarily constitute food for human
- 25 consumption;
- 26 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
- 27 products of which ordinarily constitute food for human consumption;

- 1 (10) Machinery for new and expanded industry;
- 2 (11) Farm machinery. As used in this section, the term "farm machinery":
- 3 (a) Means machinery used exclusively and directly in the occupation of:
- 4 1. Tilling the soil for the production of crops as a business;
- 5 2. Raising and feeding livestock or poultry for sale; or
- 6 3. Producing milk for sale;
- 7 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
- 8 replacement parts which are used or manufactured for use on, or in the
- 9 operation of farm machinery and which are necessary to the operation of the
- 10 machinery, and are customarily so used, including but not limited to combine
- 11 header wagons, combine header trailers, or any other implements specifically
- 12 designed and used to move or transport a combine head; and
- 13 (c) Does not include:
- 14 1. Automobiles;
- 15 2. Trucks;
- 16 3. Trailers, except combine header trailers; or
- 17 4. Truck-trailer combinations;
- 18 (12) Tombstones and other memorial grave markers;
- 19 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 20 or handling. The exemption applies to the equipment, machinery, attachments,
- 21 repair and replacement parts, and any materials incorporated into the construction,
- 22 renovation, or repair of the facilities;
- 23 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 24 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 25 and any materials incorporated into the construction, renovation, or repair of the
- 26 facilities. The exemption shall apply but not be limited to vent board equipment,
- 27 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,

- 1 and curtain systems. In addition, the exemption shall apply whether or not the seller
2 is under contract to deliver, assemble, and incorporate into real estate the
3 equipment, machinery, attachments, repair and replacement parts, and any materials
4 incorporated into the construction, renovation, or repair of the facilities;
- 5 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
6 and directly to:
- 7 (a) Operate farm machinery as defined in subsection (11) of this section;
 - 8 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
9 (13) of this section;
 - 10 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
11 this section;
 - 12 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - 13 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
14 section; or
 - 15 (f) Operate on-farm dairy facilities;
- 16 (16) Textbooks, including related workbooks and other course materials, purchased for
17 use in a course of study conducted by an institution which qualifies as a nonprofit
18 educational institution under KRS 139.495. The term "course materials" means only
19 those items specifically required of all students for a particular course but shall not
20 include notebooks, paper, pencils, calculators, tape recorders, or similar student
21 aids;
- 22 (17) Any property which has been certified as an alcohol production facility as defined
23 in KRS 247.910;
- 24 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
25 direct operation of aircraft in interstate commerce and used exclusively for the
26 conveyance of property or passengers for hire. Nominal intrastate use shall not
27 subject the property to the taxes imposed by this chapter;

- 1 (19) Any property which has been certified as a fluidized bed energy production facility
2 as defined in KRS 211.390;
- 3 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
4 modification, or expansion of a blast furnace or any of its components or
5 appurtenant equipment or structures as part of an approved supplemental
6 project, as defined by KRS 154.26-010; and
7 2. Materials, supplies, and repair or replacement parts purchased for use in
8 the operation and maintenance of a blast furnace and related carbon
9 steel-making operations as part of an approved supplemental project, as
10 defined by KRS 154.26-010.
- 11 (b) The exemptions provided in this subsection shall be effective for sales made:
12 1. On and after July 1, 2018; and
13 2. During the term of a supplemental project agreement entered into
14 pursuant to KRS 154.26-090;
- 15 (21) Beginning on October 1, 1986, food or food products purchased for human
16 consumption with food coupons issued by the United States Department of
17 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
18 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
19 continue participation in the federal food stamp program;
- 20 (22) Machinery or equipment purchased or leased by a business, industry, or
21 organization in order to collect, source separate, compress, bale, shred, or otherwise
22 handle waste materials if the machinery or equipment is primarily used for
23 recycling purposes;
- 24 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
25 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
26 products, and the following items used in this agricultural pursuit:
27 (a) Feed and feed additives;

- 1 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 2 (c) On-farm facilities, including equipment, machinery, attachments, repair and
3 replacement parts, and any materials incorporated into the construction,
4 renovation, or repair of the facilities. The exemption shall apply to incubation
5 systems, egg processing equipment, waterer and feeding systems, brooding
6 systems, ventilation systems, alarm systems, and curtain systems. In addition,
7 the exemption shall apply whether or not the seller is under contract to
8 deliver, assemble, and incorporate into real estate the equipment, machinery,
9 attachments, repair and replacement parts, and any materials incorporated into
10 the construction, renovation, or repair of the facilities;
- 11 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
12 these embryos and semen ordinarily constitute food for human consumption, and if
13 the sale is made to a person engaged in the business of farming;
- 14 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
15 the breeding and production of hides, breeding stock, fiber and wool products,
16 meat, and llama and alpaca by-products, and the following items used in this
17 pursuit:
- 18 (a) Feed and feed additives;
- 19 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
20 and
- 21 (c) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities. The exemption shall apply to waterer
24 and feeding systems, ventilation systems, and alarm systems. In addition, the
25 exemption shall apply whether or not the seller is under contract to deliver,
26 assemble, and incorporate into real estate the equipment, machinery,
27 attachments, repair and replacement parts, and any materials incorporated into

- 1 the construction, renovation, or repair of the facilities;
- 2 (26) Baling twine and baling wire for the baling of hay and straw;
- 3 (27) Water sold to a person regularly engaged in the business of farming and used in the:
- 4 (a) Production of crops;
- 5 (b) Production of milk for sale; or
- 6 (c) Raising and feeding of:
- 7 1. Livestock or poultry, the products of which ordinarily constitute food
- 8 for human consumption; or
- 9 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 10 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
- 11 production of hides, breeding stock, meat, and buffalo by-products, and the
- 12 following items used in this pursuit:
- 13 (a) Feed and feed additives;
- 14 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 15 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 16 replacement parts, and any materials incorporated into the construction,
- 17 renovation, or repair of the facilities. The exemption shall apply to waterer
- 18 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 19 exemption shall apply whether or not the seller is under contract to deliver,
- 20 assemble, and incorporate into real estate the equipment, machinery,
- 21 attachments, repair and replacement parts, and any materials incorporated into
- 22 the construction, renovation, or repair of the facilities;
- 23 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
- 24 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
- 25 and the following items used in this pursuit:
- 26 (a) Feed and feed additives;
- 27 (b) Water;

- 1 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
2 and
- 3 (d) On-farm facilities, including equipment, machinery, attachments, repair and
4 replacement parts, and any materials incorporated into the construction,
5 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
6 petroleum gas, or natural gas used to operate the facilities. The exemption
7 shall apply, but not be limited to: waterer and feeding systems; ventilation,
8 aeration, and heating systems; processing and storage systems; production
9 systems such as ponds, tanks, and raceways; harvest and transport equipment
10 and systems; and alarm systems. In addition, the exemption shall apply
11 whether or not the seller is under contract to deliver, assemble, and
12 incorporate into real estate the equipment, machinery, attachments, repair and
13 replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities;
- 15 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
16 production of hides, breeding stock, meat, and cervid by-products, and the
17 following items used in this pursuit:
- 18 (a) Feed and feed additives;
- 19 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 20 (c) On-site facilities, including equipment, machinery, attachments, repair and
21 replacement parts, and any materials incorporated into the construction,
22 renovation, or repair of the facilities. In addition, the exemption shall apply
23 whether or not the seller is under contract to deliver, assemble, and
24 incorporate into real estate the equipment, machinery, attachments, repair and
25 replacement parts, and any materials incorporated into the construction,
26 renovation, or repair of the facilities;
- 27 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor

1 vehicle, including any towed unit, used exclusively in interstate commerce for
 2 the conveyance of property or passengers for hire, provided the motor vehicle
 3 is licensed for use on the highway and its declared gross vehicle weight with
 4 any towed unit is forty-four thousand and one (44,001) pounds or greater.
 5 Nominal intrastate use shall not subject the property to the taxes imposed by
 6 this chapter;

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

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

19 (32) Food donated by a retail food establishment or any other entity regulated under
 20 KRS 217.127 to a nonprofit organization for distribution to the needy; ~~and~~

21 (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased
 22 by a person regularly engaged in the business of farming and used in the treatment
 23 of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic
 24 organisms, or cervids;

25 **(34) (a) Building materials, fixtures, or supplies purchased by a construction**
 26 **contractor if:**

27 **1. Fulfilled by a construction contract with:**

- 1 a. A municipally owned water utility organized under KRS Chapter
- 2 96;
- 3 b. A water district or water commission formed or organized under
- 4 KRS Chapter 74;
- 5 c. A sanitation district established under KRS Chapter 220 or
- 6 formed pursuant to KRS Chapter 65; or
- 7 d. A nonprofit corporation created under KRS 58.180 to act on
- 8 behalf of a governmental agency in the acquisition and
- 9 financing of public projects; and

10 2. The building materials, fixtures, or supplies:

- 11 a. Will be permanently incorporated into a structure or
- 12 improvement to real property, or will be completely consumed, in
- 13 fulfilling a construction contract for the purpose of furnishing
- 14 water or sewer services to the general public; and
- 15 b. Would be exempt if purchased directly by the entities listed in
- 16 subparagraph 1. of this paragraph.

17 (b) As used in this subsection, "construction contract" means a:

- 18 1. Lump sum contract;
- 19 2. Cost plus contract;
- 20 3. Materials only contract;
- 21 4. Labor and materials contract; or
- 22 5. Any other type of contract.

23 (c) The exemption provided in this subsection shall apply without regard to the

24 payment arrangement between the construction contractor, the retailer, and

25 the entities listed in paragraph (a)1. of this subsection or to the place of

26 delivery for the building materials, fixtures, or supplies; and

27 (35) (a) On or after February 25, 2022, the rental of space for meetings,

1 conventions, short-term business uses, entertainment events, weddings,
 2 banquets, parties, and other short-term social events, as referenced in
 3 Section 7 of this Act, if the tax established in Section 7 of this Act, is paid by
 4 the primary lessee to the lessor.

5 **(b) For the purpose of this subsection, "primary lessee" means the person who**
 6 **leases the space and who has a contract with the lessor of the space only if:**

7 **1. The contract between the lessor and the lessee specifies that the lessee**
 8 **may sublease, subrent, or otherwise sell the space; and**

9 **2. The space is then sublet, subrented, or otherwise sold to exhibitors,**
 10 **vendors, sponsors, or other entities and persons who will use the space**
 11 **associated with the event to be conducted under the primary lease.**

12 ➔ Section 14. KRS 139.481 is amended to read as follows:

13 (1) On and after January 1, 2023, every person claiming an exemption provided under
 14 KRS 139.480(4) to (9), ~~[KRS 139.480](11), [KRS 139.480](13) to (15), [and KRS~~
 15 ~~139.480](23) to (30),~~ **and (33)** shall provide to the seller or retailer a valid
 16 agriculture exemption license number issued by the department.

17 (2) A person is eligible to apply for an agriculture exemption license number if the
 18 person is:

19 (a) Regularly engaged in the occupation of tilling and cultivating the soil for the
 20 production of crops as a business;

21 (b) Regularly engaged in the occupation of raising and feeding livestock of a kind
 22 the products of which ordinarily constitute food for human consumption;

23 (c) Raising and feeding poultry;

24 (d) Producing milk for sale; or

25 (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or
 26 aquatic organisms as an agricultural pursuit.

27 (3) (a) On and after January 1, 2023, persons that receive an agriculture exemption

1 license number and choose to claim the exemptions outlined in subsection (1)
2 of this section shall, at least one (1) time, provide the seller or retailer from
3 whom they purchase exempt tangible personal property with one (1) of the
4 following:

- 5 1. The agriculture exemption license number issued by the department; or
- 6 2. A fully completed Streamlined Sales Tax Certificate of Exemption
7 which shall include the agriculture exemption license number.

8 (b) A purchaser that has met the requirements of paragraph (a) of this subsection
9 may issue the agriculture exemption license number to the seller or retailer for
10 subsequent purchases as evidence of an exempt purchase for as long as the
11 agriculture exemption license number is valid.

12 (c) Persons that meet the requirements of subsection (2) of this section but have
13 not yet received an agriculture exemption license number from the department
14 prior to January 1, 2023, may issue a fully completed exemption certificate or
15 a fully completed Streamlined Sales Tax Certificate of Exemption without the
16 agriculture exemption license number prior to January 1, 2023.

17 (4) (a) The department, by administrative regulation, shall develop an application
18 form for the agriculture exemption license number and procedures by which
19 the application form may also be submitted either electronically or by paper
20 filing.

