

CHAPTER 151**(HB 354)**

AN ACT relating to taxation and declaring an emergency.

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

➔Section 1. KRS 61.878 is amended to read as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
 - (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
 - (c)
 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
 2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
 - a. In conjunction with an application for or the administration of a loan or grant;
 - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;
 - c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
 - d. For the grant or review of a license to do business.
 3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
 - (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
 - (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
 - (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;
 - (g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;
 - (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure

of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

- (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
- (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
- (k) All public records or information the disclosure of which is prohibited by federal law or regulation;
- (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, ***including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under Section 5 of this Act;***
- (m)
 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
 - a. Criticality lists resulting from consequence assessments;
 - b. Vulnerability assessments;
 - c. Antiterrorism protective measures and plans;
 - d. Counterterrorism measures and plans;
 - e. Security and response needs assessments;
 - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
 - g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
 - h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.
 2. As used in this paragraph, "terrorist act" means a criminal act intended to:
 - a. Intimidate or coerce a public agency or all or part of the civilian population;
 - b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
 - c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.
 3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.
5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;
 - (n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;
 - (o) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:
 1. A contract is awarded; or
 2. The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; and
 - (p) Communications of a purely personal nature unrelated to any governmental function.
- (2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.
- (3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.
- (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
- (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

➔Section 2. KRS 96.895 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Book value" means original cost unadjusted for depreciation as reflected in the TVA's books of account;
 - ~~(b)~~ ~~"Department" means the Department for Local Government;~~
 - ~~(c)~~ "Fund" means the regional development agency assistance fund established in subsection (4) of this section;
 - ~~(d)~~ ~~(c)~~ "Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren, Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland, Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe, Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren, Wayne, Webster, or Whitley Counties;
 - ~~(d)~~ ~~(e)~~ "Regional development agency" or "agency" means a local industrial development authority established under KRS 154.50-301 to 154.50-346 that is designated by a fiscal court to receive a payment pursuant to this section;
 - ~~(e)~~ ~~(f)~~ "TVA" means the Tennessee Valley Authority; and

- (f)(g) "TVA property" means land owned by the United States and in the custody of the TVA, together with improvements that have a fixed situs on the land, including work in progress but excluding temporary construction facilities, if these improvements either:
1. Were in existence when title to the land on which they are situated was acquired by the United States; or
 2. Are allocated by the TVA or determined by it to be allocable to power. However, manufacturing machinery as interpreted by the Department *of Revenue* for franchise tax determination; ash disposal systems; and coal handling facilities, including railroads, cranes and hoists, and crushing and conveying equipment, shall be excluded.
- (2) Book value shall be determined, for purposes of applying this section, as of the June 30 used by the TVA in computing the annual payment to the Commonwealth that is subject to redistribution by the Commonwealth.
- (3) Except for payments made directly by the TVA to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the TVA, as authorized by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsections (6) and (7) of this section.
- (4) (a) The regional development agency assistance fund is hereby established in the State Treasury.
- (b) The fund shall be administered by the Department *for Local Government* for the purpose of providing funding to agencies that are designated to receive funding in a given fiscal year by the fiscal court of each fund-eligible county through the Regional Development Agency Assistance Program established in KRS 96.905.
- (c) The fund shall only receive the moneys transferred from the general fund pursuant to subsection (5) of this section.
- (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (5) For fiscal years beginning on or after July 1, 2018, a portion of the total fiscal year payment received by the Commonwealth that is allocated to the general fund shall be transferred from the general fund to the regional development agency assistance fund established in subsection (4) of this section. This portion shall be equal to:
- (a) In fiscal year 2018-2019, two million dollars (\$2,000,000);
 - (b) In fiscal year 2019-2020, four million dollars (\$4,000,000); and
 - (c) In each fiscal year, beginning with the 2020-2021 fiscal year, six million dollars (\$6,000,000).
- (6) The payment to each county, city, and school district shall be determined by the proportion that the book value of TVA property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of TVA property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates. However, for purposes of this calculation, each public school district shall have its tax rate increased by thirty cents (\$0.30).
- (7) As soon as practicable after the amount of payment to be made to the Commonwealth is finally determined by the TVA, the Department *of Revenue* shall determine the book value of TVA property in each county, city, and school district and shall prorate the payments allocated to counties, cities, and school districts under subsection (3) of this section among the distributees as provided in subsection (6) of this section. The Department *of Revenue* shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.
- (8) In each fiscal year, after the Department *of Revenue* has calculated the prorated payment amount that is due to each county pursuant to subsection (7) of this section, the Department *for Local Government* shall then make a written request to the fiscal court of each fund-eligible county for the name and address of the agency the fiscal court designates to receive a payment from the fund pursuant to subsection (5) of this section.
- (9) Within sixty (60) days of the date of the *Department for Local Government's* ~~department's~~ request, each fiscal court shall designate in writing one (1) agency that shall receive a share of the total amount of funds transferred to the fund in that fiscal year pursuant to subsection (5) of this section. Each agency's share shall be

calculated as the total amount of funds transferred to the fund in that fiscal year divided by the total number of agencies designated to receive funds by fiscal courts of fund-eligible counties. Once the amount is determined by the Department *for Local Government*, the payment shall be paid by the Finance and Administration Cabinet directly to the designated agency. No amount shall be taken from the fund to pay administrative expenses by the Department *for Local Government*.

- (10) If a fiscal court does not respond to the Department *for Local Government* within sixty (60) days of the date of the *Department for Local Government's*~~department's~~ request, the payment otherwise due to an agency designated by that fiscal court shall be reallocated equally among the agencies that have been designated to receive payments by the other fiscal courts.
- (11) All agencies receiving funds under this section shall provide a written report annually, no later than October 1, to the fiscal court that designated it for payment and to the Interim Joint Committee on Appropriations and Revenue. The report shall describe how the funds were expended and the results of the use of funds in terms of economic development and job creation.
- (12) This section shall be applicable to all payments received after April 10, 2018, from the TVA under Section 13 of the Tennessee Valley Authority Act as amended.

➔Section 3. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the Department of Revenue, the sheriff or the county clerk, the commissioner shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the department that failure to file or pay timely is due to reasonable cause. *For purposes of this section, any addition to tax provided in Sections 42 and 52 of this Act shall be considered as penalty.*

➔Section 4. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

- (1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).
- (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined *under Section 42 or 52 of this Act*~~pursuant to subsections (2) and (3) of KRS 141.990~~, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).
- ~~(3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty five dollars (\$25).~~
- ~~(4)~~ If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

- ~~(4)(5)~~ If any taxpayer fails or refuses to pay within sixty (60) days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- ~~(5)(6)~~ Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).
- ~~(6)(7)~~ If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.
- ~~(7)(8)~~ If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.
- ~~(8)(9)~~ If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.
- ~~(9)(10)~~ Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).
- ~~(10)(11)~~ The penalties levied pursuant to subsection ~~(4)(5)~~ of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Claims Commission or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.
- ~~(11)(12)~~ Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.
- ~~(12)(13)~~ All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 5. KRS 131.190 is amended to read as follows:

- (1) (a) No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge:
1. Any information acquired by him of the affairs of any person;~~[-or-]~~
 2. **Any** information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer;~~[-or-]~~
 3. Any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business;
 4. ***Unappealed final rulings issued by the department;***
 5. ***Requests for guidance under KRS 131.130(8);***
 6. ***Private letter rulings; or***
 7. ***Alternative apportionment requests under KRS 141.120(12)(a) and any response thereto.***

- (b) *Documents, data, and information subject to the prohibition established by this subsection shall not be subject to the Open Records Act, KRS 61.870 to 61.884, the Kentucky Rules of Civil Procedure, or any other order issued by an administrative hearing officer or administrative board or commission.*
- (2) The prohibition established by subsection (1) of this section shall not extend to:
- (a) Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
 - (b) Any matter properly entered upon any assessment record, or in any way made a matter of public record;
 - (c) Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
 - (d) Testimony provided by the commissioner or any employee of the department in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
 - (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
 - (f) Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this paragraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10);
 - (g) Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;
 - (h) Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;
 - (i) Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis;~~and~~
 - (j) *Providing documents, data, or other information to a third party pursuant to an order issued by a court of competent jurisdiction; or*
 - (k) Providing information to the Legislative Research Commission under:
 1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;
 2. KRS 141.436 for purposes of the energy efficiency products credits;
 3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;
 4. KRS 148.544 for purposes of the film industry incentives;
 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;
 6. KRS 141.068 for purposes of the Kentucky investment fund;
 7. KRS 141.396 for purposes of the angel investor tax credit;
 8. KRS 141.389 for purposes of the distilled spirits credit;~~and~~
 9. KRS 141.408 for purposes of the inventory credit; *and*
 10. *Section 53 of this Act for purposes of the recycling and composting credit.*

- (3) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.
- (4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, or any other person.
- (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
- (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

➔Section 6. KRS 131.250 is amended to read as follows:

- (1) For the purpose of facilitating the administration of the taxes it administers, the department may require any tax return, report, or statement to be electronically filed.
- (2) The following reports, returns, or statements shall be electronically filed:
 - (a) The return required by KRS 136.620;
 - (b) For tax periods beginning on or after January 1, 2007, the report required by KRS 138.240;
 - (c) For tax periods beginning on or after August 1, 2010, the report required by KRS 138.260;
 - (d) For taxable years beginning on or after January 1, 2010, the return filed by a specified tax return preparer reporting the annual tax imposed by KRS 141.020, if the specified tax return preparer is required to electronically file the return for federal income tax purposes;
 - (e) The annual withholding statement required by KRS 141.335, if the employer issues more than twenty-five (25) statements annually;
 - (f) For tax periods beginning on or after July 1, 2005, the return required by KRS 160.615; and
 - (g)
 1. For taxable years beginning on or after January 1, 2019, the returns required by **subsection (3) of Section 47 of this Act or** KRS~~[141.200(3) or]~~ 141.206(1), provided that the corporation or pass-through entity has gross receipts of one million dollars (\$1,000,000) or more.
 2. "Gross receipts" as used in this paragraph means gross receipts reported by the corporation or pass-through entity on their federal income tax return filed for the same taxable year as the return due under KRS Chapter 141.
- (3)
 - (a) A person required to electronically file a return, report, or statement may apply for a waiver from the requirement by submitting the request on a form prescribed by the department.
 - (b) The request shall indicate the lack of one (1) or more of the following:
 1. Compatible computer hardware;
 2. Internet access; or
 3. Other technological capabilities determined relevant by the department.

➔Section 7. KRS 131.990 is amended to read as follows:

- (1) (a) **1.** Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- ~~2.(b)~~ Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- ~~3.(c)~~ Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- ~~4.(d)~~ Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- ~~5.(e)~~ Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
- (b) ***This subsection does not apply to any person who divulges or otherwise discloses documents, data, or other information prohibited from divulgence or disclosure pursuant to an order by a court of competent jurisdiction.***
- (2) Any person who willfully fails to comply with the rules and regulations promulgated by the department for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- (3) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.
- (5) (a) Any person or financial institution that fails to comply with the provisions of KRS 131.672 and 131.674 within ninety (90) days after notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.
- (b) Any financial institution that fails or refuses to comply with the provisions of KRS 131.672 and 131.674 within one hundred twenty (120) days after the notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the department, the commissioner of the Department of Financial Institutions shall, as applicable, revoke the authority of the financial institution or its agents to do business in the Commonwealth.
- (6) Any taxpayer or tax return preparer who fails or refuses to comply with the provisions of KRS 131.250 or an administrative regulation promulgated under KRS 131.250 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each return not filed as required.

➔Section 8. KRS 132.010 is amended to read as follows:

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

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;

- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his *or her* actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;
- (7) "Net assessment growth" means the difference between:
- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
 - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
 - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
 - (c) The value of improvements to existing nonresidential property;
 - (d) The value of new residential improvements to property;
 - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
 - (f) Property created by the subdivision of unimproved property, provided, that when ~~the~~^{such} property is reclassified from farm to subdivision by the property valuation administrator, the value of ~~the~~^{such} property as a farm shall be a deletion from that category;
 - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
 - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that ~~the~~^{such} property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
 - (i) The value of improvements to real property previously under assessment moratorium.
- "Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;
- (9) "Agricultural land" means:
- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

- (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
 - (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
- (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;
- (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:
- (a) Relative percentages of tillable land, pasture land, and woodland;
 - (b) Degree of productivity of the soil;
 - (c) Risk of flooding;
 - (d) Improvements to and on the land that relate to the production of income;
 - (e) Row crop capability including allotted crops other than tobacco;
 - (f) Accessibility to all-weather roads and markets; and
 - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;
- (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;
- (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;
- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
- (16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.
- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of ~~a [such]~~ size or weight **that does**~~[as] not [to]~~ require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
 - (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

- (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.
 - (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- (20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;
- (21) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:
- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
 - (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
 - (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
 - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
 - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
 - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:
 - 1. Direct or indirect familial relationship;
 - 2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 - 3. Reorganization of a business entity that was potentially liable;
- (22) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;
- (23) (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and
- (c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (24) "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;
- (25) "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;
- (26) (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.

