

**CHAPTER 169****(HB 562)**

AN ACT relating to the taxation of watercraft.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 6 of this Act:*

- (1) *"Corporation" means any corporation, company, association, partnership, limited liability company, limited liability partnership, other business association, or person operating any watercraft for commercial purposes in the Commonwealth;*
- (2) *"Watercraft" means any boat, tow boat, push boat, barge, or similar vessel. Watercraft shall not include:*
  - (a) *Floating equipment used in construction, including but not limited to dredges, pile drivers, and flats;*
  - (b) *Houseboats;*
  - (c) *Fishing boats;*
  - (d) *Pleasure boats; or*
  - (e) *Commercial dining boats;*
- (3) *"Department" means the Department of Revenue;*
- (4) *"Operating" or "operated" means owned, leased, rented, or used;*
- (5) *"Local taxing district" means a local taxing jurisdiction or district, including a county, city, charter county, school district, consolidated local government, urban-county government, and special taxing district, which has a navigable waterway within its borders;*
- (6) *"Navigable waterway" means and shall include the following:*
  - (a) *All of the Mississippi River within or bordering this state;*
  - (b) *All of the Ohio River within or bordering this state;*
  - (c) *The Kentucky River beginning at Ohio River mile marker 545.8 and ending at Kentucky River mile marker 76;*
  - (d) *The Green River beginning at Ohio River mile marker 784.4 and ending at Green River mile marker 143;*
  - (e) *The Tennessee River beginning at Ohio River mile marker 934.5 and ending at Tennessee River mile marker 62.4;*
  - (f) *The Cumberland River beginning at Ohio River mile marker 920.5 and ending at Cumberland River mile marker 74.7;*
  - (g) *The Big Sandy River beginning at Ohio River mile marker 317.2 and ending at Big Sandy River mile marker 14.2;*
  - (h) *The Licking River beginning at Ohio River mile marker 470.2 and ending at Licking River mile marker 8; and*
  - (i) *Any other waterway in this state utilized by a corporation for the transportation of watercraft during the previous calendar year.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 132.486, the watercraft of any corporation operating within this state, or partly within this state and partly within other states, shall be assessed by the department as of January 1 each year.*
- (2) *The department shall have the sole power to value and assess all of the corporation's watercraft.*

- (3) *The department shall bill and collect all ad valorem taxes on watercraft and shall divide, allocate, and distribute the tax receipts as provided in Section 4 of this Act to each local taxing district within this state.*
- (4) *The value of the corporation's watercraft shall be apportioned to this state by multiplying the assessed value by a fraction, the numerator of which shall include:*
- (a) *Ninety percent (90%) of the length of the corporation's Ohio River route that borders Kentucky;*
  - (b) *Fifty percent (50%) of the length of the Mississippi River route that borders Kentucky;*
  - (c) *Fifty percent (50%) of the length of the Big Sandy River route that borders Kentucky; and*
  - (d) *One hundred percent (100%) of the length of all other navigable waterways within Kentucky;*
- and the denominator of which shall include the length of all waterway routes traveled in all states by the corporation during the previous calendar year.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*On or before January 1, 2008, and each year thereafter, each corporation operating watercraft within this state during the previous calendar year shall file on forms prescribed by the department, a detailed description of all watercraft it operated as of January 1 of the current year.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall notify the corporation of the assessed value of its watercraft by July 1 of each year. The corporation shall have forty-five (45) days from the date of the department's notice of assessment to protest as provided by KRS 131.110.*
- (2) *No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The corporation shall pay to the department all state and local taxing district taxes due on the undisputed value of its watercraft as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the corporation shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date the tax would have become due if the assessment had not been appealed. The provisions of KRS 134.390 shall apply to the tax bill.*
- (3) *The state and local taxing district taxes on the watercraft are due forty-five (45) days from the date of notice of assessment. The tangible property taxes on watercraft shall be collected in accordance with the provisions of KRS 134.020.*
- (4) *The state rate of taxation on watercraft shall be forty-five cents (\$.45) upon each one hundred dollars (\$100) of assessed value of the watercraft.*
- (5) *The department shall annually calculate an aggregate local rate, which shall be imposed upon each one hundred dollars (\$100) of assessed value of the watercraft.*
- (a) *The aggregate local rate shall be the sum of each local personal property tax rate for each local taxing district multiplied by a fraction, the numerator of which shall be the length of the navigable waterways in the local taxing district and the denominator of which shall be the total of the length of all navigable waterways in this state. Both the numerator and the denominator shall be adjusted, if necessary, by paragraph (b) of this subsection.*
  - (b) *For purposes of computing the local property tax rate in paragraph (a) of this section, the length of the navigable waterways of the Green River shall be reduced by fifty percent (50%) and the length of the navigable waterways of the Kentucky River shall be reduced by seventy-five percent (75%).*
- (6) *The watercraft taxes collected for local taxing districts by the department shall be distributed to each local taxing district based upon the local taxing district's fractional portion of the amount calculated in subsection (5) of this section.*
- (7) *Prior to distribution of taxes to local taxing districts, the department shall retain an administrative fee of one percent (1%) of the amount due each district. The fee imposed by this subsection shall have no effect upon the discount provided to taxpayers pursuant to KRS 134.020(2).*