- 21 (b) The application shall include:
- 22 1. The person's name and mailing address;
 - 23 2. The farm address, if different from the person's mailing address;
 - 24 3. An affirmation that the person meets at least one (1) of the criteria
25 outlined in subsection (2) of this section;
 - 26 4. The person's driver's license number; and
 - 27 5. One (1) of the following forms of documentation:

- 1 a. IRS Schedule F, Profit or Loss from Farming;
- 2 b. IRS Form 4835, Farm Rental Income and Expenses;
- 3 c. The farm service agency number or numbers assigned by the
- 4 United States Department of Agriculture pertaining to the parcels
- 5 of land on which agriculture activity will take place; or
- 6 d. Any other type of information that may establish to the satisfaction
- 7 of the Commissioner that the applicant qualifies for the agriculture
- 8 exemption license number.
- 9 (5) (a) The agriculture exemption license number shall expire on December 31, 2026,
- 10 and every four (4) years thereafter, or when the person ceases to engage in the
- 11 agriculture activity for which the agriculture exemption license number was
- 12 granted, whichever comes first.
- 13 (b) When a person ceases to engage in the agriculture activity for which the
- 14 license number was granted, the person shall notify the department within
- 15 sixty (60) days.
- 16 (c) The person may apply for a renewal of the agriculture exemption license
- 17 number prior to the expiration date if the person continues to meet the
- 18 requirements of subsection (2) of this section and provides documentation
- 19 required by subsection (4)(b)5. of this section. The department shall, by
- 20 administrative regulation, prescribe the electronic process for renewing an
- 21 agriculture exemption license number.
- 22 (6) (a) On or before January 1, 2023, the department shall develop and provide an
- 23 online searchable database on the department's Web site that the seller or
- 24 retailer may use to confirm the agriculture exemption license number if the
- 25 purchaser cannot produce documentation of the agriculture exemption license
- 26 number at the time of sale.
- 27 (b) To search the database, the seller or retailer shall provide the name of the

1 person assigned the agriculture exemption license number and one (1) of the
2 following:

- 3 1. The agriculture exemption license number;
- 4 2. The agriculture exemption license number expiration date;
- 5 3. The person's driver's license number;
- 6 4. The farm service agency parcel number; or
- 7 5. Any other unique identifier that may be accepted by the department.

8 (c) The seller or retailer shall be relieved of the liability for collecting and
9 remitting the sales and use tax if the seller or retailer meets the requirements
10 of KRS 139.260 and 139.270.

11 → Section 15. KRS 139.498 is amended to read as follows:

12 (1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as
13 described in KRS 139.495 and 139.497, the taxes imposed by this chapter do
14 not apply to:

- 15 1. The sale of admissions, including the sales of admissions to a golf
16 course when the admission is the result of a fundraising event. All other
17 sales of admissions to a golf course by these organizations are not
18 exempt from tax under this section; or

- 19 2. a. Fundraising event sales.

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

25 (b) **For nonprofit civic or other nonprofit organizations, except as described in**
26 **KRS 139.495 and 139.497, that operate fundraising events solely with**
27 **volunteers, the taxes imposed by this chapter also do not apply to sales of:**

- 1 1. Concessions for leisure, recreational, or athletic fundraising purposes;
- 2 or
- 3 2. Leisure, recreational, or athletic services.

4 (c) The exemption provided in subparagraph 1. of paragraph (a) of this subsection
 5 shall not apply to the sale of admissions to a public facility that qualifies for a
 6 sales tax rebate under KRS 139.533.

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

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

11 (1) For taxable years beginning on or after January 1, 2022, a pass-through entity
 12 may elect to pay the tax liability at the entity level, utilizing the tax rate
 13 computation under Section 21 of this Act, on behalf of the individual partner,
 14 member, or shareholder of the pass-through entity.

15 (2) The election shall be:

16 (a) Made on a form prescribed by the department;

- 17 (b) Made by the:
 - 18 1. Fifteenth day of the fourth month upon the close of the taxable year;
 - 19 or
 - 20 2. Fifteenth day of the tenth month upon the close of the taxable year, if
 21 the return is filed under KRS 141.170;

22 (c) Made only upon the consent of all partners, members, or shareholders
 23 holding more than fifty percent (50%) ownership in the pass-through entity;
 24 and

25 (d) Binding upon all individual partners, members, or shareholders of the pass-
 26 through entity.

27 (3) For taxable years beginning on or after January 1, 2022, there shall be allowed a

1 *pass-through entity tax credit which shall be:*

2 *(a) Equal to ninety-five percent (95%) of the tax paid by the pass-through entity*
 3 *on behalf of the individual partner, member, or shareholder of the pass-*
 4 *through entity;*

5 *(b) Claimed against the tax imposed under Section 21 of this Act on a return*
 6 *filed by the individual partner, member, or shareholder of the pass-through*
 7 *entity, with the ordering of credits as provided in Section 22 of this Act;*

8 *(c) Nonrefundable; and*

9 *(d) Based on the pro rata share of the individual partner's, member's, or*
 10 *shareholder's income from the pass-through entity.*

11 *(4) The pass-through entity shall report to each individual partner, member, or*
 12 *shareholder the individual's proportionate share of the tax paid by the pass-*
 13 *through entity for the taxable year and for purposes of the pass-through entity tax*
 14 *credit created in subsection (3) of this section.*

15 *(5) The department shall prescribe forms and may promulgate administrative*
 16 *regulations as needed to administer this section.*

17 → Section 17. KRS 141.010 is amended to read as follows:

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

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

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

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

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

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

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

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

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

12 2. For the purposes of this paragraph:

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

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

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

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

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

- 1 (5) "Critical infrastructure" means property and equipment owned or used by
2 communications networks, electric generation, transmission or distribution systems,
3 gas distribution systems, or water or wastewater pipelines that service multiple
4 customers or citizens, including but not limited to real and personal property such
5 as buildings, offices, lines, poles, pipes, structures, or equipment;
- 6 (6) "Declared state disaster or emergency" means a disaster or emergency event for
7 which:
8 (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or
9 (b) A presidential declaration of a federal major disaster or emergency has been
10 issued;
- 11 (7) "Department" means the Department of Revenue;
- 12 (8) "Dependent" means those persons defined as dependents in the Internal Revenue
13 Code;
- 14 (9) "Disaster or emergency-related work" means repairing, renovating, installing,
15 building, or rendering services that are essential to the restoration of critical
16 infrastructure that has been damaged, impaired, or destroyed by a declared state
17 disaster or emergency;
- 18 (10) "Disaster response business" means any entity:
19 (a) That has no presence in the state and conducts no business in the state, except
20 for disaster or emergency-related work during a disaster response period;
21 (b) Whose services are requested by a registered business or by a state or local
22 government for purposes of performing disaster or emergency-related work in
23 the state during a disaster response period; and
24 (c) That has no registrations, tax filings, or nexus in this state other than disaster
25 or emergency-related work during the calendar year immediately preceding
26 the declared state disaster or emergency;
- 27 (11) "Disaster response employee" means an employee who does not work or reside in

1 the state, except for disaster or emergency-related work during the disaster response
2 period;

3 (12) "Disaster response period" means a period that begins ten (10) days prior to the first
4 day of the Governor's declaration under KRS 39A.100, or the President's
5 declaration of a federal major disaster or emergency, whichever occurs first, and
6 that extends thirty (30) calendar days after the declared state disaster or emergency;

7 (13) "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 (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue
24 Code;

25 (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue
26 Code;

27 (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue

- 1 Code;
- 2 (17) "Financial institution" means:
- 3 (a) A national bank organized as a body corporate and existing or in the process
- 4 of organizing as a national bank association pursuant to the provisions of the
- 5 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
- 6 1997, exclusive of any amendments made subsequent to that date;
- 7 (b) Any bank or trust company incorporated or organized under the laws of any
- 8 state, except a banker's bank organized under KRS 286.3-135;
- 9 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
- 10 in effect on December 31, 1997, exclusive of any amendments made
- 11 subsequent to that date, or any corporation organized after December 31,
- 12 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
- 13 December 31, 1997; or
- 14 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
- 15 3101, in effect on December 31, 1997, exclusive of any amendments made
- 16 subsequent to that date, or any agency or branch of a foreign depository
- 17 established after December 31, 1997, that meets the requirements of 12 U.S.C.
- 18 sec. 3101 in effect on December 31, 1997;
- 19 (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
- 20 Revenue Code;
- 21 (19) "Gross income":
- 22 (a) In the case of taxpayers other than corporations, has the same meaning as in
- 23 Section 61 of the Internal Revenue Code; and
- 24 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 25 (20) "Individual" means a natural person;
- 26 (21) "Internal Revenue Code" means for taxable years beginning on or after January 1,
- 27 2023~~[2022]~~, the Internal Revenue Code in effect on December 31, 2022~~[2021]~~,

1 exclusive of any amendments made subsequent to that date, other than amendments
 2 that extend provisions in effect on December 31, 2022~~[2021]~~, that would otherwise
 3 terminate;

4 (22) "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;

8 (23) "Modified gross income" means the greater of:

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

12 1. Include interest income derived from obligations of sister states and
 13 political subdivisions thereof; and

14 2. Include lump-sum pension distributions taxed under the special
 15 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

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

19 (24) "Net income":

20 (a) In the case of taxpayers other than corporations, means the amount calculated
 21 in KRS 141.019; and

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

23 (25) "Nonresident" means any individual not a resident of this state;

24 (26) "Number of withholding exemptions claimed" means the number of withholding
 25 exemptions claimed in a withholding exemption certificate in effect under KRS
 26 141.325, except that if no such certificate is in effect, the number of withholding
 27 exemptions claimed shall be considered to be zero;

- 1 (27) "Part-year resident" means any individual that has established or abandoned
2 Kentucky residency during the calendar year;
- 3 (28) "Pass-through entity" means any partnership, S corporation, limited liability
4 company, limited liability partnership, limited partnership, or similar entity
5 recognized by the laws of this state that is not taxed for federal purposes at the
6 entity level, but instead passes to each partner, member, shareholder, or owner their
7 proportionate share of income, deductions, gains, losses, credits, and any other
8 similar attributes;
- 9 (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
10 Revenue Code;
- 11 (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
12 Code;
- 13 (31) "Registered business" means a business entity that owns or otherwise possesses
14 critical infrastructure and that is registered to do business in the state prior to the
15 declared state disaster or emergency;
- 16 (32) "Resident" means an individual domiciled within this state or an individual who is
17 not domiciled in this state, but maintains a place of abode in this state and spends in
18 the aggregate more than one hundred eighty-three (183) days of the taxable year in
19 this state;
- 20 (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue
21 Code;
- 22 (34) "State" means a state of the United States, the District of Columbia, the
23 Commonwealth of Puerto Rico, or any territory or possession of the United States;
- 24 (35) "Taxable net income":
- 25 (a) In the case of corporations that are taxable in this state, means "net income" as
26 defined in subsection (24) of this section;
- 27 (b) In the case of corporations that are taxable in this state and taxable in another

1 state, means "net income" as defined in subsection (24) of this section and as
2 allocated and apportioned under KRS 141.120;

3 (c) For homeowners' associations as defined in Section 528(c) of the Internal
4 Revenue Code, means "taxable income" as defined in Section 528(d) of the
5 Internal Revenue Code. Notwithstanding the provisions of subsection (21) of
6 this section, the Internal Revenue Code sections referred to in this paragraph
7 shall be those code sections in effect for the applicable tax year; and

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

13 (36) "Taxable year" means the calendar year or fiscal year ending during such calendar
14 year, upon the basis of which net income is computed, and in the case of a return
15 made for a fractional part of a year under the provisions of this chapter or under
16 administrative regulations prescribed by the commissioner, "taxable year" means
17 the period for which the return is made; and

18 (37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code
19 and includes other income subject to withholding as provided in Section 3401(f)
20 and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

21 → Section 18. KRS 141.017 is amended to read as follows:

22 (1) (a) All deductions allowed by this chapter shall be limited to amounts directly or
23 indirectly allocable to income subject to taxation under the provisions of this
24 chapter.

25 (b) Any deduction directly or indirectly allocable to income which is either
26 exempt from taxation or otherwise not taxed under this chapter shall not be
27 allowed.

1 (c) This subsection does not apply to deductions allowed under Pub. L. No. 116-
 2 260, secs. 276 and 278, related to the tax treatment of forgiven covered loans
 3 and deductions attributable to those loans for taxable years ending on or after
 4 March 27, 2020, but before taxable years beginning January 1, 2022.

5 **(d) This subsection shall not apply to deductions allowed under Pub. L. No.**
 6 **117-2, sec. 9673, relating to amounts allocable to income from grants to**
 7 **restaurants and other food service eligible entities under the restaurant**
 8 **revitalization grants program for taxable years beginning on or after**
 9 **January 1, 2020, but before March 11, 2023.**

10 (2) Nothing in this chapter shall be construed to permit the same item to be deducted
 11 more than once.