- (b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee; ~~and~~
- (27) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (28) *"Heavy equipment rental agreement" means the short-term rental contract under which qualified heavy equipment is rented without an operator for a period:*
- (a) *Not to exceed three hundred sixty-five (365) days; or*
- (b) *That is open-ended under the terms of the contract with no specified end date;*
- (29) *"Heavy equipment rental company" means an entity that is primarily engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System Manual in effect on January 1, 2019; and*
- (30) *"Qualified heavy equipment" means machinery and equipment, including ancillary equipment and any attachments used in conjunction with the machinery and equipment, that is:*
- (a) *Primarily used and designed for construction, mining, forestry, or industrial purposes, including but not limited to cranes, earthmoving equipment, well-drilling machinery and equipment, lifts, material handling equipment, pumps, generators, and pollution-reducing equipment; and*
- (b) *Held in a heavy equipment rental company's inventory for:*
1. *Rental under a heavy equipment rental agreement; or*
 2. *Sale in the regular course of business.*

➔Section 9. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
- (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
- (b) *Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of all motor vehicles qualifying for permanent registration as historic motor vehicles under KRS 186.043;*
- (c) *Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:*
1. *Machinery actually engaged in manufacturing;*
 2. *Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers; and*
 3. *Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;*
- (d) *Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the operating property of railroads or railway companies that operate solely within the Commonwealth;*
- (e) *Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:*
1. *Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;*
 2. *Motor vehicles:*

- a. *Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to KRS 186A.230; or*
 - b. *That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;*
 - 3. *Raw materials, which includes distilled spirits and distilled spirits inventory;*
 - 4. *In-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business; and*
 - 5. *Qualified heavy equipment;*
- (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all:
- 1. Privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - 2. ~~[(c)]~~ ~~One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all~~ Qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;
 - 3. ~~[(d)]~~ ~~One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all~~ Tobacco directed to be assessed for taxation;
 - 4. ~~[(e)]~~ ~~One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of~~ Unmanufactured agricultural products;
 - 5. *Aircraft not used in the business of transporting persons or property for compensation or hire; and*
 - 6. *Federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes;*
- (g) ~~[(f)]~~ One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all:
- 1. Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
 - 2. ~~[(g)]~~ ~~One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all~~ Livestock and domestic fowl;
 - 3. ~~[(h)]~~ ~~One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all~~ Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board; *and*
 - 4. ~~[(i)]~~ ~~Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;~~
 - (j) ~~Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers;~~

- ~~(k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;~~
- ~~(l) One tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all }Property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;{~~
- ~~(m) Twenty five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;~~
- ~~(n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:~~
- ~~1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;~~
 - ~~2. Motor vehicles:

 - ~~a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230; or~~
 - ~~b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;~~~~
 - ~~3. Raw materials, which includes distilled spirits and distilled spirits inventory; and~~
 - ~~4. In process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;~~
- ~~(o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;~~
- ~~(p) One and one half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;~~
- ~~(q) One and one half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes;}~~ and
- ~~(h){(r)}~~ Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)~~(f){(b)}~~ of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

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

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

➔Section 10. KRS 132.220 is amended to read as follows:

- (1) (a) All taxable property and all interests in taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year.
- (b) 1. It shall be the duty of the holder of the first freehold estate in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law.
2. a. It shall be the duty of all persons owning any tangible personal property taxable in this state to list or have listed the property, *by the address at which it is located*, with the property valuation administrator of the county of taxable situs or with the department between January 1 and May 15 in each year, except as *provided by subdivision b. of this subparagraph or* otherwise prescribed by law.
- b. *On January 1 of each year, for each address, if the sum of all of the taxable tangible personal property's fair cash values is one thousand dollars (\$1,000) or less, the taxpayer shall not be required to list the property in accordance with subdivision a. of this subparagraph.*
- c. *On January 1 of each year, for each address, if the sum of all of the taxable tangible personal property's fair cash values exceeds one thousand dollars (\$1,000) and the property is not listed as required by subdivision a. of this subparagraph, the property shall be deemed omitted property in accordance with KRS 132.290.*
- d. *For any taxable tangible personal property that is not listed due to the one thousand dollar (\$1,000) threshold established in subdivision b. of this subparagraph, the owner of the property shall maintain records of the property and its fair cash value calculation for five (5) years after the expiration of the listing period.*
3. The holder of legal title, the holder of equitable title, and the claimant or bailee in possession of the property on the assessment date as provided by law shall be liable for the taxes thereon, and

the property may be assessed in any of their names. But, as between them, the holder of the equitable title shall pay the taxes thereon, whether or not the property is in his or her possession at the time of payment.

4. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.
- (2) Any taxpayer may list his or her property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the department, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.
- (3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his or her employee, or employees of the department may physically inspect, or inspect using any other method approved by the department, and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.
- (4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.
- (5)
 - (a) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.546, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated.
 - (b) The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884.
 - (c) If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290.
 - (d) Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.
- (6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the department within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the department. The department shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.
- (7) Each property valuation administrator, under the direction of the department, shall review annually all real property listed with him or her under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

➔Section 11. KRS 132.360 is amended to read as follows:

- (1) Any assessment of tangible personal property listed with the property valuation administrator or with the department~~[of Revenue]~~ as provided by KRS 132.220 may be reopened by the department~~[of Revenue]~~ within five (5) years after the due date of the return, unless the assessed value has been established by a court of competent jurisdiction. If upon reopening the assessment the department finds that the assessment was less than the fair cash value and should be increased, it shall *provide*~~[give]~~ notice~~[thereof]~~ to the taxpayer. ***If the taxpayer disagrees with the increase in the assessment, the taxpayer may protest the notice in accordance with KRS 131.110,***~~[, who may within forty five (45) days thereafter protest to the department and offer evidence to show that no increase should be made. After the department has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 49.220 and 131.110].~~
- (2) Upon ~~the~~~~[such]~~ assessment becoming final, the department shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

➔Section 12. KRS 134.580 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Agency" means the agency of state government which administers the tax to be refunded or credited; and
 - (b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.
- (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 49.220 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Claims Commission or courts may direct.
- (3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 49.220 and 131.110.
- (4) ***Notwithstanding any provision of this section, when an assessment of limited liability entity tax is made under Section 41 of this Act against a pass-through entity as defined in Section 49 of this Act, the corporation or individual partners, members, or shareholders of the pass-through entity shall have one hundred eighty (180) days from the date of assessment to file returns to allow for items of income, deduction, and credit to be properly reported on the returns of the partners, members, or shareholders of the pass-through entity subject to adjustment.***
- (5) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
- ~~(6)~~~~(5)~~ Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.
- ~~(7)~~~~(6)~~ This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

- ~~(8)(7)~~ In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.
- ~~(9)(8)~~ No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.
- ~~(10)(9)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
- (a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose;
 - (b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn; and
 - (c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.
- ~~(11)(10)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
- (a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return; and
 - (b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

➔Section 13. KRS 134.810 is amended to read as follows:

- (1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.
- (2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.
- (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
- (4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.
- (5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county,

city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

- (6) For purposes of the state ad valorem tax only, all motor vehicles:
- (a) Held for sale by a licensed motor vehicle dealer, including licensed motor vehicle auction dealers;
 - (b) That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer; and
 - (c) With a salvage title held by an insurance company;
- on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(1)(e)~~(a)~~ and 132.220.
- (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.
- (8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.
- (9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

➔SECTION 14. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning January 1, 2022, the bank franchise tax shall no longer apply to financial institutions.*
- (2) *Beginning January 1, 2021, all financial institutions shall be subject to the corporation income tax under Section 40 of this Act and the limited liability entity tax under Section 41 of this Act.*
- (3) *For the one (1) year during the transition from the bank franchise tax to the corporation income and limited liability entity taxes, there shall be allowed a refundable tax credit for income tax purposes under Section 40 of this Act equal to the amount of bank franchise tax paid for that one (1) year.*

➔Section 15. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

- (1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;
- (2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;
- (3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;
- (4) "Department" means the Department of Revenue;
- (5) "Commercial domicile" means:
 - (a) The location from which the trade or business is principally managed and directed; or
 - (b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized

under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

- (6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;
- (7) "Credit card" means credit, travel, or entertainment card;
- (8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;
- (9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;
- (10) "Financial institution" means:
 - (a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;
 - (b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;
 - (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or
 - (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;
- (11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.
 - (a) "Gross rents" includes but is not limited to:
 1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;
 2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and
 3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;
 - (b) The following are not included in the term "gross rents":
 1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;
 2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not under the control of the financial institution; and
 4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;
- (12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;
- (13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;
- (14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;
- (15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;
- (16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;
- (17) "Principal base of operations" means:
- (a) With respect to transportation property, the place from which the property is regularly directed or controlled; and
 - (b) With respect to an employee:
 1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or
 2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or
 3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;
- (18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;
- (19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;
- (20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;
- (21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;
- (22) (a) "Taxable year" means calendar year 1996 *through* calendar year 2021. ~~and every calendar year thereafter;~~
- (b) *"Taxable year" does not include any calendar year after 2021;*

- (23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;
- (24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and
- (25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

➔Section 16. KRS 136.505 is amended to read as follows:

- (1) Every financial institution regularly engaged in business in this Commonwealth at any time during the taxable year as determined under KRS 136.520 shall pay an annual state franchise tax for each taxable year or portion of a taxable year to be measured by its net capital as determined in KRS 136.515 and, for financial institutions with business activity that is taxable both within and without this Commonwealth, apportioned under KRS 136.525.
- (2) The tax shall be in lieu of all city, county, and local taxes, except the real estate transfer tax levied in KRS Chapter 142, real property and tangible personal property taxes levied in KRS Chapter 132, taxes upon users of utility services, and the local franchise tax levied in KRS 136.575, *except that beginning in calendar year 2021 all financial institutions shall be subject to the corporation income tax under Section 40 of this Act and the limited liability entity tax under Section 41 of this Act.*

~~{(3) Every financial institution regularly engaged in business in this Commonwealth shall be subject to all state taxes in effect on July 15, 1996, except for the corporation income tax levied in KRS Chapter 141, the limited liability entity tax levied in KRS 141.0401, and the corporation license tax levied in this chapter.}~~

➔Section 17. KRS 136.602 is amended to read as follows:

As used in KRS 136.600 to 136.660:

- (1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;
- (2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.
- (a) "Communications service" includes but is not limited to:
1. Local and long-distance telephone services;
 2. Telegraph and teletypewriter services;
 3. Prepaid calling services, and postpaid calling services;
 4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;
 5. Channel services involving a path of communications between two (2) or more points;
 6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;
 7. Caller ID services, ring tones, voice mail and other electronic messaging services;
 8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and
 9. Voice over Internet Protocol (VOIP);

- (b) "Communications services" does not include information services or multichannel video programming service;
- (3) "Department" means the Department of Revenue;
- (4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;
- (5) "Engaged in business" means:
 - (a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the provider;
 - (b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;
 - (c) Having real or tangible personal property in this state;
 - (d) Providing communications service by or through a customer's facilities located in this state;
 - (e) Soliciting orders from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or
 - (f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;
- (6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:
 - (a) Charges for Internet access as defined in 47 U.S.C. sec. 151; and
 - (b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;
- (7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;
- (8) "Multichannel video programming service" means *live, scheduled, or on-demand* programming provided by or generally considered comparable to *or in competition with* programming provided by a television broadcast station and shall include but not be limited to:
 - (a) Cable service;
 - (b) Satellite broadcast and wireless cable service;~~and~~
 - (c) Internet protocol television provided through wireline facilities without regard to delivery technology;
and
 - (d) *Video streaming services;*
- (9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- (10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;

- (11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;
- (12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;
- (13) "Purchaser" means the person paying for multichannel video programming service;
- (14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:
- (a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and
 - (b) Charges for use of facilities for providing or receiving multichannel video programming services;
- (15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;
- (16) "Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication;
- (17) "Sale" means the furnishing of a multichannel video programming service for consideration;
- (18) (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:
- 1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or
 - 2. Any charge for detail billing;
- (b) "Sales price" does not include any of the following:
- 1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;
 - 2. Charges for the sale or rental of tangible personal property;
 - 3. Charges for billing and collection services provided to another multichannel video programming service provider;
 - 4. Bad check charges;
 - 5. Late payment charges;
 - 6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or
 - 7. Internet access as defined in 47 U.S.C. sec. 151;
- (19) "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include but are not limited to direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;
- (20) "School district" means a school district as defined in KRS 160.010 and 160.020; ~~and~~
- (21) "Special district" means a special district as defined in KRS 65.005(2)(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120; **and**
- (22) ***"Video streaming services" means programming that streams live events, movies, syndicated and television programming, or other audio-visual content over the Internet for viewing on a television or other electronic device with or without regard to a particular viewing schedule.***

➔Section 18. KRS 136.990 is amended to read as follows:

- (1) Any corporation that fails to pay its taxes, penalty, and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars (\$50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.
- (2) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars (\$1,000), and fifty dollars (\$50) for each day the reports are not made after April 30 of each year.
- (3) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each offense.
- (4) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars (\$1,000) for each offense.
- (5) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars (\$100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.
- (6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.
- (7) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (4) to (6) of this section.
- (9) Any person who violates any of the provisions of KRS 136.073 ~~or KRS 136.090~~ shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- (10) If the tax imposed by ~~KRS 136.070 or~~ KRS 136.073, whether assessed by the department or the taxpayer, or any installment or portion of the tax, is not paid on or before the date prescribed for its payment, interest shall be collected upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department.
- (11) Any provider who violates the provisions of KRS 136.616(3) shall be subject to a penalty of twenty-five dollars (\$25) per purchaser offense, not to exceed ten thousand dollars (\$10,000) per month.

