

1 AN ACT relating to revenue.

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

3 → Section 1. KRS 45A.837 is amended to read as follows:

4 (1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and  
5 Administration Cabinet and the Transportation Cabinet may enter into price  
6 contracts for architectural, engineering, and engineering-related services. If the  
7 agencies choose to enter into a price contract, subsection (2) of this section shall  
8 apply.

9 (2) Price contracts shall be awarded to firms qualified by the Finance and  
10 Administration Cabinet, Department of Facilities Management or by the  
11 Transportation Cabinet, Department of Highways. The Finance and Administration  
12 Cabinet selection committee established by KRS 45A.810 shall meet at least  
13 quarterly during each fiscal year to review and make recommendations to the  
14 commissioner of the Department for Facilities Management for qualification of  
15 interested firms. The Transportation Cabinet selection committee established by  
16 KRS 45A.810 shall meet at least quarterly during each fiscal year to review and  
17 make recommendations to the commissioner of the Department of Highways for  
18 qualification of interested firms.

19 (a) The respective committees shall evaluate those firms submitting statements of  
20 interest in obtaining a price contract. The submitting firms shall be reviewed  
21 according to the following criteria:

- 22 1. Qualifications;
- 23 2. Ability of professional personnel; and
- 24 3. Past record and experience.

25 (b) Firms qualified by the commissioner of the Department for Facilities  
26 Management or by the commissioner of the Department of Highways shall be  
27 awarded price contracts by the respective departments for the type of work for

1 which they have been qualified.

2 (c) The commissioner of the Department for Facilities Management or the  
 3 commissioner of the Department of Highways may select firms to perform  
 4 work under price contract for small projects for which the architectural,  
 5 engineering, or engineering-related fees do not exceed one hundred  
 6 fifty~~seventy-five~~ thousand dollars (\$150,000)~~(\$75,000)~~. However, no firm  
 7 that has received more than three~~one~~ hundred~~—fifty~~ thousand dollars  
 8 (\$300,000)~~(\$150,000)~~ in price contract fees in any one (1) fiscal year in the  
 9 contract discipline being awarded shall be selected to work under a price  
 10 contract unless the secretary of finance and administration or the secretary of  
 11 transportation makes a written determination that the selection is in the best  
 12 interest of the Commonwealth and the determination is confirmed by the  
 13 appropriate cabinet's selection committee established by KRS 45A.810.

14 (3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract  
 15 shall be awarded under the provisions of this section before completion of the  
 16 review procedure provided for in KRS 45A.695 and 45A.705.

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO  
 18 READ AS FOLLOWS:

19 *The following classes of property shall be exempt from state and local ad valorem*  
 20 *taxes, including the county, city, school, and other taxing district in which it has a*  
 21 *taxable situs:*

22 *(1) Farm implements and farm machinery owned by or leased to a person actually*  
 23 *engaged in farming and used in his or her farm operations;*

24 *(2) Livestock, ratite birds, and domestic fowl;*

25 *(3) Tangible personal property located in a foreign trade zone established pursuant*  
 26 *to 19 U.S.C. secs. 81a to 81u, provided that the zone is activated in accordance*  
 27 *with the regulations of the United States Customs Service and the Foreign Trade*

- 1        Zones Board;
- 2        (4) Property that is certified as an alcohol production facility as defined in KRS
- 3        247.910;
- 4        (5) Property that is certified as a fluidized bed energy production facility as defined
- 5        in KRS 211.390;
- 6        (6) Computer software, except prewritten computer software as defined in Section 7
- 7        of this Act;
- 8        (7) Trucks, tractors, and buses used on routes or in systems that are partly within
- 9        and partly outside this state, and that are subject to the fee imposed by KRS
- 10       136.188;
- 11       (8) Semitrailers and trailers, as defined in KRS 189.010, if the semitrailers or trailers
- 12       are used on a route or in a system that is partly within and partly outside this
- 13       state. Semitrailers or trailers required to be registered under KRS 186.655 that
- 14       are used only in this state shall be subject to the ad valorem tax imposed by KRS
- 15       132.487;
- 16       (9) All intangible personal property, except intangible personal property assessed
- 17       under KRS 132.030 or KRS Chapter 136. Nothing in this subsection shall
- 18       prohibit local taxation of franchises of:
- 19       (a) Corporations;
- 20       (b) Financial institutions as provided in KRS 136.575; or
- 21       (c) Domestic life insurance companies;
- 22       (10) All real and personal property owned by another state or a political subdivision of
- 23       another state that is used exclusively for public purposes, if a comparable
- 24       exemption is provided in that state or political subdivision for property owned by
- 25       the Commonwealth of Kentucky or its political subdivisions;
- 26       (11) Every fraternal benefit society organized or licensed under Subtitle 29 of KRS
- 27       Chapter 304 that is a charitable and benevolent institution, and its funds shall be

1 exempt from all state, county, district, city, and school taxes, other than taxes on  
 2 real property and office equipment; and

3 (12) (a) Any bridge built by an adjoining state, by the government of the United  
 4 States, or by any commission created by an Act of Congress, over a  
 5 boundary line stream between this state and an adjoining state, which is:

6 1. Not operated for profit and, if it connects with a primary highway of  
 7 this state, is declared to be public property used for public purposes;  
 8 and

9 2. Exempt from taxation unless the adjoining state, or other public body  
 10 constructing the bridge, taxes similar bridges built by this  
 11 Commonwealth in like manner.

12 (b) The issuance of bonds for the purpose of amortizing the cost of construction  
 13 of the bridges, as described in paragraph (a) of this subsection, shall not  
 14 affect the tax exemption granted.

15 → Section 3. KRS 132.020 is amended to read as follows:

16 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes  
 17 at the rate of:

18 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)  
 19 of value of all real property directed to be assessed for taxation;

20 (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of  
 21 all motor vehicles qualifying for permanent registration as historic motor  
 22 vehicles under KRS 186.043;

23 (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:

24 1. Machinery actually engaged in manufacturing;

25 2. Commercial radio and television equipment used to receive, capture,  
 26 produce, edit, enhance, modify, process, store, convey, or transmit audio  
 27 or video content or electronic signals which are broadcast over the air to

- 1 an antenna, including radio and television towers used to transmit or  
2 facilitate the transmission of the signal broadcast and equipment used to  
3 gather or transmit weather information, but excluding telephone and  
4 cellular communication towers; and
- 5 3. Tangible personal property which has been certified as a pollution  
6 control facility as defined in KRS 224.1-300. In the case of tangible  
7 personal property certified as a pollution control facility which is  
8 incorporated into a landfill facility, the tangible personal property shall  
9 be presumed to remain tangible personal property for purposes of this  
10 paragraph if the tangible personal property is being used for its intended  
11 purposes;
- 12 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the  
13 operating property of railroads or railway companies that operate solely  
14 within the Commonwealth;
- 15 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods  
16 held for sale in the regular course of business, which includes:
- 17 1. Machinery and equipment held in a retailer's inventory for sale or lease  
18 originating under a floor plan financing arrangement;
- 19 2. Motor vehicles:
- 20 a. Held for sale in the inventory of a licensed motor vehicle dealer,  
21 including licensed motor vehicle auction dealers, which are not  
22 currently titled and registered in Kentucky and are held on an  
23 assignment pursuant to KRS 186A.230; or
- 24 b. That are in the possession of a licensed motor vehicle dealer,  
25 including licensed motor vehicle auction dealers, for sale, although  
26 ownership has not been transferred to the dealer;
- 27 3. Raw materials, which includes distilled spirits and distilled spirits

1 inventory;

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

5 5. Qualified heavy equipment;

6 (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of  
7 value of all:

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

15 2. Qualifying voluntary environmental remediation property, provided the  
16 property owner has corrected the effect of all known releases of  
17 hazardous substances, pollutants, contaminants, petroleum, or petroleum  
18 products located on the property consistent with a corrective action plan  
19 approved by the Energy and Environment Cabinet pursuant to KRS  
20 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not  
21 financed through a public grant or the petroleum storage tank  
22 environmental assurance fund. This rate shall apply for a period of three  
23 (3) years following the Energy and Environment Cabinet's issuance of a  
24 No Further Action Letter or its equivalent, after which the regular tax  
25 rate shall apply;

26 3. Tobacco directed to be assessed for taxation;

27 4. Unmanufactured agricultural products;

- 1           5.    Aircraft not used in the business of transporting persons or property for
- 2                    compensation or hire;
- 3           6.    Federally documented vessels not used in the business of transporting
- 4                    persons or property for compensation or hire, or for other commercial
- 5                    purposes; and
- 6           7.    Privately owned leasehold interests in residential property described in
- 7                    KRS 132.195(2)(g); and
- 8    ~~(g) One tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value~~
- 9           ~~of all:~~
- 10           ~~1. Farm implements and farm machinery owned by or leased to a person~~
- 11                   ~~actually engaged in farming and used in his farm operations;~~
- 12           ~~2. Livestock and domestic fowl;~~
- 13           ~~3. Tangible personal property located in a foreign trade zone established~~
- 14                   ~~pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in~~
- 15                   ~~accordance with the regulations of the United States Customs Service~~
- 16                   ~~and the Foreign Trade Zones Board; and~~
- 17           ~~4. Property which has been certified as an alcohol production facility as~~
- 18                   ~~defined in KRS 247.910, or as a fluidized bed energy production facility~~
- 19                   ~~as defined in KRS 211.390; and~~
- 20    ~~(h) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all~~
- 21           ~~other property directed to be assessed for taxation shall be paid by the owner~~
- 22           ~~or person assessed, except as provided in KRS 132.030, 132.200, 136.300,~~
- 23           ~~and 136.320, providing a different tax rate for particular property.~~
- 24    (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
- 25           shall be reduced to compensate for any increase in the aggregate assessed value of
- 26           real property to the extent that the increase exceeds the preceding year's assessment
- 27           by more than four percent (4%), excluding:

- 1 (a) The assessment of new property as defined in KRS 132.010(8);
- 2 (b) The assessment from property which is subject to tax increment financing  
3 pursuant to KRS Chapter 65; and
- 4 (c) The assessment from leasehold property which is owned and financed by a  
5 tax-exempt governmental unit, or tax-exempt statutory authority under the  
6 provisions of KRS Chapter 103 and entitled to the reduced rate of one and  
7 one-half cents (\$0.015) pursuant to subsection (1)(f) of this section. In any  
8 year in which the aggregate assessed value of real property is less than the  
9 preceding year, the state rate shall be increased to the extent necessary to  
10 produce the approximate amount of revenue that was produced in the  
11 preceding year from real property.
- 12 (3) By July 1 each year, the department shall compute the state tax rate applicable to  
13 real property for the current year in accordance with the provisions of subsection  
14 (2) of this section and certify the rate to the county clerks for their use in preparing  
15 the tax bills. If the assessments for all counties have not been certified by July 1, the  
16 department shall, when either real property assessments of at least seventy-five  
17 percent (75%) of the total number of counties of the Commonwealth have been  
18 determined to be acceptable by the department, or when the number of counties  
19 having at least seventy-five percent (75%) of the total real property assessment for  
20 the previous year have been determined to be acceptable by the department, make  
21 an estimate of the real property assessments of the uncertified counties and compute  
22 the state tax rate.
- 23 (4) If the tax rate set by the department as provided in subsection (2) of this section  
24 produces more than a four percent (4%) increase in real property tax revenues,  
25 excluding:
- 26 (a) The revenue resulting from new property as defined in KRS 132.010(8);
- 27 (b) The revenue from property which is subject to tax increment financing



1           pursuant to KRS Chapter 65; and

2           (c) The revenue from leasehold property which is owned and financed by a tax-  
3           exempt governmental unit, or tax-exempt statutory authority under the  
4           provisions of KRS Chapter 103 and entitled to the reduced rate of one and  
5           one-half cents (\$0.015) pursuant to subsection (1) of this section;

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

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

18          ➔ Section 4. KRS 132.200 is amended to read as follows:

19          All property subject to taxation for state purposes shall also be subject to taxation in the  
20          county, city, school, or other taxing district in which it has a taxable situs, except the  
21          class of property described in KRS 132.030 and the following classes of property, which  
22          shall be subject to taxation for state purposes only:

23          (1) ~~Farm implements and farm machinery owned by or leased to a person actually~~  
24          engaged in farming and used in his farm operation;

25          (2) ~~Livestock, ratite birds, and domestic fowl;~~

26          (3) ~~Capital stock of savings and loan associations;~~

27          (2) ~~(4)~~ Machinery actually engaged in manufacturing, products in the course of

1 manufacture, and raw material actually on hand at the plant for the purpose of  
 2 manufacture. The printing, publication, and distribution of a newspaper or operating  
 3 a job printing plant shall be deemed to be manufacturing;

4 ~~(3)~~~~(5)~~ (a) Commercial radio and television equipment used to receive, capture,  
 5 produce, edit, enhance, modify, process, store, convey, or transmit audio or  
 6 video content or electronic signals which are broadcast over the air to an  
 7 antenna;

8 (b) Equipment directly used or associated with the equipment identified in  
 9 paragraph (a) of this subsection, including radio and television towers used to  
 10 transmit or facilitate the transmission of the signal broadcast, but excluding  
 11 telephone and cellular communications towers; and

12 (c) Equipment used to gather or transmit weather information;

13 ~~(4)~~~~(6)~~ Unmanufactured agricultural products. They shall be exempt from taxation for  
 14 state purposes to the extent of the value, or amount, of any unpaid nonrecourse  
 15 loans thereon granted by the United States government or any agency thereof, and  
 16 except that cities and counties may each impose an ad valorem tax of not exceeding  
 17 one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash  
 18 value of all unmanufactured tobacco and not exceeding four and one-half cents  
 19 (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other  
 20 unmanufactured agricultural products, subject to taxation within their limits that are  
 21 not actually on hand at the plants of manufacturing concerns for the purpose of  
 22 manufacture, nor in the hands of the producer or any agent of the producer to whom  
 23 the products have been conveyed or assigned for the purpose of sale;

24 ~~(5)~~~~(7)~~ All privately owned leasehold interest in industrial buildings, as defined under  
 25 KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-  
 26 exempt statutory authority under the provisions of KRS Chapter 103, except that  
 27 the rate shall not apply to the proportion of value of the leasehold interest created

1 through any private financing;

2 ~~(6)~~~~(8)~~ Tangible personal property which has been certified as a pollution control  
3 facility as defined in KRS 224.1-300. In the case of tangible personal property  
4 certified as a pollution control facility which is incorporated into a landfill facility,  
5 the tangible personal property shall be presumed to remain tangible personal  
6 property for purposes of this subsection if the tangible personal property is being  
7 used for its intended purposes;{

8 ~~(9) Property which has been certified as an alcohol production facility as defined in~~  
9 ~~KRS 247.910;}~~

10 ~~(7)~~~~(10)~~ On and after January 1, 1977, the assessed value of unmined coal shall be  
11 included in the formula contained in KRS 132.590(9) in determining the amount of  
12 county appropriation to the office of the property valuation administrator;{

13 ~~(11) Tangible personal property located in a foreign trade zone established pursuant to~~  
14 ~~19 U.S.C. sec. 81, provided that the zone is activated in accordance with the~~  
15 ~~regulations of the United States Customs Service and the Foreign Trade Zones~~  
16 ~~Board;}~~

17 ~~(8)~~~~(12)~~ Motor vehicles qualifying for permanent registration as historic motor  
18 vehicles under the provisions of KRS 186.043. However, nothing herein shall be  
19 construed to exempt historical motor vehicles from the usage tax imposed by KRS  
20 138.460;{

21 ~~(13) Property which has been certified as a fluidized bed energy production facility as~~  
22 ~~defined in KRS 211.390;}~~

23 ~~(9)~~~~(14)~~ All motor vehicles:

24 (a) Held for sale in the inventory of a licensed motor vehicle dealer, including  
25 motor vehicle auction dealers, which are not currently titled and registered in  
26 Kentucky and are held on an assignment pursuant to the provisions of KRS  
27 186A.230;

1 (b) That are in the possession of a licensed motor vehicle dealer, including  
 2 licensed motor vehicle auction dealers, for sale, although ownership has not  
 3 been transferred to the dealer; and

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

5 ~~(10)~~~~(15)~~ Machinery or equipment owned by a business, industry, or organization in  
 6 order to collect, source separate, compress, bale, shred, or otherwise handle waste  
 7 materials if the machinery or equipment is primarily used for recycling purposes as  
 8 defined in KRS 139.010;

9 ~~(11)~~~~(16)~~ New farm machinery and other equipment held in the retailer's inventory for  
 10 sale under a floor plan financing arrangement by a retailer, as defined under KRS  
 11 365.800;

12 ~~(12)~~~~(17)~~ New boats and new marine equipment held for retail sale under a floor plan  
 13 financing arrangement by a dealer registered under KRS 235.220;

14 ~~(13)~~~~(18)~~ Aircraft not used in the business of transporting persons or property for  
 15 compensation or hire if an exemption is approved by the county, city, school, or  
 16 other taxing district in which the aircraft has its taxable situs;

17 ~~(14)~~~~(19)~~ Federally documented vessels not used in the business of transporting persons  
 18 or property for compensation or hire or for other commercial purposes, if an  
 19 exemption is approved by the county, city, school, or other taxing district in which  
 20 the federally documented vessel has its taxable situs;

21 ~~(15)~~~~(20)~~ Any nonferrous metal that conforms to the quality, shape, and weight  
 22 specifications set by the New York Mercantile Exchange's special contract rules for  
 23 metals, and which is located or stored in a commodity warehouse and held on  
 24 warrant, or for which a written request has been made to a commodity warehouse to  
 25 place it on warrant, according to the rules and regulations of a trading facility. In  
 26 this subsection:

27 (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or

1 other facility that has been designated or approved by a trading facility as a  
 2 regular delivery point for a commodity on contracts of sale for future delivery;  
 3 and

4 (b) "Trading facility" means a facility that is designated by or registered with the  
 5 federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et  
 6 seq. "Trading facility" includes the Board of Trade of the City of Chicago, the  
 7 Chicago Mercantile Exchange, and the New York Mercantile Exchange;

8 ~~(16)~~~~(21)~~ Qualifying voluntary environmental remediation property for a period of three  
 9 (3) years following the Energy and Environment Cabinet's issuance of a No Further  
 10 Action Letter or its equivalent, pursuant to the correction of the effect of all known  
 11 releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum  
 12 products located on the property consistent with a corrective action plan approved  
 13 by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or  
 14 224.60-135, and provided the cleanup was not financed through a public grant  
 15 program of the petroleum storage tank environmental assurance fund;

16 ~~(17)~~~~(22)~~ Biotechnology products held in a warehouse for distribution by the  
 17 manufacturer or by an affiliate of the manufacturer. For the purposes of this section:

18 (a) "Biotechnology products" means those products that are applicable to the  
 19 prevention, treatment, or cure of a disease or condition of human beings and  
 20 that are produced using living organisms, materials derived from living  
 21 organisms, or cellular, subcellular, or molecular components of living  
 22 organisms. Biotechnology products does not include pharmaceutical products  
 23 which are produced from chemical compounds;

24 (b) "Warehouse" includes any establishment that is designed to house or store  
 25 biotechnology products, but does not include blood banks, plasma centers, or  
 26 other similar establishments;

27 (c) "Affiliate" means an individual, partnership, or corporation that directly or

1 indirectly owns or controls, or is owned or controlled by, or is under common  
2 ownership or control with, another individual, partnership, or corporation;

3 ~~(18)~~~~(23)~~ Recreational vehicles held for sale in a retailer's inventory;

4 ~~(19)~~~~(24)~~ A privately owned leasehold interest in residential property described in KRS  
5 132.195(2)(g), if an exemption is approved by the county, city, school, or other  
6 taxing district in which the residential property is located; and

7 ~~(20)~~~~(25)~~ Prefabricated homes held for sale in a manufacturer's or retailer's inventory.