12 → Section 19. KRS 141.019 is amended to read as follows:

13 In the case of taxpayers other than corporations:

14 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
 15 those taxpayers the deductions allowed individuals by Section 62 of the Internal
 16 Revenue Code and adjusting as follows:

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

19 (b) Exclude income from supplemental annuities provided by the Railroad
 20 Retirement Act of 1937 as amended and which are subject to federal income
 21 tax by Pub. L. No. 89-699;

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

24 (d) Exclude employee pension contributions picked up as provided for in KRS
 25 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
 26 and 161.540 upon a ruling by the Internal Revenue Service or the federal
 27 courts that these contributions shall not be included as gross income until such

- 1 time as the contributions are distributed or made available to the employee;
- 2 (e) Exclude Social Security and railroad retirement benefits subject to federal
3 income tax;
- 4 (f) Exclude any money received because of a settlement or judgment in a lawsuit
5 brought against a manufacturer or distributor of "Agent Orange" for damages
6 resulting from exposure to Agent Orange by a member or veteran of the
7 Armed Forces of the United States or any dependent of such person who
8 served in Vietnam;
- 9 (g) 1. a. For taxable years beginning after December 31, 2005, but before
10 January 1, 2018, exclude up to forty-one thousand one hundred ten
11 dollars (\$41,110) of total distributions from pension plans, annuity
12 contracts, profit-sharing plans, retirement plans, or employee
13 savings plans; and
- 14 b. For taxable years beginning on or after January 1, 2018, exclude
15 up to thirty-one thousand one hundred ten dollars (\$31,110) of
16 total distributions from pension plans, annuity contracts, profit-
17 sharing plans, retirement plans, or employee savings plans.
- 18 2. As used in this paragraph:
- 19 a. "Annuity contract" has the same meaning as set forth in Section
20 1035 of the Internal Revenue Code;
- 21 b. "Distributions" includes but is not limited to any lump-sum
22 distribution from pension or profit-sharing plans qualifying for the
23 income tax averaging provisions of Section 402 of the Internal
24 Revenue Code; any distribution from an individual retirement
25 account as defined in Section 408 of the Internal Revenue Code;
26 and any disability pension distribution; and
- 27 c. "Pension plans, profit-sharing plans, retirement plans, or employee

- 1 savings plans" means any trust or other entity created or organized
 2 under a written retirement plan and forming part of a stock bonus,
 3 pension, or profit-sharing plan of a public or private employer for
 4 the exclusive benefit of employees or their beneficiaries and
 5 includes plans qualified or unqualified under Section 401 of the
 6 Internal Revenue Code and individual retirement accounts as
 7 defined in Section 408 of the Internal Revenue Code;
- 8 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
 9 income from an S corporation subject to the franchise tax imposed
 10 under KRS 136.505 or the capital stock tax imposed under KRS
 11 136.300; and
- 12 b. Exclude the portion of the distributive share of a shareholder's net
 13 income from an S corporation related to a qualified subchapter S
 14 subsidiary subject to the franchise tax imposed under KRS
 15 136.505 or the capital stock tax imposed under KRS 136.300.
- 16 2. The shareholder's basis of stock held in an S corporation where the S
 17 corporation or its qualified subchapter S subsidiary is subject to the
 18 franchise tax imposed under KRS 136.505 or the capital stock tax
 19 imposed under KRS 136.300 shall be the same as the basis for federal
 20 income tax purposes;
- 21 (i) Exclude income received for services performed as a precinct worker for
 22 election training or for working at election booths in state, county, and local
 23 primaries or regular or special elections;
- 24 (j) Exclude any capital gains income attributable to property taken by eminent
 25 domain;
- 26 (k) 1. Exclude all income from all sources for members of the Armed Forces
 27 who are on active duty and who are killed in the line of duty, for the

1 year during which the death occurred and the year prior to the year
2 during which the death occurred.

3 2. For the purposes of this paragraph, "all income from all sources" shall
4 include all federal and state death benefits payable to the estate or any
5 beneficiaries;

6 (l) Exclude all military pay received by members of the Armed Forces while on
7 active duty;

8 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
9 or 168; and

10 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;

11 (n) Include the amount deducted under 26 U.S.C. sec. 199A;

12 (o) Ignore any change in the cost basis of the surviving spouse's share of property
13 owned by a Kentucky community property trust occurring for federal income
14 tax purposes as a result of the death of the predeceasing spouse;~~and~~

15 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
16 278, related to the tax treatment of forgiven covered loans, deductions
17 attributable to those loans, and tax attributes associated with those loans for
18 taxable years ending on or after March 27, 2020, but before January 1, 2022;
19 and

20 ~~(q) For taxable years beginning on or after January 1, 2020, but before March~~
21 ~~11, 2023, allow the same treatment of restaurant revitalization grants in~~
22 ~~accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c; and~~

23 (2) Net income shall be calculated by subtracting from adjusted gross income all the
24 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
25 modified by KRS 141.0101, except:

26 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

27 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering

- 1 losses allowed under Section 165(d) of the Internal Revenue Code;
- 2 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 3 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 4 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
- 5 deduction;
- 6 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
- 7 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
- 8 the estate of a decedent, unless there is filed with the income return a
- 9 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 10 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
- 11 any other deductions in lieu thereof;
- 12 (h) Any deduction allowed for amounts paid to any club, organization, or
- 13 establishment which has been determined by the courts or an agency
- 14 established by the General Assembly and charged with enforcing the civil
- 15 rights laws of the Commonwealth, not to afford full and equal membership
- 16 and full and equal enjoyment of its goods, services, facilities, privileges,
- 17 advantages, or accommodations to any person because of race, color, religion,
- 18 national origin, or sex, except nothing shall be construed to deny a deduction
- 19 for amounts paid to any religious or denominational club, group, or
- 20 establishment or any organization operated solely for charitable or educational
- 21 purposes which restricts membership to persons of the same religion or
- 22 denomination in order to promote the religious principles for which it is
- 23 established and maintained; and
- 24 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
- 25 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
- 26 and as modified by this section.

27 → Section 20. KRS 141.039 is amended to read as follows:

1 In the case of corporations:

- 2 (1) Gross income shall be calculated by adjusting federal gross income as defined in
 3 Section 61 of the Internal Revenue Code as follows:
- 4 (a) Exclude income that is exempt from state taxation by the Kentucky
 5 Constitution and the Constitution and statutory laws of the United States;
- 6 (b) Exclude all dividend income;
- 7 (c) Include interest income derived from obligations of sister states and political
 8 subdivisions thereof;
- 9 (d) Exclude fifty percent (50%) of gross income derived from any disposal of
 10 coal covered by Section 631(c) of the Internal Revenue Code if the
 11 corporation does not claim any deduction for percentage depletion, or for
 12 expenditures attributable to the making and administering of the contract
 13 under which such disposition occurs or to the preservation of the economic
 14 interests retained under such contract;
- 15 (e) Include the amount calculated under KRS 141.205;
- 16 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in
 17 computing gross income;
- 18 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
 19 167 or 168;~~and~~
- 20 (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
 21 278, related to the tax treatment of forgiven covered loans, deductions
 22 attributable to those loans, and tax attributes associated with those loans for
 23 taxable years ending on or after March 27, 2020, but before January 1, 2022;
 24 and
- 25 **(i) For taxable years beginning on or after January 1, 2020, but before March**
 26 **11, 2023, allow the same treatment of restaurant revitalization grants in**
 27 **accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c; and**

- 1 (2) Net income shall be calculated by subtracting from gross income:
- 2 (a) The deduction for depreciation allowed by KRS 141.0101;
- 3 (b) Any amount paid for vouchers or similar instruments that provide health
4 insurance coverage to employees or their families;
- 5 (c) All the deductions from gross income allowed corporations by Chapter 1 of
6 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 7 1. Any deduction for a state tax which is computed, in whole or in part, by
8 reference to gross or net income and which is paid or accrued to any
9 state of the United States, the District of Columbia, the Commonwealth
10 of Puerto Rico, any territory or possession of the United States, or to any
11 foreign country or political subdivision thereof;
- 12 2. The deductions contained in Sections 243, 245, and 247 of the Internal
13 Revenue Code;
- 14 3. The provisions of Section 281 of the Internal Revenue Code shall be
15 ignored in computing net income;
- 16 4. Any deduction directly or indirectly allocable to income which is either
17 exempt from taxation or otherwise not taxed under the provisions of this
18 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.
19 276 and 278, related to the tax treatment of forgiven covered loans and
20 deductions attributable to those loans for taxable years ending on or
21 after March 27, 2020, but before January 1, 2022, and nothing in this
22 chapter shall be construed to permit the same item to be deducted more
23 than once;
- 24 5. Any deduction for amounts paid to any club, organization, or
25 establishment which has been determined by the courts or an agency
26 established by the General Assembly and charged with enforcing the
27 civil rights laws of the Commonwealth, not to afford full and equal

- 1 membership and full and equal enjoyment of its goods, services,
2 facilities, privileges, advantages, or accommodations to any person
3 because of race, color, religion, national origin, or sex, except nothing
4 shall be construed to deny a deduction for amounts paid to any religious
5 or denominational club, group, or establishment or any organization
6 operated solely for charitable or educational purposes which restricts
7 membership to persons of the same religion or denomination in order to
8 promote the religious principles for which it is established and
9 maintained;
- 10 6. Any deduction prohibited by KRS 141.205; and
11 7. Any dividends-paid deduction of any captive real estate investment
12 trust; and
- 13 (d) 1. A deferred tax deduction in an amount computed in accordance with this
14 paragraph.
15 2. For purposes of this paragraph:
16 a. "Net deferred tax asset" means that deferred tax assets exceed the
17 deferred tax liabilities of the combined group, as computed in
18 accordance with accounting principles generally accepted in the
19 United States of America; and
20 b. "Net deferred tax liability" means deferred tax liabilities that
21 exceed the deferred tax assets of a combined group as defined in
22 KRS 141.202, as computed in accordance with accounting
23 principles generally accepted in the United States of America.
24 3. Only publicly traded companies, including affiliated corporations
25 participating in the filing of a publicly traded company's financial
26 statements prepared in accordance with accounting principles generally
27 accepted in the United States of America, as of January 1, 2019, shall be

- 1 eligible for this deduction.
- 2 4. If the provisions of KRS 141.202 result in an aggregate increase to the
3 member's net deferred tax liability, an aggregate decrease to the
4 member's net deferred tax asset, or an aggregate change from a net
5 deferred tax asset to a net deferred tax liability, the combined group
6 shall be entitled to a deduction, as determined in this paragraph.
- 7 5. For ten (10) years beginning with the combined group's first taxable
8 year beginning on or after January 1, 2024, a combined group shall be
9 entitled to a deduction from the combined group's entire net income
10 equal to one-tenth (1/10) of the amount necessary to offset the increase
11 in the net deferred tax liability, decrease in the net deferred tax asset, or
12 aggregate change from a net deferred tax asset to a net deferred tax
13 liability. The increase in the net deferred tax liability, decrease in the net
14 deferred tax asset, or the aggregate change from a net deferred tax asset
15 to a net deferred tax liability shall be computed based on the change that
16 would result from the imposition of the combined reporting requirement
17 under KRS 141.202, but for the deduction provided under this paragraph
18 as of June 27, 2019.
- 19 6. The deferred tax impact determined in subparagraph 5. of this paragraph
20 shall be converted to the annual deferred tax deduction amount, as
21 follows:
- 22 a. The deferred tax impact determined in subparagraph 5. of this
23 paragraph shall be divided by the tax rate determined under KRS
24 141.040;
- 25 b. The resulting amount shall be further divided by the
26 apportionment factor determined by KRS 141.120 or 141.121 that
27 was used by the combined group in the calculation of the deferred

1 tax assets and deferred tax liabilities as described in subparagraph
2 5. of this paragraph; and

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

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

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

23 → Section 21. KRS 141.020 is amended to read as follows:

24 (1) An annual tax shall be paid for each taxable year by every resident individual of
25 this state upon his or her entire net income as defined in this chapter. The tax shall
26 be determined by applying the rates in subsection (2) of this section to net income
27 and subtracting allowable tax credits provided in subsection (3) of this section.