➔Section 19. KRS 139.010 is amended to read as follows:

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

- (1) (a) "Admissions" means the fees paid for:
 - 1.~~(a)~~ The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and
 - 2.~~(b)~~ The privilege of using facilities or participating in an event or activity, including but not limited to:
 - a.~~1~~ Bowling centers;
 - b.~~2~~ Skating rinks;
 - c.~~3~~ Health spas;
 - d.~~4~~ Swimming pools;
 - e.~~5~~ Tennis courts;
 - f.~~6~~ Weight training facilities;
 - g.~~7~~ Fitness and recreational sports centers; and
 - h.~~8~~ Golf courses, both public and private;

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

(b) "Admissions" does not include:

1. ***Any fee paid to enter or participate in a fishing tournament; or***
 2. ***Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;***
- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;
- (3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Department" means the Department of Revenue;
- (6) (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.
- (b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.
- (c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;
- (7) (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.
- (b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.
- (c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;
- (8) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.
- (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
- (b) "Digital code" shall not include a code that represents:
1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
 2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- (10) (a) "Digital property" means any of the following which is transferred electronically:
1. Digital audio works;
 2. Digital books;
 3. Finished artwork;
 4. Digital photographs;
 5. Periodicals;
 6. Newspapers;
 7. Magazines;

8. Video greeting cards;
 9. Audio greeting cards;
 10. Video games;
 11. Electronic games; or
 12. Any digital code related to this property.
- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- (11) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;
- (12) "Directly used in the manufacturing or industrial processing process" means the process within a plant facility that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;
- (13) (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property or digital property according to the terms of the contract if:
- 1.~~{(a)}~~ The service contract agreement is sold or purchased on or after July 1, 2018; and
 - 2.~~{(b)}~~ The tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460.
- (b) ***"Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in Section 17 of this Act or broadband as defined in KRS 278.5461;***
- (14) (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
1. Assemblies;
 2. Charts;
 3. Designs;
 4. Drawings;
 5. Graphs;
 6. Illustrative materials;
 7. Lettering;
 8. Mechanicals;
 9. Paintings; and
 10. Paste-ups;
- (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:
1. The retailer's cost of the tangible personal property,~~or~~ digital property, ***or services*** sold;

2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
 3. Charges by the retailer for any services necessary to complete the sale;
 4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
 5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
 6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.
- (b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:
1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
 2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
 3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
 4. One (1) of the following criteria is met:
 - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
 - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
 - c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.
- (c) "Gross receipts" and "sales price" shall not include:
1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
 2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
 3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- (16) "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- (17) "Industrial processing" includes:
- (a) Refining;
 - (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
 - (c) Mining, quarrying, fabricating, and industrial assembling;

- (d) The processing and packaging of raw materials, in-process materials, and finished products; and
 - (e) The processing and packaging of farm and dairy products for sale;
- (18) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:
- 1. Purchase the property; or
 - 2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).
- (b) "Lease or rental" shall not include:
- 1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - 2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
 - 3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- (19) (a) "Machinery for new and expanded industry" means machinery:
- 1. Directly used in the manufacturing or industrial processing process;
 - 2. Which is incorporated for the first time into a plant facility established in this state; and
 - 3. Which does not replace machinery in the plant facility unless that machinery purchased to replace existing machinery:
 - a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
 - b. Performs different functions;
 - c. Is used to manufacture a different product; or
 - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.
- (b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;
- (20) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;
- (21) "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell ***tangible personal property, digital property, or services***, or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;
- (22) (a) "Marketplace ~~provider~~^{facilitator}" means a person, ***including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:***
- 1. ***The person directly or indirectly:***

- a. *Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;*
 - b. *Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;*
 - c. *Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;*
 - d. *Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;*
 - e. *Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;*
 - f. *Provides or offers fulfillment or storage services for a marketplace retailer;*
 - g. *Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;*
 - h. *Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or*
 - i. *Brands or otherwise identifies sales as those of the marketplace provider; and*
2. *The person directly or indirectly:*
- a. *Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;*
 - b. *Provides payment processing services for a retail sale of tangible personal property, digital property, or services;*
 - c. *Charges, collects, or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property, digital property, or services on a marketplace, or receives other consideration from the facilitation of a retail sale of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services that are the subject of the retail sale;*
 - d. *Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or*
 - e. *Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.*
- (b) *"Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store that facilitates the retail sale of tangible personal property or digital property by listing or advertising the tangible personal property for sale at*

- ~~retail and either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser, and transmits the payment to the person selling the property];~~
- (23) "Marketplace retailer" means a ***seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider***~~[person that has an agreement with a marketplace facilitator and makes retail sales of tangible personal property or digital property through a marketplace];~~
- (24) (a) "Occasional sale" includes:
1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
 2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- (25) (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
 2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
 3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- (26) "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- (27) "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- (28) "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;
- (29) (a) "Prewritten computer software" means:
1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;
 2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
 3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.

- (b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.
- (c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;
- (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
1. Tangible personal property;
 2. An extended warranty service;~~[-or]~~
 3. Digital property transferred electronically; *or*
 4. ***Services included in Section 20 of this Act;***
- for a consideration.
- (b) "Purchase" includes:
1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
 2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;
- (31) "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;
- (32) "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;
- (33)~~[-~~ "Referrer" means a person that:
- ~~(a) — Contracts with a retailer or retailer's representative to advertise or list tangible personal property or digital property for sale or lease;~~
 - ~~(b) — Makes referrals by connecting a person to the retailer or the retailer's representative, but not acting as a marketplace facilitator; and~~
 - ~~(c) — Received in the prior calendar year or the current calendar year, in the aggregate, at least ten thousand dollars (\$10,000) in consideration from remote retailers, marketplace retailers, or representatives of remote retailers or marketplace retailers for referrals on retail sales to purchasers in this state;~~
- ~~(34) — (a) "Remote retailer" means a retailer with no physical presence in this state[-~~
- ~~(b) — "Remote retailer" does not include a marketplace facilitator or a referrer];~~
- ~~(34)~~~~[(35)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.
- (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;
- ~~(35)~~~~[(36)]~~ (a) "Retailer" means:
1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services *in a retail sale* included in KRS 139.200;
 2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;

3. Every person making more than two (2) retail sales of tangible personal property,~~[-or]~~ digital property, *or services included in Section 20 of this Act* during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
 4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property,~~[-or]~~ digital property, *or services* sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:
- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
 - b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
 - c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.
2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.
3. For purposes of this paragraph, "qualifying entity" means a resident:
- a. Church;
 - b. School;
 - c. Civic club; or
 - d. Any other nonprofit charitable, religious, or educational organization;
- ~~(36)(37)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;
- ~~(37)(38)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.
- (b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;
- ~~(38)(39)~~ (a) "Sale" means:
1. The furnishing of any services included in KRS 139.200;
 2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
 - a. Tangible personal property; or
 - b. Digital property transferred electronically;
 for a consideration.
- (b) "Sale" includes but is not limited to:
1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(39)~~~~(40)~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;
- ~~(40)~~~~(41)~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property or digital property purchased from a retailer.
- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;
- ~~(41)~~~~(42)~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;
- ~~(42)~~~~(43)~~ "Taxpayer" means any person liable for tax under this chapter;
- ~~(43)~~~~(44)~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and
- ~~(44)~~~~(45)~~ (a) "Use" includes the exercise of:
1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property where the right of access is granted; or
 2. Any right or power to benefit from extended warranty services.
- (b) "Use" does not include the keeping, retaining, or exercising any right or power over tangible personal property or digital property for the purpose of:
1. Selling tangible personal property or digital property in the regular course of business; or
 2. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

➔Section 20. KRS 139.200 is amended to read as follows:

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

- (1) Retail sales of:
 - (a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and
 - (b) Digital property regardless of whether:
 1. The purchaser has the right to permanently use the property;
 2. The purchaser's right to access or retain the property is not permanent; or
 3. The purchaser's right of use is conditioned upon continued payment; and
- (2) The furnishing of the following:
 - (a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in

which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

- (b) Sewer services;
- (c) The sale of admissions, except:
 1. Admissions to racetracks taxed under KRS 138.480;
 2. Admissions to historical sites exempt under KRS 139.482;~~and~~
 3. *Admissions taxed under KRS 229.031;*
 4. *Admissions charged by nonprofit educational, charitable, or religious institutions exempt under Section 28 of this Act; and*
 5. *Admissions charged by nonprofit civic, governmental, or other nonprofit organizations exempt under Section 29 of this Act*~~{A portion of the admissions to county fairs exempt under KRS 139.470};~~
- (d) Prepaid calling service and prepaid wireless calling service;
- (e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;
- (f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:
 1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or
 2. To a seller or reseller of natural gas;
- (g) Landscaping services, including but not limited to:
 1. Lawn care and maintenance services;
 2. Tree trimming, pruning, or removal services;
 3. Landscape design and installation services;
 4. Landscape care and maintenance services; and
 5. Snow plowing or removal services;
- (h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;
- (i) Small animal veterinary services, excluding veterinary services for equine, cattle, *poultry*, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;
- (j) Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;
- (k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;
- (l) Non-coin-operated laundry and dry cleaning services;
- (m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;
- (n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;
- (o) Non-medical diet and weight reducing services;
- (p) Limousine services, if a driver is provided; and
- (q) Extended warranty services.

➔Section 21. KRS 139.260 is amended to read as follows:

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

- (1) Tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:
 - (a) Purchased for resale according to the provisions of KRS 139.270;
 - (b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
 - (c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization;~~{and}~~
- (2) A service *included in paragraphs (a) to (f) in subsection (2) of Section 20 of this Act* unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; *and*
- (3) *A service included in paragraphs (g) to (q) in subsection (2) of Section 20 of this Act unless the person takes from the purchaser a certificate to the effect that the property is:*
 - (a) *Purchased for resale according to Section 22 of this Act;*
 - (b) *Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with Section 22 of this Act; or*
 - (c) *Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.*

➔Section 22. KRS 139.270 is amended to read as follows:

- (1) The resale certificate, certificate of exemption, or Streamlined Sales and Use Tax Agreement Certificate of Exemption relieves the retailer or seller from the burden of proof if the retailer or seller:
 - (a) Within ninety (90) days after the date of sale:
 1. Obtains a fully completed resale certificate, certificate of exemption, or Streamlined Sales and Use Tax Agreement Certificate of Exemption; or
 2. Captures the relevant data elements that correspond to the information that the purchaser would otherwise provide to the retailer or seller on the Streamlined Sales and Use Tax Agreement Certificate of Exemption; and
 - (b) Maintains a file of the certificate obtained or relevant data elements captured in accordance with KRS 139.720.
- (2) The relief from liability provided to the retailer or the seller in this section does not apply to a retailer or seller who:
 - (a) Fraudulently fails to collect the tax;
 - (b) Solicits purchasers to participate in the unlawful claiming of an exemption; or
 - (c) Accepts an exemption certificate when the purchaser claims an entity-based exemption when:
 1. The product sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the retailer or seller; and
 2. The state in which that location resides provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in that state.

For purposes of this paragraph, "entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption available to all individuals shall not be considered an entity-based exemption.

- (3) (a) If the department requests that the seller or retailer substantiate that the sale was a sale for resale or an exempt sale and the retailer or seller has not complied with subsection (1) of this section, the seller or retailer shall be relieved of any liability for the tax on the transaction if the seller or retailer, within one hundred twenty (120) days of the department's request:
1. Obtains a fully completed resale certificate, exemption certificate, or Streamlined Sales and Use Tax Agreement Certificate of Exemption from the purchaser for an exemption that:
 - a. Was available under this chapter on the date the transaction occurred;
 - b. Could be applicable to the item being purchased; and
 - c. Is reasonable for the purchaser's type of business; or
 2. Obtains other information establishing that the transaction was not subject to the tax.
- (b) Notwithstanding paragraph (a) of this subsection, if the department discovers through the audit process that the seller or retailer had knowledge or had reason to know at the time the information was provided that the information relating to the exemption claimed was materially false, or the seller or retailer otherwise knowingly participated in activity intended to purposefully evade the tax that is properly due on the transaction, the seller or retailer shall not be relieved of the tax on the transaction. The department shall bear the burden of proof that the seller or retailer had knowledge or had reason to know at the time the information was provided that the information was materially false.
- (4) Notwithstanding subsections (1) and (3) of this section, the seller or retailer may still offer additional documentation that is acceptable by the department that the transaction is not subject to tax and to relieve the seller or retailer from the tax liability.
- (5) If the department later finds that the retailer or seller complied with subsections (1), (3), and (4) of this section, but that the purchaser used the property *or service* in a manner that would not have qualified for resale status or the purchaser issued a certificate of exemption or a Streamlined Sales and Use Tax Agreement Certificate of Exemption and used the property *or service* in some other manner or for some other purpose, the department shall hold the purchaser liable for the remittance of the tax *originally due* and may apply penalties provided in KRS 139.990.

➔Section 23. KRS 139.280 is amended to read as follows:

- (1) The resale certificate shall:
- (a) Be signed by and bear the name and address of the purchaser;
 - (b) Indicate the number of the permit issued to the purchaser;
 - (c) Indicate the general character of the tangible personal property, ~~or~~ digital property, *or services* sold by the purchaser in the regular course of business.
- (2) The certificate shall be substantially in a form as the department may prescribe.
- (3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

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

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.
- (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:
- (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, digital property, or an extended warranty service. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property, digital property, or an extended warranty service from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
- (e) Any retailer soliciting orders for tangible personal property, digital property, or an extended warranty service from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;
- (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; or
- (g) **1.** Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state, *including retail sales facilitated by a marketplace provider on behalf of the remote retailer*, if:
 - ~~a.~~ The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or
 - ~~b.~~ The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars (\$100,000).
- 2.** *Any remote retailer that meets either threshold provided in subparagraph 1. of this paragraph shall register for a sales and use tax permit and collect the tax imposed by KRS 139.310 from the purchaser by the first day of the calendar month that begins no later than thirty (30) days after either threshold is reached.*

➔Section 25. KRS 139.450 is amended to read as follows:

- (1) It shall be presumed that:
 - (a) Tangible personal property shipped or brought to this state by the purchaser; *or*
 - (b) *Digital property delivered or transferred electronically into this state;*
 was purchased from a retailer for storage, use, or other consumption in this state.
- (2) (a) *A marketplace provider that makes retail sales on its own behalf or facilitates retail sales of tangible personal property, digital property, or services that are delivered or transferred electronically to a purchaser in this state for one (1) or more marketplace retailers that in any sales combination exceeds one hundred thousand dollars (\$100,000) or reaches two hundred (200) or more separate transactions in the immediately preceding calendar year or current calendar year shall be subject to this section.*
- (b) *The marketplace provider shall:*
 - 1.** *Register for a sales and use tax permit number to report and remit the tax due on the marketplace provider's sales;*
 - 2.** *Register for a separate sales and use tax permit number to report and remit the tax due on all of the sales it facilitates for one (1) or more marketplace retailers; and*
 - 3.** *Collect tax imposed under this chapter;*

by the first day of the calendar month that begins no later than thirty (30) days after either threshold in paragraph (a) of this subsection is reached.