8 → Section 5. KRS 132.0225 is amended to read as follows:

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

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

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

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

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

1           ➔ Section 6. KRS 138.472 is amended to read as follows:

2       (1) As used in this section:

3           (a) "Department" means the Kentucky Department of Revenue;

4           (b) "Gross receipts" means the total consideration received for the:

5               1. Rental of a vehicle, including the daily or hourly rental fee, fees charged  
6                 for using the services, charges for insurance protection plans, fuel  
7                 charges, pickup and delivery fees, late fees, and any charges for any  
8                 services necessary to complete the rental transaction made by a:

9                   a. Peer-to-peer car sharing company; or

10                  b. Motor vehicle rental company; and

11               2. Charges made to provide the service to a user, including any charges for  
12                 time or mileage, fees for using the services, and any charges for any  
13                 services necessary to complete the transaction made by a:

14                   a. TNC;

15                   b. Taxicab; or

16                   c. Limousine service provider;

17           (c) The following terms have the same meaning as in KRS 281.010:

18               1. **"Human service transportation delivery";**

19               2. "Limousine";

20               3.~~[2.]~~ "Peer-to-peer car sharing certificate";

21               4.~~[3.]~~ "Peer-to-peer car sharing company";

22               5.~~[4.]~~ "Peer-to-peer car sharing driver";

23               6.~~[5.]~~ "Peer-to-peer car sharing program";

24               7.~~[6.]~~ "Shared vehicle";

25               8.~~[7.]~~ "Shared vehicle driver";

26               9.~~[8.]~~ "Taxicab";

27               10.~~[9.]~~ "Transportation network company" or "TNC";

1           ~~11.110.1~~ "Transportation network company service" or "TNC service"; and

2           ~~12.111.1~~ "U-Drive-It";

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

4           and

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

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

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

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

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

22       **(c)** ***Excluded from the tax are receipts derived from the provision of human***  
23           ***service transportation delivery.***

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

27       **(b)** ***On or before the twentieth day of the month following each calendar month,***



1                   *a return for the preceding month shall be filed with the department by every*  
2                   *person required to pay the tax in a form prescribed by the department.*

3       (4) The tax imposed by subsection (2) of this section shall be the direct obligation of  
4       the peer-to-peer car sharing company, the motor vehicle renting company, the TNC,  
5       the taxicab service provider, and the limousine service provider, but it may be  
6       charged to and collected from the user of the service. The tax shall be remitted to  
7       the department each month on forms and pursuant to administrative regulations  
8       promulgated by the department.

9       (5) (a) As soon as practicable after each return is received, the department shall  
10       examine and audit the return. If the amount of taxes computed by the  
11       department is greater than the amount returned by the person, the excess shall  
12       be assessed by the department within four (4) years from the date the return  
13       was filed, except as provided in paragraph (c) of this subsection, and except  
14       that in the case of a failure to file a return or of a fraudulent return the excess  
15       may be assessed at any time. A notice of such assessment shall be mailed to  
16       the person.

17       (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed  
18       before the last day prescribed by law for the filing thereof shall be considered  
19       as filed on such last day.

20       (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this  
21       subsection, in the case of a return where the amount of taxes computed by the  
22       department is greater by twenty-five percent (25%) or more than the amount  
23       returned by the person, the excess shall be assessed by the department within  
24       six (6) years from the date the return was filed.

25       (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle  
26       Regulation to void the certificate issued to a:

27       (a) Limousine certificate holder;

- 1 (b) Peer-to-peer car sharing certificate holder;
- 2 (c) Taxicab certificate holder;
- 3 (d) TNC certificate holder; or
- 4 (e) U-Drive-It certificate holder.

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

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

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

24 ~~(9)~~~~(10)~~ Notwithstanding any other provisions of this chapter to the contrary, the  
 25 president, vice president, secretary, treasurer, or any other person holding any  
 26 equivalent corporate office of any corporation subject to the provisions of this  
 27 chapter shall be personally and individually liable, both jointly and severally, for

1 the taxes imposed under this chapter, and neither the corporate dissolution nor  
2 withdrawal of the corporation from the state nor the cessation of holding any  
3 corporate office shall discharge the foregoing liability of any person. The personal  
4 and individual liability shall apply to each and every person holding the corporate  
5 office at the time the taxes become or became due. No person will be personally  
6 and individually liable pursuant to this section who had no authority in the  
7 management of the business or financial affairs of the corporation at the time that  
8 the taxes imposed by this chapter become or became due. "Taxes" as used in this  
9 section shall include interest accrued at the rate provided by KRS 139.650 and all  
10 applicable penalties imposed under this chapter and all applicable penalties and fees  
11 imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

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

1        become or became due. "Taxes" as used in this section shall include interest  
 2        accrued at the rate provided by KRS 131.183, all applicable penalties imposed  
 3        under this chapter, and all applicable penalties and fees imposed under KRS  
 4        131.180, 131.410 to 131.445, and 131.990.

5        ~~(11)~~~~(12)~~ Any person who violates any of the provisions of this section shall be subject  
 6        to the uniform civil penalties imposed pursuant to KRS 131.180.

7        ➔ Section 7. KRS 139.010 is amended to read as follows:

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

- 9        (1) (a) "Admissions" means the fees paid for:
- 10            1. The right of entrance to a display, program, sporting event, music  
 11            concert, performance, play, show, movie, exhibit, fair, or other  
 12            entertainment or amusement event or venue; and
- 13            2. The privilege of using facilities or participating in an event or activity,  
 14            including but not limited to:
- 15                    a. Bowling centers;
- 16                    b. Skating rinks;
- 17                    c. Health spas;
- 18                    d. Swimming pools;
- 19                    e. Tennis courts;
- 20                    f. Weight training facilities;
- 21                    g. Fitness and recreational sports centers; and
- 22                    h. Golf courses, both public and private;
- 23            regardless of whether the fee paid is per use or in any other form,  
 24            including but not limited to an initiation fee, monthly fee, membership  
 25            fee, or combination thereof.
- 26        (b) "Admissions" does not include:
- 27            1. Any fee paid to enter or participate in a fishing tournament; or

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

1 musical, spoken, or other sounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18           (b) "Finished artwork" includes:

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



1           10. Paste-ups;

2    ~~(17)~~~~(16)~~ (a) "Gross receipts" and "sales price" mean the total amount or  
3           consideration, including cash, credit, property, and services, for which  
4           tangible personal property, digital property, or services are sold, leased, or  
5           rented, valued in money, whether received in money or otherwise, without  
6           any deduction for any of the following:

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

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

- 26           1. The retailer actually receives consideration from a third party and the  
27           consideration is directly related to a price reduction or discount on the

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

1 amount is separately stated on the invoice, bill of sale, or similar  
2 document given to the purchaser;

3 3. Any taxes legally imposed directly on the purchaser that are separately  
4 stated on the invoice, bill of sale, or similar document given to the  
5 purchaser; or

6 4. Local alcohol regulatory license fees authorized under KRS 243.075 that  
7 are separately stated on the invoice, bill of sale, or similar document  
8 given to the purchaser.

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

11 ~~(18)~~~~(17)~~ "In this state" or "in the state" means within the exterior limits of the  
12 Commonwealth and includes all territory within these limits owned by or ceded to  
13 the United States of America;

14 ~~(19)~~~~(18)~~ "Industrial processing" includes:

15 (a) Refining;

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

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

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

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

21 ~~(20)~~~~(19)~~ (a) "Lease or rental" means any transfer of possession or control of tangible  
22 personal property for a fixed or indeterminate term for consideration. A lease  
23 or rental shall include future options to:

24 1. Purchase the property; or

25 2. Extend the terms of the agreement and agreements covering trailers  
26 where the amount of consideration may be increased or decreased by  
27 reference to the amount realized upon sale or disposition of the property

1 as defined in 26 U.S.C. sec. 7701(h)(1).

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

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

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

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

24 **(b) "Lobbying services" includes but is not limited to the performance of**  
25 **activities described as executive agency lobbying activities as defined in KRS**  
26 **11A.201, activities described under the definition of lobby in KRS 6.611,**  
27 **and any similar activities performed at the local, state, or federal levels;**

- 1 ~~(22)~~~~(20)~~ (a) "Machinery for new and expanded industry" means machinery:
- 2 1. Directly used in the manufacturing or industrial processing process of:
- 3 a. Tangible personal property at a plant facility;
- 4 b. Distilled spirits or wine at a plant facility or on the premises of a
- 5 distiller, rectifier, winery, or small farm winery licensed under
- 6 KRS 243.030 that includes a retail establishment on the premises;
- 7 or
- 8 c. Malt beverages at a plant facility or on the premises of a brewer or
- 9 microbrewery licensed under KRS 243.040 that includes a retail
- 10 establishment;
- 11 2. Which is incorporated for the first time into:
- 12 a. A plant facility established in this state; or
- 13 b. Licensed premises located in this state; and
- 14 3. Which does not replace machinery in the plant facility or licensed
- 15 premises unless that machinery purchased to replace existing machinery:
- 16 a. Increases the consumption of recycled materials at the plant
- 17 facility by not less than ten percent (10%);
- 18 b. Performs different functions;
- 19 c. Is used to manufacture a different product; or
- 20 d. Has a greater productive capacity, as measured in units of
- 21 production, than the machinery being replaced.
- 22 (b) "Machinery for new and expanded industry" does not include repair,
- 23 replacement, or spare parts of any kind, regardless of whether the purchase of
- 24 repair, replacement, or spare parts is required by the manufacturer or seller as
- 25 a condition of sale or as a condition of warranty;
- 26 ~~(23)~~~~(21)~~ "Manufacturing" means any process through which material having little or
- 27 no commercial value for its intended use before processing has appreciable

1 commercial value for its intended use after processing by the machinery;f

2 ~~(22) "Marketing services" means developing marketing objectives and policies, sales~~  
 3 ~~forecasting, new product developing and pricing, licensing, and franchise planning;]~~

4 (24)~~[(23)]~~ "Marketplace" means any physical or electronic means through which one (1)  
 5 or more retailers may advertise and sell tangible personal property, digital property,  
 6 or services, or lease tangible personal property or digital property, such as a catalog,  
 7 Internet Web site, or television or radio broadcast, regardless of whether the  
 8 tangible personal property, digital property, or retailer is physically present in this  
 9 state;

10 (25)~~[(24)]~~ (a) "Marketplace provider" means a person, including any affiliate of the  
 11 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of  
 12 this paragraph as follows:

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

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

1 third party, collects payment in connection with a retail sale of  
 2 tangible personal property, digital property, or services from a  
 3 purchaser and transmits that payment to the marketplace retailer,  
 4 regardless of whether the person collecting and transmitting the  
 5 payment receives compensation or other consideration in exchange  
 6 for the service; or

7 d. Provides a virtual currency that purchasers are allowed or required  
 8 to use to purchase tangible personal property, digital property, or  
 9 services.

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

14 ~~(26)~~~~(25)~~ "Marketplace retailer" means a seller that makes retail sales through any  
 15 marketplace owned, operated, or controlled by a marketplace provider;

16 ~~(27)~~~~(26)~~ (a) "Occasional sale" includes:

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

26 2. Any transfer of all or substantially all the tangible personal property or  
 27 digital property held or used by a person in the course of such an activity



1                   when after such transfer the real or ultimate ownership of such property  
2                   is substantially similar to that which existed before such transfer.

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

7    ~~(28)~~~~(27)~~ (a) "Other direct mail" means any direct mail that is not advertising and  
8           promotional direct mail, regardless of whether advertising and promotional  
9           direct mail is included in the same mailing.

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

- 11           1. Transactional direct mail that contains personal information specific to  
12           the addressee, including but not limited to invoices, bills, statements of  
13           account, and payroll advices;
- 14           2. Any legally required mailings, including but not limited to privacy  
15           notices, tax reports, and stockholder reports; and
- 16           3. Other nonpromotional direct mail delivered to existing or former  
17           shareholders, customers, employees, or agents, including but not limited  
18           to newsletters and informational pieces.

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

22    ~~(29)~~~~(28)~~ "Person" includes any individual, firm, copartnership, joint venture,  
23           association, social club, fraternal organization, corporation, estate, trust, business  
24           trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or  
25           agency, or any other group or combination acting as a unit;

26    ~~(30)~~~~(29)~~ "Permanent," as the term applies to digital property, means perpetual or for an  
27           indefinite or unspecified length of time;

1 ~~(31)~~~~(30)~~ (a) "Photography and photofinishing services" means:

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

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

10 ~~(32)~~~~(31)~~ "Plant facility" means a single location that is exclusively dedicated to  
11 manufacturing or industrial processing activities. A location shall be deemed to be  
12 exclusively dedicated to manufacturing or industrial processing activities even if  
13 retail sales are made there, provided that the retail sales are incidental to the  
14 manufacturing or industrial processing activities occurring at the location. The term  
15 "plant facility" shall not include any restaurant, grocery store, shopping center, or  
16 other retail establishment;

17 ~~(33)~~~~(32)~~ (a) "Prewritten computer software" means:

- 18 1. Computer software, including prewritten upgrades, that are not designed  
19 and developed by the author or other creator to the specifications of a  
20 specific purchaser;
- 21 2. Software designed and developed by the author or other creator to the  
22 specifications of a specific purchaser when it is sold to a person other  
23 than the original purchaser; or
- 24 3. Any portion of prewritten computer software that is modified or  
25 enhanced in any manner, where the modification or enhancement is  
26 designed and developed to the specifications of a specific purchaser,  
27 unless there is a reasonable, separately stated charge on an invoice or

1 other statement of the price to the purchaser for the modification or  
2 enhancement.

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

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

9 ~~(34)~~~~(33)~~ "Prewritten computer software access services" means the right of access to  
10 prewritten computer software where the object of the transaction is to use the  
11 prewritten computer software while possession of the prewritten computer software  
12 is maintained by the seller or a third party, wherever located, regardless of whether  
13 the charge for the access or use is on a per use, per user, per license, subscription, or  
14 some other basis;

15 ~~(35)~~~~(34)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,  
16 lease, or rental, conditional or otherwise, in any manner or by any means  
17 whatsoever, of:

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

23 (b) "Purchase" includes:

- 24 1. When performed outside this state or when the customer gives a resale  
25 certificate, the producing, fabricating, processing, printing, or imprinting  
26 of tangible personal property for a consideration for consumers who  
27 furnish either directly or indirectly the materials used in the producing,

1 fabricating, processing, printing, or imprinting;

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

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

9 ~~(36)~~~~(35)~~ "Recycled materials" means materials which have been recovered or diverted  
10 from the solid waste stream and reused or returned to use in the form of raw  
11 materials or products;

12 ~~(37)~~~~(36)~~ "Recycling purposes" means those activities undertaken in which materials  
13 that would otherwise become solid waste are collected, separated, or processed in  
14 order to be reused or returned to use in the form of raw materials or products;

15 ~~(38)~~~~(37)~~ "Remote retailer" means a retailer with no physical presence in this state;

16 ~~(39)~~~~(38)~~ (a) "Repair, replacement, or spare parts" means any tangible personal  
17 property used to maintain, restore, mend, or repair machinery or equipment.

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

20 ~~(40)~~~~(39)~~ (a) "Retailer" means:

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

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

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

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

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

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

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

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

12 ~~(44)~~~~((43))~~ "Seller" includes every person engaged in the business of selling tangible  
13 personal property, digital property, or services of a kind, the gross receipts from the  
14 retail sale of which are required to be included in the measure of the sales tax, and  
15 every person engaged in making sales for resale;

16 ~~(45)~~~~((44))~~ (a) "Storage" includes any keeping or retention in this state for any purpose  
17 except sale in the regular course of business or subsequent use solely outside  
18 this state of tangible personal property, ~~or~~ digital property, or prewritten  
19 computer software access services purchased from a retailer.

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

26 ~~(46)~~~~((45))~~ "Tangible personal property" means personal property which may be seen,  
27 weighed, measured, felt, or touched, or which is in any other manner perceptible to

1 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,  
2 and prewritten computer software;

3 ~~(47)~~~~(46)~~ "Taxpayer" means any person liable for tax under this chapter;

4 ~~(48)~~~~(47)~~ "Telemarketing services" means services provided via telephone, facsimile,  
5 electronic mail, **text messages**, or other modes of communications, **including but**  
6 **not limited to various forms of social media**, to another person, which are  
7 unsolicited by that person, for the purposes of:

- 8 (a) 1. Promoting products or services;  
9 2. Taking orders; or  
10 3. Providing information or assistance regarding the products or services;  
11 or

12 (b) Soliciting contributions;

13 ~~(49)~~~~(48)~~ "Transferred electronically" means accessed or obtained by the purchaser by  
14 means other than tangible storage media; and

15 ~~(50)~~~~(49)~~ (a) "Use" includes the exercise of:

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

23 (b) "Use" does not include the keeping, retaining, or exercising any right or  
24 power over:

- 25 **1.** Tangible personal property or digital property for the purpose of:  
26 **a.**~~(1)~~ Selling tangible personal property or digital property in the regular  
27 course of business; or



1                    ~~b.~~<sup>[2.]</sup> Subsequently transporting tangible personal property outside the  
 2                    state for use thereafter solely outside the state, or for the purpose  
 3                    of being processed, fabricated, or manufactured into, attached to,  
 4                    or incorporated into, other tangible personal property to be  
 5                    transported outside the state and thereafter used solely outside the  
 6                    state; or

7                    2. Prewritten computer software access services purchased for use  
 8                    outside the state and transferred electronically outside the state for use  
 9                    thereafter solely outside the state.