- 1 (2) (a) As used in this subsection:
- 2 1. "Balance in the BRTF at the end of a fiscal year" means the budget
- 3 reserve trust fund account established in KRS 48.705 and includes the
- 4 following amounts and actions resulting from the final close of the fiscal
- 5 year:
- 6 a. The amount of moneys in the fund at the end of a fiscal year;
- 7 b. All close-out actions related to a budget reduction plan under KRS
- 8 48.130 or as modified in a branch budget bill; and
- 9 c. All close-out actions related to the surplus expenditure plan under
- 10 KRS 48.140 or as modified in a branch budget bill;
- 11 2. "GF appropriations" means the authorization by the General Assembly
- 12 to expend GF moneys, excluding:
- 13 a. **Continuing appropriations;**
- 14 **b.** Any appropriation to the budget reserve trust fund; and
- 15 **c.**~~b.~~ Any lump-sum appropriation to a state-administered retirement
- 16 system, as defined in KRS 7A.210, that is in excess of the
- 17 appropriations specifically budgeted to meet the recurring
- 18 statutorily required contributions or recurring actuarially
- 19 determined contributions for a state-administered retirement
- 20 system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or
- 21 161.550, as applicable;
- 22 3. "GF moneys" means receipts deposited in the general fund defined in
- 23 KRS 48.010, excluding tobacco moneys deposited in the fund
- 24 established in KRS 248.654;
- 25 4. "IIT equivalent" means the amount of reduction in GF moneys resulting
- 26 from a one (1) percentage point reduction to the individual income tax
- 27 rate **and shall be calculated by dividing the actual individual income**

- 1 **tax receipts for the fiscal year under consideration by:**
- 2 **a. The sum of:**
- 3 **i. The individual income tax rate, expressed as a percentage,**
- 4 **for the first six (6) months of the fiscal year; and**
- 5 **ii. The individual income tax rate, expressed as a percentage,**
- 6 **for the second six (6) months of the fiscal year; and**
- 7 **b. Dividing the sum determined in subdivision a. of this**
- 8 **subparagraph by two (2);**
- 9 5. "Reduction conditions" means:
- 10 a. The balance in the BRTF at the end of a fiscal year shall be equal
- 11 to or greater than ten percent (10%) of the GF moneys for that
- 12 fiscal year; and
- 13 b. GF moneys at the end of a fiscal year shall be equal to or greater
- 14 than GF appropriations for that fiscal year plus the IIT equivalent
- 15 for that fiscal year; and
- 16 6. "Tax rate reduction" means the current tax rate minus five-tenths of one
- 17 percent (0.5%).
- 18 (b) **For taxable years beginning on or after January 1, 2023, but prior to**
- 19 **January 1, 2024, the tax shall be four and one-half percent (4.5%) of net**
- 20 **income.**
- 21 (c) **For taxable years beginning on or after January 1, 2024, the tax shall be**
- 22 **four percent (4%) of net income.**
- 23 (d) **1. For taxable years beginning on or after January 1, 2025, the income**
- 24 **tax rate may be reduced according to the annual process established in**
- 25 **subparagraphs 2. to 5. of this paragraph.**
- 26 ~~2.[1.]~~ ~~Beginning no later than September 1, 2022, the department, with~~
- 27 ~~assistance from~~ ~~The Office of State Budget Director~~ ~~,~~ shall review the

1 reduction conditions for the fiscal year 2022-2023 no later than
 2 September 1, 2023~~as they apply to fiscal year 2020-2021 and fiscal~~
 3 ~~year 2021-2022 and make a determination if the reduction conditions~~
 4 ~~have been met for each fiscal year].~~

5 ~~3.~~~~2.~~ After reviewing the reduction conditions under subparagraph ~~2.~~~~1.~~ of
 6 this paragraph, the Office of State Budget Director~~[department]~~ shall, ~~[-~~
 7 ~~a.~~ no later than September 5, 2023~~[2022]~~, report to the Interim Joint
 8 Committee on Appropriations and Revenue:

9 ~~a.~~~~i.~~ Whether the reduction conditions for the fiscal year 2022-2023
 10 have been met~~[a tax rate reduction will occur for the taxable year~~
 11 ~~beginning on January 1, 2023]; and~~

12 ~~b.~~~~ii.~~ The amounts associated with each item within the reduction
 13 conditions used for making that determination~~[-; and~~

14 ~~b.~~ ~~i.~~ Implement the tax rate reduction for the taxable year
 15 beginning on January 1, 2023, if the reduction conditions are
 16 met; or

17 ~~ii.~~ Maintain the current tax rate, if the reduction conditions are
 18 not met].

19 4. a. If the reduction conditions have been met for fiscal year 2022-
 20 2023, the General Assembly may take action to reduce the rate in
 21 paragraph (c) of this subsection for the taxable year beginning
 22 January 1, 2025.

23 b. If the reduction conditions have not been met for fiscal year
 24 2022-2023 or the General Assembly does not take action to
 25 reduce the rate in paragraph (c) of this subsection, the
 26 department shall maintain the rate in paragraph (c) of this
 27 subsection for the taxable year beginning January 1, 2025.

1 5. a. [(e)1.] The *Office of State Budget Director*~~[department]~~ shall
 2 implement an annual process to review and report future reduction
 3 conditions at the same time and in the same manner *for each fiscal*
 4 *year subsequent to the fiscal year 2022-2023 and each taxable*
 5 *year subsequent to the taxable year beginning January 1, 2025.*

6 *b. The department shall not implement an income tax rate*
 7 *reduction without an action by the General Assembly.*

8 *c. The annual process shall continue until the income tax rate is*
 9 *zero*~~[as under paragraph (b) of this subsection, except that the~~
 10 ~~department shall use the next succeeding year related to the dates~~
 11 ~~for review and reporting and the next succeeding fiscal year data~~
 12 ~~to evaluate the reduction conditions].~~

13 ~~[2. Notwithstanding subparagraph 1. of this paragraph, the department shall~~
 14 ~~not implement an income tax rate reduction without a future action by~~
 15 ~~the General Assembly.]~~

16 (e) [(d)] For taxable years beginning on or after January 1, 2018, but before
 17 January 1, 2023, the tax shall be five percent (5%) of net income.

18 (f) [(e)] For taxable years beginning after December 31, 2004, and before
 19 January 1, 2018, the tax shall be determined by applying the following rates to
 20 net income:

- 21 1. Two percent (2%) of the amount of net income up to three thousand
 22 dollars (\$3,000);
- 23 2. Three percent (3%) of the amount of net income over three thousand
 24 dollars (\$3,000) and up to four thousand dollars (\$4,000);
- 25 3. Four percent (4%) of the amount of net income over four thousand
 26 dollars (\$4,000) and up to five thousand dollars (\$5,000);
- 27 4. Five percent (5%) of the amount of net income over five thousand

1 dollars (\$5,000) and up to eight thousand dollars (\$8,000);

2 5. Five and eight-tenths percent (5.8%) of the amount of net income over
3 eight thousand dollars (\$8,000) and up to seventy-five thousand dollars
4 (\$75,000); and

5 6. Six percent (6%) of the amount of net income over seventy-five
6 thousand dollars (\$75,000).

7 (3) (a) The following tax credits, when applicable, shall be deducted from the result
8 obtained under subsection (2) of this section to arrive at the annual tax:

9 1. a. For taxable years beginning before January 1, 2014, twenty dollars
10 (\$20) for an unmarried individual; and

11 b. For taxable years beginning on or after January 1, 2014, and
12 before January 1, 2018, ten dollars (\$10) for an unmarried
13 individual;

14 2. a. For taxable years beginning before January 1, 2014, twenty dollars
15 (\$20) for a married individual filing a separate return and an
16 additional twenty dollars (\$20) for the spouse of taxpayer if a
17 separate return is made by the taxpayer and if the spouse, for the
18 calendar year in which the taxable year of the taxpayer begins, had
19 no Kentucky gross income and is not the dependent of another
20 taxpayer; or forty dollars (\$40) for married persons filing a joint
21 return, provided neither spouse is the dependent of another
22 taxpayer. The determination of marital status for the purpose of
23 this section shall be made in the manner prescribed in Section 153
24 of the Internal Revenue Code; and

25 b. For taxable years beginning on or after January 1, 2014, and
26 before January 1, 2018, ten dollars (\$10) for a married individual
27 filing a separate return and an additional ten dollars (\$10) for the

- 1 spouse of a taxpayer if a separate return is made by the taxpayer
2 and if the spouse, for the calendar year in which the taxable year of
3 the taxpayer begins, had no Kentucky gross income and is not the
4 dependent of another taxpayer; or twenty dollars (\$20) for married
5 persons filing a joint return, provided neither spouse is the
6 dependent of another taxpayer. The determination of marital status
7 for the purpose of this section shall be made in the manner
8 prescribed in Section 153 of the Internal Revenue Code;
- 9 3. a. For taxable years beginning before January 1, 2014, twenty dollars
10 (\$20) credit for each dependent. No credit shall be allowed for any
11 dependent who has made a joint return with his or her spouse; and
12 b. For taxable years beginning on or after January 1, 2014, and
13 before January 1, 2018, ten dollars (\$10) credit for each
14 dependent. No credit shall be allowed for any dependent who has
15 made a joint return with his or her spouse;
- 16 4. An additional forty dollars (\$40) credit if the taxpayer has attained the
17 age of sixty-five (65) before the close of the taxable year;
- 18 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a
19 separate return is made by the taxpayer and if the taxpayer's spouse has
20 attained the age of sixty-five (65) before the close of the taxable year,
21 and, for the calendar year in which the taxable year of the taxpayer
22 begins, has no Kentucky gross income and is not the dependent of
23 another taxpayer;
- 24 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the
25 close of the taxable year;
- 26 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a
27 separate return is made by the taxpayer and if the taxpayer's spouse is

1 blind, and, for the calendar year in which the taxable year of the
2 taxpayer begins, has no Kentucky gross income and is not the dependent
3 of another taxpayer; and

4 8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer
5 is a member of the Kentucky National Guard at the close of the taxable
6 year.

7 (b) In the case of nonresidents, the tax credits allowable under this subsection
8 shall be the portion of the credits that are represented by the ratio of the
9 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
10 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
11 Revenue Code. However, in the case of a married nonresident taxpayer with
12 income from Kentucky sources, whose spouse has no income from Kentucky
13 sources, the taxpayer shall determine allowable tax credit(s) by either:

14 1. The method contained above applied to the taxpayer's tax credit(s),
15 excluding credits for a spouse and dependents; or

16 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the
17 taxpayer's spouse and dependents by the ratio of the taxpayer's
18 Kentucky adjusted gross income as determined by KRS 141.019 to the
19 total joint federal adjusted gross income of the taxpayer and the
20 taxpayer's spouse.

21 (c) In the case of a part-year resident, the tax credits allowable under this
22 subsection shall be the portion of the credits represented by the ratio of the
23 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
24 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
25 Revenue Code.

26 (4) An annual tax shall be paid for each taxable year as specified in this section upon
27 the entire net income except as herein provided, from all tangible property located

1 in this state, from all intangible property that has acquired a business situs in this
 2 state, and from business, trade, profession, occupation, or other activities carried on
 3 in this state, by natural persons not residents of this state. A nonresident individual
 4 shall be taxable only upon the amount of income received by the individual from
 5 labor performed, business done, or from other activities in this state, from tangible
 6 property located in this state, and from intangible property which has acquired a
 7 business situs in this state; provided, however, that the situs of intangible personal
 8 property shall be at the residence of the real or beneficial owner and not at the
 9 residence of a trustee having custody or possession thereof. For taxable years
 10 beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed
 11 by this section shall not apply to a disaster response employee or to a disaster
 12 response business. The remainder of the income received by such nonresident shall
 13 be deemed nontaxable by this state.

14 (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the
 15 annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

16 (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this
 17 section, during that portion of the taxable year that the individual is a resident and,
 18 as prescribed in subsection (4) of this section, during that portion of the taxable year
 19 when the individual is a nonresident.

20 → Section 22. KRS 141.0205 is amended to read as follows:

21 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
 22 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
 23 the credits shall be determined as follows:

24 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 25 141.020 shall be taken in the following order:

26 (a) The limited liability entity tax credit permitted by KRS 141.0401;

27 (b) The economic development credits computed under KRS 141.347, 141.381,

- 1 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
2 207, and 154.12-2088;
- 3 (c) The qualified farming operation credit permitted by KRS 141.412;
- 4 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 5 (e) The health insurance credit permitted by KRS 141.062;
- 6 (f) The tax paid to other states credit permitted by KRS 141.070;
- 7 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 8 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 9 (i) The tax credit for cash contributions in investment funds permitted by KRS
10 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
11 154.20-258;
- 12 (j) The research facilities credit permitted by KRS 141.395;
- 13 (k) The employer High School Equivalency Diploma program incentive credit
14 permitted under KRS 151B.402;
- 15 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 16 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 17 (n) The clean coal incentive credit permitted by KRS 141.428;
- 18 (o) The ethanol credit permitted by KRS 141.4242;
- 19 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 20 (q) The energy efficiency credits permitted by KRS 141.436;
- 21 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 22 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 23 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 24 (u) The distilled spirits credit permitted by KRS 141.389;
- 25 (v) The angel investor credit permitted by KRS 141.396;
- 26 (w) The film industry credit permitted by KRS 141.383 for applications approved
27 on or after April 27, 2018, but before January 1, 2022;

- 1 (x) The inventory credit permitted by KRS 141.408; and
- 2 (y) The renewable chemical production credit permitted by KRS 141.4231.
- 3 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 4 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 5 shall be taken in the following order:
- 6 (a) The individual credits permitted by KRS 141.020(3);
- 7 (b) The credit permitted by KRS 141.066;
- 8 (c) The tuition credit permitted by KRS 141.069;
- 9 (d) The household and dependent care credit permitted by KRS 141.067;
- 10 (e) The income gap credit permitted by KRS 141.066;~~and~~
- 11 (f) The Education Opportunity Account Program tax credit permitted by KRS
- 12 141.522; **and**
- 13 **(g) The pass-through entity tax credit permitted by Section 16 of this Act.**
- 14 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 15 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 16 taken in the following order:
- 17 (a) The individual withholding tax credit permitted by KRS 141.350;
- 18 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 19 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 20 171.397(1)(b);
- 21 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 22 approved prior to April 27, 2018, or on or after January 1, 2022;
- 23 (e) The development area tax credit permitted by KRS 141.398; and
- 24 (f) The decontamination tax credit permitted by KRS 141.419.
- 25 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 26 tax imposed by KRS 141.040.
- 27 (5) The following nonrefundable credits shall be applied against the sum of the tax

1 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
2 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 3 (a) The economic development credits computed under KRS 141.347, 141.381,
4 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
5 207, and 154.12-2088;
- 6 (b) The qualified farming operation credit permitted by KRS 141.412;
- 7 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 8 (d) The health insurance credit permitted by KRS 141.062;
- 9 (e) The unemployment credit permitted by KRS 141.065;
- 10 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 11 (g) The coal conversion credit permitted by KRS 141.041;
- 12 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
13 ending prior to January 1, 2008;
- 14 (i) The tax credit for cash contributions to investment funds permitted by KRS
15 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
16 154.20-258;
- 17 (j) The research facilities credit permitted by KRS 141.395;
- 18 (k) The employer High School Equivalency Diploma program incentive credit
19 permitted by KRS 151B.402;
- 20 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 21 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 22 (n) The clean coal incentive credit permitted by KRS 141.428;
- 23 (o) The ethanol credit permitted by KRS 141.4242;
- 24 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 25 (q) The energy efficiency credits permitted by KRS 141.436;
- 26 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
27 permitted by KRS 141.437;

- 1 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 2 (t) The railroad expansion credit permitted by KRS 141.386;
- 3 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 4 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 5 (w) The distilled spirits credit permitted by KRS 141.389;
- 6 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 7 on or after April 27, 2018, but before January 1, 2022;
- 8 (y) The inventory credit permitted by KRS 141.408;
- 9 (z) The renewable chemical production tax credit permitted by KRS 141.4231;
- 10 and
- 11 (aa) The Education Opportunity Account Program tax credit permitted by KRS
- 12 141.522.

