

**CHAPTER 117****(HB 107)**

AN ACT relating to local taxation.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 17 of this Act, unless the context requires otherwise:*

- (1) *"Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;*
- (2) *"Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:*
  - (a) *Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and*
  - (b) *Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;*
- (3) *"Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;*
- (4) *"Employee" means employee as defined in Section 3401(c) of the Internal Revenue Code;*
- (5) *"Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;*
- (6) *"Gross receipts" means all revenues or proceeds derived from sales of goods or services by a business entity with only a deduction allowed for sales and excise taxes and returns and allowances;*
- (7) *"Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2002, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2002, that would otherwise terminate;*
- (8) *"Net profit" in case of a business entity means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:*

- (a) *Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;*
  - (b) *Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;*
  - (c) *Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;*
  - (d) *Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and*
  - (e) *Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;*
- (9) *"Tax district" means a city of the first to fifth class, county, urban-county, charter county, or consolidated local government;*
  - (10) *"Taxable gross receipts" in case of a business entity having payroll both within and without a tax district means gross receipts as defined in subsection (6) of this section, and as apportioned under Section 2 of this Act;*
  - (11) *"Taxable gross receipts" in case of a business entity having payroll only in one (1) tax district means gross receipts as defined in subsection (6) of this section;*
  - (12) *"Taxable net profit" in case of a business entity having payroll only in one (1) tax district means net profit as defined in subsection (8) of this section;*
  - (13) *"Taxable net profit" in case of a business entity having payroll both within and without a tax district means net profit as defined in subsection (8) of this section, and as apportioned under Section 2 of this Act; and*
  - (14) *"Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided for in subsection (2) of this section, net profit or gross receipts shall be apportioned to the tax district by multiplying the net profit or gross receipts by a fraction, the numerator of which is the payroll factor plus the sales factor, and the denominator of which is two (2).*
  - (a) *The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.*
  - (b) *1. The sales factor is a fraction, the numerator of which is the total sales of the business entity in the tax district during the tax period, and the denominator of which is the total sales of the business entity everywhere during the tax period.*

2. *Sales of tangible personal property are in the tax district if:*
    - a. *The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or*
    - b. *The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.*
  3. *Sales, other than sales of tangible personal property, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.*
- (2) *If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition the tax district or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:*
- (a) *Separate accounting;*
  - (b) *The exclusion of any one (1) or more of the factors;*
  - (c) *The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or*
  - (d) *The employment of any other method to effectuate an equitable allocation and apportionment of net profit or gross receipts.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Every business entity, other than a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars (\$5,000).*
- (2) *The quarterly estimated tax payments required under subsection (1) of this section shall be based on the lesser of:*
  - (a) *Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;*
  - (b) *Twenty-five percent (25%) of the preceding full year taxable year tax liability; or*
  - (c) *Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded twenty thousand dollars (\$20,000).*
- (3) *Any business entity that fails to submit the minimum quarterly payment required under subsection (2) of this section by the due date for the quarterly payment shall pay an amount equal to twelve percent (12%) per annum simple interest on the amount of quarterly payment required under subsection (2) of this section from the earlier of:*
  - (a) *The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (2) of this section; or*

*(b) The due date of the annual return.*

*A fraction of a month is counted as an entire month.*

- (4) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the tax district or any first taxable year in which a business entity's tax liability exceeds five thousand dollars (\$5,000).*
- (5) The provisions of this section shall not apply unless adopted by the tax district.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) In the case where the tax computed under Sections 1 to 17 of this Act is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.*
- (2) (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;*
  - (b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by Sections 1 to 17 of this Act.*
- (3) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) As specified by Sections 1 to 17 of this Act and its application, the federal income tax law and its application, and the administrative and judicial interpretations of the federal income tax law, for purposes of Sections 1 to 17 of this Act computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures shall be as nearly as practicable identical with those required for federal income tax purposes.*
- (2) Every business entity subject to an occupational license tax governed by the provisions of Sections 1 to 17 of this Act shall keep records, render under oath statements, make returns, and comply with rules as the tax district from time to time may prescribe. Whenever the tax district judges it necessary, it may require a business entity, by notice served to the business entity, to make a return, render under oath statements, or keep records, as the tax district deems sufficient to show whether or not the business entity is liable for tax, and the extent of the liability.*
- (3) The tax district, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, may require the attendance of a representative of the business entity or of any other person having knowledge in the premises.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*If any business entity dissolves or withdraws from a tax district during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the*

*dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of net profit or gross receipts taxes or tax withheld for the period of that taxable year during which the business entity had net profit or gross receipts or tax withheld in the tax district.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*If a business entity makes, or is required to make, a federal income tax return, the net profit or gross receipts shall be computed for the purposes of Sections 1 to 17 of this Act on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *All business entities' returns for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the tax district.*
- (2) *Every business entity shall submit a copy of its federal income tax return at the time of filing its return with the tax district. Whenever, in the opinion of the tax district, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the tax district may compel the business entity to produce for inspection a copy of all statements and schedules in support thereof. The tax district may also require copies of reports of adjustments made by the federal government.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *A tax district may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service, for filing its return, if the business entity, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.*
- (2) *If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed and the tax paid to the tax district. A fraction of a month is counted as an entire month.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section and Section 12 of this Act, unless the context requires otherwise:*
  - (a) *"Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income or gross receipts as reported on the business entity's federal income tax return become final and unappealable; and*
  - (b) *"Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.*

- (2) *As soon as practicable after each return is received, the tax district may examine and audit it. If the amount of tax computed by the tax district is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the tax district within five (5) years from the date the return was filed, except as otherwise provided in this subsection.*
- (a) *In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.*
- (b) *In the case of a return where a business entity understates net profit or gross receipts, or omits an amount properly includable in net profit or gross receipts, or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net profit or gross receipts stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.*
- (c) *In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the tax district receives the final determination of the federal audit from the business entity, whichever is later.*

*The times provided in this subsection may be extended by agreement between the business entity and the tax district. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.*

- (3) *Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.*
- (4) *A tax district may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (2) of this section.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the tax district at the time prescribed for filing the tax return, determined without regard to any extension of time for filing the return.*
- (2) *A tax district may impose minimum and maximum tax liabilities for the tax on net profits or gross receipts.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Sections 1 to 17 of this Act.*
- (2) *Any tax collected pursuant to the provisions of Sections 1 to 17 of this Act may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the tax district, whichever is the later, except that:*

- (a) *In any case where the assessment period contained in Section 10 of this Act has been extended by an agreement between the business entity and the tax district, the limitation contained in this subsection shall be extended accordingly.*
- (b) *If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.*

*For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.*

- (3) *Exclusive authority to refund or credit overpayments of taxes collected pursuant to KRS 67.083 and 92.281 and Sections 18, 19, and 20 of this Act is vested in the tax district.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*Every employer making payment of compensation shall deduct and withhold upon the compensation a tax determined under KRS 92.281, 67.083, or Section 18, 19, or 20 of this Act and pay in accordance with Section 14 of this Act. A tax district may impose minimum and maximum tax liabilities for the tax on compensation.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Every employer required to deduct and withhold tax under Section 13 of this Act shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter make a return and report to the tax district the tax required to be withheld under Section 13 of this Act, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the tax district.*
- (2) *Every employer who fails to withhold or pay to the tax district any sums required by Sections 1 to 17 of this Act to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld or required to be withheld in accordance with the provisions of Section 13 of this Act.*
- (3) *The tax district shall have a lien upon all the property of any employer who fails to withhold or pay over to the tax district sums required to be withheld under Section 13 of this Act. If the employer withholds but fails to pay the amounts withheld to the tax district, the lien shall commence as of the date the amounts withheld were required to be paid to the tax district. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the tax district.*
- (4) *Every employer required to deduct and withhold tax under Section 13 of this Act shall annually on or before February 28 of each year complete and file on a form furnished or approved by the tax district a reconciliation of the tax withheld in each tax district where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information as determined by the tax district shall be submitted.*
- (5) *Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and license tax deducted by the employer from*

*the compensation paid to the employee for payment to a tax district during the preceding calendar year.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *An employer shall be liable for the payment of the tax required to be deducted and withheld under Section 13 of this Act.*
- (2) *The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to Section 13 of this Act shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under Sections 1 to 17 of this Act from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the tax district nor the cessation of holding any corporate office shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by Sections 1 to 17 of this Act at the time that the taxes imposed by Sections 1 to 17 of this Act become or became due.*
- (3) *Every employee receiving compensation in a tax district subject to the tax imposed under KRS 92.281 or Section 18, 19, or 20 of this Act shall be liable for the tax notwithstanding the provisions of subsections (1) and (2) of this section.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Where there has been an overpayment of tax under Section 13 of this Act, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under Section 13 of this Act by the employer.*
- (2) *Unless written application for refund or credit is received by the tax district from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed.*
- (3) *An employee who has compensation attributable to activities outside a tax district, based on time spent outside the tax district, but whose employer has withheld and remitted the occupational license fee on the compensation to another tax district, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the tax district may confirm with the employer the percentage of time spent and the amount of compensation for activities outside the tax district prior to approval of the refund.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *A business entity subject to tax on gross receipts or net profits shall pay a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:*
  - (a) *Files any return or report after the due date prescribed for filing or the due date as extended by the tax district, unless it is shown to the satisfaction of tax district that the failure to file is due to reasonable cause; or*