10                  → Section 8. KRS 139.200 is amended to read as follows:

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

13                  (1) Retail sales of:

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

16                    (b) Digital property regardless of whether:

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

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

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

21                  (2) The furnishing of the following services:

22                    (a) The rental of any room or rooms, lodgings, campsites, or accommodations  
 23                    furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,  
 24                    recreational vehicle parks, or any other place in which rooms, lodgings,  
 25                    campsites, or accommodations are regularly furnished to transients for a  
 26                    consideration. The tax shall not apply to rooms, lodgings, campsites, or  
 27                    accommodations supplied for a continuous period of thirty (30) days or more

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

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

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

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

26        ➔ Section 9. KRS 139.480 is amended to read as follows:

27        Any other provision of this chapter to the contrary notwithstanding, the terms "sale at

1 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not  
2 include the sale, use, storage, or other consumption of:

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

6 (2) Coal for the manufacture of electricity;

7 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,  
8 processing, mining, or refining and any related distribution, transmission, and  
9 transportation services for this energy that are billed to the user, to the extent  
10 that the cost of the energy or energy-producing fuels used, and related  
11 distribution, transmission, and transportation services for this energy that are  
12 billed to the user exceed three percent (3%) of the cost of production.

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

17 (c) A person who performs a manufacturing or industrial processing activity for a  
18 fee and does not take ownership of the tangible personal property that is  
19 incorporated into, or becomes the product of, the manufacturing or industrial  
20 processing activity is a toller. For periods on or after July 1, 2018, the costs of  
21 the tangible personal property shall be excluded from the toller's cost of  
22 production at a plant facility with tolling operations in place as of July 1,  
23 2018.

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

27 1. Maintains a binding contract for periods after July 1, 2018, that governs

- 1 the terms, conditions, and responsibilities with a separate legal entity,  
2 which holds title to the tangible personal property that is incorporated  
3 into, or becomes the product of, the manufacturing or industrial  
4 processing activity;
- 5 2. Maintains accounting records that show the expenses it incurs to fulfill  
6 the binding contract that include but are not limited to energy or energy-  
7 producing fuels, materials, labor, procurement, depreciation,  
8 maintenance, taxes, administration, and office expenses;
- 9 3. Maintains separate payroll, bank accounts, tax returns, and other records  
10 that demonstrate its independent operations in the performance of its  
11 tolling responsibilities;
- 12 4. Demonstrates one (1) or more substantial business purposes for the  
13 tolling operations germane to the overall manufacturing, industrial  
14 processing activities, or corporate structure at the plant facility. A  
15 business purpose is a purpose other than the reduction of sales tax  
16 liability for the purchases of energy and energy-producing fuels; and
- 17 5. Provides information to the department upon request that documents  
18 fulfillment of the requirements in subparagraphs 1. to 4. of this  
19 paragraph and gives an overview of its tolling operations with an  
20 explanation of how the tolling operations relate and connect with all  
21 other manufacturing or industrial processing activities occurring at the  
22 plant facility;
- 23 (4) Livestock of a kind the products of which ordinarily constitute food for human  
24 consumption, provided the sales are made for breeding or dairy purposes and by or  
25 to a person regularly engaged in the business of farming;
- 26 (5) Poultry for use in breeding or egg production;
- 27 (6) Farm work stock for use in farming operations;

- 1 (7) Seeds, the products of which ordinarily constitute food for human consumption or  
2 are to be sold in the regular course of business, and commercial fertilizer to be  
3 applied on land, the products from which are to be used for food for human  
4 consumption or are to be sold in the regular course of business; provided such sales  
5 are made to farmers who are regularly engaged in the occupation of tilling and  
6 cultivating the soil for the production of crops as a business, or who are regularly  
7 engaged in the occupation of raising and feeding livestock or poultry or producing  
8 milk for sale; and provided further that tangible personal property so sold is to be  
9 used only by those persons designated above who are so purchasing;
- 10 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be  
11 used in the production of crops as a business, or in the raising and feeding of  
12 livestock or poultry, the products of which ordinarily constitute food for human  
13 consumption;
- 14 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the  
15 products of which ordinarily constitute food for human consumption;
- 16 (10) Machinery for new and expanded industry;
- 17 (11) Farm machinery. As used in this section, the term "farm machinery":
- 18 (a) Means machinery used exclusively and directly in the occupation of:
- 19 1. Tilling the soil for the production of crops as a business;
- 20 2. Raising and feeding livestock or poultry for sale; or
- 21 3. Producing milk for sale;
- 22 (b) Includes machinery, attachments, and replacements therefor, repair parts, and  
23 replacement parts which are used or manufactured for use on, or in the  
24 operation of farm machinery and which are necessary to the operation of the  
25 machinery, and are customarily so used, including but not limited to combine  
26 header wagons, combine header trailers, or any other implements specifically  
27 designed and used to move or transport a combine head; and



- 1 (c) Does not include:
- 2 1. Automobiles;
- 3 2. Trucks;
- 4 3. Trailers, except combine header trailers; or
- 5 4. Truck-trailer combinations;
- 6 (12) Tombstones and other memorial grave markers;
- 7 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 8 or handling. The exemption applies to the equipment, machinery, attachments,
- 9 repair and replacement parts, and any materials incorporated into the construction,
- 10 renovation, or repair of the facilities;
- 11 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 12 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 13 and any materials incorporated into the construction, renovation, or repair of the
- 14 facilities. The exemption shall apply but not be limited to vent board equipment,
- 15 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
- 16 and curtain systems. In addition, the exemption shall apply whether or not the seller
- 17 is under contract to deliver, assemble, and incorporate into real estate the
- 18 equipment, machinery, attachments, repair and replacement parts, and any materials
- 19 incorporated into the construction, renovation, or repair of the facilities;
- 20 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
- 21 and directly to:
- 22 (a) Operate farm machinery as defined in subsection (11) of this section;
- 23 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
- 24 (13) of this section;
- 25 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
- 26 this section;
- 27 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;

- 1 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this  
2 section; or
- 3 (f) Operate on-farm dairy facilities;
- 4 (16) Textbooks, including related workbooks and other course materials, purchased for  
5 use in a course of study conducted by an institution which qualifies as a nonprofit  
6 educational institution under KRS 139.495. The term "course materials" means only  
7 those items specifically required of all students for a particular course but shall not  
8 include notebooks, paper, pencils, calculators, tape recorders, or similar student  
9 aids;
- 10 (17) Any property which has been certified as an alcohol production facility as defined  
11 in KRS 247.910;
- 12 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the  
13 direct operation of aircraft in interstate commerce and used exclusively for the  
14 conveyance of property or passengers for hire. Nominal intrastate use shall not  
15 subject the property to the taxes imposed by this chapter;
- 16 (19) Any property which has been certified as a fluidized bed energy production facility  
17 as defined in KRS 211.390;
- 18 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,  
19 modification, or expansion of a blast furnace or any of its components or  
20 appurtenant equipment or structures as part of an approved supplemental  
21 project, as defined by KRS 154.26-010; and
- 22 2. Materials, supplies, and repair or replacement parts purchased for use in  
23 the operation and maintenance of a blast furnace and related carbon  
24 steel-making operations as part of an approved supplemental project, as  
25 defined by KRS 154.26-010.
- 26 (b) The exemptions provided in this subsection shall be effective for sales made:  
27 1. On and after July 1, 2018; and

- 1           2. During the term of a supplemental project agreement entered into  
2           pursuant to KRS 154.26-090;
- 3 (21) Beginning on October 1, 1986, food or food products purchased for human  
4 consumption with food coupons issued by the United States Department of  
5 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to  
6 be exempted by the Food Security Act of 1985 in order for the Commonwealth to  
7 continue participation in the federal food stamp program;
- 8 (22) Machinery or equipment purchased or leased by a business, industry, or  
9 organization in order to collect, source separate, compress, bale, shred, or otherwise  
10 handle waste materials if the machinery or equipment is primarily used for  
11 recycling purposes;
- 12 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and  
13 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-  
14 products, and the following items used in this agricultural pursuit:
- 15 (a) Feed and feed additives;
- 16 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 17 (c) On-farm facilities, including equipment, machinery, attachments, repair and  
18 replacement parts, and any materials incorporated into the construction,  
19 renovation, or repair of the facilities. The exemption shall apply to incubation  
20 systems, egg processing equipment, waterer and feeding systems, brooding  
21 systems, ventilation systems, alarm systems, and curtain systems. In addition,  
22 the exemption shall apply whether or not the seller is under contract to  
23 deliver, assemble, and incorporate into real estate the equipment, machinery,  
24 attachments, repair and replacement parts, and any materials incorporated into  
25 the construction, renovation, or repair of the facilities;
- 26 (24) Embryos and semen that are used in the reproduction of livestock, if the products of  
27 these embryos and semen ordinarily constitute food for human consumption, and if

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

- 1 (a) Feed and feed additives;
- 2 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 3 (c) 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. The exemption shall apply to waterer
- 6 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 7 exemption shall apply whether or not the seller is under contract to deliver,
- 8 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 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
- 12 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
- 13 and the following items used in this pursuit:
- 14 (a) Feed and feed additives;
- 15 (b) Water;
- 16 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 17 and
- 18 (d) On-farm facilities, including equipment, machinery, attachments, repair and
- 19 replacement parts, and any materials incorporated into the construction,
- 20 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
- 21 petroleum gas, or natural gas used to operate the facilities. The exemption
- 22 shall apply, but not be limited to: waterer and feeding systems; ventilation,
- 23 aeration, and heating systems; processing and storage systems; production
- 24 systems such as ponds, tanks, and raceways; harvest and transport equipment
- 25 and systems; and alarm systems. In addition, the exemption shall apply
- 26 whether or not the seller is under contract to deliver, assemble, and
- 27 incorporate into real estate the equipment, machinery, attachments, repair and

1 replacement parts, and any materials incorporated into the construction,  
2 renovation, or repair of the facilities;

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

6 (a) Feed and feed additives;

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

8 (c) On-site facilities, including equipment, machinery, attachments, repair and  
9 replacement parts, and any materials incorporated into the construction,  
10 renovation, or repair of the facilities. 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 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor  
16 vehicle, including any towed unit, used exclusively in interstate commerce for  
17 the conveyance of property or passengers for hire, provided the motor vehicle  
18 is licensed for use on the highway and its declared gross vehicle weight with  
19 any towed unit is forty-four thousand and one (44,001) pounds or greater.  
20 Nominal intrastate use shall not subject the property to the taxes imposed by  
21 this chapter;

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

26 (c) For the purposes of this subsection, "repair or replacement parts" means tires,  
27 brakes, engines, transmissions, drive trains, chassis, body parts, and their

1 components. "Repair or replacement parts" shall not include fuel, machine  
 2 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential  
 3 to the operation of the motor vehicle itself, except when sold as part of the  
 4 assembled unit, such as cigarette lighters, radios, lighting fixtures not  
 5 otherwise required by the manufacturer for operation of the vehicle, or tool or  
 6 utility boxes;

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

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

13 **(34) Prewritten computer software access services sold to or purchased by a retailer**  
 14 **that develops prewritten computer software for print technology and uses and**  
 15 **sells prewritten computer software access services for print technology;**

16 **(35) On or after July 1, 2023:**

17 **(a) Currency or bullion.**

18 **(b) As used in this subsection:**

19 **1. "Bullion":**

20 **a. Means bars, ingots, or coins, which are:**

21 **i. Made of gold, silver, platinum, palladium, or a**  
 22 **combination of these metals;**

23 **ii. Valued based on the content of the metal and not its form;**  
 24 **and**

25 **iii. Used, or have been used, as a medium of exchange,**  
 26 **security, or commodity by any state, the United States**  
 27 **government, or a foreign nation; and**

1                   **b. Does not include medallions or coins that are incorporated into a**  
 2                   **pendant or other jewelry; and**

3                   **2. "Currency":**

4                   **a. Means a coin or currency made of gold, silver, platinum,**  
 5                   **palladium, or other metal or paper money that is or has been**  
 6                   **used as legal tender and is sold based on its value as a collectible**  
 7                   **item rather than the value as a medium of exchange; and**

8                   **b. Does not include a coin or currency that has been incorporated**  
 9                   **into jewelry;**

10                   **(36) (a) Building materials, fixtures, or supplies purchased by a construction**  
 11                   **contractor if:**

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

13                   **a. A municipally owned water utility organized under KRS Chapter**  
 14                   **96;**

15                   **b. A water district or water commission formed or organized under**  
 16                   **KRS Chapter 74;**

17                   **c. A sanitation district established under KRS Chapter 220 or**  
 18                   **formed pursuant to KRS Chapter 65; or**

19                   **d. A nonprofit corporation created under KRS 58.180 to act on**  
 20                   **behalf of a governmental agency in the acquisition and**  
 21                   **financing of public projects; and**

22                   **2. The building materials, fixtures, or supplies:**

23                   **a. Will be permanently incorporated into a structure or**  
 24                   **improvement to real property, or will be completely consumed, in**  
 25                   **fulfilling a construction contract for the purpose of furnishing**  
 26                   **water or sewer services to the general public; and**

27                   **b. Would be exempt if purchased directly by the entities listed in**



1 subparagraph 1. of this paragraph.

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

- 3 1. Lump sum contract;
- 4 2. Cost plus contract;
- 5 3. Materials only contract;
- 6 4. Labor and materials contract; or
- 7 5. Any other type of contract.

8 (c) The exemption provided in this subsection shall apply without regard to the  
 9 payment arrangement between the construction contractor, the retailer, and  
 10 the entities listed in paragraph (a)1. of this subsection or to the place of  
 11 delivery for the building materials, fixtures, or supplies.

12 (37) (a) On or after February 25, 2022, the rental of space for meetings,  
 13 conventions, short-term business uses, entertainment events, weddings,  
 14 banquets, parties, and other short-term social events, as referenced in  
 15 Section 8 of this Act, if the tax established in Section 8 of this Act, is paid by  
 16 the primary lessee to the lessor.

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

- 19 1. The contract between the lessor and the lessee specifies that the lessee  
 20 may sublease, subrent, or otherwise sell the space; and
- 21 2. The space is then sublet, subrented, or otherwise sold to exhibitors,  
 22 vendors, sponsors, or other entities and persons who will use the space  
 23 associated with the event to be conducted under the primary lease.

24 → Section 10. KRS 139.260 is amended to read as follows:

25 For the purpose of the proper administration of this chapter and to prevent evasion of the  
 26 duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that  
 27 all gross receipts and all tangible personal property, digital property, and services sold by

- 1 any person for delivery or access in this state are subject to the tax until the contrary is  
 2 established. The burden of proving the contrary is upon the person who makes the sale of:
- 3 (1) (a) Except as provided in paragraph (b) of this subsection, tangible personal  
 4 property or digital property unless the person takes from the purchaser a  
 5 certificate to the effect that the property is either:
- 6 1. Purchased for resale according to the provisions of KRS 139.270;
  - 7 2. Purchased through a fully completed certificate of exemption or fully  
 8 completed Streamlined Sales and Use Tax Agreement Certificate of  
 9 Exemption in accordance with KRS 139.270; or
  - 10 3. Purchased according to administrative regulations promulgated by the  
 11 department governing a direct pay authorization; or
- 12 (b) Tangible personal property to a purchaser claiming an agriculture exemption  
 13 under KRS 139.480(4) to (9), (11), (13) to (15), ~~for (23) to (30)~~, or (33)  
 14 unless the person obtains from the purchaser an agriculture exemption license  
 15 number or a fully completed Streamlined Sales and Use Tax Agreement  
 16 Certificate of Exemption that contains an agriculture exemption license  
 17 number in accordance with KRS 139.270;
- 18 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the  
 19 purchaser a certificate to the effect that the service is purchased through a fully  
 20 completed certificate of exemption or fully completed Streamlined Sales and Use  
 21 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and
- 22 (3) A service included in KRS 139.200(2)(g) to ~~(ax)~~~~(ay)~~ unless the person takes from  
 23 the purchaser a certificate to the effect that the service is:
- 24 (a) Purchased for resale according to KRS 139.270;
  - 25 (b) Purchased through a fully completed certificate of exemption or fully  
 26 completed Streamlined Sales and Use Tax Agreement Certificate of  
 27 Exemption in accordance with KRS 139.270; or

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

3 → Section 11. KRS 139.481 is amended to read as follows:

4 (1) On and after January 1, 2023, every person claiming an exemption provided under  
5 KRS 139.480(4) to (9), ~~[KRS 139.480](11)~~, ~~[KRS 139.480](13)~~ to (15), ~~and KRS~~  
6 ~~139.480](23)~~ to (30), and (33) shall provide to the seller or retailer a valid  
7 agriculture exemption license number issued by the department.

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

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

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

14 (c) Raising and feeding poultry;

15 (d) Producing milk for sale; or

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

18 (3) (a) On and after January 1, 2023, persons that receive an agriculture exemption  
19 license number and choose to claim the exemptions outlined in subsection (1)  
20 of this section shall, at least one (1) time, provide the seller or retailer from  
21 whom they purchase exempt tangible personal property with one (1) of the  
22 following:

23 1. The agriculture exemption license number issued by the department; or

24 2. A fully completed Streamlined Sales Tax Certificate of Exemption  
25 which shall include the agriculture exemption license number.

26 (b) A purchaser that has met the requirements of paragraph (a) of this subsection  
27 may issue the agriculture exemption license number to the seller or retailer for

1 subsequent purchases as evidence of an exempt purchase for as long as the  
2 agriculture exemption license number is valid.