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, 171.3963, and
- 17 171.397(1)(b);
- 18 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 19 approved prior to April 27, 2018, or on or after January 1, 2022; and
- 20 (d) The decontamination tax credit permitted by KRS 141.419.

21 → Section 23. KRS 141.070 is amended to read as follows:

- 22 (1) Whenever an individual who is a resident of this state has become liable for income
- 23 tax to another state upon all or any part of the individual's~~his~~ net income for the
- 24 taxable year, derived from sources without this state and subject to taxation under
- 25 this chapter, the amount of income tax payable~~by him~~ under this chapter shall be
- 26 credited on the~~his~~ return with the income tax~~so~~ paid by ~~him~~ to the other state,
- 27 upon ~~his~~ producing to the proper assessing officer satisfactory evidence of the fact

1 of ~~the~~[such] payment, except that application of ~~any~~[such] credits shall not operate
 2 to reduce the tax payable under this chapter to an amount less than would have been
 3 payable were the income from the other state ignored.

4 (2) An individual who is not a resident of this state shall not be liable for any income
 5 tax under KRS 141.020(4) if the laws of the state of which ~~the~~[such] individual was
 6 a resident at the time ~~the~~[such] income was earned in this state contained a
 7 reciprocal provision under which nonresidents were exempted from gross or net
 8 income taxes to ~~the other~~[such] state, if the state of residence of ~~the~~[such]
 9 nonresident individual allowed a similar exemption to resident individuals of this
 10 state. The exemption authorized by this subsection shall in no manner preclude the
 11 department~~[of Revenue]~~ from requiring any information reports ~~under~~[pursuant to]
 12 KRS 141.150(2).

13 (3) As used in this section, "state" means a state of the United States, the District of
 14 Columbia, the commonwealth of Puerto Rico, or any territory or possession of the
 15 United States.

16 **(4) Any resident individual that is a partner, member, or shareholder of a pass-**
 17 **through entity doing business in another state in which the tax is assessed and**
 18 **paid at the entity level shall be allowed a credit in accordance with subsection (1)**
 19 **of this section. The credit shall be based on the individual's distributive share of**
 20 **the pass-through entity's items of income, loss, deduction, and credit.**

21 → Section 24. KRS 141.206 is amended to read as follows:

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

26 (2) (a) Pass-through entities shall calculate net income in the same manner as in the
 27 case of an individual under KRS 141.019 and the adjustment required under

- 1 Sections 703(a) and 1363(b) of the Internal Revenue Code.
- 2 (b) Computation of net income under this section and the computation of the
3 partner's, member's, or shareholder's distributive share shall be computed as
4 nearly as practicable identical with those required for federal income tax
5 purposes except to the extent required by differences between this chapter and
6 the federal income tax law and regulations.
- 7 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
8 member, or shareholder in a pass-through entity shall be liable for income tax only
9 in their individual, fiduciary, or corporate capacities, and no income tax shall be
10 assessed against the net income of any pass-through entity, except as required:
- 11 (a) For S corporations under KRS 141.040;~~and~~
12 (b) For a partnership level audit under KRS 141.211; **and**
13 **(c) For a pass-through entity making an election under Section 16 of this Act.**
- 14 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
15 section, except publicly traded partnerships as described in KRS
16 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the
17 distributive share, whether distributed or undistributed, of each nonresident
18 individual partner, member, or shareholder.
- 19 (b) Withholding shall be at the maximum rate provided in KRS 141.020.
- 20 (5) (a) Every pass-through entity required to withhold Kentucky income tax as
21 provided by subsection (4) of this section shall pay estimated tax for the
22 taxable year, if for a nonresident individual partner, member, or shareholder,
23 the estimated tax liability can reasonably be expected to exceed five hundred
24 dollars (\$500).
- 25 (b) The payment of estimated tax shall contain the information and shall be filed
26 as provided in KRS 141.207.
- 27 (6) (a) If a pass-through entity demonstrates to the department that a partner,

1 member, or shareholder has filed an appropriate tax return for the prior year
 2 with the department, then the pass-through entity shall not be required to
 3 withhold on that partner, member, or shareholder for the current year unless
 4 the exemption from withholding has been revoked pursuant to paragraph (b)
 5 of this subsection.

- 6 (b) 1. An exemption from withholding shall be considered revoked if the
 7 partner, member, or shareholder does not file and pay all taxes due in a
 8 timely manner.
- 9 2. An exemption so revoked shall be reinstated only with permission of the
 10 department.
- 11 3. If a partner, member, or shareholder who has been exempted from
 12 withholding does not file a return or pay the tax due, the department
 13 may require the pass-through entity to pay to the department the amount
 14 that should have been withheld, up to the amount of the partner's,
 15 member's, or shareholder's ownership interest in the entity.
- 16 4. The pass-through entity shall be entitled to recover a payment made
 17 pursuant to this paragraph from the partner, member, or shareholder on
 18 whose behalf the payment was made.
- 19 (7) In determining the tax under this chapter, a resident individual, estate, or trust that
 20 is a partner, member, or shareholder in a pass-through entity shall take into account
 21 the partner's, member's, or shareholder's total distributive share of the pass-through
 22 entity's items of income, loss, deduction, and credit.
- 23 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
 24 that is a partner, member, or shareholder in a pass-through entity required to file a
 25 return under subsection (1) of this section shall take into account:
- 26 (a) 1. If the pass-through entity is doing business only in this state, the
 27 partner's, member's, or shareholder's total distributive share of the pass-

- 1 through entity's items of income, loss, and deduction; or
- 2 2. If the pass-through entity is doing business both within and without this
- 3 state, the partner's, member's, or shareholder's distributive share of the
- 4 pass-through entity's items of income, loss, and deduction multiplied by
- 5 the apportionment fraction of the pass-through entity as prescribed in
- 6 subsection (11) of this section; and
- 7 (b) The partner's, member's, or shareholder's total distributive share of credits of
- 8 the pass-through entity.
- 9 (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member
- 10 in a pass-through entity shall take into account the corporation's distributive share
- 11 of the pass-through entity's items of income, loss, and deduction and:
- 12 (a) 1. For taxable years beginning on or after January 1, 2007, but prior to
- 13 January 1, 2018, shall include the proportionate share of the sales,
- 14 property, and payroll of the limited liability pass-through entity or
- 15 general partnership in computing its own apportionment factor; and
- 16 2. For taxable years beginning on or after January 1, 2018, shall include
- 17 the proportionate share of the sales of the limited liability pass-through
- 18 entity or general partnership in computing its own apportionment factor;
- 19 and
- 20 (b) Credits from the partnership.
- 21 (10) (a) If a pass-through entity is doing business both within and without this state,
- 22 the pass-through entity shall compute and furnish to each partner, member, or
- 23 shareholder the numerator and denominator of each factor of the
- 24 apportionment fraction determined in accordance with subsection (11) of this
- 25 section.
- 26 (b) For purposes of determining an apportionment fraction under paragraph (a) of
- 27 this subsection, if the pass-through entity is:

- 1 1. Doing business both within and without this state; and
- 2 2. A partner or member in another pass-through entity;
- 3 then the pass-through entity shall be deemed to own the pro rata share of the
- 4 property owned or leased by the other pass-through entity, and shall also
- 5 include its pro rata share of the other pass-through entity's payroll and sales.
- 6 (c) The phrases "a partner or member in another pass-through entity" and "doing
- 7 business both within and without this state" shall extend to each level of
- 8 multiple-tiered pass-through entities.
- 9 (d) The attribution to the pass-through entity of the pro rata share of property,
- 10 payroll and sales from its role as a partner or member in another pass-through
- 11 entity will also apply when determining the pass-through entity's ultimate
- 12 apportionment factor for property, payroll and sales as required under
- 13 subsection (11) of this section.
- 14 (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity
- 15 doing business within and without the state shall compute an apportionment
- 16 fraction, the numerator of which is the property factor, representing twenty-
- 17 five percent (25%) of the fraction, plus the payroll factor, representing
- 18 twenty-five percent (25%) of the fraction, plus the sales factor, representing
- 19 fifty percent (50%) of the fraction, with each factor determined in the same
- 20 manner as provided in KRS 141.901, and the denominator of which is four
- 21 (4), reduced by the number of factors, if any, having no denominator,
- 22 provided that if the sales factor has no denominator, then the denominator
- 23 shall be reduced by two (2).
- 24 (b) For taxable years beginning on or after January 1, 2018, a pass-through entity
- 25 doing business within and without the state shall compute an apportionment
- 26 fraction as provided in KRS 141.120.
- 27 (12) Resident individuals, estates, or trusts that are partners in a partnership, members of

1 a limited liability company electing partnership tax treatment for federal income tax
 2 purposes, owners of single member limited liability companies, or shareholders in
 3 an S corporation which does not do business in this state are subject to tax under
 4 KRS 141.020 on federal net income, gain, deduction, or loss passed through the
 5 partnership, limited liability company, or S corporation.

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

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

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

17 (15) (a) A pass-through entity shall deliver to the department a return upon a form
 18 prescribed by the department showing the total amounts paid or credited to its
 19 nonresident individual partners, members, or shareholders, the amount paid in
 20 accordance with this subsection, and any other information the department
 21 may require.

22 (b) A pass-through entity shall furnish to its nonresident partner, member, or
 23 shareholder annually, but not later than the fifteenth day of the fourth month
 24 after the end of its taxable year, a record of the amount of tax paid on behalf
 25 of the partner, member, or shareholder on a form prescribed by the
 26 department.

27 → Section 25. KRS 148.853 is amended to read as follows:

- 1 (1) The General Assembly finds and declares that:
- 2 (a) The general welfare and material well-being of the citizens of the
3 Commonwealth depend in large measure upon the development of tourism in
4 the Commonwealth;
- 5 (b) It is in the best interest of the Commonwealth to provide incentives for the
6 creation of new tourism attractions and the expansion of existing tourism
7 attractions within the Commonwealth in order to advance the public purposes
8 of relieving unemployment by preserving and creating jobs that would not
9 exist if not for the incentives offered by the authority to approved companies,
10 and by preserving and creating sources of tax revenues for the support of
11 public services provided by the Commonwealth;
- 12 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental
13 and public purposes for which public moneys may be expended; and
- 14 (d) That the creation or expansion of tourism development projects is of
15 paramount importance mandating that the provisions of KRS 139.536 and
16 KRS 148.851 to 148.860 be liberally construed and applied in order to
17 advance public purposes.
- 18 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the
19 following requirements shall be met:
- 20 (a) For a tourism attraction project:
- 21 1. The total eligible costs shall exceed one million dollars (\$1,000,000),
22 except for a tourism attraction project located in a county designated as
23 an enhanced incentive county at the time the eligible company becomes
24 an approved company as provided in KRS 148.857(6), the total eligible
25 costs shall exceed five hundred thousand dollars (\$500,000);
- 26 2. In any year, including the first year of operation, the tourism attraction
27 project shall be open to the public at least one hundred (100) days; and

- 1 3. In any year following the third year of operation, the tourism attraction
2 project shall attract at least twenty-five percent (25%) of its visitors
3 from among persons who are not residents of the Commonwealth;
- 4 (b) For an entertainment destination center project:
 - 5 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
 - 6 2. The facility shall contain a minimum of two hundred thousand
7 (200,000) square feet of building space adjacent or complementary to an
8 existing tourism attraction project or a major convention facility;
 - 9 3. The incentives shall be dedicated to a public infrastructure purpose that
10 shall relate to the entertainment destination center project;
 - 11 4. In any year, including the first year of operation, the entertainment
12 destination center project shall:
 - 13 a. Be open to the public at least one hundred (100) days per year;
 - 14 b. Maintain at least one (1) major theme restaurant and at least three
15 (3) additional entertainment venues, including but not limited to
16 live entertainment, multiplex theaters, large-format theater, motion
17 simulators, family entertainment centers, concert halls, virtual
18 reality or other interactive games, museums, exhibitions, or other
19 cultural and leisure-time activities; and
 - 20 c. Maintain a minimum occupancy of sixty percent (60%) of the total
21 gross area available for lease with entertainment and food and
22 drink options not including the retail sale of tangible personal
23 property; and
 - 24 5. In any year following the third year of operation, the entertainment
25 destination center project shall attract at least twenty-five percent (25%)
26 of its visitors from among persons who are not residents of the
27 Commonwealth;