- (c) *The marketplace provider shall collect Kentucky tax on the entire sales price or purchase price paid by a purchaser on each retail sale subject to tax under this chapter that is made on its own behalf or that is facilitated by the marketplace provider, regardless of whether the seller would have been required to collect the tax had the retail sale not been facilitated by the marketplace provider.*
- (3) *Nothing in this section shall be construed to relieve the marketplace provider of liability for collecting but failing to remit the taxes imposed under this chapter.*
- (4) (a) *The marketplace provider shall be subject to audit on all sales made on its own behalf and on all sales facilitated by the marketplace provider.*
 - (b) *The marketplace retailer shall be relieved of all liability for the collection and remittance of the sales or use tax on sales facilitated by the marketplace provider.*
- (5) *No class action may be brought against a marketplace provider on behalf of purchasers arising from or in any way related to an overpayment of tax collected by the marketplace provider.* ~~Except as provided in subsection (8) of this section, every retailer that:~~
 - 1. ~~Is making sales of tangible personal property or digital property from a place outside this state for storage, use, or other consumption in this state; and~~
 - 2. ~~Is not required to collect the use tax under KRS 139.340;~~
 - ~~shall notify the purchaser that the purchaser is required to report and pay the Kentucky use tax directly to the department on purchases from that retailer unless the purchases are otherwise exempt under this chapter.~~
 - (b) ~~The required use tax notification shall be readily visible and shall be included on the retailer's Internet Web site, retail catalog, and invoices provided to the purchaser, as provided in subsection (4) of this section.~~
 - (c) ~~A retailer shall not advertise, state, display, or imply on the retailer's Internet Web site or retail catalog that there is no Kentucky tax due on the purchases made from the retailer.~~
- (3) ~~The use tax notification required by subsection (2) of this section shall contain the following language:~~
 - (a) ~~"The retailer is not required to and does not collect Kentucky sales or use tax.";~~
 - (b) ~~"The purchase may be subject to Kentucky use tax unless the purchase is exempt from taxation in Kentucky.";~~
 - (c) ~~"The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means."; and~~
 - (d) ~~"The Commonwealth of Kentucky requires Kentucky purchasers to report all purchases of tangible personal property or digital property that are not taxed by the retailer and pay use tax on those purchases unless exempt under Kentucky law. The tax may be reported and paid on the Kentucky individual income tax return or by filing a consumer use tax return with the Kentucky Department of Revenue. These forms and corresponding instructions may be found on the Kentucky Department of Revenue's Internet Web site.".~~
- (4) ~~Except as provided in subsection (5) of this section, the retailer shall include the exact required use tax notification language provided in subsection (3) of this section on the:~~
 - (a) ~~Internet Web site page necessary to facilitate an online sales transaction;~~
 - (b) ~~Electronic order confirmation or, if an electronic order confirmation is not issued, the required use tax notification shall be included on the purchase order, invoice, bill, receipt, sales slip, order form, or packing statement; and~~
 - (c) ~~Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing statement.~~
- (5) ~~If the retailer provides a prominent reference to a supplemental page in the retailer's catalog or on the retailer's Internet Web site, or provides a prominent electronic linking notice on the retailers' Internet Web site, that states, "See important Kentucky sales and use tax information regarding tax you may owe directly to the Commonwealth of Kentucky," and that supplemental page or electronic link contains the required use tax~~

~~notification language as provided in subsection (3) of this section, the retailer is relieved from the requirements of subsection (4) of this section.~~

- ~~(6) If the retailer is required to provide a similar use tax notification for another state in addition to the use tax notification required by this section, the retailer may provide a consolidated notification if the consolidated notification meets the requirements of this section.~~
- ~~(7) Except for the notification requirement on invoices in subsection (4)(e) of this section, subsections (2) to (8) of this section shall also apply to online auction Web sites. For purposes of this section, "online auction Web site" means a collection of Internet Web pages that allows persons to display tangible personal property or digital property for sale that is purchased through a competitive process where participants place bids with the highest bidder purchasing the item when the bidding period ends.~~
- ~~(8) Any retailer that made total gross sales of less than one hundred thousand dollars (\$100,000) to Kentucky residents or businesses located in Kentucky, and that reasonably expects that its Kentucky sales in the current calendar year will be less than one hundred thousand dollars (\$100,000), shall be exempt from subsections (2) to (8) of this section.~~

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

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

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
 - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
 - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";
- (3) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;
- (4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (7)
 - (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the department;
 - (b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

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

- (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
 - (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- (8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;
- (9) (a) Gross receipts derived from the sale of, the following tangible personal property to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of tangible personal property at a plant facility and which will be for sale:
1. Materials which enter into and become an ingredient or component part of the manufactured product;
 2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
 - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, and explosives. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and
 - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and
 3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.
- (b) The property described in paragraph (a) of this subsection shall be regarded as having been purchased for resale.
- (c) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the

person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

- (d) The exemption provided in this subsection does not include repair, replacement, or spare parts;
- (10) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
 - (a) As used in this subsection:
 - 1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
 - 2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
 - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (12) Gross receipts from the sale of water used in the raising of equine as a business;
- (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.
 - (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
 - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
- (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
- (16) Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;
- (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;
- (18) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;
- (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
 - (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

- (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 - 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 - 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- ~~(21) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board;~~
- ~~(22)~~ Gross receipts from the collection of:
 - (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
 - (b) The charge imposed by KRS 65.7629(3);
 - (c) The fee imposed by KRS 65.7634; and
 - (d) The service charge imposed by KRS 65.7636;~~and~~
- ~~(22)~~~~(23)~~ Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process, and that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;
- (23) (a) *For persons selling services included in subsection (2)(g) to (q) of Section 20 of this Act prior to January 1, 2019, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars (\$6,000) during calendar year 2018. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:*
 - 1. *All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and*
 - 2. *All gross receipts are subject to tax in subsequent calendar years.*
- (b) *The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in subsection (2)(a) to (f) of Section 20 of this Act; and*
- (24) (a) *For persons that first begin making sales of services included in subsection (2)(g) to (q) of Section 20 of this Act on or after January 1, 2019, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:*
 - 1. *All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and*
 - 2. *All gross receipts are subject to tax in subsequent calendar years.*
- (b) *The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in subsection (2)(a) to (f) of Section 20 of this Act.*

➔Section 27. KRS 139.480 is amended to read as follows:

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

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related

distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.

- (b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.
- (c) ~~[[~~]~~A person who ~~independently~~ performs a manufacturing or industrial processing ~~production~~ activity for a fee~~, applies for the exemption under this subsection,~~ and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of the manufacturing or industrial processing activity *is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.*~~
- (d) *For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:* ~~[, then all costs of production, including raw material costs, shall be allocated in proportion to all manufacturing or industrial processing operations at the plant facility;]~~
1. *Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;*
 2. *Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;*
 3. *Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;*
 4. *Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and*
 5. *Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility.*
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;

- (11) Farm machinery. As used in this section, the term "farm machinery":
- (a) Means machinery used exclusively and directly in the occupation of:
 - 1. Tilling the soil for the production of crops as a business;
 - 2. Raising and feeding livestock or poultry for sale; or
 - 3. Producing milk for sale;
 - (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
 - (c) Does not include:
 - 1. Automobiles;
 - 2. Trucks;
 - 3. Trailers, except combine header trailers; or
 - 4. Truck-trailer combinations;
- (12) Tombstones and other memorial grave markers;
- (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
- (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;
 - (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or
 - (f) Operate on-farm dairy facilities;
- (16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (20) (a) 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and

2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
- (b) The exemptions provided in this subsection shall be effective for sales made:
1. On and after July 1, 2018; and
 2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- (21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (26) Baling twine and baling wire for the baling of hay and straw;
- (27) Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

- (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;
 - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
 - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
- (c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; and
- (32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy.

➔Section 28. KRS 139.495 is amended to read as follows:

- (1) The taxes imposed by this chapter shall apply to:
- (a) Resident, nonprofit educational, charitable, or religious institutions which have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code; and
 - (b) Any resident, single member limited liability company that is:
 1. Wholly owned and controlled by a resident or nonresident, nonprofit educational, charitable, or religious institution which has qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code; and
 2. Disregarded as an entity separate from the resident or nonresident, nonprofit educational, charitable, or religious institution for federal income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2;

as provided in this section.

- (2) Tax does not apply to:
- (a) *1.* Sales of tangible personal property, digital property, or services to these institutions or limited liability companies described in subsection (1) of this section, provided the tangible personal property, digital property, or service is to be used solely in this state within the educational, charitable, or religious function;~~;~~
 - 2. ~~3. Tax does not apply to~~ Sales of food to students in school cafeterias or lunchrooms;~~;~~
 - 3. ~~4. Tax does not apply to~~ Sales by school bookstores of textbooks, workbooks, and other course materials;~~;~~
 - 4. ~~5. Tax does not apply to~~ Sales by nonprofit, school sponsored clubs and organizations, provided such sales do not include tickets for athletic events;
 - 5. *Sales of admissions by nonprofit educational, charitable, or religious institutions described in subsection (1) of this section; or*
 - 6. *a. Fundraising event sales made by nonprofit educational, charitable, or religious institutions and limited liability companies described in subsection (1) of this section.*
 - b. For the purposes of this subparagraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.*
- (b) *The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of this subsection shall not apply to sales generated by or arising at a tourism development project approved under KRS 148.851 to 148.860.*

- ~~(3)~~~~(6)~~ An institution shall be entitled to a refund equal to twenty-five percent (25%) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state, provided the institution:
- (a) Routinely sells donated items;
 - (b) Provides job training and employment to individuals with workplace disadvantages and disabilities;
 - (c) Spends at least seventy-five percent (75%) of its annual revenue on job training, job placement, or other related community services;
 - (d) Submits a refund application to the department within sixty (60) days after the new retail location opens for business; and
 - (e) Provides records of capital construction costs for the new retail location and any other information the department deems necessary to process the refund.

The maximum refund allowed for any location shall not exceed one million dollars (\$1,000,000). As used in this subsection, "capital construction cost" means the cost of construction of any new facilities or the purchase and renovation of any existing facilities, but does not include the cost of real property other than real property designated as a brownfield site as defined in KRS 65.680(4).

~~(4)(7)~~ Notwithstanding any other provision of law to the contrary, refunds under subsection ~~(3)(6)~~ of this section shall be made directly to the institution. Interest shall not be allowed or paid on the refund. The department may examine any refund within four (4) years from the date the refund application is received. Any overpayment shall be subject to the interest provisions of KRS 131.183 and the penalty provisions of KRS 131.180.

~~(5)(8)~~ All other sales made by nonprofit educational, charitable, or religious institutions or limited liability companies described in subsection (1) of this section are taxable and the tax may be passed on to the ~~purchaser~~~~customer~~ as provided in KRS 139.210.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) (a) *For nonprofit civic, governmental, or other nonprofit organizations, except as described in Section 28 of this Act and KRS 139.497, the taxes imposed by this chapter do not apply to:*

1. *The sale of admissions; or*

2. a. *Fundraising event sales.*

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

(b) *The exemption provided in subparagraph 1. of paragraph (a) of this subsection shall not apply to the sale of admissions to a public facility that qualifies for a sales tax rebate under Section 31 of this Act.*

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

➔Section 30. KRS 139.496 is amended to read as follows:

(1) ~~[Notwithstanding any other provisions of this chapter,]The taxes imposed in this chapter~~~~herein~~ do not apply to the first one thousand dollars (\$1,000) of sales made in any calendar year by individuals ~~or nonprofit organizations~~ not engaged in the business of selling. This exemption is limited to ~~the following types of transactions or activities:~~

~~(a)]garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business;~~

~~(b) Fundraising event held by nonprofit civic, governmental, or other nonprofit organizations, except as set forth in KRS 139.497].~~

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale ~~or where nonprofit organizations conduct regular selling activities in competition with private business~~.

➔Section 31. KRS 139.533 is amended to read as follows:

(1) *Beginning July 1, 2020, no additional applications for a sales tax rebate shall be accepted under this section. Any qualified applicant which has applied and been granted a sales tax rebate under this section shall continue to receive the sales tax rebates provided by this section as long as the governmental entity continues to qualify for the sales tax rebate under this section.*

(2) As used in this section:

(a) "Effective date" means the first day of the month following the month in which the department notifies the governmental entity that it is eligible to receive a sales tax rebate;

(b) "Governmental entity" means:

1. Any county with a population of less than one hundred thousand (100,000) residents; or

2. Any city, agency, instrumentality, quasi-governmental entity, or other political subdivision of the Commonwealth that is located in a county with a population of less than one hundred thousand (100,000) residents; and

(c) 1. "Public facility" means a building owned and operated by a governmental entity that is a multipurpose facility open to the general public for performances and programs relating to arts,

sports, and entertainment and which includes at least five hundred (500) seats but not more than eight thousand (8,000) seats.