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

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

12 (b) The application shall include:

- 13 1. The person's name and mailing address;
- 14 2. The farm address, if different from the person's mailing address;
- 15 3. An affirmation that the person meets at least one (1) of the criteria  
16 outlined in subsection (2) of this section;
- 17 4. The person's driver's license number; and
- 18 5. One (1) of the following forms of documentation:
  - 19 a. IRS Schedule F, Profit or Loss from Farming;
  - 20 b. IRS Form 4835, Farm Rental Income and Expenses;
  - 21 c. The farm service agency number or numbers assigned by the  
22 United States Department of Agriculture pertaining to the parcels  
23 of land on which agriculture activity will take place; or
  - 24 d. Any other type of information that may establish to the satisfaction  
25 of the Commissioner that the applicant qualifies for the agriculture  
26 exemption license number.

27 (5) (a) The agriculture exemption license number shall expire on December 31, 2026,

1 and every four (4) years thereafter, or when the person ceases to engage in the  
2 agriculture activity for which the agriculture exemption license number was  
3 granted, whichever comes first.

4 (b) When a person ceases to engage in the agriculture activity for which the  
5 license number was granted, the person shall notify the department within  
6 sixty (60) days.

7 (c) The person may apply for a renewal of the agriculture exemption license  
8 number prior to the expiration date if the person continues to meet the  
9 requirements of subsection (2) of this section and provides documentation  
10 required by subsection (4)(b)5. of this section. The department shall, by  
11 administrative regulation, prescribe the electronic process for renewing an  
12 agriculture exemption license number.

13 (6) (a) On or before January 1, 2023, the department shall develop and provide an  
14 online searchable database on the department's Web site that the seller or  
15 retailer may use to confirm the agriculture exemption license number if the  
16 purchaser cannot produce documentation of the agriculture exemption license  
17 number at the time of sale.

18 (b) To search the database, the seller or retailer shall provide the name of the  
19 person assigned the agriculture exemption license number and one (1) of the  
20 following:

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

26 (c) The seller or retailer shall be relieved of the liability for collecting and  
27 remitting the sales and use tax if the seller or retailer meets the requirements

1 of KRS 139.260 and 139.270.

2 → Section 12. 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 13. KRS 139.310 is amended to read as follows:

9 (1) An excise tax is hereby imposed on the storage, use, or other consumption in this  
10 state of tangible personal property, digital property, and services listed under KRS  
11 139.200(2)(p) to ~~(ax)~~~~(ay)~~ purchased for storage, use, or other consumption in this  
12 state at the rate of six percent (6%) of the sales price.

- 13 (2) The excise tax applies to the purchase of digital property regardless of whether:
  - 14 (a) The purchaser has the right to permanently use the goods;
  - 15 (b) The purchaser's right to access or retain the digital property is not permanent;
  - 16 or
  - 17 (c) The purchaser's right of use is conditioned upon continued payment.

18 → Section 14. KRS 139.340 is amended to read as follows:

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

- 25 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section  
26 includes any of the following:
  - 27 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,

1 directly or indirectly, or through a subsidiary or any other related entity,  
2 representative, or agent, by whatever name called, an office, place of  
3 distribution, sales or sample room or place, warehouse or storage place, or  
4 other place of business. Property owned by a person who has contracted with  
5 a printer for printing, which consists of the final printed product, property  
6 which becomes a part of the final printed product, or copy from which the  
7 printed product is produced, and which is located at the premises of the  
8 printer, shall not be deemed to be an office, place of distribution, sales or  
9 sample room or place, warehouse or storage place, or other place of business  
10 maintained, occupied, or used by the person;

11 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor  
12 operating in this state under the authority of the retailer or its subsidiary for  
13 the purpose of selling, delivering, or the taking of orders for any tangible  
14 personal property, digital property, or any services subject to tax under KRS  
15 139.200(2)(p) to ~~(ax)~~~~(ay)~~. An unrelated printer with which a person has  
16 contracted for printing shall not be deemed to be a representative, agent,  
17 salesman, canvasser, or solicitor for the person;

18 (c) Any retailer soliciting orders for tangible personal property, digital property,  
19 or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from  
20 residents of this state on a continuous, regular, or systematic basis in which  
21 the solicitation of the order, placement of the order by the customer or the  
22 payment for the order utilizes the services of any financial institution,  
23 telecommunication system, radio or television station, cable television  
24 service, print media, or other facility or service located in this state;

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

27 (e) Any retailer soliciting orders for tangible personal property, digital property,

1 or any services subject to tax under KRS 139.200(2)(p) to (ax)~~(ay)~~ from  
2 residents of this state on a continuous, regular, systematic basis if the retailer  
3 benefits from an agent or representative operating in this state under the  
4 authority of the retailer to repair or service tangible personal property or  
5 digital property sold by the retailer;

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

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

14 a. The remote retailer sold tangible personal property or digital  
15 property that was delivered or transferred electronically to a  
16 purchaser in this state in two hundred (200) or more separate  
17 transactions in the previous calendar year or the current calendar  
18 year; or

19 b. The remote retailer's gross receipts derived from the sale of  
20 tangible personal property or digital property delivered or  
21 transferred electronically to a purchaser in this state in the previous  
22 calendar year or current calendar year exceeds one hundred  
23 thousand dollars (\$100,000).

24 2. Any remote retailer that meets either threshold provided in subparagraph  
25 1. of this paragraph shall register for a sales and use tax permit and  
26 collect the tax imposed by KRS 139.310 from the purchaser no later  
27 than the first day of the calendar month that is at the most sixty (60)



1                   days after either threshold is reached.

2           ➔Section 15. KRS 139.470 is amended to read as follows:

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

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

1 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the  
2 retailer is primarily engaged in making the sales and maintains records satisfactory  
3 to the department. As used in this subsection, "bulk vending machine" means a  
4 vending machine containing unsorted merchandise which, upon insertion of a coin,  
5 dispenses the same in approximately equal portions, at random and without  
6 selection by the customer;

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

14 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky  
15 residents for use in heating, water heating, cooking, lighting, and other  
16 residential uses if the sewer services, water, and fuel are purchased and  
17 declared by the resident as used in his or her place of domicile.

18 (b) As used in this subsection:

19 1. "Fuel" shall include but not be limited to natural gas, electricity, fuel oil,  
20 bottled gas, coal, coke, and wood; and

21 2. "Place of domicile" means the place where an individual has his or her  
22 legal, true, fixed, and permanent home and principal establishment, and  
23 to which, whenever the individual is absent, the individual has the  
24 intention of returning.

25 (c) Determinations of eligibility for the exemption shall be made by the  
26 department.

27 (d) The exemption shall apply if charges for sewer service, water, and fuel are

1 billed to an owner or operator of a multi-unit residential rental facility or  
 2 mobile home and recreational vehicle park if the sewer services, water, and  
 3 fuel are purchased for and declared by the Kentucky resident as used in his or  
 4 her place of domicile.

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

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

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

- 20 1. Tangible personal property at a plant facility;
- 21 2. Distilled spirits or wine at a plant facility or on the premises of a  
 22 distiller, rectifier, winery, or small farm winery licensed under KRS  
 23 243.030 that includes a retail establishment on the premises; or
- 24 3. Malt beverages at a plant facility or on the premises of a brewer or  
 25 microbrewery licensed under KRS 243.040 that includes a retail  
 26 establishment;

27 and which will be for sale.

1 (b) The following tangible personal property shall qualify for exemption under  
2 this subsection:

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

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

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

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

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

26 3. Materials and supplies that are not reusable in the same manufacturing  
27 or industrial processing process at the completion of a single

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

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

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

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

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

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

25 (a) As used in this subsection:

26 1. "Catalogs" means tangible personal property that is printed to the special  
27 order of the purchaser and composed substantially of information

1                   regarding goods and services offered for sale; and

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

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

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

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

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

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

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

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

- 1 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and  
 2 trailer as defined in KRS 189.010(17);
- 3 (21) Gross receipts from the collection of:
- 4 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 5 (b) The charge imposed by KRS 65.7629(3);
- 6 (c) The fee imposed by KRS 65.7634; and
- 7 (d) The service charge imposed by KRS 65.7636;
- 8 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or  
 9 maintain tangible personal property directly used in manufacturing or industrial  
 10 processing process of:
- 11 (a) Tangible personal property at a plant facility;
- 12 (b) Distilled spirits or wine at a plant facility or on the premises of a distiller,  
 13 rectifier, winery, or small farm winery licensed under KRS 243.030; or
- 14 (c) Malt beverages at a plant facility or on the premises of a brewer or  
 15 microbrewery licensed under KRS 243.040;
- 16 that is not otherwise exempt under subsection (9) of this section or KRS  
 17 139.480(10), if the charges for labor or services are separately stated on the invoice,  
 18 bill of sale, or similar document given to purchaser;
- 19 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (p) prior to  
 20 January 1, 2019, gross receipts derived from the sale of those services if the  
 21 gross receipts were less than six thousand dollars (\$6,000) during calendar  
 22 year 2018. When gross receipts from these services exceed six thousand  
 23 dollars (\$6,000) in a calendar year:
- 24 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that  
 25 calendar year; and
- 26 2. All gross receipts are subject to tax in subsequent calendar years.
- 27 (b) For persons selling services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ prior



1 to January 1, 2023, gross receipts derived from the sale of those services if the  
 2 gross receipts were less than six thousand dollars (\$6,000) during calendar  
 3 year 2021. When gross receipts from these services exceed six thousand  
 4 dollars (\$6,000) in a calendar 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 also  
 9 engaged in the business of selling tangible personal property, digital property,  
 10 or services included in KRS 139.200(2)(a) to (f); and

11 (24) (a) For persons that first begin making sales of services included in KRS  
 12 139.200(2)(g) to (p) on or after January 1, 2019, gross receipts derived from  
 13 the sale of those services if the gross receipts are less than six thousand dollars  
 14 (\$6,000) within the first calendar year of operation. When gross receipts from  
 15 these services exceed six thousand dollars (\$6,000) in a calendar year:

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

19 (b) For persons that first begin making sales of services included in KRS  
 20 139.200(2)(q) to ~~(ax)~~~~(ay)~~ on or after January 1, 2023, gross receipts derived  
 21 from the sale of those services if the gross receipts are less than six thousand  
 22 dollars (\$6,000) within the first calendar year of operation. When gross  
 23 receipts from these services exceed six thousand dollars (\$6,000) in a calendar  
 24 year:

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

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

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

6 (1) For taxable years beginning on or after January 1, 2022, a pass-through entity  
 7 may elect to pay the tax liability at the entity level, utilizing the tax rate  
 8 computation under Section 22 of this Act, on behalf of the individual partner,  
 9 member, or shareholder of the pass-through entity.

10 (2) The election shall be:

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

12 (b) Made by the:

13 1. Fifteenth day of the fourth month upon the close of the taxable year;

14 or

15 2. Fifteenth day of the tenth month upon the close of the taxable year, if  
 16 the return is filed under KRS 141.170;

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

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

22 (3) For taxable years beginning on or after January 1, 2022, there shall be allowed a  
 23 pass-through entity tax credit which shall be:

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

27 (b) Claimed against the tax imposed under Section 22 of this Act on a return

1 filed by the individual partner, member, or shareholder of the pass-through  
 2 entity, with the ordering of credits as provided in Section 18 of this Act;

3 (c) Nonrefundable;

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

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

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

12 → Section 17. KRS 141.206 is amended to read as follows:

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

17 (2) (a) Pass-through entities shall calculate net income in the same manner as in the  
 18 case of an individual under KRS 141.019 and the adjustment required under  
 19 Sections 703(a) and 1363(b) of the Internal Revenue Code.

20 (b) Computation of net income under this section and the computation of the  
 21 partner's, member's, or shareholder's distributive share shall be computed as  
 22 nearly as practicable identical with those required for federal income tax  
 23 purposes except to the extent required by differences between this chapter and  
 24 the federal income tax law and regulations.

25 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,  
 26 member, or shareholder in a pass-through entity shall be liable for income tax only  
 27 in their individual, fiduciary, or corporate capacities, and no income tax shall be

1 assessed against the net income of any pass-through entity, except as required:

2 (a) For S corporations under KRS 141.040;~~[-and]~~

3 (b) For a partnership level audit under KRS 141.211; **and**

4 **(c) For a pass-through entity making an election under Section 16 of this Act.**

5 (4) (a) Every pass-through entity required to file a return under subsection (1) of this  
6 section, except publicly traded partnerships as described in KRS  
7 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the  
8 distributive share, whether distributed or undistributed, of each nonresident  
9 individual partner, member, or shareholder.

10 (b) Withholding shall be at the maximum rate provided in KRS 141.020.

11 (5) (a) Every pass-through entity required to withhold Kentucky income tax as  
12 provided by subsection (4) of this section shall pay estimated tax for the  
13 taxable year, if for a nonresident individual partner, member, or shareholder,  
14 the estimated tax liability can reasonably be expected to exceed five hundred  
15 dollars (\$500).

16 (b) The payment of estimated tax shall contain the information and shall be filed  
17 as provided in KRS 141.207.

18 (6) (a) If a pass-through entity demonstrates to the department that a partner,  
19 member, or shareholder has filed an appropriate tax return for the prior year  
20 with the department, then the pass-through entity shall not be required to  
21 withhold on that partner, member, or shareholder for the current year unless  
22 the exemption from withholding has been revoked pursuant to paragraph (b)  
23 of this subsection.

24 (b) 1. An exemption from withholding shall be considered revoked if the  
25 partner, member, or shareholder does not file and pay all taxes due in a  
26 timely manner.

27 2. An exemption so revoked shall be reinstated only with permission of the

- 1 department.
- 2 3. If a partner, member, or shareholder who has been exempted from  
 3 withholding does not file a return or pay the tax due, the department  
 4 may require the pass-through entity to pay to the department the amount  
 5 that should have been withheld, up to the amount of the partner's,  
 6 member's, or shareholder's ownership interest in the entity.
- 7 4. The pass-through entity shall be entitled to recover a payment made  
 8 pursuant to this paragraph from the partner, member, or shareholder on  
 9 whose behalf the payment was made.
- 10 (7) In determining the tax under this chapter, a resident individual, estate, or trust that  
 11 is a partner, member, or shareholder in a pass-through entity shall take into account  
 12 the partner's, member's, or shareholder's total distributive share of the pass-through  
 13 entity's items of income, loss, deduction, and credit.
- 14 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust  
 15 that is a partner, member, or shareholder in a pass-through entity required to file a  
 16 return under subsection (1) of this section shall take into account:
- 17 (a) 1. If the pass-through entity is doing business only in this state, the  
 18 partner's, member's, or shareholder's total distributive share of the pass-  
 19 through entity's items of income, loss, and deduction; or
- 20 2. If the pass-through entity is doing business both within and without this  
 21 state, the partner's, member's, or shareholder's distributive share of the  
 22 pass-through entity's items of income, loss, and deduction multiplied by  
 23 the apportionment fraction of the pass-through entity as prescribed in  
 24 subsection (11) of this section; and
- 25 (b) The partner's, member's, or shareholder's total distributive share of credits of  
 26 the pass-through entity.
- 27 (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member

1 in a pass-through entity shall take into account the corporation's distributive share  
2 of the pass-through entity's items of income, loss, and deduction and:

- 3 (a) 1. For taxable years beginning on or after January 1, 2007, but prior to  
4 January 1, 2018, shall include the proportionate share of the sales,  
5 property, and payroll of the limited liability pass-through entity or  
6 general partnership in computing its own apportionment factor; and  
7 2. For taxable years beginning on or after January 1, 2018, shall include  
8 the proportionate share of the sales of the limited liability pass-through  
9 entity or general partnership in computing its own apportionment factor;  
10 and

11 (b) Credits from the partnership.

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

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

- 19 1. Doing business both within and without this state; and  
20 2. A partner or member in another pass-through entity;

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

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

27 (d) The attribution to the pass-through entity of the pro rata share of property,

1 payroll and sales from its role as a partner or member in another pass-through  
2 entity will also apply when determining the pass-through entity's ultimate  
3 apportionment factor for property, payroll and sales as required under  
4 subsection (11) of this section.

5 (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity  
6 doing business within and without the state shall compute an apportionment  
7 fraction, the numerator of which is the property factor, representing twenty-  
8 five percent (25%) of the fraction, plus the payroll factor, representing  
9 twenty-five percent (25%) of the fraction, plus the sales factor, representing  
10 fifty percent (50%) of the fraction, with each factor determined in the same  
11 manner as provided in KRS 141.901, and the denominator of which is four  
12 (4), reduced by the number of factors, if any, having no denominator,  
13 provided that if the sales factor has no denominator, then the denominator  
14 shall be reduced by two (2).

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

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

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

27 (14) (a) Nonresident individuals shall not be taxable on investment income distributed

1 by a qualified investment partnership. For purposes of this subsection, a  
 2 "qualified investment partnership" means a pass-through entity that, during  
 3 the taxable year, holds only investments that produce income that would not  
 4 be taxable to a nonresident individual if held or owned individually.

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

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

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

18 → Section 18. KRS 141.0205 is amended to read as follows:

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

22 (1) The nonrefundable business incentive credits against the tax imposed by KRS  
 23 141.020 shall be taken in the following order:

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

25 (b) The economic development credits computed under KRS 141.347, 141.381,  
 26 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-  
 27 207, and 154.12-2088;



- 1 (c) The qualified farming operation credit permitted by KRS 141.412;
- 2 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 3 (e) The health insurance credit permitted by KRS 141.062;
- 4 (f) The tax paid to other states credit permitted by KRS 141.070;
- 5 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 6 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 7 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The research facilities credit permitted by KRS 141.395;
- 11 (k) The employer High School Equivalency Diploma program incentive credit
- 12 permitted under KRS 151B.402;
- 13 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (n) The clean coal incentive credit permitted by KRS 141.428;
- 16 (o) The ethanol credit permitted by KRS 141.4242;
- 17 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 18 (q) The energy efficiency credits permitted by KRS 141.436;
- 19 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 20 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 21 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 22 (u) The distilled spirits credit permitted by KRS 141.389;
- 23 (v) The angel investor credit permitted by KRS 141.396;
- 24 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 25 on or after April 27, 2018, but before January 1, 2022;
- 26 (x) The inventory credit permitted by KRS 141.408; and
- 27 (y) The renewable chemical production credit permitted by KRS 141.4231.