SECTION 5. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "base collections" means actual collections received from property taxes assessed on watercraft for the 2007 calendar year. It shall not include collections for assessments for any other year.*
- (2) *The department shall determine for each local taxing district the amount of base collections.*
- (3) *If a local taxing district's base collections are greater than the taxes distributed to it under Section 4 of this Act for any year from 2008 to 2017, that local taxing district shall receive a distribution from the general fund equal to the difference.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

*The taxes levied by Sections 1 to 6 of this Act are taxes on the watercraft only. The taxes levied by Sections 1 to 6 of this Act shall be in addition to any other taxes levied by state or local jurisdictions on any corporation.*

Section 7. KRS 136.120 is amended to read as follows:

- (1) (a) The following public service companies shall pay a tax on their operating property to the state, and to the extent the operating property is subject to local taxation, shall pay a local tax to the county, incorporated city, and taxing district where its operating property is located:
  1. Railway companies;
  2. Sleeping car companies;
  3. Chair car companies;
  4. Dining car companies;
  5. Gas companies;
  6. Water companies;
  7. ~~Ferry companies;~~
  8. ~~Bridge companies;~~
  8. ~~9.~~ ~~Street railway companies;~~
  9. ~~10.~~ ~~Interurban electric railroad companies;~~
  10. ~~11.~~ ~~Express companies;~~
  11. ~~12.~~ ~~Electric light companies;~~
  12. ~~13.~~ ~~Electric power companies;~~
  13. ~~14.~~ ~~Commercial air carriers;~~
  14. ~~15.~~ ~~Air freight carriers;~~
  15. ~~16.~~ ~~Pipeline companies;~~
  16. ~~17.~~ ~~Common carrier water transportation companies;~~
  18. ~~19.~~ ~~Privately owned regulated sewer companies;~~
  17. ~~19.~~ ~~Municipal solid waste disposal facilities, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling;~~
  18. ~~20.~~ ~~Railroad car line companies, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car; and~~
  19. ~~21.~~ ~~Every other like company or business performing any public service.~~
- (b) The following companies shall not be subject to the provisions of paragraph (a) of this subsection:
  1. Bus line companies;
  2. Regular and irregular route common carrier trucking companies;

3. Taxicab companies;
  4. Providers of communications service as defined in KRS 136.602; and
  5. Providers of multichannel video programming services as defined in KRS 136.602.
- (2) (a) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property.
- (b) Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services.
- (c) Operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.
- (3) (a) The Department of Revenue shall:
1. Have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has previously been assessed by the department;
  2. Allocate the assessment as provided by KRS 136.170; and
  3. Certify operating property subject to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180.
- (b) All of the property assessed by the department pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien on the property shall attach as of the assessment date.
- (c) In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the department shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the department under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 8. The following KRS sections are repealed:

- 136.181 Watercraft assessment, taxation -- Allocation -- Value determination.
- 136.182 Nonresident owner or operator of watercraft to furnish description of property and of route or system traversed.
- 136.183 When taxes on watercraft are due and payable -- Collection.
- 136.184 Protest against tentative assessment of watercraft.
- 136.187 Exemption of persons or entities covered by KRS 136.120.

Section 9. The provisions of this Act take effect January 1, 2008.

**Approved April 5, 2006.**