2. "Public facility" does not include a university, college, or school gymnasium or auditorium.
- ~~(3)(2)~~ (a) Notwithstanding KRS 134.580 and 139.770, effective July 1, 2010, a governmental entity may be granted a sales tax rebate of up to one hundred percent (100%) of the Kentucky sales tax generated by the sale of admissions to the public facility and the sale of tangible personal property at the public facility. The tax rebate shall be reduced by the vendor compensation allowed under KRS 139.570 on or after July 1, 2010.
- (b) The governmental entity shall have no obligation to refund or otherwise return any amount of the sales tax rebate to the persons from whom the sales tax was collected.
 - (c) The total tax rebate for each public facility shall not exceed two hundred fifty thousand dollars (\$250,000) in each calendar year.
- ~~(4)(3)~~ (a) To be eligible for a sales tax rebate under this section, the governmental entity shall file an application with the department in the form prescribed by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.
- (b) The department shall:
 1. Review the application;
 2. Determine whether the applicant meets the requirements of this section; and
 3. Notify the applicant in writing whether the applicant qualifies for a rebate and the effective date of qualification.
- ~~(5)(4)~~ A qualified applicant shall file a request for a sales tax rebate within sixty (60) days following the end of each calendar quarter for sales made during the quarter. The request shall be submitted in the form prescribed by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A, and shall include supporting information and documentation as determined necessary by the department to verify the requested tax rebate.
- ~~(6)(5)~~ The department shall review the request, verify the amount of sales tax rebate due to the governmental entity, and pay the amount determined due within forty-five (45) days of receipt of the request and all necessary supporting information to the extent the cap established by subsection (2)(c) of this section has not been met.
- ~~(7)(6)~~ Interest shall not be allowed or paid on any sales tax rebate payment made under this section.
- ➔Section 32. KRS 139.536 is amended to read as follows:
- (1) ***Beginning July 1, 2020, no applications for the incentives under Section 32 of this Act and KRS 148.851 to 148.860 shall be accepted. All projects with preliminary or final approval under Section 32 of this Act and KRS 148.851 to 148.860 on June 30, 2020, shall continue to be governed by Section 32 of this Act and KRS 148.851 to 148.860.***
 - (2) As used in this section:
 - (a) "Agreement" means the same as defined in KRS 148.851;
 - (b) "Approved company" means the same as defined in KRS 148.851;
 - (c) "Approved costs" means the same as defined in KRS 148.851;
 - (d) "Authority" means the same as defined in KRS 148.851;
 - (e) "Cabinet" means the same as defined in KRS 148.851;
 - (f) "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet; and
 - (g) "Tourism development project" means the same as defined in KRS 148.851.
- ~~(3)(2)~~ (a) In consideration of the execution of the agreement and notwithstanding any provision of KRS 139.770 to the contrary, the approved company excluding its lessees, may be granted a sales tax

incentive based on the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism development project as provided in KRS 148.853.

- (b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.
- (4){(3)} The authority shall notify the department upon approval of a tourism development project. The notification shall include the name of the approved company, the name of the tourism development project, the date on which the approved company is eligible to receive incentives under this section, the term of the agreement, the estimated approved costs, and the specified percentage of the approved costs that the approved company is eligible to receive and any other information that the department may require.
- (5){(4)} The sales tax incentive shall be reduced by the amount of vendor compensation allowed under KRS 139.570.
- (6){(5)} The approved company seeking the incentives shall execute information-sharing agreements prescribed by the department with its lessees and other related parties to verify the amount of sales tax eligible for the sales tax refund under this section.
- (7){(6)} By October 1 of each year, the department shall certify to the authority and the secretary the sales tax liability of the approved companies receiving incentives under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to this section for the preceding fiscal year.
- (8){(7)} Interest shall not be allowed or paid on any refund made under the provisions of this section.
- (9){(8)} The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of this section and KRS 148.851 to 148.860.

➔Section 33. KRS 139.550 is amended to read as follows:

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department in a form the department may prescribe.
- (2) (a) For purposes of the sales tax, a return shall be filed by every retailer or seller.
 - (b) For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, digital property, or an extended warranty service, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.
 - (c) If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.
 - (d) ***When a remote retailer's product is sold through a marketplace, then the marketplace provider that facilitated the sale shall file the return and remit the tax due on those sales.***
- (3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the department shall provide for the efficient collection of the sales tax on sales.
- (5) The return shall show the amount of the taxes for the period covered by the return and other information the department deems necessary for the proper administration of this chapter.

➔Section 34. KRS 139.720 is amended to read as follows:

- (1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property, digital property, or ***services included in Section 20 of this Act***~~an extended warranty service} purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the department may require.~~
- (2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the department in writing sooner authorizes their destruction.

➔Section 35. KRS 141.010 is amended to read as follows:

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

- (1) "Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in KRS 141.019;
- (2) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:
 - (a)
 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or
 2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;
 - (b)
 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:
 - a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or
 - b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and
 2. For the purposes of this paragraph:
 - a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to KRS 141.200; and
 - b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and
 - (c) The real estate investment trust is not owned by another real estate investment trust;
- (3) "Commissioner" means the commissioner of the department;
- (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;
- (5) "Department" means the Department of Revenue;
- (6) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (7) "Doing business in this state" includes but is not limited to:
 - (a) Being organized under the laws of this state;
 - (b) Having a commercial domicile in this state;
 - (c) Owning or leasing property in this state;
 - (d) Having one (1) or more individuals performing services in this state;
 - (e) Maintaining an interest in a pass-through entity doing business in this state;
 - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or
 - (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

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

- (8) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;
- (9) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;
- (10) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;
- (11) **"Financial institution" means:**
- (a) ***A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;***
- (b) ***Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;***
- (c) ***Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or***
- (d) ***Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;***
- (12) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;
- ~~(13)(12)~~ "Gross income":
- (a) In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and
- (b) In the case of corporations, means the amount calculated in KRS 141.039;
- ~~(14)(13)~~ "Individual" means a natural person;
- ~~(15)(14)~~ "Internal Revenue Code" means:
- (a) ***For taxable years beginning on or after January 1, 2018, but before January 1, 2019, the Internal Revenue Code in effect on December 31, 2017, including the provisions contained in Pub. L. No. 115-97 apply to the same taxable year as the provisions apply for federal purposes, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2017, that would otherwise terminate; and***
- (b) ***For taxable years beginning on or after January 1, 2019, the Internal Revenue Code in effect on December 31, 2018, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2018, that would otherwise terminate;***
- ~~(16)(15)~~ "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;
- ~~(17)(16)~~ "Modified gross income" means the greater of:
- (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:
1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- (b) Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- ~~(18)(17)~~ "Net income":

- (a) In the case of taxpayers other than corporations, means the amount calculated in KRS 141.019; and
- (b) In the case of corporations, means the amount calculated in KRS 141.039;
- ~~(19)~~~~(18)~~ "Nonresident" means any individual not a resident of this state;
- ~~(20)~~~~(19)~~ "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- ~~(21)~~~~(20)~~ "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;
- ~~(22)~~~~(21)~~ "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;
- ~~(23)~~~~(22)~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;
- ~~(24)~~~~(23)~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;
- ~~(25)~~~~(24)~~ "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- ~~(26)~~~~(25)~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;
- ~~(27)~~~~(26)~~ "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;
- ~~(28)~~~~(27)~~ "Taxable net income":
 - (a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection ~~(18)~~~~(17)~~ of this section;
 - (b) In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection ~~(18)~~~~(17)~~ of this section and as allocated and apportioned under KRS 141.120;
 - (c) For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection ~~(15)~~~~(14)~~ of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
 - (d) For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;
- ~~(29)~~~~(28)~~ "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and
- ~~(30)~~~~(29)~~ "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.
 - ➔Section 36. KRS 141.0101 is amended to read as follows:
 - (1) (a) The provisions of subsections (2) to (11) of this section shall apply to taxable years beginning before January 1, 1994.
 - (b) The provisions of subsections (12) to (15) of this section shall apply to taxable years beginning after December 31, 1993.

- (c) The provisions of subsection (16) of this section apply to property placed in service after September 10, 2001.
- (2) For property placed in service prior to January 1, 1990, in lieu of the depreciation and expense deductions allowed under Internal Revenue Code Sections 168 and 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and tear, and obsolescence of property used in a trade or business shall be allowed and computed as set out in subsections (3) to (11) of this section. For property placed in service after December 31, 1989, the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code shall be allowed.
- (3) Effective August 1, 1985, "reasonable allowance" as used in subsection (2) of this section shall mean depreciation computed in accordance with Section 167 of the Internal Revenue Code and related regulations in effect on December 31, 1980, for all property placed in service on or after January 1, 1981, except as provided in subsections (6) to (8) of this section.
- (4) Depreciation of property placed in service prior to January 1, 1981, shall be computed under Section 167 of the Internal Revenue Code, and the method elected thereunder at the time the property was first placed in service or as changed with the approval of the Commissioner of Internal Revenue Service or as required by changes in federal regulations.
- (5) Taxpayers other than corporations shall be allowed to deduct as depreciation on recovery property placed in service before August 1, 1985, an amount calculated under Section 168 of the Internal Revenue Code subject to the provisions of subsections (6) and (8) of this section. Corporations with a taxable year beginning on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for depreciation on recovery property placed in service prior to August 1, 1985, using either of the following alternative methods:
- (a) Dividing the total of the deductions allowed under Internal Revenue Code Section 168 by one and four tenths (1.4); and
- (b) Calculating the deduction that would be allowed or allowable under the provisions of Section 167 of the Internal Revenue Code.
- (6) Recovery property placed in service on or after January 1, 1981, and before August 1, 1985, and subject to transition under subsection (8) of this section, shall be subject to depreciation under Section 167 of the Internal Revenue Code, restricted to the straight line method therein provided over the remaining useful life of such assets.
- (7) Depreciation of property placed in service on or after August 1, 1985, shall be computed under Section 167 of the Internal Revenue Code.
- (8) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost Recovery System (ACRS) depreciation, to the depreciation allowed or allowable under this section shall be reported in the first taxable year beginning on or after August 1, 1985. To implement the transition, the following adjustments shall be made:
- (a) Taxpayers other than corporations shall use the adjusted Kentucky basis for property placed in service on or after January 1, 1981. "Adjusted Kentucky basis" means the basis used for determining depreciation under Section 168 of the Internal Revenue Code less the allowed or allowable depreciation and adjustment for election to expense an asset (Section 179 of the Internal Revenue Code);
- (b) Corporations shall adjust the federal unadjusted basis by increasing such basis by the ACRS depreciation not allowed as a deduction in determining Kentucky net income for tax years beginning after June 30, 1984, less allowed or allowable ACRS depreciation for federal income tax purposes. Corporations will not be permitted to adjust the basis by the ACRS depreciation not allowed for Kentucky income tax purposes in tax years beginning on or before June 30, 1984.
- (9) A taxpayer may elect to treat the cost of property placed in service on or before July 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1981, except that the aggregate cost which may be expensed for corporations shall not exceed five thousand dollars (\$5,000). A taxpayer may elect to treat the cost of property placed in service on or after August 1, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1980. Computations, limitations, definitions, exceptions, and other provisions of Section 179 of the Internal Revenue Code and related regulations shall be construed to govern the computation of the allowable deduction.

- (10) Upon the sale, exchange, or disposition of any depreciable property placed in service on or after January 1, 1981, capital gains or losses and the amount of ordinary income determined under the provisions of the Internal Revenue Code shall be computed for Kentucky income tax purposes as follows:
- (a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced by any basis adjustment made by the taxpayer under Section 48(q)(1) of the Internal Revenue Code and any expense allowed and utilized under Section 179 of the Internal Revenue Code (First Year Expense) in determining Kentucky net income in prior years, and
 - (b) Compute the adjusted basis by subtracting the depreciation allowed or allowable for Kentucky income tax purposes from the unadjusted basis, except corporations will not be permitted to adjust the basis of assets by the ACRS depreciation not allowed for Kentucky income tax purposes in the tax years beginning on or before June 30, 1984, and
 - (c) Compute the gain or loss by subtracting the adjusted basis from the value received from the disposition of the depreciable property, and
 - (d) Compute the recapture of depreciation required under Sections 1245 through 1256 of the Internal Revenue Code and related regulations, and
 - (e) Unless otherwise provided in this subsection the provisions of the Internal Revenue Code and related regulations governing the determination of capital gains or losses shall apply for Kentucky income tax purposes.
- (11) Unless otherwise provided by this chapter, the basis of property placed in service prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis, adjusted or unadjusted, required to be used under Section 167 of the Internal Revenue Code in effect on December 31, 1980.
- (12) As used in this subsection to subsection (14) of this section:
- (a) "Transition property" means any property placed in service before the first day of the first taxable year beginning after December 31, 1993, and owned by the taxpayer on the first day of the first taxable year beginning after December 31, 1993.
 - (b) "Adjusted Kentucky basis" means the amount computed in accordance with the provisions of paragraph (b) of subsection (10) of this section for transition property.
 - (c) "Adjusted federal basis" means the original cost, or, in the case of Section 338 property, the adjusted grossed-up basis of transition property less:
 - 1. Any basis adjustments required by the Internal Revenue Code for credits; and
 - 2. The total accumulated depreciation and election to expense deductions allowed or allowable for federal income tax purposes.
 - (d) "Section 338 property" means property to which an adjusted grossed-up basis has been allocated pursuant to a valid election made by a purchasing corporation under the provisions of Section 338 of the Internal Revenue Code.
 - (e) "Transition amount" means the net difference between the adjusted Kentucky basis and the adjusted federal basis of all transition property determined as of the first day of the first taxable year beginning after December 31, 1993.
- (13) For taxable years beginning after December 31, 1993, the amounts of depreciation and election to expense deductions, allowed or allowable, the basis of assets, adjusted or unadjusted, and the gain or loss from the sale or other disposition of assets shall be the same for Kentucky income tax purposes as determined under Chapter 1 of the Internal Revenue Code.
- (14) For taxable years beginning after December 31, 1993, the transition amount computed in accordance with the provisions of paragraph (e) of subsection (12) of this section shall be reported by the taxpayer as follows:
- (a) In the first taxable year beginning after December 31, 1993, and the eleven (11) succeeding taxable years, the taxpayer shall include in gross income one-twelfth (1/12) of the transition amount if:
 - 1. The adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property;