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

- 1 (a) The economic development credits computed under KRS 141.347, 141.381,  
2 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-  
3 207, and 154.12-2088;
- 4 (b) The qualified farming operation credit permitted by KRS 141.412;
- 5 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 6 (d) The health insurance credit permitted by KRS 141.062;
- 7 (e) The unemployment credit permitted by KRS 141.065;
- 8 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 9 (g) The coal conversion credit permitted by KRS 141.041;
- 10 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods  
11 ending prior to January 1, 2008;
- 12 (i) The tax credit for cash contributions to investment funds permitted by KRS  
13 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
14 154.20-258;
- 15 (j) The research facilities credit permitted by KRS 141.395;
- 16 (k) The employer High School Equivalency Diploma program incentive credit  
17 permitted by KRS 151B.402;
- 18 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 19 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 20 (n) The clean coal incentive credit permitted by KRS 141.428;
- 21 (o) The ethanol credit permitted by KRS 141.4242;
- 22 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 23 (q) The energy efficiency credits permitted by KRS 141.436;
- 24 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit  
25 permitted by KRS 141.437;
- 26 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 27 (t) The railroad expansion credit permitted by KRS 141.386;

- 1 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 2 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 3 (w) The distilled spirits credit permitted by KRS 141.389;
- 4 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 5 on or after April 27, 2018, but before January 1, 2022;
- 6 (y) The inventory credit permitted by KRS 141.408;
- 7 (z) The renewable chemical production tax credit permitted by KRS 141.4231;
- 8 and
- 9 (aa) The Education Opportunity Account Program tax credit permitted by KRS
- 10 141.522.
- 11 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 12 the refundable credits shall be taken in the following order:
- 13 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 14 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 15 171.397(1)(b);
- 16 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 17 approved prior to April 27, 2018, or on or after January 1, 2022; and
- 18 (d) The decontamination tax credit permitted by KRS 141.419.

19 → Section 19. KRS 141.010 is amended to read as follows:

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

- 21 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means
- 22 the amount calculated in KRS 141.019;
- 23 (2) "Captive real estate investment trust" means a real estate investment trust as defined
- 24 in Section 856 of the Internal Revenue Code that meets the following requirements:
- 25 (a) 1. The shares or other ownership interests of the real estate investment
- 26 trust are not regularly traded on an established securities market; or
- 27 2. The real estate investment trust does not have enough shareholders or

1 owners to be required to register with the Securities and Exchange  
2 Commission;

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

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

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

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

14 2. For the purposes of this paragraph:

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

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

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

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

- 1 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal  
2 Revenue Code;
- 3 (5) "Critical infrastructure" means property and equipment owned or used by  
4 communications networks, electric generation, transmission or distribution systems,  
5 gas distribution systems, or water or wastewater pipelines that service multiple  
6 customers or citizens, including but not limited to real and personal property such  
7 as buildings, offices, lines, poles, pipes, structures, or equipment;
- 8 (6) "Declared state disaster or emergency" means a disaster or emergency event for  
9 which:
- 10 (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or  
11 (b) A presidential declaration of a federal major disaster or emergency has been  
12 issued;
- 13 (7) "Department" means the Department of Revenue;
- 14 (8) "Dependent" means those persons defined as dependents in the Internal Revenue  
15 Code;
- 16 (9) "Disaster or emergency-related work" means repairing, renovating, installing,  
17 building, or rendering services that are essential to the restoration of critical  
18 infrastructure that has been damaged, impaired, or destroyed by a declared state  
19 disaster or emergency;
- 20 (10) "Disaster response business" means any entity:
- 21 (a) That has no presence in the state and conducts no business in the state, except  
22 for disaster or emergency-related work during a disaster response period;
- 23 (b) Whose services are requested by a registered business or by a state or local  
24 government for purposes of performing disaster or emergency-related work in  
25 the state during a disaster response period; and
- 26 (c) That has no registrations, tax filings, or nexus in this state other than disaster  
27 or emergency-related work during the calendar year immediately preceding

1 the declared state disaster or emergency;

2 (11) "Disaster response employee" means an employee who does not work or reside in  
3 the state, except for disaster or emergency-related work during the disaster response  
4 period;

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

9 (13) "Doing business in this state" includes but is not limited to:

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

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

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

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

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

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

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

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

25 (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue  
26 Code;

27 (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue

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



- 1 (21) "Internal Revenue Code" means for taxable years beginning on or after January 1,  
2 2023~~[2022]~~, the Internal Revenue Code in effect on December 31, 2022~~[2021]~~,  
3 exclusive of any amendments made subsequent to that date, other than amendments  
4 that extend provisions in effect on December 31, 2022~~[2021]~~, that would otherwise  
5 terminate;
- 6 (22) "Limited liability pass-through entity" means any pass-through entity that affords  
7 any of its partners, members, shareholders, or owners, through function of the laws  
8 of this state or laws recognized by this state, protection from general liability for  
9 actions of the entity;
- 10 (23) "Modified gross income" means the greater of:
- 11 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any  
12 amendments in effect on December 31 of the taxable year, and adjusted as  
13 follows:
- 14 1. Include interest income derived from obligations of sister states and  
15 political subdivisions thereof; and
- 16 2. Include lump-sum pension distributions taxed under the special  
17 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- 18 (b) Adjusted gross income as defined in subsection (1) of this section and  
19 adjusted to include lump-sum pension distributions taxed under the special  
20 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 21 (24) "Net income":
- 22 (a) In the case of taxpayers other than corporations, means the amount calculated  
23 in KRS 141.019; and
- 24 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 25 (25) "Nonresident" means any individual not a resident of this state;
- 26 (26) "Number of withholding exemptions claimed" means the number of withholding  
27 exemptions claimed in a withholding exemption certificate in effect under KRS

- 1 141.325, except that if no such certificate is in effect, the number of withholding  
2 exemptions claimed shall be considered to be zero;
- 3 (27) "Part-year resident" means any individual that has established or abandoned  
4 Kentucky residency during the calendar year;
- 5 (28) "Pass-through entity" means any partnership, S corporation, limited liability  
6 company, limited liability partnership, limited partnership, or similar entity  
7 recognized by the laws of this state that is not taxed for federal purposes at the  
8 entity level, but instead passes to each partner, member, shareholder, or owner their  
9 proportionate share of income, deductions, gains, losses, credits, and any other  
10 similar attributes;
- 11 (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal  
12 Revenue Code;
- 13 (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue  
14 Code;
- 15 (31) "Registered business" means a business entity that owns or otherwise possesses  
16 critical infrastructure and that is registered to do business in the state prior to the  
17 declared state disaster or emergency;
- 18 (32) "Resident" means an individual domiciled within this state or an individual who is  
19 not domiciled in this state, but maintains a place of abode in this state and spends in  
20 the aggregate more than one hundred eighty-three (183) days of the taxable year in  
21 this state;
- 22 (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue  
23 Code;
- 24 (34) "State" means a state of the United States, the District of Columbia, the  
25 Commonwealth of Puerto Rico, or any territory or possession of the United States;
- 26 (35) "Taxable net income":
- 27 (a) In the case of corporations that are taxable in this state, means "net income" as

1 defined in subsection (24) of this section;

2 (b) In the case of corporations that are taxable in this state and taxable in another  
3 state, means "net income" as defined in subsection (24) of this section and as  
4 allocated and apportioned under KRS 141.120;

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

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

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

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

23 → Section 20. KRS 141.019 is amended to read as follows:

24 In the case of taxpayers other than corporations:

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

- 1 (a) Exclude income that is exempt from state taxation by the Kentucky  
2 Constitution and the Constitution and statutory laws of the United States;
- 3 (b) Exclude income from supplemental annuities provided by the Railroad  
4 Retirement Act of 1937 as amended and which are subject to federal income  
5 tax by Pub. L. No. 89-699;
- 6 (c) Include interest income derived from obligations of sister states and political  
7 subdivisions thereof;
- 8 (d) Exclude employee pension contributions picked up as provided for in KRS  
9 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
10 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
11 courts that these contributions shall not be included as gross income until such  
12 time as the contributions are distributed or made available to the employee;
- 13 (e) Exclude Social Security and railroad retirement benefits subject to federal  
14 income tax;
- 15 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
16 brought against a manufacturer or distributor of "Agent Orange" for damages  
17 resulting from exposure to Agent Orange by a member or veteran of the  
18 Armed Forces of the United States or any dependent of such person who  
19 served in Vietnam;
- 20 (g) 1. a. For taxable years beginning after December 31, 2005, but before  
21 January 1, 2018, exclude up to forty-one thousand one hundred ten  
22 dollars (\$41,110) of total distributions from pension plans, annuity  
23 contracts, profit-sharing plans, retirement plans, or employee  
24 savings plans; and
- 25 b. For taxable years beginning on or after January 1, 2018, exclude  
26 up to thirty-one thousand one hundred ten dollars (\$31,110) of  
27 total distributions from pension plans, annuity contracts, profit-

- 1 sharing plans, retirement plans, or employee savings plans.
- 2 2. As used in this paragraph:
- 3 a. "Annuity contract" has the same meaning as set forth in Section
- 4 1035 of the Internal Revenue Code;
- 5 b. "Distributions" includes but is not limited to any lump-sum
- 6 distribution from pension or profit-sharing plans qualifying for the
- 7 income tax averaging provisions of Section 402 of the Internal
- 8 Revenue Code; any distribution from an individual retirement
- 9 account as defined in Section 408 of the Internal Revenue Code;
- 10 and any disability pension distribution; and
- 11 c. "Pension plans, profit-sharing plans, retirement plans, or employee
- 12 savings plans" means any trust or other entity created or organized
- 13 under a written retirement plan and forming part of a stock bonus,
- 14 pension, or profit-sharing plan of a public or private employer for
- 15 the exclusive benefit of employees or their beneficiaries and
- 16 includes plans qualified or unqualified under Section 401 of the
- 17 Internal Revenue Code and individual retirement accounts as
- 18 defined in Section 408 of the Internal Revenue Code;
- 19 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
- 20 income from an S corporation subject to the franchise tax imposed
- 21 under KRS 136.505 or the capital stock tax imposed under KRS
- 22 136.300; and
- 23 b. Exclude the portion of the distributive share of a shareholder's net
- 24 income from an S corporation related to a qualified subchapter S
- 25 subsidiary subject to the franchise tax imposed under KRS
- 26 136.505 or the capital stock tax imposed under KRS 136.300.
- 27 2. The shareholder's basis of stock held in an S corporation where the S

- 1 corporation or its qualified subchapter S subsidiary is subject to the  
 2 franchise tax imposed under KRS 136.505 or the capital stock tax  
 3 imposed under KRS 136.300 shall be the same as the basis for federal  
 4 income tax purposes;
- 5 (i) Exclude income received for services performed as a precinct worker for  
 6 election training or for working at election booths in state, county, and local  
 7 primaries or regular or special elections;
- 8 (j) Exclude any capital gains income attributable to property taken by eminent  
 9 domain;
- 10 (k) 1. Exclude all income from all sources for members of the Armed Forces  
 11 who are on active duty and who are killed in the line of duty, for the  
 12 year during which the death occurred and the year prior to the year  
 13 during which the death occurred.
- 14 2. For the purposes of this paragraph, "all income from all sources" shall  
 15 include all federal and state death benefits payable to the estate or any  
 16 beneficiaries;
- 17 (l) Exclude all military pay received by members of the Armed Forces while on  
 18 active duty;
- 19 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
 20 or 168; and
- 21 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 22 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 23 (o) Ignore any change in the cost basis of the surviving spouse's share of property  
 24 owned by a Kentucky community property trust occurring for federal income  
 25 tax purposes as a result of the death of the predeceasing spouse;~~and~~
- 26 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and  
 27 278, related to the tax treatment of forgiven covered loans, deductions

1           attributable to those loans, and tax attributes associated with those loans for  
 2           taxable years ending on or after March 27, 2020, but before January 1, 2022;  
 3           and

4           **(g) For taxable years beginning on or after January 1, 2020, but before March**  
 5           **11, 2023, allow the same treatment of restaurant revitalization grants in**  
 6           **accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c; and**

- 7           (2) Net income shall be calculated by subtracting from adjusted gross income all the  
 8           deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
 9           modified by KRS 141.0101, except:
- 10           (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
  - 11           (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering  
 12           losses allowed under Section 165(d) of the Internal Revenue Code;
  - 13           (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
  - 14           (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
  - 15           (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
 16           deduction;
  - 17           (f) Any deduction allowed by the Internal Revenue Code for amounts allowable  
 18           under KRS 140.090(1)(h) in calculating the value of the distributive shares of  
 19           the estate of a decedent, unless there is filed with the income return a  
 20           statement that the deduction has not been claimed under KRS 140.090(1)(h);
  - 21           (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and  
 22           any other deductions in lieu thereof;
  - 23           (h) Any deduction allowed for amounts paid to any club, organization, or  
 24           establishment which has been determined by the courts or an agency  
 25           established by the General Assembly and charged with enforcing the civil  
 26           rights laws of the Commonwealth, not to afford full and equal membership  
 27           and full and equal enjoyment of its goods, services, facilities, privileges,

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

- 8 (i) A taxpayer may elect to claim the standard deduction allowed by KRS  
 9 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
 10 and as modified by this section.

11 → Section 21. KRS 141.039 is amended to read as follows:

12 In the case of corporations:

- 13 (1) Gross income shall be calculated by adjusting federal gross income as defined in  
 14 Section 61 of the Internal Revenue Code as follows:
- 15 (a) Exclude income that is exempt from state taxation by the Kentucky  
 16 Constitution and the Constitution and statutory laws of the United States;
- 17 (b) Exclude all dividend income;
- 18 (c) Include interest income derived from obligations of sister states and political  
 19 subdivisions thereof;
- 20 (d) Exclude fifty percent (50%) of gross income derived from any disposal of  
 21 coal covered by Section 631(c) of the Internal Revenue Code if the  
 22 corporation does not claim any deduction for percentage depletion, or for  
 23 expenditures attributable to the making and administering of the contract  
 24 under which such disposition occurs or to the preservation of the economic  
 25 interests retained under such contract;
- 26 (e) Include the amount calculated under KRS 141.205;
- 27 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in



1 computing gross income;

2 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.  
3 167 or 168;~~and~~

4 (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and  
5 278, related to the tax treatment of forgiven covered loans, deductions  
6 attributable to those loans, and tax attributes associated with those loans for  
7 taxable years ending on or after March 27, 2020, but before January 1, 2022;  
8 and

9 **(i) For taxable years beginning on or after January 1, 2020, but before March**  
10 **11, 2023, allow the same treatment of restaurant revitalization grants in**  
11 **accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c; and**

12 (2) Net income shall be calculated by subtracting from gross income:

13 (a) The deduction for depreciation allowed by KRS 141.0101;

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

16 (c) All the deductions from gross income allowed corporations by Chapter 1 of  
17 the Internal Revenue Code, as modified by KRS 141.0101, except:

18 1. Any deduction for a state tax which is computed, in whole or in part, by  
19 reference to gross or net income and which is paid or accrued to any  
20 state of the United States, the District of Columbia, the Commonwealth  
21 of Puerto Rico, any territory or possession of the United States, or to any  
22 foreign country or political subdivision thereof;

23 2. The deductions contained in Sections 243, 245, and 247 of the Internal  
24 Revenue Code;

25 3. The provisions of Section 281 of the Internal Revenue Code shall be  
26 ignored in computing net income;

27 4. Any deduction directly or indirectly allocable to income which is either

1 exempt from taxation or otherwise not taxed under the provisions of this  
2 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.  
3 276 and 278, related to the tax treatment of forgiven covered loans and  
4 deductions attributable to those loans for taxable years ending on or  
5 after March 27, 2020, but before January 1, 2022, and nothing in this  
6 chapter shall be construed to permit the same item to be deducted more  
7 than once;

8 5. Any deduction for amounts paid to any club, organization, or  
9 establishment which has been determined by the courts or an agency  
10 established by the General Assembly and charged with enforcing the  
11 civil rights laws of the Commonwealth, not to afford full and equal  
12 membership and full and equal enjoyment of its goods, services,  
13 facilities, privileges, advantages, or accommodations to any person  
14 because of race, color, religion, national origin, or sex, except nothing  
15 shall be construed to deny a deduction for amounts paid to any religious  
16 or denominational club, group, or establishment or any organization  
17 operated solely for charitable or educational purposes which restricts  
18 membership to persons of the same religion or denomination in order to  
19 promote the religious principles for which it is established and  
20 maintained;

21 6. Any deduction prohibited by KRS 141.205; and

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

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

26 2. For purposes of this paragraph:

27 a. "Net deferred tax asset" means that deferred tax assets exceed the

- 1                   deferred tax liabilities of the combined group, as computed in  
2                   accordance with accounting principles generally accepted in the  
3                   United States of America; and
- 4                   b. "Net deferred tax liability" means deferred tax liabilities that  
5                   exceed the deferred tax assets of a combined group as defined in  
6                   KRS 141.202, as computed in accordance with accounting  
7                   principles generally accepted in the United States of America.
- 8                   3. Only publicly traded companies, including affiliated corporations  
9                   participating in the filing of a publicly traded company's financial  
10                  statements prepared in accordance with accounting principles generally  
11                  accepted in the United States of America, as of January 1, 2019, shall be  
12                  eligible for this deduction.
- 13                  4. If the provisions of KRS 141.202 result in an aggregate increase to the  
14                  member's net deferred tax liability, an aggregate decrease to the  
15                  member's net deferred tax asset, or an aggregate change from a net  
16                  deferred tax asset to a net deferred tax liability, the combined group  
17                  shall be entitled to a deduction, as determined in this paragraph.
- 18                  5. For ten (10) years beginning with the combined group's first taxable  
19                  year beginning on or after January 1, 2024, a combined group shall be  
20                  entitled to a deduction from the combined group's entire net income  
21                  equal to one-tenth (1/10) of the amount necessary to offset the increase  
22                  in the net deferred tax liability, decrease in the net deferred tax asset, or  
23                  aggregate change from a net deferred tax asset to a net deferred tax  
24                  liability. The increase in the net deferred tax liability, decrease in the net  
25                  deferred tax asset, or the aggregate change from a net deferred tax asset  
26                  to a net deferred tax liability shall be computed based on the change that  
27                  would result from the imposition of the combined reporting requirement

- 1                   under KRS 141.202, but for the deduction provided under this paragraph  
2                   as of June 27, 2019.
- 3           6.   The deferred tax impact determined in subparagraph 5. of this paragraph  
4           shall be converted to the annual deferred tax deduction amount, as  
5           follows:
- 6               a.   The deferred tax impact determined in subparagraph 5. of this  
7               paragraph shall be divided by the tax rate determined under KRS  
8               141.040;
- 9               b.   The resulting amount shall be further divided by the  
10              apportionment factor determined by KRS 141.120 or 141.121 that  
11              was used by the combined group in the calculation of the deferred  
12              tax assets and deferred tax liabilities as described in subparagraph  
13              5. of this paragraph; and
- 14              c.   The resulting amount represents the total net deferred tax  
15              deduction available over the ten (10) year period as described in  
16              subparagraph 5. of this paragraph.
- 17           7.   The deduction calculated under this paragraph shall not be adjusted as a  
18           result of any events happening subsequent to the calculation, including  
19           but not limited to any disposition or abandonment of assets. The  
20           deduction shall be calculated without regard to the federal tax effect and  
21           shall not alter the tax basis of any asset. If the deduction under this  
22           section is greater than the combined group's entire Kentucky net income,  
23           any excess deduction shall be carried forward and applied as a deduction  
24           to the combined group's entire net income in future taxable years until  
25           fully utilized.
- 26           8.   Any combined group intending to claim a deduction under this  
27           paragraph shall file a statement with the department on or before July 1,

1           2019. The statement shall specify the total amount of the deduction  
 2           which the combined group claims on the form, including calculations  
 3           and other information supporting the total amounts of the deduction as  
 4           required by the department. No deduction shall be allowed under this  
 5           paragraph for any taxable year, except to the extent claimed on the  
 6           timely filed statement in accordance with this paragraph.