- (b) *Fails to pay the tax computed on the return or report on or before the due date prescribed for filing.*

*The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).*

- (2) *Every employer who fails to file a return or pay the tax on or before the time prescribed under Section 14 of this Act shall pay a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).*
- (3) *In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month.*
- (4) *Every tax imposed by Sections 1 to 17 of this Act, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the tax district from the business entity or other person liable therefor.*
- (5) *In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.*
- (6) *Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under Sections 1 to 17 of this Act of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.*
- (7) *A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of Sections 1 to 17 of this Act, or by the rules of the tax district or by written request for information to the business entity by the tax district.*
- (8) *No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.*

Section 18. KRS 68.180 is amended to read as follows:

- (1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate~~[- or rates]~~ not to exceed one and one-fourth percent (1.25%) of:
  - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;~~[-]~~ and
  - (b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (3) ***The provisions of subsection (2) of this section shall not apply to*** license fees imposed for regulatory purposes~~[- shall not be subject to such limitations]~~ as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.
- (4)~~[(2)]~~ The provisions and limitations of subsection (2) ***of this section***~~[(4)]~~ shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 19. KRS 68.197 is amended to read as follows:

- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
  - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
  - (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
  - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
- (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

- (a)~~{1.}~~ For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
- (b)~~{2.}~~ For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (4) Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license *fee*~~{tax}~~.
- (5)~~{2.}~~ No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (6)~~{3.}~~ Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.
- (7)~~{4.}~~ The provisions of subsection (6)~~{3.}~~ of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.
- (8)~~{5.}~~ On July 14, 2000, the provisions of subsection (7)~~{4.}~~ of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.
- (9)~~{6.}~~ A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 20. KRS 91.200 is amended to read as follows:

- (1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.

- (2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on:
- (a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages");~~;~~ and
  - (b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").
- (3) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in any other case where the city is prohibited by statute from imposing a license tax.
- ~~(4)(2)~~ The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).
- ~~(5)(3)~~ License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.
- ~~(6)(4)~~ Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.
- ~~(7)(5)~~ The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:
- (a) The purchase of rights of way for highways, expressways, and the widening of existing streets;
  - (b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;
  - (c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;
  - (d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;
  - (e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;

- (f) The purchase and installation of traffic control devices and fire alarm equipment;
  - (g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;
  - (h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and
  - (i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.
- (8)~~(6)~~ Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.
- (9)~~(7)~~ Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 21. KRS 68.190 is amended to read as follows:

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ~~subsections~~~~[subsection]~~ (1) **and 2** of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ~~subsections~~~~[subsection]~~ (1) **and 2** of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the property valuation administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

Section 22. KRS 68.199 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 68.197(7)~~(4)~~, a county that enacts an occupational license fee under the authority of KRS 67.083 prior to attaining a population of thirty thousand (30,000) shall not be required to allow a credit against the county occupational license fee for an occupational license fee paid to a city within the county when it is determined that the population of the county exceeds thirty thousand (30,000).
- (2) If prior to July 15, 2002, a county voluntarily granted a credit against the county occupational license fee under the terms of an ordinance, interlocal agreement, or other agreement with a city, the county shall not eliminate the credit after it is determined that the population of the county exceeds thirty thousand (30,000).
- (3) After July 15, 2002, a county that enacts a new county occupational license fee or increases a county occupational license fee, after it is determined that the county population exceeds thirty thousand (30,000), shall be required to allow the credit against the city fee required by KRS 68.197(7)~~(4)~~ to the extent of the increase or new fee.
- (4) For purposes of this section, the county population shall be determined based only on the official decennial census by the United States Bureau of the Census.

SECTION 23. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*Notwithstanding the maximum tax rates in Section 18, 19, and 20 of this Act, a tax district which levies a tax on net profits may levy a tax rate that would generate approximately the same amount of revenues as the prior year plus normal revenue growth experienced by the tax district over the prior five (5) years. A tax district may invoke the provisions of this section only once.*

SECTION 24. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

*The provisions of Sections 1 to 17 of this Act shall apply on and after January 1, 2006, to all tax districts that levy an occupational license fee or a tax on net profits or gross receipts imposed under Sections 18, 19, and 20 of this Act and KRS 67.083 and 92.281, or any other statutory provision. However, a tax district may apply the provisions of Sections 1 to 17 of this Act to the levy of an occupational license fee or a tax on net profits or gross receipts imposed under Sections 18, 19, and 20 of this Act and KRS 67.083 and 92.281 or any other statutory provision by adoption of an ordinance prior to January 1, 2006.*

**Approved March 18, 2003**