- 1 (c) For a theme restaurant destination attraction project:
- 2 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 3 2. In any year, including the first year of operation, the attraction shall:
- 4 a. Be open to the public at least three hundred (300) days per year
- 5 and for at least eight (8) hours per day; and
- 6 b. Generate no more than fifty percent (50%) of its revenue through
- 7 the sale of alcoholic beverages;
- 8 3. In any year following the third year of operation, the theme restaurant
- 9 destination attraction project shall attract a minimum of fifty percent
- 10 (50%) of its visitors from among persons who are not residents of the
- 11 Commonwealth; and
- 12 4. The theme restaurant destination attraction project shall:
- 13 a. At the time of final approval, offer a unique dining experience that
- 14 is not available in the Commonwealth within a one hundred (100)
- 15 mile radius of the attraction;
- 16 b. In any year, including the first year of operation, maintain seating
- 17 capacity of four hundred fifty (450) guests and offer live music or
- 18 live musical and theatrical entertainment during the peak business
- 19 hours that the facility is in operation and open to the public; or
- 20 c. Within three (3) years of the completion date, the attraction shall
- 21 obtain a top two (2) tier rating by a nationally accredited service
- 22 and shall maintain a top two (2) tier rating through the term of the
- 23 agreement;
- 24 (d) For a lodging facility project:
- 25 1. a. The eligible costs shall exceed five million dollars (\$5,000,000)
- 26 unless the provisions of subdivision b. of this subparagraph apply.
- 27 b. i. If the lodging facility is an integral part of a major

- 1 convention or sports facility, the eligible costs shall exceed six
 2 million dollars (\$6,000,000); and
- 3 ii. If the lodging facility includes five hundred (500) or more
 4 guest rooms, the eligible costs shall exceed ten million
 5 dollars (\$10,000,000); and
- 6 2. In any year, including the first year of operation, the lodging facility
 7 shall:
- 8 a. Be open to the public at least one hundred (100) days; and
 9 b. Attract at least twenty-five percent (25%) of its visitors from
 10 among persons who are not residents of the Commonwealth;
- 11 (e) Any tourism development project shall not be eligible for incentives if it
 12 includes material determined to be lewd, offensive, or deemed to have a
 13 negative impact on the tourism industry in the Commonwealth; and
- 14 (f) An expansion of any tourism development project shall in all cases be treated
 15 as a new stand-alone project.
- 16 (3) The incentives offered under the Kentucky Tourism Development Act shall be as
 17 follows:
- 18 (a) An approved company may be granted a sales tax incentive based on the
 19 Kentucky sales tax imposed on sales generated by or arising at the tourism
 20 development project; and
- 21 (b) 1. For a tourism development project other than a lodging facility project
 22 described in KRS 148.851(14)(e) or (f), or a tourism attraction project
 23 described in subparagraph 2. of this paragraph:
- 24 a. A sales tax incentive shall be allowed to an approved company
 25 over a period of ten (10) years, except as provided in
 26 ~~subparagraphs~~ subparagraphs 5. ~~and 6.~~ of this paragraph; and
- 27 b. The sales tax incentive shall not exceed the lesser of the total

- 1 amount of the sales tax liability of the approved company and its
 2 lessees or a percentage of the approved costs as specified by the
 3 agreement, not to exceed twenty-five percent (25%);
- 4 2. For a tourism attraction project located in an enhanced incentive county
 5 at the time the eligible company becomes an approved company as
 6 provided in KRS 148.857(6):
- 7 a. A sales tax incentive shall be allowed to the approved company
 8 over a period of ten (10) years; and
- 9 b. The sales tax incentive shall not exceed the lesser of the total
 10 amount of the sales tax liability of the approved company and its
 11 lessees or a percentage of the approved costs as specified by the
 12 agreement, not to exceed thirty percent (30%);
- 13 3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
- 14 a. A sales tax incentive shall be allowed to the approved company
 15 over a period of twenty (20) years; and
- 16 b. The sales tax incentive shall not exceed the lesser of total amount
 17 of the sales tax liability of the approved company and its lessees or
 18 a percentage of the approved costs as specified by the agreement,
 19 not to exceed fifty percent (50%);
- 20 4. Any unused incentives from a previous year may be carried forward to
 21 any succeeding year during the term of the agreement until the entire
 22 specified percentage of the approved costs has been received through
 23 sales tax incentives;~~and~~
- 24 5. If the approved company is an entertainment destination center that has
 25 dedicated at least thirty million dollars (\$30,000,000) of the incentives
 26 provided under the agreement to a public infrastructure purpose, the
 27 agreement may be amended to extend the term of the agreement up to

1 two (2) additional years if the approved company agrees to:

- 2 a. Reinvest in the original entertainment destination project one
3 hundred percent (100%) of any incentives received during the
4 extension that were outstanding at the end of the original term of
5 the agreement; and
- 6 b. Report to the authority at the end of each fiscal year the amount of
7 incentives received during the extension and how the incentives
8 were reinvested in the original entertainment destination project;
9 and

10 6. The term of a tourism development agreement entered into with a
11 tourism attraction project that was in effect on January 1, 2020, shall
12 be extended for one (1) year if the tourism attraction project:

13 a. Has historically been open to the public on a seasonal basis
14 consisting of less than six (6) months;

15 b. Has previously met the requirement of being open to the public
16 at least one hundred (100) days during the entire term of the
17 tourism development agreement as required under subsection
18 (2)(a)2. of this section;

19 c. Failed to be open to the public at least one hundred (100) days
20 during the calendar year 2020 solely as a result of complying
21 with one (1) or more executive orders issued by the Governor
22 under the authority of KRS 39A.090 that prevented the tourism
23 attraction project from being open to the public for at least one
24 hundred (100) days during its normal operating season; and

25 d. Applied for a sales tax incentive related to the calendar year
26 2020 operating season and was denied the sales tax incentive
27 solely on the basis that the tourism attraction project was not

1 open to the public for at least one hundred (100) days in
 2 calendar year 2020.

3 → Section 26. KRS 154.30-010 is amended to read as follows:

4 As used in this subchapter:

5 (1) "Activation date" means:

6 (a) For all projects except those described in paragraph (b) of this subsection, the
 7 date established any time within a two (2) year period after the
 8 commencement date. The Commonwealth may extend the two (2) year period
 9 to no more than four (4) years upon written application by the agency
 10 requesting the extension; and

11 (b) For signature projects approved under KRS 154.30-050(2)(a), the date
 12 established any time within a ten (10) year period after the commencement
 13 date.

14 For all projects established after July 14, 2018, the activation date is the date on
 15 which the time period for the pledge of incremental revenues shall commence. To
 16 implement the activation date, the minimum capital investment must be met and the
 17 agency that is a party to the tax incentive agreement shall notify the office;

18 (2) "Agency" means:

19 (a) An urban renewal and community development agency established under
 20 KRS Chapter 99;

21 (b) A development authority established under KRS Chapter 99;

22 (c) A nonprofit corporation;

23 (d) A housing authority established under KRS Chapter 80;

24 (e) An air board established under KRS 183.132 to 183.160;

25 (f) A local industrial development authority established under KRS 154.50-301
 26 to 154.50-346;

27 (g) A riverport authority established under KRS 65.510 to 65.650; or

- 1 (h) A designated department, division, or office of a city or county;
- 2 (3) "Approved public infrastructure costs" means costs associated with the acquisition,
3 installation, construction, or reconstruction of public works, public improvements,
4 and public buildings, including planning and design costs associated with the
5 development of such public amenities. "Approved public infrastructure costs"
6 includes but is not limited to costs incurred for the following:
- 7 (a) Land preparation, including demolition and clearance work;
- 8 (b) Buildings;
- 9 (c) Sewers and storm drainage;
- 10 (d) Curbs, sidewalks, promenades, and pedways;
- 11 (e) Roads;
- 12 (f) Street lighting;
- 13 (g) The provision of utilities;
- 14 (h) Environmental remediation;
- 15 (i) Floodwalls and floodgates;
- 16 (j) Public spaces or parks;
- 17 (k) Parking;
- 18 (l) Easements and rights-of-way;
- 19 (m) Transportation facilities;
- 20 (n) Public landings;
- 21 (o) Amenities, such as fountains, benches, and sculptures; and
- 22 (p) Riverbank modifications and improvements;
- 23 (4) "Approved signature project costs" means:
- 24 (a) The acquisition of land for portions of the project that are for infrastructure;
25 and
- 26 (b) Costs associated with the acquisition, installation, development, construction,
27 improvement, or reconstruction of infrastructure, including planning and

- 1 design costs associated with the development of infrastructure, including but
2 not limited to parking structures, including portions of parking structures that
3 serve as platforms to support development above;
- 4 that have been determined by the commission to represent a unique challenge in the
5 financing of a project such that the project could not be developed without
6 incentives intended by this chapter to foster economic development;
- 7 (5) "Authority" means the Kentucky Economic Development Finance Authority
8 established by KRS 154.20-010;
- 9 (6) "Capital investment" means:
- 10 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
11 materialmen in connection with the acquisition, construction, installation,
12 equipping, and rehabilitation of a project;
- 13 (b) The cost of acquiring land or rights in land within the development area on the
14 footprint of the project, and any cost incident thereto, including recording
15 fees;
- 16 (c) The cost of contract bonds and of insurance of all kinds that may be required
17 or necessary during the course of acquisition, construction, installation,
18 equipping, and rehabilitation of a project which is not paid by the contractor
19 or contractors or otherwise provided;
- 20 (d) All costs of architectural and engineering services, including test borings,
21 surveys, estimates, plans, specifications, preliminary investigations,
22 supervision of construction, and the performance of all the duties required by
23 or consequent upon the acquisition, construction, installation, equipping, and
24 rehabilitation of a project;
- 25 (e) All costs that are required to be paid under the terms of any contract for the
26 acquisition, construction, installation, equipping, and rehabilitation of a
27 project; and

- 1 (f) All other costs of a nature comparable to those described in this subsection
2 that occur after preliminary approval;
- 3 (7) "City" means any city, consolidated local government, or urban-county
4 government;
- 5 (8) "Commencement date" means the final approval date or the date on which a tax
6 incentive agreement is executed;
- 7 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 8 (10) "County" means any county, consolidated local government, charter county, unified
9 local government, or urban-county government;
- 10 (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban
11 consumers, all items, base year computed for 1982 to 1984 equals one hundred
12 (100), published by the United States Department of Labor, Bureau of Labor
13 Statistics;
- 14 (12) "Department" means the Department of Revenue;
- 15 (13) "Development area" means an area established under KRS 65.7049, 65.7051, and
16 65.7053;
- 17 (14) "Economic development projects" means projects which are approved for tax
18 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter
19 154;
- 20 (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve
21 requirements, underwriting discount, costs of credit enhancement or liquidity
22 instruments, and other costs directly related to the issuance of bonds or debt for
23 approved public infrastructure costs or approved signature project costs for projects
24 approved pursuant to KRS 154.30-050;
- 25 (16) "Footprint" means the actual perimeter of a discrete, identified project within a
26 development area. The footprint shall not include any portion of a development area
27 outside the area for which actual capital investments are made and must be

- 1 contiguous;
- 2 (17) "Governing body" means the body possessing legislative authority in a city or
- 3 county;
- 4 (18) "Increment bonds" means bonds and notes issued for the purpose of paying the
- 5 costs of one (1) or more projects;
- 6 (19) "Incremental revenues" means:
- 7 (a) The amount of revenues received by a taxing district, as determined by
- 8 subtracting old revenues from new revenues in a calendar year with respect to
- 9 a development area, or a project within a development area; or
- 10 (b) The amount of revenues received by the Commonwealth as determined by
- 11 subtracting old revenues from new revenues in a calendar year with respect to
- 12 the footprint;
- 13 (20) "Local participation agreement" means the agreement entered into under KRS
- 14 65.7063;
- 15 (21) "Local tax revenues" has the same meaning as in KRS 65.7045;
- 16 (22) **"Modified new revenues for income tax" means the amount of individual income**
- 17 **tax included in state tax revenues that is:**
- 18 **(a) The result of multiplying the portion of state tax revenues from individual**
- 19 **income taxes by the modifier;**
- 20 **(b) Used for calculating state tax revenues in a calendar year beginning on or**
- 21 **after January 1, 2023; and**
- 22 **(c) For projects approved prior to January 1, 2023;**
- 23 (23) **"Modifier" means the result of dividing the individual income tax rate of five**
- 24 **percent (5%), in effect as of December 31, 2022, by the individual income tax rate**
- 25 **under KRS 141.020 for the calendar year in which the new revenues for income**
- 26 **tax are being computed;**
- 27 (24) "New revenues" means:

1 (a) The amount of local tax revenues received by a taxing district with respect to
 2 a development area in any calendar year beginning with the year in which the
 3 activation date occurred; **and**

4 (b) The amount of state tax revenues received by the Commonwealth with respect
 5 to the footprint in any calendar year beginning with the year in which the
 6 activation date occurred.