7           ➔ Section 22. KRS 141.020 is amended to read as follows:

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

12          (2) (a) As used in this subsection:

13                  1. "Balance in the BRTF at the end of a fiscal year" means the budget  
 14                  reserve trust fund account established in KRS 48.705 and includes the  
 15                  following amounts and actions resulting from the final close of the fiscal  
 16                  year:

- 17                          a. The amount of moneys in the fund at the end of a fiscal year;
- 18                          b. All close-out actions related to a budget reduction plan under KRS  
 19                          48.130 or as modified in a branch budget bill; and
- 20                          c. All close-out actions related to the surplus expenditure plan under  
 21                          KRS 48.140 or as modified in a branch budget bill;

22                  2. "GF appropriations" means the authorization by the General Assembly  
 23                  to expend GF moneys, excluding:

24                          a. **Continuing appropriations;**

25                          **b.** Any appropriation to the budget reserve trust fund; and

26                          **c.**~~b.~~ Any lump-sum appropriation to a state-administered retirement  
 27                          system, as defined in KRS 7A.210, that is in excess of the

- 1                    appropriations specifically budgeted to meet the recurring  
 2                    statutorily required contributions or recurring actuarially  
 3                    determined contributions for a state-administered retirement  
 4                    system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or  
 5                    161.550, as applicable;
- 6                    3. "GF moneys" means receipts deposited in the general fund defined in  
 7                    KRS 48.010, excluding tobacco moneys deposited in the fund  
 8                    established in KRS 248.654;
- 9                    4. "IIT equivalent" means the amount of reduction in GF moneys resulting  
 10                    from a one (1) percentage point reduction to the individual income tax  
 11                    rate **and shall be calculated by dividing the actual individual income**  
 12                    **tax receipts for the fiscal year under consideration by:**
- 13                    **a. The sum of:**
- 14                                       **i. The individual income tax rate, expressed as a percentage,**  
 15                                       **for the first six (6) months of the fiscal year; and**
- 16                                       **ii. The individual income tax rate, expressed as a percentage,**  
 17                                       **for the second six (6) months of the fiscal year; and**
- 18                    **b. Dividing the sum determined in subdivision a. of this**  
 19                    **subparagraph by two (2);**
- 20                    5. "Reduction conditions" means:
- 21                    a. The balance in the BRTF at the end of a fiscal year shall be equal  
 22                    to or greater than ten percent (10%) of the GF moneys for that  
 23                    fiscal year; and
- 24                    b. GF moneys at the end of a fiscal year shall be equal to or greater  
 25                    than GF appropriations for that fiscal year plus the IIT equivalent  
 26                    for that fiscal year; and
- 27                    6. "Tax rate reduction" means the current tax rate minus five-tenths of one

1 percent (0.5%).

2 (b) For taxable years beginning on or after January 1, 2023, but prior to  
 3 January 1, 2024, the tax shall be four and one-half percent (4.5%) of net  
 4 income.

5 (c) For taxable years beginning on or after January 1, 2024, the tax shall be  
 6 four percent (4%) of net income.

7 (d) 1. For taxable years beginning on or after January 1, 2025, the income  
 8 tax rate may be reduced according to the annual process established in  
 9 subparagraphs 2. to 5. of this paragraph.

10 ~~2.[1.] Beginning no later than September 1, 2022, the department, with~~  
 11 ~~assistance from~~ The Office of State Budget Director~~;~~ shall review the  
 12 reduction conditions for the fiscal year 2022-2023 no later than  
 13 September 1, 2023~~as they apply to fiscal year 2020-2021 and fiscal~~  
 14 ~~year 2021-2022 and make a determination if the reduction conditions~~  
 15 ~~have been met for each fiscal year].~~

16 ~~3.[2.]~~ After reviewing the reduction conditions under subparagraph ~~2.[1.]~~ of  
 17 this paragraph, the Office of State Budget Director~~[department]~~ shall, ~~[-~~  
 18 ~~a.—~~ no later than September 5, ~~2023~~~~[2022]~~, report to the Interim Joint  
 19 Committee on Appropriations and Revenue:

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

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

25 ~~b.— i.—~~ Implement the tax rate reduction for the taxable year  
 26 beginning on January 1, 2023, if the reduction conditions are  
 27 met; or

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

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

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

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

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

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

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

(e)~~(d)~~ For taxable years beginning on or after January 1, 2018, but before



1 January 1, 2023, the tax shall be five percent (5%) of net income.

2 ~~(f)(e)~~ For taxable years beginning after December 31, 2004, and before  
3 January 1, 2018, the tax shall be determined by applying the following rates to  
4 net income:

- 5 1. Two percent (2%) of the amount of net income up to three thousand  
6 dollars (\$3,000);
- 7 2. Three percent (3%) of the amount of net income over three thousand  
8 dollars (\$3,000) and up to four thousand dollars (\$4,000);
- 9 3. Four percent (4%) of the amount of net income over four thousand  
10 dollars (\$4,000) and up to five thousand dollars (\$5,000);
- 11 4. Five percent (5%) of the amount of net income over five thousand  
12 dollars (\$5,000) and up to eight thousand dollars (\$8,000);
- 13 5. Five and eight-tenths percent (5.8%) of the amount of net income over  
14 eight thousand dollars (\$8,000) and up to seventy-five thousand dollars  
15 (\$75,000); and
- 16 6. Six percent (6%) of the amount of net income over seventy-five  
17 thousand dollars (\$75,000).

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

- 20 1. a. For taxable years beginning before January 1, 2014, twenty dollars  
21 (\$20) for an unmarried individual; and
- 22 b. For taxable years beginning on or after January 1, 2014, and  
23 before January 1, 2018, ten dollars (\$10) for an unmarried  
24 individual;
- 25 2. a. For taxable years beginning before January 1, 2014, twenty dollars  
26 (\$20) for a married individual filing a separate return and an  
27 additional twenty dollars (\$20) for the spouse of taxpayer if a

1 separate return is made by the taxpayer and if the spouse, for the  
2 calendar year in which the taxable year of the taxpayer begins, had  
3 no Kentucky gross income and is not the dependent of another  
4 taxpayer; or forty dollars (\$40) for married persons filing a joint  
5 return, provided neither spouse is the dependent of another  
6 taxpayer. The determination of marital status for the purpose of  
7 this section shall be made in the manner prescribed in Section 153  
8 of the Internal Revenue Code; and

9 b. For taxable years beginning on or after January 1, 2014, and  
10 before January 1, 2018, ten dollars (\$10) for a married individual  
11 filing a separate return and an additional ten dollars (\$10) for the  
12 spouse of a taxpayer if a separate return is made by the taxpayer  
13 and if the spouse, for the calendar year in which the taxable year of  
14 the taxpayer begins, had no Kentucky gross income and is not the  
15 dependent of another taxpayer; or twenty dollars (\$20) for married  
16 persons filing a joint return, provided neither spouse is the  
17 dependent of another taxpayer. The determination of marital status  
18 for the purpose of this section shall be made in the manner  
19 prescribed in Section 153 of the Internal Revenue Code;

20 3. a. For taxable years beginning before January 1, 2014, twenty dollars  
21 (\$20) credit for each dependent. No credit shall be allowed for any  
22 dependent who has made a joint return with his or her spouse; and

23 b. For taxable years beginning on or after January 1, 2014, and  
24 before January 1, 2018, ten dollars (\$10) credit for each  
25 dependent. No credit shall be allowed for any dependent who has  
26 made a joint return with his or her spouse;

27 4. An additional forty dollars (\$40) credit if the taxpayer has attained the

- 1                   age of sixty-five (65) before the close of the taxable year;
- 2                   5. An additional forty dollars (\$40) credit for taxpayer's spouse if a
- 3                   separate return is made by the taxpayer and if the taxpayer's spouse has
- 4                   attained the age of sixty-five (65) before the close of the taxable year,
- 5                   and, for the calendar year in which the taxable year of the taxpayer
- 6                   begins, has no Kentucky gross income and is not the dependent of
- 7                   another taxpayer;
- 8                   6. An additional forty dollars (\$40) credit if the taxpayer is blind at the
- 9                   close of the taxable year;
- 10                  7. An additional forty dollars (\$40) credit for taxpayer's spouse if a
- 11                  separate return is made by the taxpayer and if the taxpayer's spouse is
- 12                  blind, and, for the calendar year in which the taxable year of the
- 13                  taxpayer begins, has no Kentucky gross income and is not the dependent
- 14                  of another taxpayer; and
- 15                  8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer
- 16                  is a member of the Kentucky National Guard at the close of the taxable
- 17                  year.
- 18                  (b) In the case of nonresidents, the tax credits allowable under this subsection
- 19                  shall be the portion of the credits that are represented by the ratio of the
- 20                  taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
- 21                  the taxpayer's adjusted gross income as defined in Section 62 of the Internal
- 22                  Revenue Code. However, in the case of a married nonresident taxpayer with
- 23                  income from Kentucky sources, whose spouse has no income from Kentucky
- 24                  sources, the taxpayer shall determine allowable tax credit(s) by either:
- 25                  1. The method contained above applied to the taxpayer's tax credit(s),
- 26                  excluding credits for a spouse and dependents; or
- 27                  2. Prorating the taxpayer's tax credit(s) plus the tax credits for the

1 taxpayer's spouse and dependents by the ratio of the taxpayer's  
2 Kentucky adjusted gross income as determined by KRS 141.019 to the  
3 total joint federal adjusted gross income of the taxpayer and the  
4 taxpayer's spouse.

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

10 (4) An annual tax shall be paid for each taxable year as specified in this section upon  
11 the entire net income except as herein provided, from all tangible property located  
12 in this state, from all intangible property that has acquired a business situs in this  
13 state, and from business, trade, profession, occupation, or other activities carried on  
14 in this state, by natural persons not residents of this state. A nonresident individual  
15 shall be taxable only upon the amount of income received by the individual from  
16 labor performed, business done, or from other activities in this state, from tangible  
17 property located in this state, and from intangible property which has acquired a  
18 business situs in this state; provided, however, that the situs of intangible personal  
19 property shall be at the residence of the real or beneficial owner and not at the  
20 residence of a trustee having custody or possession thereof. For taxable years  
21 beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed  
22 by this section shall not apply to a disaster response employee or to a disaster  
23 response business. The remainder of the income received by such nonresident shall  
24 be deemed nontaxable by this state.

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

27 (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this

1 section, during that portion of the taxable year that the individual is a resident and,  
2 as prescribed in subsection (4) of this section, during that portion of the taxable year  
3 when the individual is a nonresident.

4 → Section 23. KRS 148.853 is amended to read as follows:

5 (1) The General Assembly finds and declares that:

6 (a) The general welfare and material well-being of the citizens of the  
7 Commonwealth depend in large measure upon the development of tourism in  
8 the Commonwealth;

9 (b) It is in the best interest of the Commonwealth to provide incentives for the  
10 creation of new tourism attractions and the expansion of existing tourism  
11 attractions within the Commonwealth in order to advance the public purposes  
12 of relieving unemployment by preserving and creating jobs that would not  
13 exist if not for the incentives offered by the authority to approved companies,  
14 and by preserving and creating sources of tax revenues for the support of  
15 public services provided by the Commonwealth;

16 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental  
17 and public purposes for which public moneys may be expended; and

18 (d) That the creation or expansion of tourism development projects is of  
19 paramount importance mandating that the provisions of KRS 139.536 and  
20 KRS 148.851 to 148.860 be liberally construed and applied in order to  
21 advance public purposes.

22 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the  
23 following requirements shall be met:

24 (a) For a tourism attraction project:

- 25 1. The total eligible costs shall exceed one million dollars (\$1,000,000),  
26 except for a tourism attraction project located in a county designated as  
27 an enhanced incentive county at the time the eligible company becomes

- 1 an approved company as provided in KRS 148.857(6), the total eligible  
2 costs shall exceed five hundred thousand dollars (\$500,000);
- 3 2. In any year, including the first year of operation, the tourism attraction  
4 project shall be open to the public at least one hundred (100) days; and
- 5 3. In any year following the third year of operation, the tourism attraction  
6 project shall attract at least twenty-five percent (25%) of its visitors  
7 from among persons who are not residents of the Commonwealth;
- 8 (b) For an entertainment destination center project:
- 9 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 10 2. The facility shall contain a minimum of two hundred thousand  
11 (200,000) square feet of building space adjacent or complementary to an  
12 existing tourism attraction project or a major convention facility;
- 13 3. The incentives shall be dedicated to a public infrastructure purpose that  
14 shall relate to the entertainment destination center project;
- 15 4. In any year, including the first year of operation, the entertainment  
16 destination center project shall:
- 17 a. Be open to the public at least one hundred (100) days per year;
- 18 b. Maintain at least one (1) major theme restaurant and at least three  
19 (3) additional entertainment venues, including but not limited to  
20 live entertainment, multiplex theaters, large-format theater, motion  
21 simulators, family entertainment centers, concert halls, virtual  
22 reality or other interactive games, museums, exhibitions, or other  
23 cultural and leisure-time activities; and
- 24 c. Maintain a minimum occupancy of sixty percent (60%) of the total  
25 gross area available for lease with entertainment and food and  
26 drink options not including the retail sale of tangible personal  
27 property; and

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

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



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

1           5. If the approved company is an entertainment destination center that has  
 2           dedicated at least thirty million dollars (\$30,000,000) of the incentives  
 3           provided under the agreement to a public infrastructure purpose, the  
 4           agreement may be amended to extend the term of the agreement up to  
 5           two (2) additional years if the approved company agrees to:

6           a. Reinvest in the original entertainment destination project one  
 7           hundred percent (100%) of any incentives received during the  
 8           extension that were outstanding at the end of the original term of  
 9           the agreement; and

10          b. Report to the authority at the end of each fiscal year the amount of  
 11          incentives received during the extension and how the incentives  
 12          were reinvested in the original entertainment destination project;

13                   and

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

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

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

23          c. Failed to be open to the public at least one hundred (100) days  
 24          during the calendar year 2020 solely as a result of complying  
 25          with one (1) or more executive orders issued by the Governor  
 26          under the authority of KRS 39A.090 that prevented the tourism  
 27          attraction project from being open to the public for at least one

1 hundred (100) days during its normal operating season; and  
 2 d. Applied for a sales tax incentive related to the calendar year  
 3 2020 operating season and was denied the sales tax incentive  
 4 solely on the basis that the tourism attraction project was not  
 5 open to the public for at least one hundred (100) days in  
 6 calendar year 2020.

7 → Section 24. KRS 139.210 is amended to read as follows:

- 8 (1) Except as provided in subsections~~subsection~~ (2) and (3) of this section, the tax  
 9 shall be required to be collected by the retailer from the purchaser. The tax shall be  
 10 displayed separately from the sales price, the price advertised in the premises, the  
 11 marked price, or other price on the sales receipt or other proof of sales.
- 12 (2) The department may relieve certain retailers from the requirement in~~provisions of~~  
 13 subsection (1) of this section of separate display of the tax when the circumstances  
 14 of the retailer make compliance impracticable. If the retailer establishes to the  
 15 satisfaction of the department that the sales tax has been added to the total amount  
 16 of the sales price and has not been absorbed by the retailer, the amount of the sales  
 17 price shall be the amount received exclusive of the tax imposed.
- 18 (3) Retailers that provide road and travel services that are taxable under Section 8 of  
 19 this Act shall not be required to state the tax separately from the sales price if the  
 20 retailer can establish and provide evidence that the sales tax has been added to  
 21 the total amount of the sales price charged to the purchaser and has not been  
 22 absorbed by the retailer. The amount of the sales price shall be the amount  
 23 received exclusive of the tax imposed.
- 24 (4) The taxes collected under this section shall be deemed to be held in trust by the  
 25 retailer for and on account of the Commonwealth.
- 26 (5)~~(4)~~ The taxes to be collected under this section shall constitute a debt of the  
 27 retailer to the Commonwealth.