2. The transition amount exceeds five million dollars (\$5,000,000);
 3. The transition amount includes property for which an election was made under Section 338 of the Internal Revenue Code; and
 4. The taxpayer elects the provisions of this paragraph with the filing of an amended income tax return for the first taxable year beginning after December 31, 1993.
- (b) In the first taxable year beginning after December 31, 1993 and the three (3) succeeding taxable years, if the transition amount exceeds one hundred thousand dollars (\$100,000), or if the transition amount does not exceed one hundred thousand dollars (\$100,000) and the taxpayer elects the provision of this paragraph with the filing of the income tax return for the first taxable year beginning after December 31, 1993, the taxpayer shall:
1. Deduct from gross income twenty-five percent (25%) of the transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or
 2. Add to gross income twenty-five percent (25%) of the transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.
- (c) In the first taxable year beginning after December 31, 1993, if the transition amount does not exceed one hundred thousand dollars (\$100,000) and the taxpayer does not elect the provisions of paragraph (b) of this subsection, the taxpayer shall:
1. Deduct from gross income the total transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or
 2. Add to gross income the total transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.
- (15) Notwithstanding any other provision of this section to the contrary, any qualified farming operation, as defined in KRS 141.410, shall be allowed to compute the depreciation deduction for new buildings and equipment purchased to enable participation in a networking project, as defined in KRS 141.410, on an accelerated basis at two (2) times the rate that would otherwise be permitted under the provisions of this section. The accumulated depreciation allowed under this subsection shall not exceed the taxpayer's basis in such property.
- (16) (a) For property placed in service after September 10, 2001, only the depreciation ~~deduction~~ ~~and expense deductions~~ allowed under ~~Section~~ ~~Sections~~ 168 ~~and 179~~ of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed.
- (b) *For property placed in service after September 10, 2001, but prior to January 1, 2020, only the expense deduction allowed under Section 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed.*
- (c) *For property placed in service on or after January 1, 2020, only the expense deduction allowed under Section 179 of the Internal Revenue Code in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, shall be allowed.*

➔Section 37. KRS 141.019 is amended to read as follows:

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

- (1) Adjusted gross income shall be calculated by subtracting from the gross income of those taxpayers the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusting as follows:
 - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Pub. L. No. 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

- (f) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
- (g)
 1.
 - a. For taxable years beginning after December 31, 2005, but before January 1, 2018, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans; and
 - b. For taxable years beginning on or after January 1, 2018, exclude up to thirty-one thousand one hundred ten dollars (\$31,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 2. As used in this paragraph:
 - a. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;
 - b. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- (h)
 1.
 - a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
 2. The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (i) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;
- (j) Exclude any capital gains income attributable to property taken by eminent domain;
- (k)
 1. Exclude all income from all sources for ~~active duty and reserve~~ members ~~and officers~~ of the Armed Forces **who are on active duty and** ~~of the United States or National Guard~~ who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.
 2. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;
- (l) Exclude all military pay received by ~~active duty~~ members of the Armed Forces **while on active duty** ~~of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205~~;
- (m)
 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167 or 168; and
 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and

- (n) Include the amount deducted under 26 U.S.C. sec. 199A; and
- (2) Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:
- (a) ~~Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;~~
- ~~(b)~~ Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- ~~(b)~~~~(c)~~ Any deduction allowed by 26 U.S.C. sec. 165 for losses, *except wagering losses allowed under Section 165(d) of the Internal Revenue Code*;
- ~~(c)~~~~(d)~~ Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- ~~(d)~~~~(e)~~ Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- ~~(e)~~~~(f)~~ Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;
- ~~(f)~~~~(g)~~ Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);
- ~~(g)~~~~(h)~~ Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;
- ~~(h)~~~~(i)~~ Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and
- ~~(i)~~~~(j)~~ A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.

➔Section 38. KRS 141.021 is amended to read as follows:

Notwithstanding the provisions of KRS 141.010, federal retirement annuities, and local government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or 96.180, shall be excluded from gross income. Except federal retirement annuities and local government retirement annuities accrued or accruing on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS ~~141.019~~~~141.010~~ and 141.0215.

➔Section 39. KRS 141.0215 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 141.010(~~12~~)(~~9~~), for tax years commencing on or after January 1, 1998, the amount of all previously untaxed distributions from a retirement plan paid pursuant to KRS Chapters 6, 16, 21, 61, 67A, 78, 90, 95, 96, 161, and 164, and the amount of all previously untaxed distributions paid from a retirement plan by the federal government, which are excluded from gross income pursuant to KRS 141.021, shall be included in gross income as follows:
- (a) Multiply the total annual government retirement payments by a fraction whose numerator is the number of full or partial years of service performed for the governmental unit making the retirement payments after January 1, 1998, and whose denominator is the total number of full or partial years of service performed for the governmental unit making retirement payments, including purchased service credit. Purchased service credits shall be included in the numerator of the fraction only if the services for which credits are being purchased were provided after January 1, 1998.
- (b) The resulting number shall be the amount included in gross income.
- (2) Any taxpayer receiving government retirement payments from more than one (1) governmental unit shall separately determine the payment amount attributable to each unit to be included in gross income, using the formula set forth in subsection (1) of this section.

➔Section 40. KRS 141.040 is amended to read as follows:

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) **and (b)**~~to (h)~~ of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in this section:
- (a) ***For taxable years beginning prior to January 1, 2021:***
1. Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;
 - 2.~~.(b)~~ Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - 3.~~.(c)~~ Banks for cooperatives;
 - 4.~~.(d)~~ Production credit associations;
 - 5.~~.(e)~~ Insurance companies, including ***farmers'***~~farmers~~ or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - 6.~~.(f)~~ Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - 7.~~.(g)~~ Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and
 - 8.~~.(h)~~ Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 - a.~~.(1)~~ The property consists of the final printed product, or copy from which the printed product is produced; and
 - b.~~.(2)~~ The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b); **and**
- (b) ***For taxable years beginning on or after January 1, 2021:***
1. ***Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;***
 2. ***Corporations or other entities exempt under Section 501 of the Internal Revenue Code;***
 3. ***Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and***
 4. ***Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:***
 - a. ***The property consists of the final printed product, or copy from which the printed product is produced; and***
 - b. ***The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b).***
- (2) For taxable years beginning on or after January 1, 2018, the rate of five percent (5%) of taxable net income shall apply.
- (3) For taxable years beginning on or after January 1, 2007, and before January 1, 2018, the following rates shall apply:
- (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
 - (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
 - (c) Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000).
- (4) (a) An S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.

- (b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.
- 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.
- (c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.
- (5) ***For the taxable years beginning on or after January 1, 2021, but prior to January 1, 2022, there shall be allowed a refundable credit against the tax imposed by this section and Section 41 of this Act, with the ordering of the credits as provided in Section 79 of this Act, for any financial institution that timely pays the bank franchise tax imposed under Section 16 of this Act.***

➔Section 41. KRS 141.0401 is amended to read as follows:

- (1) As used in this section:

- (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
- (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
- (c) "Combined group" means all members of an affiliated group as defined in KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;
- (d) "Cost of goods sold" means:
 - 1. Amounts that are:
 - a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and
 - b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.
 - 2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:
 - a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;
 - b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and
 - c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;
 - 3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

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

- (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and
- 2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;
- (f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;
- (g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:
 - 1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and
 - 2. The tangible product is taxable under KRS 138.220;
- (h) "Manufacturing" and "producing" means:
 - 1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;
 - 2. Mining or severing natural resources from the earth; or
 - 3. Growing or raising agricultural or horticultural products or animals;
- (i) "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;
- (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;
- (k) "Tangible personal property" means property, other than real property, that has physical form and characteristics; and
- (l) "Tangible product" means real property and tangible personal property;
- (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. A small business exclusion from this tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five dollars (\$175), regardless of the application of any tax credits provided under this chapter or any other provisions of the Kentucky Revised Statutes for which the business entity may qualify.
- (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:
 - 1. a. If the corporation's or limited liability pass-through entity's gross receipts from all sources are three million dollars (\$3,000,000) or less, the limited liability entity tax shall be *one hundred seventy-five dollars (\$175)*~~{zero}~~;
 - b. If the corporation's or limited liability pass-through entity's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than *one hundred seventy-five dollars (\$175)*~~{zero}~~;

- c. If the corporation's or limited liability pass-through entity's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts.
- 2. a. If the corporation's or limited liability pass-through entity's gross profits from all sources are three million dollars (\$3,000,000) or less, the limited liability entity tax shall be *one hundred seventy-five dollars (\$175)*~~{zero}~~;
- b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than *one hundred seventy-five dollars (\$175)*~~{zero}~~;
- c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of a combined group shall consider the combined gross receipts and the combined gross profits from all sources of the entire combined group, including eliminating entries for transactions among the group.

- (c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars (\$175) at each layer.
 - (d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.
- (3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:
- (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars (\$175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.
 - (b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.
- (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable

year. Any tax remaining due after making the payments required *under Section 42 of this Act* ~~in KRS 141.042~~ shall be paid by the original due date of the return.

- (5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.
- (6) The tax imposed by subsection (2) of this section shall not apply to:
- (a) ***For taxable years beginning prior to January 1, 2021:***
1. Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;
 2. ~~2.(b)~~ Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 3. ~~3.(c)~~ Banks for cooperatives;
 4. ~~4.(d)~~ Production credit associations;
 5. ~~5.(e)~~ Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 6. ~~6.(f)~~ Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 7. ~~7.(g)~~ Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
 8. ~~8.(h)~~ Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 - a. ~~1.-~~ The property consists of the final printed product, or copy from which the printed product is produced; and
 - b. ~~2.-~~ The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;
 9. ~~9.(i)~~ Public service corporations subject to tax under KRS 136.120;
 10. ~~10.(j)~~ Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
 11. ~~11.(k)~~ Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
 12. ~~12.(l)~~ An alcohol production facility as defined in KRS 247.910;
 13. ~~13.(m)~~ Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
 14. ~~14.(n)~~ Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
 15. ~~15.(o)~~ Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;
 16. ~~16.(p)~~ Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;
 17. ~~17.(q)~~ Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or
 18. ~~18.(r)~~ Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership; ***and***

- (b) *For taxable years beginning on or after January 1, 2022:*
1. *Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;*
 2. *Corporations or other entities exempt under Section 501 of the Internal Revenue Code;*
 3. *Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;*
 4. *Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:*
 - a. *The property consists of the final printed product, or copy from which the printed product is produced; and*
 - b. *The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;*
 5. *Public service corporations subject to tax under KRS 136.120;*
 6. *Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;*
 7. *Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;*
 8. *An alcohol production facility as defined in KRS 247.910;*
 9. *Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;*
 10. *Regulated investment companies as defined in Section 851 of the Internal Revenue Code;*
 11. *Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;*
 12. *Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;*
 13. *Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or*
 14. *Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.*
- (7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) **and (b)**~~(b) to (e)~~ of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
- (b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
- (c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.
- (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

- (8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

➔Section 42. KRS 141.044 is amended to read as follows:

- (1) *For taxable years beginning on or after January 1, 2019, every corporation and limited liability pass-through entity subject to taxation under Sections 40 and 41 of this Act shall make estimated tax payments if the taxes imposed by Sections 40 and 41 of this Act for the taxable year can reasonably be expected to exceed five thousand dollars (\$5,000).*
- (2) *Estimated tax payments for the taxes imposed under Sections 40 and 41 of this Act shall be made at the same time and calculated in the same manner as estimated tax payments for federal income tax purposes under 26 U.S.C. sec. 6655, except:*
- (a) *The estimated liabilities for the taxes imposed under Sections 40 and 41 of this Act shall be used to make the estimated payments;*
- (b) *Any provisions in 26 U.S.C. sec. 6655 that apply for federal tax purposes but do not apply to the taxes imposed under Sections 40 and 41 of this Act;*
- (c) *The addition to tax identified by 26 U.S.C. sec. 6655(a) shall instead be considered a penalty under Section 4 of this Act;*
- (d) *The tax interest rate identified under KRS 131.183 shall be used to determine the underpayment rate instead of the rate under 26 U.S.C. sec. 6621; and*
- (e) *Any waiver of penalties shall be performed as provided in KRS 131.175.*
- (3) *The department may promulgate administrative regulations to implement this section. [The estimated tax provided for in KRS 141.042 shall be paid as follows:*
- (a) ~~If the declaration is filed on or before June 15 of the taxable year, the estimated tax shall be paid in three (3) installments. The first installment, in an amount equal to fifty percent (50%) of the estimated tax, shall be paid at the time of the filing of the declaration. The second and third installments, each in an amount equal to twenty five percent (25%) of the estimated tax, shall be paid on September 15 and December 15, respectively, of the taxable year;~~
- (b) ~~If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by KRS 141.042 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) installments. The first installment, in an amount equal to seventy five percent (75%) of the estimated tax, shall be paid at the time of the filing of the declaration and the second installment, in an amount equal to twenty five percent (25%) of the estimated tax, on December 15 of the taxable year;~~
- (c) ~~If the declaration is filed after September 15 of the taxable year and is not required to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration;~~
- (d) ~~If the declaration is filed after the time prescribed in KRS 141.042, including cases where extensions of time have been granted, paragraphs (a), (b), and (c) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in KRS 141.042, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.~~
- (2) (a) ~~A refund of taxes collected pursuant to KRS 141.042 shall include interest at the tax interest rate as defined in KRS 131.010(6).~~
- (b) ~~Effective for refunds issued after April 24, 2008, the interest shall not begin to accrue until ninety (90) days after the latest of:~~
1. ~~The due date of the return;~~
 2. ~~The date the return was filed;~~
 3. ~~The date the tax was paid;~~