7 **For projects approved prior to January 1, 2023, any state tax revenues received**
 8 **by the Commonwealth from individual income tax shall be computed using**
 9 **modified new revenues for income tax;**

10 ~~(25)~~~~(23)~~ "Old revenues" means:

11 (a) The amount of local tax revenues received by a taxing district with respect to
 12 a development area as of December 31 of the year of preliminary approval; or

13 (b) 1. The amount of state tax revenues received by the Commonwealth within
 14 the footprint as of December 31 of the year of preliminary approval. If
 15 the authority determines that the amount of state tax revenues received
 16 as of December 31 of the last calendar year prior to the commencement
 17 of preliminary approval does not represent a true and accurate depiction
 18 of revenues, the authority may consider revenues for a period of no
 19 longer than three (3) calendar years prior to the year of preliminary
 20 approval, so as to determine a fair representation of state tax revenues.
 21 The amount determined by the authority shall be specified in the tax
 22 incentive agreement. If state tax revenues were derived from the
 23 footprint prior to the year of preliminary approval, old revenues shall
 24 increase each calendar year by:

25 a. The percentage increase, if any, of the CPI or a comparable index;
 26 or

27 b. An alternative percentage increase that is determined to be

1 appropriate by the authority.

2 The method for increasing old revenues shall be set forth in the tax
3 incentive agreement;

4 2. If state revenues were derived from the footprint prior to the year of
5 preliminary approval, the calculation of incremental revenues shall be
6 based on the value of old revenues as increased using the method
7 prescribed in subparagraph 1. of this paragraph to reflect the same
8 calendar year as is used in the determination of new revenues;

9 ~~(26)~~~~(24)~~ "Outstanding" means increment bonds that have been issued, delivered, and
10 paid for by the purchaser, except any of the following:

11 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon
12 payment or redemption;

13 (b) Increment bonds in replacement of which or in exchange for which other
14 increment bonds have been issued; or

15 (c) Increment bonds for the payment, redemption, or purchase for cancellation
16 prior to maturity, of which sufficient moneys or investments, in accordance
17 with the ordinance or other proceedings or any applicable law, by mandatory
18 sinking fund redemption requirements, or otherwise, have been deposited, and
19 credited in a sinking fund or with a trustee or paying or escrow agent, whether
20 at or prior to their maturity or redemption, and, in the case of increment bonds
21 to be redeemed prior to their stated maturity, notice of redemption has been
22 given or satisfactory arrangements have been made for giving notice of that
23 redemption, or waiver of that notice by or on behalf of the affected bond
24 holders has been filed with the issuer or its agent;

25 ~~(27)~~~~(25)~~ "Preliminary approval" means the action taken by the authority preliminarily
26 approving an eligible project for incentives under this subchapter;

27 ~~(28)~~~~(26)~~ "Project" means any property, asset, or improvement located in a development

1 area and certified by the governing body as:

- 2 (a) Being for a public purpose; and
- 3 (b) Being for the development of facilities for residential, commercial, industrial,
- 4 public, recreational, or other uses, or for open space, including the
- 5 development, rehabilitation, renovation, installation, improvement,
- 6 enlargement, or extension of real estate and buildings; and
- 7 (c) Contributing to economic development or tourism; and
- 8 (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-
- 9 050, or 154.30-060;

10 ~~(29)~~~~(27)~~ "Signature project" means a project approved under KRS 154.30-050;

11 ~~(30)~~~~(28)~~ "State real property ad valorem tax" means real property ad valorem taxes
 12 levied under KRS 132.020(1)(a);

13 ~~(31)~~~~(29)~~ "State tax revenues" means revenues received by the Commonwealth from
 14 one (1) or more of the following sources:

- 15 (a) State real property ad valorem taxes;
- 16 (b) Individual income taxes levied under KRS 141.020, other than individual
- 17 income taxes that have already been pledged to support an economic
- 18 development project within the development area;
- 19 (c) Corporation income taxes levied under KRS 141.040, other than corporation
- 20 income taxes that have already been pledged to support an economic
- 21 development project within the development area;
- 22 (d) Limited liability entity taxes levied under KRS 141.0401, other than limited
- 23 liability entity taxes that have already been pledged to support an economic
- 24 development project within the development area; and
- 25 (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged
- 26 for:

27 1. Approved tourism attraction projects, as defined in KRS 148.851, within

- 1 the development area; and
- 2 2. Projects which are approved for sales tax refunds under Subchapter 20
- 3 of KRS Chapter 154 within the development area;

4 ~~(32)~~~~(30)~~ "Tax incentive agreement" means an agreement entered into in accordance

5 with KRS 154.30-070; and

6 ~~(33)~~~~(31)~~ "Termination date" means:

- 7 (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040
- 8 or 154.30-060, a date established by the tax incentive agreement that is no
- 9 more than twenty (20) years from the activation date. However, the
- 10 termination date for a tax incentive agreement shall in no event be more than
- 11 forty (40) years from the establishment date of the development area to which
- 12 the tax incentive agreement relates; and
- 13 (b) For a project grant agreement satisfying the requirements of KRS 154.30-050,
- 14 a date established by the tax incentive agreement that is no more than thirty
- 15 (30) years from the activation date. However, the termination date for a tax
- 16 incentive agreement shall in no event be more than forty (40) years from the
- 17 establishment date of the development area to which the tax incentive
- 18 agreement relates.

19 ➔ Section 27. KRS 224.1-420 is amended to read as follows:

20 (1) For purposes of this section:

- 21 (a) "Assignor" means the recipient of the tax credit who may assign, sell, or
- 22 transfer, in whole or in part, the tax credit to any other taxpayer;
- 23 (b) "Department" means the Department of Revenue;
- 24 (c) "Qualifying expenditures" means up to one hundred percent (100%) of the
- 25 costs of materials, supplies, equipment, labor, professional engineering,
- 26 consulting and architectural fees, permitting fees and expenses, demolition,
- 27 asbestos abatement, and direct utility charges for voluntarily performing

1 activities to decontaminate or remediate any preexisting hazardous substance,
2 pollutant or contaminant, or petroleum and petroleum products as defined in
3 KRS 224.60-115, including but not limited to the costs of performing
4 operation and maintenance of the remediation systems and equipment at the
5 qualifying decontamination property beyond the year in which the systems
6 and equipment are built and installed and the costs of performing the
7 remediation activities following the taxpayer's tax year in which the systems
8 and equipment were first put into use at the qualifying decontamination
9 property; and

10 (d) "Qualifying decontamination property" includes qualifying voluntary
11 environmental remediation property as defined in KRS 141.418 and shall also
12 include real property under the Brownfield Redevelopment Program as
13 established in KRS 224.1-415, if the guidelines in KRS 141.418(1)(e) are met.

14 (2) There is hereby created a decontamination tax credit.

15 (3) (a) For taxable years beginning on or after January 1, 2022, but before January 1,
16 2032, a taxpayer making a qualifying expenditure at a qualifying
17 decontamination property shall be allowed a refundable credit against the
18 taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of
19 credits as provided in KRS 141.0205.

20 (b) The credit shall be equal to the amount of expenditures made by the taxpayer
21 for the decontamination or remediation of the qualifying decontamination
22 property.

23 (c) The total credit awarded per qualifying decontamination property shall not
24 exceed thirty million dollars (\$30,000,000).

25 (d) The amount of credit to be taken in a taxable year shall not exceed twenty-five
26 percent (25%) of the total amount of approved credit.

27 (4) The qualifying expenditures:

- 1 (a) Shall be in accordance with a corrective action plan approved by the cabinet
2 under KRS 224.1-400, 224.1-405, or 224.60-135; and
- 3 (b) May include up to one hundred percent (100%) of the costs of demolition that
4 are not directly part of the decontamination or remediation activities, provided
5 that the demolition is:
- 6 1. a. On the property where the decontamination or remediation
7 activities are occurring; or
- 8 b. On adjacent property, so long as it is independently qualified as
9 abandoned or underutilized;
- 10 2. Necessary to accomplish the planned use of the property where the
11 decontamination or remediation activities are occurring; and
- 12 3. Part of a redevelopment plan approved by the municipal or county
13 government and the cabinet.
- 14 (5) The decontamination or remediation shall not be financed through a public grant
15 program or the petroleum storage tank environmental assurance fund under KRS
16 224.60-115.
- 17 (6) The amount of reasonably anticipated total qualifying expenditures associated with
18 the qualifying decontamination property shall equal or exceed ~~sixteen~~ million
19 dollars (\$6,000,000)~~(\$10,000,000)~~.
- 20 (7) (a) The qualifying decontamination property shall be located:
- 21 1. Within one-half (1/2) mile of a tax increment financing development
22 area; or
- 23 2. In a census tract that qualifies for the use of the Kentucky New Markets
24 Development Program tax credit created under KRS 141.434.
- 25 (b) The amount of reasonably anticipated capital investment in the qualifying
26 decontamination property shall exceed thirty million dollars (\$30,000,000).
- 27 (8) (a) Beginning on or after January 1, 2022, a taxpayer seeking the credit

1 established in this section shall file an application with the cabinet not less
 2 than thirty (30) days prior to the date the qualifying expenditures will begin,
 3 and on a form as prescribed by the cabinet for determination of eligibility.

- 4 (b) The application shall include supporting documentation, including:
- 5 1. The name, address, and taxpayer identification number of the owner of
 6 the qualifying decontamination property;
 - 7 2. Detailed description of the property;
 - 8 3. The proposed start and completion dates for the project; and
 - 9 4. The projected amount of total capital investment and qualifying
 10 expenditures associated with the property.
- 11 (c) Taxpayers awarded a credit under this subsection shall submit receipts
 12 annually to the cabinet verifying the qualifying expenditures claimed.
- 13 (d) The cabinet shall make a determination of the maximum credit available for
 14 the qualifying decontamination property and provide notification of the
 15 awarded credit amount to the department and taxpayer within sixty (60) days
 16 of the date on which the application was filed.
- 17 (e) Any taxpayer approved for credit under this section shall not also claim or
 18 apply for any other credit related to the decontamination or remediation of the
 19 same qualifying decontamination property.

20 → Section 28. KRS 198A.030 is amended to read as follows:

- 21 (1) There is hereby created and established an independent, de jure municipal
 22 corporation and political subdivision of the Commonwealth which shall be a public
 23 body corporate and politic to be known as the Kentucky Housing Corporation.
- 24 (2) The Kentucky Housing Corporation is created and established as a de jure
 25 municipal corporation and political subdivision of the Commonwealth to perform
 26 essential governmental and public functions and purposes in improving and
 27 otherwise promoting the health and general welfare of the people by the production

1 of residential housing in Kentucky.

- 2 (3) The corporation shall be governed by a board of directors, consisting of fifteen (15)
 3 members, five (5) of whom shall be the Commissioner of Agriculture~~Lieutenant~~
 4 ~~Governor~~, the secretary of the Finance and Administration Cabinet, the
 5 commissioner of the Department for Local Government, the Attorney General, and
 6 the secretary of the Cabinet for Economic Development, or their duly appointed
 7 designees, as public directors, and ten (10) private directors who shall be appointed
 8 by the Governor, subject to confirmation by the Senate as provided by KRS 11.160,
 9 as follows:
- 10 (a) One (1) private director representing the interests of financial lending
 11 institutions located within the Commonwealth;
 - 12 (b) One (1) private director representing the interests of the manufactured housing
 13 industry within the Commonwealth;
 - 14 (c) One (1) private director representing the interests of real estate practitioners
 15 licensed by the Kentucky Real Estate Commission;
 - 16 (d) One (1) private director representing the interests of the homeless population
 17 within the Commonwealth;
 - 18 (e) One (1) private director representing the interests of local government;
 - 19 (f) One (1) private director representing the interests of the home construction
 20 industry in the Commonwealth;
 - 21 (g) One (1) private director representing the interests of consumers in the
 22 Commonwealth;
 - 23 (h) One (1) private director representing the interests of the Kentucky State
 24 Building Trades Council;
 - 25 (i) One (1) director representing the interests of nonprofit housing organizations
 26 located within the Commonwealth; and
 - 27 (j) One (1) director having significant professional experience in auditing,

- 1 financial accounting, municipal bond financing, or investment banking.
- 2 (4) Private directors appointed by the Governor may include previous members of the
3 board, and members may be reappointed for successive terms. All appointments
4 shall be for four (4) years, and the appointees shall serve until a qualified successor
5 is appointed.
- 6 (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold
7 office during the remainder of the term. A vacancy shall be filled in accordance
8 with the requirement and procedures for appointments.
- 9 (6) The Governor may remove any private director whom he or she may appoint in
10 case of incompetency, neglect of duty, gross immorality, or malfeasance in office,
11 and the Governor~~he~~ may declare the~~his~~ office vacant and may appoint a person
12 for the vacancy as provided in this section.
- 13 (7) The Governor shall designate a private director of the corporation to serve as
14 chairman. The term of the chairman shall extend to the earlier of either the date of
15 expiration of his or her then current term as a private director of the corporation or
16 a date six (6) months after the expiration of the then current term of the Governor
17 designating the chairman.
- 18 (8) The board of directors shall annually elect one (1) of its members as vice chairman.
19 The board of directors shall also elect or appoint, and prescribe the duties of, other
20 officers the board of directors deems necessary or advisable, including an executive
21 director and a secretary, and the board of directors shall fix the compensation of the
22 officers.
- 23 (9) The executive director shall administer, manage, and direct the affairs and business
24 of the corporation, subject to the policies, control, and direction of the board of
25 directors of the corporation. The secretary of the corporation shall keep a record of
26 the proceedings of the corporation and shall be custodian of all books, documents,
27 and papers filed with the corporation, the minute book or journal of the corporation,

1 and its official seal. The secretary shall have authority to cause copies to be made of
 2 all minutes and other records and documents of the corporation and to give
 3 certificates under the official seal of the corporation to the effect that copies are true
 4 copies, and all persons dealing with the corporation may rely upon the certificates.