1           ➔ Section 25. KRS 138.450 is amended to read as follows:

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

- 3       (1) "Current model year" means a motor vehicle of either the model year corresponding  
4           to the current calendar year or of the succeeding calendar year, if the same model  
5           and make is being offered for sale by local dealers;
- 6       (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;
- 7       (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor  
8           vehicle with an odometer reading of least one thousand (1,000) miles that has been  
9           used either by representatives of the manufacturer or by a licensed Kentucky dealer,  
10          franchised to sell the particular model and make, for demonstration;
- 11      (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to  
12          KRS 186.043;
- 13      (5) "Motor vehicle" means:
- 14          (a) Any vehicle that is propelled by other than muscular power and that is used  
15              for transportation of persons or property over the public highways of the state,  
16              except road rollers, mopeds, vehicles that travel exclusively on rails, and  
17              vehicles propelled by electric power obtained from overhead wires; or
- 18          (b) *Recreational vehicles*;
- 19      (6) "Moped" means either a motorized bicycle whose frame design may include one (1)  
20          or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or  
21          a motorized bicycle with a step through type frame which may or may not have  
22          pedals rated no more than two (2) brake horsepower, a cylinder capacity not  
23          exceeding fifty (50) cubic centimeters, an automatic transmission not requiring  
24          clutching or shifting by the operator after the drive system is engaged, and capable  
25          of a maximum speed of not more than thirty (30) miles per hour;
- 26      (7) "New motor vehicle" means a motor vehicle of the current model year which has  
27          not previously been registered in any state or country;

- 1 (8) "Previous model year motor vehicle" means a motor vehicle not previously  
2 registered in any state or country which is neither of the current model year nor a  
3 dealer demonstrator;
- 4 (9) "Total consideration given" means the amount given, valued in money, whether  
5 received in money or otherwise, at the time of purchase or at a later date, including  
6 consideration given for all equipment and accessories, standard and optional. "Total  
7 consideration given" shall not include:
- 8 (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is  
9 provided at the time of purchase and is applied to the purchase of the motor  
10 vehicle;
- 11 (b) Any interest payments to be made over the life of a loan for the purchase of a  
12 motor vehicle; and
- 13 (c) The value of any items that are not equipment or accessories including but not  
14 limited to extended warranties, service contracts, and items that are given  
15 away as part of a promotional sales campaign;
- 16 (10) "Trade-in allowance" means:
- 17 (a) The value assigned by the seller of a motor vehicle to a motor vehicle  
18 registered to the purchaser and offered in trade by the purchaser as part of the  
19 total consideration given by the purchaser and included in the notarized  
20 affidavit attesting to total consideration given; or
- 21 (b) In the absence of a notarized affidavit, the value of the vehicle being offered  
22 in trade as established by the department through the use of the reference  
23 manual;
- 24 (11) "Used motor vehicle" means a motor vehicle which has been previously registered  
25 in any state or country;
- 26 (12) "Retail price" for:
- 27 (a) New motor vehicles;

- 1 (b) Dealer demonstrator vehicles;
- 2 (c) Previous model year motor vehicles; and
- 3 (d) U-Drive-It motor vehicles that have been transferred within one hundred
- 4 eighty (180) days of being registered as a U-Drive-It and that have less than
- 5 five thousand (5,000) miles;

6 means the total consideration given, as determined in KRS 138.4603;

- 7 (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- 8 (14) "Retail price" for used motor vehicles being titled or registered by a new resident
- 9 for the first time in Kentucky whose values appear in the reference manual means
- 10 the trade-in value given in the reference manual;
- 11 (15) "Retail price" for older used motor vehicles being titled or registered by a new
- 12 resident for the first time in Kentucky whose values no longer appear in the
- 13 reference manual shall be one hundred dollars (\$100);

14 (16) (a) "Retail price" for:

- 15 1. Used motor vehicles, except those vehicles for which the retail price is
- 16 established in subsection (13), (14), (15), (17), or (19) of this section;
- 17 and
- 18 2. U-Drive-It motor vehicles that are not transferred within one hundred
- 19 eighty (180) days of being registered as a U-Drive-It or that have more
- 20 than five thousand (5,000) miles;

21 means the total consideration given, excluding any amount allowed as a trade-

22 in allowance by the seller, as attested to in a notarized affidavit, provided that

23 the retail price established by the notarized affidavit shall not be less than fifty

24 percent (50%) of the difference between the trade-in value, as established by

25 the reference manual, of the motor vehicle offered for registration and the

26 trade-in value, as established by the reference manual, of any motor vehicle

27 offered in trade as part of the total consideration given.

- 1 (b) The trade-in allowance shall also be disclosed in the notarized affidavit.
- 2 (c) If a notarized affidavit is not available, "retail price" shall be established by  
3 the department through the use of the reference manual;
- 4 (17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an  
5 individual as a gift and not purchased or leased by the individual, "retail price" shall  
6 be the trade-in value given in the reference manual;
- 7 (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental  
8 motor vehicle within one hundred eighty (180) days of the registration, and if less  
9 than five thousand (5,000) miles have been placed on the vehicle during the period  
10 of its registration as a loaner or rental motor vehicle, then the "retail price" of the  
11 vehicle shall be the same as the retail price determined by paragraph (a) of  
12 subsection (12) of this section computed as of the date on which the vehicle is  
13 transferred;
- 14 (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525,  
15 186A.530, or 186A.555 means the total consideration given as attested to in a  
16 notarized affidavit;
- 17 (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a  
18 dealer and which is regularly loaned or rented to customers of the service or repair  
19 component of the dealership;
- 20 (21) "Department" means the Department of Revenue;
- 21 (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on  
22 which the signature of the buyer and the signature of the seller are individually  
23 notarized;~~and~~
- 24 (23) "Reference manual" means the automotive reference manual prescribed by the  
25 department; *and*
- 26 **(24) "Recreational vehicle" means any motor home, travel trailer, fifth-wheel trailer,**  
27 **pull-behind camper, or pop-up camping trailer, which:**

1 (a) Contains living quarters; and

2 (b) Is required to be licensed for use on the public highways.

3 → Section 26. KRS 132.010 is amended to read as follows:

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

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



- 1 (7) "Net assessment growth" means the difference between:
- 2 (a) The total valuation of property subject to taxation by the county, city, school  
3 district, or special district in the preceding year, less the total valuation  
4 exempted from taxation by the homestead exemption provision of the  
5 Constitution in the current year over that exempted in the preceding year; and
- 6 (b) The total valuation of property subject to taxation by the county, city, school  
7 district, or special district for the current year;
- 8 (8) "New property" means the net difference in taxable value between real property  
9 additions and deletions to the property tax roll for the current year. "Real property  
10 additions" shall mean:
- 11 (a) Property annexed or incorporated by a municipal corporation, or any other  
12 taxing jurisdiction; however, this definition shall not apply to property  
13 acquired through the merger or consolidation of school districts, or the  
14 transfer of property from one (1) school district to another;
- 15 (b) Property, the ownership of which has been transferred from a tax-exempt  
16 entity to a nontax-exempt entity;
- 17 (c) The value of improvements to existing nonresidential property;
- 18 (d) The value of new residential improvements to property;
- 19 (e) The value of improvements to existing residential property when the  
20 improvement increases the assessed value of the property by fifty percent  
21 (50%) or more;
- 22 (f) Property created by the subdivision of unimproved property, provided, that  
23 when the property is reclassified from farm to subdivision by the property  
24 valuation administrator, the value of the property as a farm shall be a deletion  
25 from that category;
- 26 (g) Property exempt from taxation, as an inducement for industrial or business  
27 use, at the expiration of its tax exempt status;

1 (h) Property, the tax rate of which will change, according to the provisions of  
 2 KRS 82.085, to reflect additional urban services to be provided by the taxing  
 3 jurisdiction, provided, however, that the property shall be considered "real  
 4 property additions" only in proportion to the additional urban services to be  
 5 provided to the property over the urban services previously provided; and

6 (i) The value of improvements to real property previously under assessment  
 7 moratorium.

8 "Real property deletions" shall be limited to the value of real property removed  
 9 from, or reduced over the preceding year on, the property tax roll for the current  
 10 year;

11 (9) "Agricultural land" means:

12 (a) Any tract of land, including all income-producing improvements, of at least  
 13 ten (10) contiguous acres in area used for the production of livestock,  
 14 livestock products, poultry, poultry products and/or the growing of tobacco  
 15 and/or other crops including timber;

16 (b) Any tract of land, including all income-producing improvements, of at least  
 17 five (5) contiguous acres in area commercially used for aquaculture; or

18 (c) Any tract of land devoted to and meeting the requirements and qualifications  
 19 for payments pursuant to agriculture programs under an agreement with the  
 20 state or federal government;

21 (10) "Horticultural land" means any tract of land, including all income-producing  
 22 improvements, of at least five (5) contiguous acres in area commercially used for  
 23 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,  
 24 flowers, or ornamental plants;

25 (11) "Agricultural or horticultural value" means the use value of "agricultural or  
 26 horticultural land" based upon income-producing capability and comparable sales  
 27 of farmland purchased for farm purposes where the price is indicative of farm use

1 value, excluding sales representing purchases for farm expansion, better  
 2 accessibility, and other factors which inflate the purchase price beyond farm use  
 3 value, if any, considering the following factors as they affect a taxable unit:

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

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

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

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

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

24 (16) "Manufactured home" means a structure manufactured after June 15, 1976, in  
 25 accordance with the National Manufactured Housing Construction and Safety  
 26 Standards Act, transportable in one (1) or more sections, which when erected on  
 27 site measures eight (8) body feet or more in width and thirty-two (32) body feet or

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

8 (17) "Mobile home" means a structure manufactured on or before June 15, 1976, that  
9 was not required to be constructed in accordance with the National Manufactured  
10 Housing Construction and Safety Standards Act, transportable in one (1) or more  
11 sections, which when erected on site measures eight (8) body feet or more in width  
12 and thirty-two (32) body feet or more in length, and which is built on a permanent  
13 chassis and designed to be used as a dwelling, with or without a permanent  
14 foundation, when connected to the required utilities, and includes the plumbing,  
15 heating, air-conditioning, and electrical systems contained therein. It may be used  
16 as a place of residence, business, profession, or trade by the owner, lessee, or their  
17 assigns and may consist of one (1) or more units that can be attached or joined  
18 together to comprise an integral unit or condominium structure;

19 (18) "Modular home" means a structure which is certified by its manufacturer as being  
20 constructed in accordance with all applicable provisions of the Kentucky Building  
21 Code and standards adopted by the local authority which has jurisdiction,  
22 transportable in one (1) or more sections, and designed to be used as a dwelling on  
23 a permanent foundation when connected to the required utilities, and includes the  
24 plumbing, heating, air-conditioning, and electrical systems contained therein;

25 (19) "Prefabricated home" means a manufactured home, a mobile home, or a modular  
26 home;

27 (20) "Recreational vehicle" means a vehicular type unit primarily designed as temporary

1 living quarters for recreational, camping, or travel use, which either has its own  
2 motive power or is mounted on or drawn by another vehicle. The basic entities are:  
3 travel trailer, camping trailer, truck camper, and motor home. As used in this  
4 subsection:

5 (a) "Travel trailer" means a vehicular unit, mounted on wheels, designed to  
6 provide temporary living quarters for recreational, camping, or travel use, and  
7 of a size or weight that does not require special highway movement permits  
8 when drawn by a motorized vehicle, and with a living area of less than two  
9 hundred twenty (220) square feet, excluding built-in equipment (such as  
10 wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet  
11 rooms;

12 (b) "Camping trailer" means a vehicular portable unit mounted on wheels and  
13 constructed with collapsible partial side walls which fold for towing by  
14 another vehicle and unfold at the camp site to provide temporary living  
15 quarters for recreational, camping, or travel use;

16 (c) "Truck camper" means a portable unit constructed to provide temporary living  
17 quarters for recreational, travel, or camping use, consisting of a roof, floor,  
18 and sides, designed to be loaded onto and unloaded from the bed of a pick-up  
19 truck; and

20 (d) "Motor home" means a vehicular unit designed to provide temporary living  
21 quarters for recreational, camping, or travel use built on or permanently  
22 attached to a self-propelled motor vehicle chassis or on a chassis cab or van  
23 which is an integral part of the completed vehicle;

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

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

26 (23) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and  
27 KRS 224.60-115;

- 1 (24) "Qualifying voluntary environmental remediation property" means real property  
 2 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the  
 3 Energy and Environment Cabinet has made a determination that:
- 4 (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or  
 5 petroleum products at the property occurred prior to the property owner's  
 6 acquisition of the property;
  - 7 (b) The property owner has made all appropriate inquiry into previous ownership  
 8 and uses of the property in accordance with generally accepted practices prior  
 9 to the acquisition of the property;
  - 10 (c) The property owner or a responsible party has provided all legally required  
 11 notices with respect to hazardous substances, pollutants, contaminants,  
 12 petroleum, or petroleum products found at the property;
  - 13 (d) The property owner is in compliance with all land use restrictions and does  
 14 not impede the effectiveness or integrity of any institutional control;
  - 15 (e) The property owner complied with any information request or administrative  
 16 subpoena under KRS Chapter 224; and
  - 17 (f) The property owner is not affiliated with any person who is potentially liable  
 18 for the release of hazardous substances, pollutants, contaminants, petroleum,  
 19 or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405,  
 20 or 224.60-135, through:
    - 21 1. Direct or indirect familial relationship;
    - 22 2. Any contractual, corporate, or financial relationship, excluding  
 23 relationships created by instruments conveying or financing title or by  
 24 contracts for sale of goods or services; or
    - 25 3. Reorganization of a business entity that was potentially liable;
- 26 (25) "Intangible personal property" means stocks, mutual funds, money market funds,  
 27 bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits,

- 1 patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred  
2 compensation, retirement plans, and any other type of personal property that is not  
3 tangible personal property;
- 4 (26) (a) "County" means any county, consolidated local government, urban-county  
5 government, unified local government, or charter county government;
- 6 (b) "Fiscal court" means the legislative body of any county, consolidated local  
7 government, urban-county government, unified local government, or charter  
8 county government; and
- 9 (c) "County judge/executive" means the chief executive officer of any county,  
10 consolidated local government, urban-county government, unified local  
11 government, or charter county government;
- 12 (27) "Taxing district" means any entity with the authority to levy a local ad valorem tax,  
13 including special purpose governmental entities;
- 14 (28) "Special purpose governmental entity" shall have the same meaning as in KRS  
15 65A.010, and as used in this chapter shall include only those special purpose  
16 governmental entities with the authority to levy ad valorem taxes, and that are not  
17 specifically exempt from the provisions of this chapter by another provision of the  
18 Kentucky Revised Statutes;
- 19 (29) (a) "Broadcast" means the transmission of audio, video, or other signals, through  
20 any electronic, radio, light, or similar medium or method now in existence or  
21 later devised over the airwaves to the public in general.
- 22 (b) "Broadcast" shall not apply to operations performed by multichannel video  
23 programming service providers as defined in KRS 136.602 or any other  
24 operations that transmit audio, video, or other signals, exclusively to persons  
25 for a fee;
- 26 (30) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,  
27 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid

1 species;

2 (31) "Heavy equipment rental agreement" means the short-term rental contract under  
3 which qualified heavy equipment is rented without an operator for a period:

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

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

6 (32) "Heavy equipment rental company" means an entity that is primarily engaged in a  
7 line of business described in Code 532412 or 532310 of the North American  
8 Industry Classification System Manual in effect on January 1, 2019;

9 (33) "Qualified heavy equipment" means machinery and equipment, including ancillary  
10 equipment and any attachments used in conjunction with the machinery and  
11 equipment, that is:

12 (a) Primarily used and designed for construction, mining, forestry, or industrial  
13 purposes, including but not limited to cranes, earthmoving equipment, well-  
14 drilling machinery and equipment, lifts, material handling equipment, pumps,  
15 generators, and pollution-reducing equipment; and

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

17 1. Rental under a heavy equipment rental agreement; or

18 2. Sale in the regular course of business; and

19 (34) "Veteran service organization" means an organization wholly dedicated to  
20 advocating on behalf of military veterans and providing charitable programs in  
21 honor and on behalf of military veterans;

22 **(35) "Government restriction on use" means a limitation on the use of at least fifty**  
23 **percent (50%) of the individual dwelling units of a multi-unit rental housing in**  
24 **order to receive a federal or state government incentive based on low-income**  
25 **renter restrictions, including the following government incentives:**

26 **(a) A tax credit under Section 42 of the Internal Revenue Code;**

27 **(b) Financing derived from exempt facility bonds for qualified residential**



- 1                   rental projects under Section 142 of the Internal Revenue Code;  
 2                   (c) A low-interest loan under Section 235 or 236 of the National Housing Act  
 3                   or Section 515 of the Housing Act of 1949;  
 4                   (d) A rent subsidy;  
 5                   (e) A guaranteed loan;  
 6                   (f) A grant; or  
 7                   (g) A guarantee;  
 8                   (36) "Low income" means earning at or below eighty percent (80%) of the area  
 9                   median income as defined by the United States Department of Housing and  
 10                   Urban Development for the location of the multi-unit rental housing; and  
 11                   (37) "Multi-unit rental housing" means residential property or project consisting of  
 12                   four (4) or more individual dwelling units and does not include:  
 13                   (a) Assisted living facilities; or  
 14                   (b) Duplexes or single-family units unless they are included as part of a larger  
 15                   property that is subject to government restriction on use.

16                   ➔ Section 27. KRS 132.191 is amended to read as follows:

- 17                   (1) The General Assembly recognizes that Section 172 of the Constitution of Kentucky  
 18                   requires all property, not exempted from taxation by the Constitution, to be assessed  
 19                   at one hundred percent (100%) of the fair cash value, estimated at the price the  
 20                   property would bring at a fair voluntary sale, and that it is the responsibility of the  
 21                   property valuation administrator to value property in accordance with the  
 22                   Constitution.
- 23                   (2) The General Assembly further recognizes that property valuation may be  
 24                   determined using a variety of valid valuation methods, including but not limited to:
- 25                   (a) A cost approach, which is a method of appraisal in which the estimated value  
 26                   of the land is combined with the current depreciated reproduction or  
 27                   replacement cost of improvements on the land;

- 1 (b) An income approach, which is a method of appraisal based on estimating the  
 2 present value of future benefits arising from the ownership of the property;
- 3 (c) A sales comparison approach, which is a method of appraisal based on a  
 4 comparison of the property with similar properties sold in the recent past;  
 5 ~~and~~
- 6 (d) A subdivision development approach, which is a method of appraisal of raw  
 7 land:
- 8 1. When subdivision and development are the highest and best use of the  
 9 parcel of raw land being appraised; and
  - 10 2. When all direct and indirect costs and entrepreneurial incentives are  
 11 deducted from the estimated anticipated gross sales price of the finished  
 12 lots, and the resultant net sales proceeds are then discounted to present  
 13 value at a market-derived rate over the development and absorption  
 14 period; and
- 15 **(e) The approaches listed in subsection (5) of this section for multi-unit rental**  
 16 **housing that is subject to government restriction on use.**
- 17 (3) The valuation of a residential, commercial, or industrial tract development shall  
 18 meet the minimum applicable appraisal standards established by:
- 19 (a) The Kentucky Department of Revenue, as stated in its Guidelines for  
 20 Assessment of Vacant Lots, dated March 26, 2008; or
  - 21 (b) The International Association of Assessing Officers.
- 22 (4) To be appraised using the subdivision development approach, a subdivision  
 23 development shall consist of five (5) or more units. The appraisal of the  
 24 development shall reflect deductions and discounts for:
- 25 (a) Holding costs, including interest and maintenance;
  - 26 (b) Marketing costs, including commissions and advertising; and
  - 27 (c) Entrepreneurial profit.