4. ~~The last day prescribed by law for filing the return, or~~
5. ~~The date an amended return claiming a refund is filed.~~
- (3) (a) ~~Overpayment as defined in KRS 134.580 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 this chapter.~~
- (4) ~~At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date prescribed for its payment.~~
- (5) ~~In the application of this section and KRS 141.042 for a taxable year beginning on any date other than January 1, there shall be substituted for the months specified in this section and KRS 141.042 the relative months and dates which correspond to that taxable year.]~~

➔ Section 43. KRS 141.066 is amended to read as follows:

- (1) As used in this section:
- (a) "Federal poverty level" means the Health and Human Services poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2) and available on June 30 of the taxable year;
- (b) "Qualifying dependent" means a qualifying child as defined in the Internal Revenue Code, Section 152(c), and includes a child who lives in the household but cannot be claimed as a dependent if the provisions of Internal Revenue Code Section 152(e)(2) and 152(e)(4) apply;
- (c) "Qualifying individual" means an individual whose filing status is single or married filing separately if during the taxable year the individual's spouse is not a member of the household;
- (d) "Qualifying married couple" means a husband and wife living together who file a joint return or separately on a combined return. "Marital status" shall have the same meaning as defined in Section 7703 of the Internal Revenue Code; and
- (e) "Threshold amount" means:
1. For a qualifying individual with no qualifying dependent children, the federal poverty level established for a family unit size of one (1);
 2. For a qualifying individual with one (1) qualifying dependent child or a qualifying married couple with no qualifying dependent children, the federal poverty level established for a family unit size of two (2);
 3. For a qualifying individual with two (2) qualifying dependent children or a qualifying married couple with one (1) qualifying dependent child, the federal poverty level established for a family unit size of three (3);
 4. For a qualifying individual with (3) or more qualifying dependent children or a qualifying married couple with two (2) or more qualifying dependent children, the federal poverty level established for a family unit size of four (4).
- (2) (a) For taxable years beginning before January 1, 2005, a resident individual whose adjusted gross income does not exceed the amounts set out in paragraph (c) of this subsection shall be eligible for a nonrefundable "low income" tax credit. The credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020, and shall be taken in the order established by KRS 141.0205.
- (b) For a husband and wife filing jointly, the "low income" tax credit shall be computed on the basis of their joint adjusted gross income and shall be applied against their joint tax liability. For a husband and wife living together, whether filing separate returns or filing separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed gross income of less than zero shall be treated as zero, and shall be applied against their combined tax liability.
- (c) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over \$5,000	100%
over \$ 5,000 but not over \$10,000	50%
over \$10,000 but not over \$15,000	25%
over \$15,000 but not over \$20,000	15%
over \$20,000 but not over \$25,000	5%
over \$25,000	-0-

- (3) (a) For taxable years beginning after December 31, 2004, qualifying taxpayers whose modified gross income is below one hundred thirty-three percent (133%) of the threshold amount shall be entitled to a nonrefundable family size tax credit. The family size tax credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020. The family size tax credit shall not reduce the taxpayer's tax liability below zero.
- (b) For qualifying taxpayers whose modified gross income is equal to or below one hundred percent (100%) of the threshold amount, the family size tax credit shall be equal to the taxpayer's tax liability.
- (c) For qualifying taxpayers whose modified gross income exceeds the threshold amount but is below one hundred thirty-three percent (133%) of the threshold amount, the family size tax credit shall be equal to the amount of the taxpayer's individual income tax liability multiplied by a percentage as follows:
1. If modified gross income is above one hundred percent (100%) but less than or equal to one hundred four percent (104%) of the threshold amount, the credit percentage shall be ninety percent (90%);
 2. If modified gross income is above one hundred four percent (104%) but less than or equal to one hundred eight percent (108%) of the threshold amount, the credit percentage shall be eighty percent (80%);
 3. If modified gross income is above one hundred eight percent (108%) but less than or equal to one hundred twelve percent (112%) of the threshold amount, the credit percentage shall be seventy percent (70%);
 4. If modified gross income is above one hundred twelve percent (112%) but less than or equal to one hundred sixteen percent (116%) of the threshold amount, the credit percentage shall be sixty percent (60%);
 5. If modified gross income is above one hundred sixteen percent (116%) but less than or equal to one hundred twenty percent (120%) of the threshold amount, the credit percentage shall be fifty percent (50%);
 6. If modified gross income is above one hundred twenty percent (120%) but less than or equal to one hundred twenty-four percent (124%) of the threshold amount, the credit percentage shall be forty percent (40%);
 7. If modified gross income is above one hundred twenty-four percent (124%) but less than or equal to one hundred twenty-seven percent (127%) of the threshold amount, the credit percentage shall be thirty percent (30%);
 8. If modified gross income is above one hundred twenty-seven percent (127%) but less than or equal to one hundred thirty percent (130%) of the threshold amount, the credit percentage shall be twenty percent (20%);
 9. If modified gross income is above one hundred thirty percent (130%) but less than or equal to one hundred thirty-three percent (133%) of the threshold amount, the credit percentage shall be ten percent (10%);

10. If modified gross income is above one hundred thirty-three percent (133%) of the threshold amount, the credit percentage shall be zero.
- (d) *For taxable years beginning on or after January 1, 2019, but before January 1, 2021, in addition to the credit calculated under paragraphs (a), (b), and (c) of this subsection, the income gap credit shall be allowed:*
1. *If modified gross income is above one hundred percent (100%) but less than or equal to one hundred four percent (104%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Eleven dollars (\$11) for a family size of one (1);*
 - b. *Seven dollars (\$7) for a family size of two (2); and*
 - c. *Three dollars (\$3) for a family size of three (3);*
 2. *If modified gross income is above one hundred four percent (104%) but less than or equal to one hundred eight percent (108%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Twenty dollars (\$20) for a family size of one (1);*
 - b. *Thirteen dollars (\$13) for a family size of two (2); and*
 - c. *Six dollars (\$6) for a family size of three (3);*
 3. *If modified gross income is above one hundred eight percent (108%) but less than or equal to one hundred twelve percent (112%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Twenty-nine dollars (\$29) for a family size of one (1);*
 - b. *Eighteen dollars (\$18) for a family size of two (2); and*
 - c. *Six dollars (\$6) for a family size of three (3);*
 4. *If modified gross income is above one hundred twelve percent (112%) but less than or equal to one hundred sixteen percent (116%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Thirty-seven dollars (\$37) for a family size of one (1);*
 - b. *Twenty-two dollars (\$22) for a family size of two (2); and*
 - c. *Six dollars (\$6) for a family size of three (3);*
 5. *If modified gross income is above one hundred sixteen percent (116%) but less than or equal to one hundred twenty percent (120%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Forty-five dollars (\$45) for a family size of one (1);*
 - b. *Twenty-four dollars (\$24) for a family size of two (2); and*
 - c. *Four dollars (\$4) for a family size of three (3);*
 6. *If modified gross income is above one hundred twenty percent (120%) but less than or equal to one hundred twenty-four percent (124%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Fifty-one dollars (\$51) for a family size of one (1); and*
 - b. *Twenty-six dollars (\$26) for a family size of two (2);*
 7. *If modified gross income is above one hundred twenty-four percent (124%) but less than or equal to one hundred twenty-seven percent (127%) of the threshold amount, the credit shall be in an amount equal to:*
 - a. *Fifty-eight dollars (\$58) for a family size of one (1); and*
 - b. *Twenty-seven dollars (\$27) for a family size of two (2);*

8. *If modified gross income is above one hundred twenty-seven percent (127%) but less than or equal to one hundred thirty percent (130%) of the threshold amount, the credit shall be in an amount equal to:*
- a. *Sixty-four dollars (\$64) for a family size of one (1); and*
 - b. *Twenty-eight dollars (\$28) for a family size of two (2); and*
9. *If modified gross income is above one hundred thirty percent (130%) but less than or equal to one hundred thirty-three percent (133%) of the threshold amount, the credit shall be in an amount equal to:*
- a. *Sixty-nine dollars (\$69) for a family size of one (1); and*
 - b. *Twenty-eight dollars (\$28) for a family size of two (2).*
- (4) For a qualifying married couple filing jointly, the family size tax credit shall be computed on the basis of their joint modified gross income and shall be applied against their joint tax liability. For a qualifying married couple living together, whether filing separate returns or filing separately on a combined return, the family size tax credit shall be computed on the basis of their combined modified gross income, except that a separately computed modified gross income of less than zero shall be treated as zero, and shall be applied against their combined tax liability.

➔Section 44. KRS 141.121 is amended to read as follows:

- (1) As used in this section:
- (a) "Affiliated airline" means an airline:
 1. For which a qualified air freight forwarder facilitates air transportation; and
 2. That is in the same affiliated group as a qualified air freight forwarder;
 - (b) "Affiliated group" has the same meaning as in KRS 141.200;
 - (c) "Kentucky revenue passenger miles" means the total revenue passenger miles within the borders of Kentucky for all flight stages that either originate or terminate in this state;
 - (d) "Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;
 - (e) "Provider" means any corporation engaged in the business of providing:
 1. Communications service as defined in KRS 136.602;
 2. Cable service as defined in KRS 136.602; or
 3. Internet access as defined in 47 U.S.C. sec. 151;
 - (f) "Qualified air freight forwarder" means a person that:
 1. Is engaged primarily in the facilitation of the transportation of property by air;
 2. Does not itself operate aircraft; and
 3. Is in the same affiliated group as an affiliated airline; and
 - (g) "Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241.
- (2) (a) For purposes of apportioning business income to this state for taxable years beginning prior to January 1, 2018:
1. Passenger airlines shall determine the property, payroll, and sales factors as follows:
 - a. Except as modified by this subdivision, the property factor shall be determined as provided in KRS 141.901. Aircraft operated by a passenger airline shall be included in both the numerator and denominator of the property factor. Aircraft shall be included in the numerator of the property factor by determining the product of:
 - i. The total average value of the aircraft operated by the passenger airline; and

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- ii. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year;
 - b. Except as modified by this subdivision, the payroll factor shall be determined as provided in KRS 141.901. Compensation paid during the tax period by a passenger airline to flight personnel shall be included in the numerator of the payroll factor by determining the product of:
 - i The total amount paid during the taxable year to flight personnel; and
 - ii. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year; and
 - c. Except as modified by this subdivision, the sales factor shall be determined as provided in KRS 141.901. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:
 - i The total transportation revenues of the passenger airline for the taxable year; and
 - ii. A fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and
- 2. Qualified air freight forwarders shall determine the property, payroll, and sales factors as follows:
 - a. The property factor shall be determined as provided in KRS 141.901;
 - b. The payroll factor shall be determined as provided in KRS 141.901; and
 - c. Except as modified by this subparagraph, the sales factor shall be determined as provided in KRS 141.901. Freight forwarding revenues shall be included in the numerator of the sales factor by determining the product of:
 - i. The total freight forwarding revenues of the qualified air freight forwarder for the taxable year; and
 - ii. A fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.
- (b) For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, except as modified by this paragraph, the apportionment fraction shall be determined as provided in KRS 141.120, except that:
 - 1. Transportation revenues shall be determined to be in this state by multiplying the total transportation revenues by a fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and
 - 2. Freight forwarding revenues shall be determined to be in this state by multiplying the total freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.
- (3) For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, the apportionment fraction for a provider shall continue to be calculated using a three (3) factor formula as provided in KRS 141.901.
- (4) (a) A corporation may elect the allocation and apportionment methods for the corporation's apportionable income provided for in paragraphs (b) and (c) of this subsection. The election, if made, shall be irrevocable for a period of five (5) years.
- (b) All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee

benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

1. Total apportionable income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period;
 2. For purposes of subparagraph 1. of this paragraph, Kentucky receipts shall be determined by multiplying total receipts for the taxable year from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year; and
 3. Nonapportionable income shall be allocated to this state as provided in KRS 141.120.
- (c) All apportionable income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2) before that statute was renumbered in 1992, shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:
1. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year;
 2. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year; and
 3. Nonapportionable income shall be allocated to this state as provided in KRS 141.120.
- (5) Public service companies and financial organizations required by KRS 141.010 to allocate and apportion net income shall allocate and apportion that income as follows:
- (a) Nonapportionable income shall be allocated to this state as provided in KRS 141.120;
 - (b) Apportionable income shall be apportioned to this state as provided by KRS 141.120. Receipts shall be determined as provided by administrative regulations promulgated by the department; and
 - (c) An affiliated group required to file a consolidated return under KRS 141.200 that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of receipts as provided by administrative regulations promulgated by the department.
- (6) A corporation:
- (a) That owns an interest in a limited liability pass-through entity; or
 - (b) That owns an interest in a general partnership;
- shall include the proportionate share of receipts of the limited liability pass-through entity or general partnership when apportioning income. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership" shall extend to each level of multiple-tiered pass-through entities.
- (7) ***The department shall promulgate administrative regulations to detail the sourcing of the following receipts related to financial institutions:***
- (a) ***Receipts from the lease of real property;***
 - (b) ***Receipts from the lease of tangible personal property;***
 - (c) ***Interest, fees, and penalties imposed in connection with loans secured by real property;***

- (d) *Interest, fees, and penalties imposed in connection with loans not secured by real property;*
- (e) *Net gains from the sale of loans;*
- (f) *Receipts from fees, interest, and penalties charged to card holders;*
- (g) *Net gains from the sale of credit card receivables;*
- (h) *Card issuer's reimbursement fees;*
- (i) *Receipts from merchant discount;*
- (j) *Receipts from ATM fees;*
- (k) *Receipts from loan servicing fees;*
- (l) *Receipts from other services;*
- (m) *Receipts from the financial institution's investment assets and activity and trading assets and activity; and*
- (n) *All other receipts.*

➔Section 45. KRS 141.170 is amended to read as follows:

- (1) The department ~~of Revenue~~ may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.
- (2) A corporation may be granted an extension of not more than *seven (7)* ~~six (6)~~ months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.
- (3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) 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 with the department.