5 (10) A majority of the board of directors of the corporation shall constitute a quorum for
 6 the purposes of conducting its business and exercising its powers and for all other
 7 purposes. A majority shall be determined by excluding any existing vacancies from
 8 the total number of directors.

9 (11) Action shall be taken by the corporation upon a vote of a majority of the directors
 10 present at a meeting at which a quorum shall exist called upon three (3) days'
 11 written notice to each director or upon the concurrence of at least eight (8)
 12 directors.

13 (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for
 14 attendance at each meeting of the board of directors or duly called committee
 15 meeting of the board.

16 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
 17 TO READ AS FOLLOWS:

18 **As used in Sections 29 to 34 of this Act:**

19 **(1) "Moderate income" means the income of individuals or families that is below**
 20 **one hundred twenty percent (120%) of the area median income for the**
 21 **Commonwealth as determined by the United States Department of Housing and**
 22 **Urban Development;**

23 **(2) "Nonprofit organization" has the same meaning as in KRS 198A.700;**

24 **(3) "Technical assistance" has the same meaning as in KRS 198A.700; and**

25 **(4) "Trust fund" means the rural housing trust fund created in Section 31 of this**
 26 **Act.**

27 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 198A IS CREATED

1 TO READ AS FOLLOWS:

2 **The General Assembly hereby finds and declares that:**

- 3 **(1) Current economic conditions, federal housing policies, and declining resources at**
 4 **the federal, state, and local levels adversely affect the ability of individuals to**
 5 **obtain safe, decent, and affordable rural housing;**
- 6 **(2) An increasing number of individuals are homeless, at risk of becoming homeless,**
 7 **or live in overcrowded, inadequate, and unsafe rural housing units; and**
- 8 **(3) It is in the public interest to establish a continuously renewable resource known**
 9 **as a rural housing trust fund to assist moderate income individuals in meeting**
 10 **basic housing needs.**

11 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 198A IS CREATED

12 TO READ AS FOLLOWS:

- 13 **(1) There is hereby established in the State Treasury a revolving account to be known**
 14 **as the rural housing trust fund. The fund shall consist of moneys received from**
 15 **state appropriations, gifts, grants, federal funds, and all repayment, interest, or**
 16 **other return on the investment of trust fund dollars as required by subsection**
 17 **(7)(b) of Section 32 of this Act.**
- 18 **(2) The fund shall be administered by the corporation.**
- 19 **(3) Amounts deposited in the fund shall be used as provided in Sections 29 to 34 of**
 20 **this Act. Separate accounts within the fund shall be made for state**
 21 **appropriations, federal funds, and moneys received from other sources.**
- 22 **(4) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a**
 23 **fiscal year shall not lapse but shall be carried forward into the next fiscal year.**
- 24 **(5) Any interest earnings of the fund shall become a part of the fund and shall not**
 25 **lapse.**
- 26 **(6) Moneys deposited in the fund are hereby appropriated for the purposes provided**
 27 **in Sections 29 to 34 of this Act.**

1 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
2 TO READ AS FOLLOWS:

3 **(1) (a) The corporation shall use moneys from the rural housing trust fund created**
4 **in Section 31 of this Act to make, or participate in the making, of loans or**
5 **grants for the eligible activities described in this section.**

6 **(b) Any loan or grant shall be made upon the determination by the corporation**
7 **that the loan or grant shall be used to create new sources of funding, or to**
8 **supplement existing sources of funding for eligible activities, and shall not**
9 **be used to replace existing or available moneys.**

10 **(2) Activities eligible for fund shall include:**

11 **(a) Acquisition of housing units for the purpose of preservation of or**
12 **conversion to rural housing units;**

13 **(b) New construction or rehabilitation of rural housing units;**

14 **(c) Matching funds for technical assistance directly related to providing rural**
15 **housing for individuals under Sections 29 to 34 of this Act; and**

16 **(d) Administrative costs for rural housing assistance programs or organizations**
17 **eligible for funding under subsection (3) of this section, if the loans or**
18 **grants will substantially increase the recipient's access to housing funds**
19 **other than those available under Sections 29 to 34 of this Act.**

20 **(3) Organizations eligible for funding from the rural housing trust fund include:**

21 **(a) Local governments;**

22 **(b) Local government housing authorities;**

23 **(c) Nonprofit organizations;**

24 **(d) Regional or statewide housing assistance organizations; and**

25 **(e) Business organizations that undertake the new construction or**
26 **rehabilitation of rural housing units for moderate income individuals.**

27 **(4) Housing units provided to moderate income individuals or families under**

1 Sections 29 to 34 of this Act shall be deed restricted under the following
 2 conditions:

3 (a) Rental housing shall be deed restricted for a minimum of thirty (30) years.

4 Investment from the rural housing trust fund into a specific housing type
 5 shall revert to like housing for moderate income individuals; and

6 (b) Single-family units or units for sale shall be deed restricted for a minimum
 7 of five (5) years.

8 The corporation may grant amendments to deed restrictions on a case-by-case
 9 basis.

10 (5) In the development of rural housing under Sections 29 to 34 of this Act,
 11 displacement of moderate income individuals or families shall not be permitted
 12 unless the project pays all reasonable relocation costs as defined by the
 13 corporation in administrative regulations promulgated under KRS Chapter 13A.

14 (6) Discrimination in the sale or rental, or otherwise making available or denying, a
 15 dwelling funded under Sections 29 to 34 of this Act to any buyer or renter
 16 because of race, religion, sex, familial status, disability, or national origin is
 17 prohibited.

18 (7) (a) Moneys in the trust fund shall be contributed permanently to a rural
 19 project, except when serving as a match for federal housing programs that
 20 require all funds to be contributed permanently to the federal program.

21 (b) All repayment, interest, or other return on the investment of trust fund
 22 moneys are required to be returned to the trust fund and used for eligible
 23 trust fund activities in accordance with Sections 29 to 34 of this Act.

24 (c) Trust fund moneys invested in a rural project with federal dollars requiring
 25 a permanent contribution shall be recaptured to the federal program
 26 account.

27 (8) Beginning on or before October 1, 2024, and on or before each October 1

1 thereafter, the corporation shall submit a report to the Legislative Research
 2 Commission on the disposition of the rural housing trust fund moneys for the
 3 previous fiscal year.

4 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
 5 TO READ AS FOLLOWS:

6 The corporation shall:

7 (1) Issue a public notice to eligible recipients regarding the availability of trust fund
 8 moneys at least twice each calendar year;

9 (2) Provide a reasonable opportunity for the filing of applications;

10 (3) After consultation with the Rural Housing Trust Fund Advisory Committee
 11 created in Section 34 of this Act, approve or deny properly submitted and
 12 completed applications within ninety (90) days of their receipt;

13 (4) Approve applications that will effectively use available moneys;

14 (5) Approve or deny applications by ranking the applications competitively using
 15 criteria established by the corporation in consultation with the advisory
 16 committee and promulgated in an administrative regulation under KRS Chapter
 17 13A;

18 (6) Give priority to applications in the following order:

19 (a) Applications for projects located in a federally declared disaster area or
 20 projects assisting individual recipients displaced by a federally declared
 21 disaster area;

22 (b) Applications for projects submitted by nonprofit organizations or local
 23 governments for new rural housing construction;

24 (c) Applications for projects using existing privately owned housing stock,
 25 including stock purchased by nonprofit public development activities;

26 (d) Applications for projects using existing publicly owned housing stock; and

27 (e) Applications from local governments for projects that demonstrate effective

1 zoning, conversion, or demolition controls for single room occupancy units;

2 (7) Limit moneys to be used for administrative costs for any project to no more than
 3 seven and one-half percent (7.5%) of available moneys and disapprove any
 4 project in which more than seven and one-half percent (7.5%) of available
 5 moneys are used for administrative costs;

6 (8) Provide technical assistance to eligible recipients seeking to construct,
 7 rehabilitate, or finance housing-related services for moderate income individuals.
 8 The corporation may contract with nonprofit organizations to provide the
 9 technical assistance required by this subsection; and

10 (9) Provide the following services:

11 (a) Financial planning and packaging for housing projects, including
 12 alternative ownership programs and bridge financing;

13 (b) Project design, architectural planning, siting, and compliance with
 14 planning requirements;

15 (c) Securing matching resources for project development;

16 (d) Maximizing local government contributions to project development in the
 17 form of land donations, infrastructure improvements, waivers of
 18 development fees, local and state managed funds, zoning variances, density
 19 bonuses for low-rise multifamily projects, or creative local planning;

20 (e) Coordination with local planning, economic development, environmental,
 21 technical assistance, and recreational activities;

22 (f) Construction and material management; and

23 (g) Project maintenance and management.

24 ➔SECTION 34. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
 25 TO READ AS FOLLOWS:

26 (1) There is hereby created the Rural Housing Trust Fund Advisory Committee,
 27 which shall be composed of the following eleven (11) members:

- 1 (a) The Commissioner of Agriculture or the Commissioner's duly appointed
2 designee;
- 3 (b) Two (2) members of the Senate appointed by the President of the Senate,
4 each of whom shall serve while a member of the Senate for the term for
5 which he or she was elected;
- 6 (c) Two (2) members of the House of Representatives appointed by the Speaker
7 of the House, each of whom shall serve while a member of the House of
8 Representatives for the term for which he or she was elected; and
- 9 (d) Six (6) private citizens with a principal residence located in a rural
10 community who shall be appointed by the board of directors of the
11 corporation.
- 12 (2) (a) Members appointed under subsection (1)(d) of this section shall serve a
13 three (3) year term or until their successors are appointed and duly
14 qualified, and may be reappointed to one (1) additional term.
- 15 (b) A vacancy on the advisory committee shall be filled following the
16 requirements and procedures for original appointments.
- 17 (3) The advisory committee shall consult with and advise the officers and directors of
18 the corporation concerning matters relating to the rural housing trust fund.
- 19 (4) The Commissioner of Agriculture shall be the presiding officer, and the advisory
20 committee may establish its own rules of procedure, which shall not be
21 inconsistent with the housing provisions of this chapter.
- 22 (5) Members of the advisory committee shall serve without compensation, but
23 members who are not employees of the Commonwealth shall be entitled to
24 reimbursement for actual expenses incurred in carrying out their duties on the
25 advisory committee.

26 ➔Section 35. Notwithstanding subsection (2)(a) of Section 34 of this Act, the
27 initial terms of private citizens appointed to the Rural Housing Trust Fund Advisory

1 Committee under subsection (1)(d) of Section 34 of this Act shall be staggered as
2 follows:

- 3 (1) Two members shall be appointed for a three-year term;
- 4 (2) Two members shall be appointed for a two-year term; and
- 5 (3) Two members shall be appointed for a one-year term.

6 ➔Section 36. The ruling of the Supreme Court of Kentucky rendered on
7 December 15, 2022, in the case of *Century Aluminum of Kentucky, GP v. Department of*
8 *Revenue, Finance and Administration Cabinet, Commonwealth of Kentucky, 2021-SC-*
9 *0300-DG*, shall only apply to the appellant and shall only apply to November 2010 to
10 May 2015.

11 ➔Section 37. Section 4 of this Act applies retroactively to January 1, 2023, except
12 that any penalty imposed under subsection (11) of Section 4 of this Act and any interest
13 imposed under KRS 131.183 shall not apply to a return required to be filed under
14 subsection (3)(b) of Section 4 of this Act before the effective date of this Act if the return
15 is filed and the tax is paid by the twentieth day of the month following the effective date
16 of this Act. Notwithstanding KRS 131.183, interest shall not be allowed or paid on a
17 refund related to the amendments made in Section 4 of this Act.

18 ➔Section 38. Section 5 of this Act takes effect on January 1, 2024.

19 ➔Section 39. Sections 6 to 15 of this Act apply retroactively to January 1, 2023.
20 Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to
21 the amendments made in Sections 6 to 15 of this Act.

22 ➔Section 40. Whereas many of the provisions of this Act impact tax returns
23 currently being filed by taxpayers, an emergency is declared to exist, and this Act takes
24 effect upon its passage and approval by the Governor or upon its otherwise becoming a
25 law.