1 (5) (a) The property valuation of multi-unit rental housing that is subject to  
 2 government restriction on use may be determined:

3 1. a. Through an annual net operating income approach to value that  
 4 uses actual income and stabilized operating expenses that are  
 5 based on the actual history of the property, when available, and a  
 6 capitalization rate.

7 b. The methodology employed in the projection of income,  
 8 expenses, and capitalization rate used shall be consistent with  
 9 the Uniform Standards of Professional Appraisal Practice.

10 c. The capitalization rate shall be:

11 i. Based on the risks associated with multi-unit rental  
 12 housing subject to government restriction on use, including  
 13 diminished ownership control; income generating  
 14 potential; liquidity; the condition of the property; the class  
 15 of the property; and the property's location and size;

16 ii. Equal to or greater than the capitalization rate used for  
 17 valuing multi-unit rental housing that is not subject to  
 18 government restriction on use; and

19 iii. In the range of fifty (50) to one hundred fifty (150) basis  
 20 points above the most recent quarterly survey of the  
 21 national average cap rates of multifamily properties  
 22 published by realtyrates.com or a successor organization.

23 d. The department shall publish the capitalization rate range for  
 24 the property valuation administrators to use on its website at the  
 25 beginning of each year; or

26 2. By adjusting the unrestricted market value of the multi-unit rental  
 27 housing, computed without regard to any government restriction on

1           use applicable to the multi-unit rental housing, based on the ratio of  
 2           the average annual rent of those units of the property that are subject  
 3           to government restriction on use to the average annual rent of  
 4           comparable multi-unit rental housing that is not subject to  
 5           government restriction on use.

6           **(b) Income tax credits received under Section 42 of the Internal Revenue Code**  
 7           **or from any state or federal program shall not be included in the methods**  
 8           **used under paragraph (a) of this subsection in determining the income**  
 9           **attributable to the multi-unit rental housing or in any separate intangible**  
 10           **assessment.**

11           **(c) 1. The owner of multi-unit rental housing shall:**

12           **a. Notify the property valuation administrator if:**

13           **i. The property is subject to government restriction on use;**

14           **ii. The property is no longer subject to government restriction**  
 15           **on use; or**

16           **iii. A foreclosure action has been brought upon the property;**  
 17           **and**

18           **b. File with the property valuation administrator, on a form**  
 19           **prescribed by the department, the information necessary for the**  
 20           **multi-unit rental housing to be valued based on the methods**  
 21           **described in paragraph (a) of this subsection.**

22           **2. The notification shall be in writing and submitted to the property**  
 23           **valuation administrator within sixty (60) days of the date on which the**  
 24           **applicable circumstance listed in subparagraph 1.a. i., ii., or iii. of this**  
 25           **paragraph occurred.**

26           **3. An owner who fails to comply with this paragraph may be subject to**  
 27           **penalties in an amount not to exceed two hundred dollars (\$200) as**

1 determined by the department.

2 (d) The department shall promulgate administrative regulations in accordance  
 3 with KRS Chapter 13A to adopt forms, penalties, and procedures to carry  
 4 out this subsection.

5 → Section 28. KRS 154.30-010 is amended to read as follows:

6 As used in this subchapter:

7 (1) "Activation date" means:

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

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

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

20 (2) "Agency" means:

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

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

24 (c) A nonprofit corporation;

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

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

27 (f) A local industrial development authority established under KRS 154.50-301

1 to 154.50-346;

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

3 (h) A designated department, division, or office of a city or county;

4 (3) "Approved public infrastructure costs" means costs associated with the acquisition,  
5 installation, construction, or reconstruction of public works, public improvements,  
6 and public buildings, including planning and design costs associated with the  
7 development of such public amenities. "Approved public infrastructure costs"  
8 includes but is not limited to costs incurred for the following:

9 (a) Land preparation, including demolition and clearance work;

10 (b) Buildings;

11 (c) Sewers and storm drainage;

12 (d) Curbs, sidewalks, promenades, and pedways;

13 (e) Roads;

14 (f) Street lighting;

15 (g) The provision of utilities;

16 (h) Environmental remediation;

17 (i) Floodwalls and floodgates;

18 (j) Public spaces or parks;

19 (k) Parking;

20 (l) Easements and rights-of-way;

21 (m) Transportation facilities;

22 (n) Public landings;

23 (o) Amenities, such as fountains, benches, and sculptures; and

24 (p) Riverbank modifications and improvements;

25 (4) "Approved signature project costs" means:

26 (a) The acquisition of land for portions of the project that are for infrastructure;

27 and

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

- 1 acquisition, construction, installation, equipping, and rehabilitation of a  
2 project; and
- 3 (f) All other costs of a nature comparable to those described in this subsection  
4 that occur after preliminary approval;
- 5 (7) "City" means any city, consolidated local government, or urban-county  
6 government;
- 7 (8) "Commencement date" means the final approval date or the date on which a tax  
8 incentive agreement is executed;
- 9 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 10 (10) "County" means any county, consolidated local government, charter county, unified  
11 local government, or urban-county government;
- 12 (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban  
13 consumers, all items, base year computed for 1982 to 1984 equals one hundred  
14 (100), published by the United States Department of Labor, Bureau of Labor  
15 Statistics;
- 16 (12) "Department" means the Department of Revenue;
- 17 (13) "Development area" means an area established under KRS 65.7049, 65.7051, and  
18 65.7053;
- 19 (14) "Economic development projects" means projects which are approved for tax  
20 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter  
21 154;
- 22 (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve  
23 requirements, underwriting discount, costs of credit enhancement or liquidity  
24 instruments, and other costs directly related to the issuance of bonds or debt for  
25 approved public infrastructure costs or approved signature project costs for projects  
26 approved pursuant to KRS 154.30-050;
- 27 (16) "Footprint" means the actual perimeter of a discrete, identified project within a



- 1 development area. The footprint shall not include any portion of a development area  
2 outside the area for which actual capital investments are made and must be  
3 contiguous;
- 4 (17) "Governing body" means the body possessing legislative authority in a city or  
5 county;
- 6 (18) "Increment bonds" means bonds and notes issued for the purpose of paying the  
7 costs of one (1) or more projects;
- 8 (19) "Incremental revenues" means:
- 9 (a) The amount of revenues received by a taxing district, as determined by  
10 subtracting old revenues from new revenues in a calendar year with respect to  
11 a development area, or a project within a development area; or
- 12 (b) The amount of revenues received by the Commonwealth as determined by  
13 subtracting old revenues from new revenues in a calendar year with respect to  
14 the footprint;
- 15 (20) "Local participation agreement" means the agreement entered into under KRS  
16 65.7063;
- 17 (21) "Local tax revenues" has the same meaning as in KRS 65.7045;
- 18 (22) "New revenues" means:
- 19 (a) The amount of local tax revenues received by a taxing district with respect to  
20 a development area in any calendar year beginning with the year in which the  
21 activation date occurred;
- 22 (b) The amount of state tax revenues received by the Commonwealth with respect  
23 to the footprint in any calendar year beginning with the year in which the  
24 activation date occurred;
- 25 (23) "Old revenues" means:
- 26 (a) The amount of local tax revenues received by a taxing district with respect to  
27 a development area as of December 31 of the year of preliminary approval; or

1 (b) 1. The amount of state tax revenues received by the Commonwealth within  
 2 the footprint as of December 31 of the year of preliminary approval. If  
 3 the authority determines that the amount of state tax revenues received  
 4 as of December 31 of the last calendar year prior to the commencement  
 5 of preliminary approval does not represent a true and accurate depiction  
 6 of revenues, the authority may consider revenues for a period of no  
 7 longer than three (3) calendar years prior to the year of preliminary  
 8 approval, so as to determine a fair representation of state tax revenues.  
 9 The amount determined by the authority shall be specified in the tax  
 10 incentive agreement. If state tax revenues were derived from the  
 11 footprint prior to the year of preliminary approval, old revenues shall  
 12 increase each calendar year by:

- 13 a. The percentage increase, if any, of the CPI or a comparable index;  
 14 or  
 15 b. An alternative percentage increase that is determined to be  
 16 appropriate by the authority.

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

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

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

- 26 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon  
 27 payment or redemption;

- 1 (b) Increment bonds in replacement of which or in exchange for which other  
2 increment bonds have been issued; or
- 3 (c) Increment bonds for the payment, redemption, or purchase for cancellation  
4 prior to maturity, of which sufficient moneys or investments, in accordance  
5 with the ordinance or other proceedings or any applicable law, by mandatory  
6 sinking fund redemption requirements, or otherwise, have been deposited, and  
7 credited in a sinking fund or with a trustee or paying or escrow agent, whether  
8 at or prior to their maturity or redemption, and, in the case of increment bonds  
9 to be redeemed prior to their stated maturity, notice of redemption has been  
10 given or satisfactory arrangements have been made for giving notice of that  
11 redemption, or waiver of that notice by or on behalf of the affected bond  
12 holders has been filed with the issuer or its agent;
- 13 (25) "Preliminary approval" means the action taken by the authority preliminarily  
14 approving an eligible project for incentives under this subchapter;
- 15 (26) "Project" means any property, asset, or improvement located in a development area  
16 and certified by the governing body as:
- 17 (a) Being for a public purpose; and
- 18 (b) Being for the development of facilities for residential, commercial, industrial,  
19 public, recreational, or other uses, or for open space, including the  
20 development, rehabilitation, renovation, installation, improvement,  
21 enlargement, or extension of real estate and buildings; and
- 22 (c) Contributing to economic development or tourism; and
- 23 (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-  
24 050, or 154.30-060;
- 25 (27) "Signature project" means a project approved under KRS 154.30-050;
- 26 (28) "State real property ad valorem tax" means real property ad valorem taxes levied  
27 under KRS 132.020(1)(a);

- 1 (29) "State tax revenues" means revenues received by the Commonwealth from one (1)  
 2 or more of the following sources:
- 3 (a) State real property ad valorem taxes;
  - 4 (b) Individual income taxes levied under KRS 141.020, other than individual  
 5 income taxes that have already been pledged to support an economic  
 6 development project within the development area;
  - 7 (c) Corporation income taxes levied under KRS 141.040, other than corporation  
 8 income taxes that have already been pledged to support an economic  
 9 development project within the development area;
  - 10 (d) Limited liability entity taxes levied under KRS 141.0401, other than limited  
 11 liability entity taxes that have already been pledged to support an economic  
 12 development project within the development area; and
  - 13 (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged  
 14 for:
    - 15 1. Approved tourism attraction projects, as defined in KRS 148.851, within  
 16 the development area; and
    - 17 2. Projects which are approved for sales tax refunds under Subchapter 20  
 18 of KRS Chapter 154 within the development area;
- 19 (30) "Tax incentive agreement" means an agreement entered into in accordance with  
 20 KRS 154.30-070; and
- 21 (31) (a) "Termination date" means:
- 22 ~~1. (a)~~ For a tax incentive agreement satisfying the requirements of KRS  
 23 154.30-040 or 154.30-060, a date established by the tax incentive  
 24 agreement that is no more than twenty (20) years from the activation  
 25 date. However, the termination date for a tax incentive agreement shall  
 26 in no event be more than forty (40) years from the establishment date of  
 27 the development area to which the tax incentive agreement relates; and

1           ~~2.(b)~~ For a project grant agreement satisfying the requirements of KRS  
 2           154.30-050, a date established by the tax incentive agreement that is no  
 3           more than thirty (30) years from the activation date. However, the  
 4           termination date for a tax incentive agreement shall in no event be more  
 5           than forty (40) years from the establishment date of the development  
 6           area to which the tax incentive agreement relates.

- 7           **(b) 1. An agency may request an extension for any tax incentive agreement:**  
 8                 **a. Executed prior to January 1, 2023;**  
 9                 **b. That satisfies the requirements of KRS 154.30-050 or 154.30-**  
 10                **060; and**  
 11                **c. That includes the pledge of individual income taxes levied under**  
 12                **KRS 141.020.**
- 13           **2. The authority may allow one (1) extension of the tax incentive**  
 14           **agreement, not to exceed five (5) years.**
- 15           **3. The extension shall be for the purpose of allowing additional time to**  
 16           **claim the agreed-upon incentive expected to be earned before the**  
 17           **initial termination date that is directly related to the reductions in the**  
 18           **tax rate under Section 22 of this Act.**
- 19           **4. The extension shall not result in a termination date that is more than**  
 20           **forty (40) years from the establishment date of the development area to**  
 21           **which the tax incentive agreement relates.**

22           ➔ Section 29. KRS 67.805 is amended to read as follows:

23           The fiscal court of any county in which there are no incorporated areas shall receive any  
 24           funds arising from the imposition of taxes provided by KRS 138.220, **138.475(5)(b),**  
 25           **138.477,** 138.660(1) and (2), and 234.320 that are designated for allocation to any  
 26           unincorporated urban place located within the county pursuant to KRS 177.366 and  
 27           177.369, in addition to any funds the county receives pursuant to KRS 177.320.

1 → Section 30. KRS 177.320 is amended to read as follows:

- 2 (1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition  
 3 of taxes provided by KRS 138.220(1) and (2), 138.475(5)(b), 138.477, 138.660(1)  
 4 and (2), and 234.320 shall be set aside for the construction, reconstruction and  
 5 maintenance of secondary and rural roads and for no other purpose, and shall be  
 6 expended for said purposes by the Transportation Cabinet of the Commonwealth of  
 7 Kentucky according to the terms and conditions prescribed in KRS 177.330 to  
 8 177.360.
- 9 (2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds  
 10 arising from the imposition of taxes provided by KRS 138.220(1) and (2),  
 11 138.475(5)(b), 138.477, 138.660(1) and (2), and 234.320 shall be set aside for the  
 12 construction, reconstruction and maintenance of county roads and bridges provided  
 13 by KRS 179.410 and 179.415.
- 14 (3) All funds set aside in subsection (2) of this section for the construction,  
 15 reconstruction and maintenance of county roads and bridges shall be allocated to  
 16 the county in accordance with the formula established in KRS 177.360(1) pursuant  
 17 to KRS 179.410.
- 18 (4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from  
 19 the imposition of taxes provided by KRS 138.220(1) and (2), 138.475(5)(b),  
 20 138.477, 138.660, and 234.320 shall be set aside for the purposes and functions of  
 21 the Kentucky Transportation Center as established by KRS 177.375 to 177.380,  
 22 except that the receipts provided to the center by this subsection shall not exceed  
 23 one hundred ninety thousand dollars (\$190,000) for any fiscal year.

24 → Section 31. KRS 177.365 is amended to read as follows:

- 25 (1) On and after July 1, 1980, seven and seven-tenths percent (7.7%) of all amounts  
 26 received from the imposition of the taxes provided for in KRS 138.220(1) and (2),  
 27 138.475(5)(b), 138.477, 138.660(1) and (2), and 234.320 shall be set aside by the

1 Finance and Administration Cabinet for the construction, reconstruction and  
2 maintenance of urban roads and streets and for no other purpose.

3 (2) As used in this section unless the context requires otherwise "construction,"  
4 "reconstruction," and "maintenance" mean the supervising, inspecting, actual  
5 building, and all expenses incidental to the construction, reconstruction, or  
6 maintenance of a road or street, including planning, locating, surveying, and  
7 mapping or preparing roadway plans, acquisition of rights-of-way, relocation of  
8 utilities, lighting and the elimination of other hazards such as roadway grade  
9 crossings, and all other items defined in the Department of Highways, design,  
10 operations, and construction manuals.

11 (3) "Urban roads" mean all public ways lying within the limits of the unincorporated  
12 urban place as defined in KRS 81.015, and as described by the Bureau of Census  
13 tracts.

14 (4) "Streets" mean all public ways which have been designated by the incorporated city  
15 as being city streets and said streets lying within the boundaries of an incorporated  
16 city.

17 ➔Section 32. The following KRS sections are repealed:

18 132.098 Exemption from state and local ad valorem tax of computer software, except  
19 prewritten computer software.

20 132.192 Property tax exemption reciprocity.

21 132.205 Exemption of bridges built by adjoining state, United States or commission  
22 created by Act of Congress over boundary line stream -- Bonds.

23 132.208 Exemption of intangible personal property from state and local ad valorem  
24 taxes -- Local taxation permitted.

25 132.210 Exemption of fraternal benefit societies' funds.

26 132.760 Exemption from ad valorem taxes for trucks, tractors, buses, and trailers used  
27 both in and outside Kentucky and subject to KRS 136.188 fee.

1           ➔Section 33. Sections 2 to 5, 26, and 27 of this Act apply to property assessed on  
2 or after January 1, 2024.

3           ➔Section 34. Section 6 of this Act applies retroactively to January 1, 2023, except  
4 that any penalty imposed under subsection (11) of Section 6 of this Act and any interest  
5 imposed under KRS 131.183 shall not apply to a return required to be filed under  
6 subsection (3)(b) of Section 6 of this Act before the effective date of this Act if the return  
7 is filed and the tax is paid by the twentieth day of the month following the effective date  
8 of this Act.

9           ➔Section 35. Sections 7 to 15 of this Act apply retroactively to January 1, 2023.  
10 Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to  
11 the amendments made in Sections 7 to 11 of this Act.

12           ➔Section 36. Section 24 of this Act takes effect July 1, 2023.

13           ➔Section 37. Section 25, 29, 30, and 31 of this Act take effect January 1, 2024.

14           ➔Section 38. Whereas many of the provisions of this Act impact tax returns  
15 currently being filed by taxpayers, an emergency is declared to exist, and this Act takes  
16 effect upon its passage and approval by the Governor or upon its otherwise becoming a  
17 law.