➔Section 46. KRS 141.175 is amended to read as follows:

- (1) *As used in this section, Section 37 of this Act, and KRS 141.900:*
 - (a) *"Active duty" means the day the person assembles at his or her armory or other designated place until the day he or she returns there and has been properly relieved, including:*
 - 1. *Fractional parts of a day which count as a full day; and*
 - 2. *All days of active duty for training and inactive duty training; and*
 - (b) *"Armed Forces" means the military forces of the United States and the Commonwealth, including the:*
 - 1. *Army;*
 - 2. *Navy;*
 - 3. *Air Force;*
 - 4. *Marine Corps;*
 - 5. *Coast Guard;*
 - 6. *Any Reserve branch of the Army, Navy, Air Force, Marine Corps, or Coast Guard; and*
 - 7. *National Guard.*
- (2) (a) Members of the *Armed Forces* ~~National Guard or any branch of the reserves~~ called to active duty who are required by law to file an income tax return and pay income taxes to the state of Kentucky shall be allowed an extension to file the return and pay the taxes, which would otherwise become due during the period of service, if the member serves in an area designated as a combat zone by presidential proclamation.

~~(b)(2)~~ The extension referred to in *paragraph (a) of this subsection* ~~[(1) of this section]~~ shall expire twelve (12) months after the service.

~~(c)(3)~~ No penalty shall accrue by reason of the extension.

➔Section 47. KRS 141.201 is amended to read as follows:

- (1) This section shall apply to taxable years beginning on or after January 1, 2019.
- (2) As used in this section:
 - (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;
 - (b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;
 - (c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with this chapter;
 - (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
 - (e) "Election period" means the **forty-eight (48)**~~ninety-six (96)~~ month period provided for in subsection (4)(d) of this section.
- (3) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year:
 - (a) 1. File a combined report, if the corporation is a member of unitary business group as provided in KRS 141.202; or
 2. Make an election to file a consolidated return with all members of the affiliated group as provided in this section; or
 - (b) File a separate return, if paragraph (a) of this subsection does not apply.
- (4)
 - (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.
 - (b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income as provided in KRS 141.039(2), and determining the apportionment fraction in accordance with KRS 141.120.
 - (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return, including extensions, for the first taxable year for which the election is made.
 - (d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the **forty-eighth**~~ninety-sixth~~ consecutive calendar month expires.
 - (e) For each taxable year for which an affiliated group has made an election provided in paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.
- (5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

- (6) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The department may require a further or supplemental report of further information and data necessary for computation of the tax.
- (7) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

➔Section 48. KRS 141.202 is amended to read as follows:

- (1) This section shall apply to taxable years beginning on or after January 1, 2019.
- (2) As used in this section:
- (a) "Combined group" means the group of all corporations whose income and apportionment factors are required to be taken into account as provided in subsection (3) of this section in determining the taxpayer's share of the net income or loss apportionable to this state. ***A combined group shall include only corporations, the voting stock of which is more than fifty percent (50%) owned, directly or indirectly, by a common owner or owners;***
- (b) "Corporation" has the same meaning as in KRS 141.010, including an organization of any kind treated as a corporation for tax purposes under KRS 141.040, wherever located, which if it were doing business in this state would be a taxpayer, and the business conducted by a pass-through entity which is directly or indirectly held by a corporation shall be considered the business of the corporation to the extent of the corporation's distributive share of the pass-through entity income, inclusive of guaranteed payments;
- (c) "Doing business in a tax haven" means being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards;
- (d) ***1. "Tax haven" means a jurisdiction that, during the taxable year has no or nominal effective tax on the relevant income and:***
- a. ~~1-1~~*** Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefitting from the tax regime;
- b. ~~1-2~~*** Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal, or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;
- c. ~~1-3~~*** Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;
- d. ~~1-4~~*** Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or
- e. ~~1-5~~*** Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.
- 2. "Tax haven" does not include a jurisdiction that has entered into a comprehensive income tax treaty with the United States, which the Secretary of the Treasury has determined is satisfactory for purposes of Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code;***
- (e) "Taxpayer" means any corporation subject to the tax imposed under this chapter;
- (f) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single corporation or of a commonly controlled group of corporations that are sufficiently

interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the United States Constitution; and

- (g) "United States" means the fifty (50) states of the United States, the District of Columbia, and United States' territories and possessions.
- (3) (a) Except as provided in KRS 141.201, a taxpayer engaged in a unitary business with one (1) or more other corporations shall file a combined report which includes the income, determined under subsection (5) of this section, and the apportionment fraction, determined under KRS 141.120 and paragraph (d) of this subsection, of all corporations that are members of the unitary business, and any other information as required by the department. ***The combined report shall be filed on a waters-edge basis under subsection (8) of this section.***
- (b) The department may, by administrative regulation, require that the combined report include the income and associated apportionment factors of any corporations that are not included as provided by paragraph (a) of this subsection, but that are members of a unitary business, in order to reflect proper apportionment of income of the entire unitary businesses. Authority to require combination by administrative regulation under this paragraph includes authority to require combination of corporations that are not, or would not be combined, if the corporation were doing business in this state.
 - (c) In addition, if the department determines that the reported income or loss of a taxpayer engaged in a unitary business with any corporation not included as provided by paragraph (a) of this subsection represents an avoidance or evasion of tax by the taxpayer, the department may, on a case-by-case basis, require all or any part of the income and associated apportionment factors of the corporation be included in the taxpayer's combined report.
 - (d) With respect to the inclusion of associated apportionment factors as provided in paragraph (a) of this subsection, the department may require the inclusion of any one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.
 - (e) ***A unitary business shall consider the combined gross receipts and combined income from all sources of all members under subsection (8) of this section, including eliminating entries for transactions among the members under subsection (8)(e) of this section.***
 - (f) Notwithstanding paragraphs (a) to (e)~~(d)~~ of this subsection, a consolidated return may be filed as provided in KRS 141.201 if the taxpayer makes an election according to KRS 141.201.
- (4) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include, in addition to the other types of income, the taxpayer member's share of apportionable income of the combined group, where apportionable income of the combined group is calculated as a summation of the individual net incomes of all members of the combined group. A member's net income is determined by removing all but apportionable income, expense, and loss from that member's total income as provided in subsection (5) of this section.
- (5) (a) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include:
1. Its share of any income apportionable to this state of each of the combined groups of which it is a member, determined under subsection (6) of this section;
 2. Its share of any income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer member, determined under KRS 141.120;
 3. Its income from a business conducted wholly by the taxpayer member entirely within the state;
 4. Its income sourced to this state from the sale or exchange of capital or assets, and from involuntary conversions, as determined under subsection (8)(k) of this section;
 5. Its nonapportionable income or loss allocable to this state, determined under KRS 141.120;

6. Its income or loss allocated or apportioned in an earlier year, required to be taken into account as state source income during the income year, other than a net operating loss; and
 7. Its net operating loss carryover. If the taxable income computed pursuant to this subsection results in a loss for a taxpayer member of the combined group, that taxpayer member has a Kentucky net operating loss, subject to the net operating loss limitations and carry forward provisions of KRS 141.011. The net operating loss is applied as a deduction in a subsequent year only if that taxpayer has Kentucky source positive net income, whether or not the taxpayer is or was a member of a combined reporting group in the subsequent year.
 - (b) No tax credit or post-apportionment deduction earned by one (1) member of the group, but not fully used by or allowed to that member, may be used in whole or in part by another member of the group or applied in whole or in part against the total income of the combined group.
 - (c) A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year, regardless of the composition of that income as apportioned, allocated, or wholly within this state.
- (6) The taxpayer's share of the business income apportionable to this state of each combined group of which it is a member shall be the product of:
- (a) The apportionable income of the combined group, determined under subsection (7) of this section; and
 - (b) The taxpayer member's apportionment fraction, determined under KRS 141.120, including in the sales factor numerator the taxpayer's sales associated with the combined group's unitary business in this state, and including in the denominator the sales of all members of the combined group, including the taxpayer, which sales are associated with the combined group's unitary business wherever located. The sales of a pass-through entity shall be included in the determination of the partner's apportionment percentage in proportion to a ratio, the numerator of which is the amount of the partner's distributive share of the pass-through entity's unitary income included in the income of the combined group as provided in subsection (8) of this section and the denominator of which is the amount of pass-through entity's total unitary income.
- (7) The apportionable income of a combined group is determined as follows:
- (a) The total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for state purposes, as if the member were not consolidated for federal purposes; and
 - (b) From the total income of the combined group determined under subsection (8) of this section, subtract any income and add any expense or loss, other than the apportionable income, expense, or loss of the combined group.
- (8) To determine the total income of the combined group, taxpayer members shall take into account all or a portion of the income and apportionment factor of only the following members otherwise included in the combined group as provided in subsection (3) of this section:
- (a) The entire income and apportionment percentage of any member incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States ***that earns less than eighty percent (80%) of its income from sources outside of the United States, the District of Columbia, or any territory or possession of the United States;***
 - (b) Any member that earns more than twenty percent (20%) of its income, directly or indirectly, from intangible property or service related activities that are deductible against the apportionable income of other members of the combined group, to the extent of that income and the apportionment factor related to that income;
 - (c) The entire income and apportionment factor of any member that is doing business in a tax haven. If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the definition established in subsection (2)(d) of this section, the activity of the member shall be treated as not having been conducted in a tax haven;
 - (d) If a unitary business includes income from a pass-through entity, the income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary income;

- (e) Income from an intercompany transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13. Upon the occurrence of any of the following events, deferred income resulting from an intercompany transaction between members of a combined group shall be restored to the income of the seller, and shall be apportionable income earned immediately before the event:
1. The object of a deferred intercompany transaction is:
 - a. Resold by the buyer to an entity that is not a member of the combined group;
 - b. Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or
 - c. Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or
 2. The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary;
- (f) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction provided by Section 170 of the Internal Revenue Code, be subtracted first from the apportionable income of the combined group, subject to the income limitations of that section applied to the entire apportionable income of the group, and any remaining amount shall then be treated as a nonapportionable expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonapportionable income of that specific member. Any charitable deduction disallowed under this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and this paragraph shall apply in the subsequent year in determining the allowable deduction in that year;
- (g) Gain or loss from the sale or exchange of capital assets, property described by Section 1231(a)(3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:
1. For each class of gain or loss, including short-term capital, long-term capital, Internal Revenue Code Section 1231, and involuntary conversions, all members' gain and loss for the class shall be combined, without netting between the classes, and each class of net gain or loss separately apportioned to each member using the member's apportionment percentage determined under subsection (6) of this section;
 2. Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any apportioned gain and loss from other combined groups, against the taxpayer member's nonapportionable gain and loss for all classes allocated to this state, using the rules of Sections 1231 and 1222 of the Internal Revenue Code, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, Internal Revenue Code Section 1231 property, and involuntary conversions which are nonapportionable items allocated to another state;
 3. Any resulting state source income or loss, if the loss is not subject to the limitations of Section 1211 of the Internal Revenue Code, of a taxpayer member produced by the application of subparagraphs 1. and 2. of this paragraph shall then be applied to all other state source income or loss of that member; and
 4. Any resulting state source loss of a member that is subject to the limitations of Section 1211 of the Internal Revenue Code shall be carried forward by that member, and shall be treated as state source short-term capital loss incurred by that member for the year for which the carryover applies; and
- (h) Any expense of one (1) member of the unitary group which is directly or indirectly attributable to the nonapportionable or exempt income of another member of the unitary group shall be allocated to that other member as corresponding nonapportionable or exempt expense, as appropriate.
- (9) (a) As a filing convenience, and without changing the respective liability of the group members, members of a combined reporting group shall annually designate one (1) taxpayer member of the combined group

to file a single return in the form and manner prescribed by the department, in lieu of filing their own respective returns.

- (b) The taxpayer member designated to file the single return shall consent to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report, and shall agree to act as agent on behalf of those taxpayers for the taxable year for matters relating to the combined report. If for any reason the surety is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

➔Section 49. KRS 141.206 is amended to read as follows:

- (1) Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.
- (2) Pass-through entities shall determine net income in the same manner as in the case of an individual under KRS 141.010 and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (3) Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required for S corporations by KRS 141.040.
- (4) (a) Every pass-through entity required to file a return under subsection (1) of this section, except publicly traded partnerships as ~~described~~^{defined} in **subsection (6)(a)18. of this section** ~~[KRS 141.040(6)(c)],~~ shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each:
 - 1. Nonresident individual partner, member, or shareholder; and
 - 2. Corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity.
- (b) Withholding shall be at the maximum rate provided in KRS 141.020 or 141.040.
- (5) (a) Effective for taxable years beginning after December 31, ~~2018~~²⁰¹¹, every pass-through entity required to withhold Kentucky income tax as provided by subsection (4) of this section shall ~~pay~~^{make} ~~a declaration and payment of~~ estimated tax for the taxable year if:
 - 1. For a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars (\$500); or
 - 2. For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the estimated tax liability can reasonably be expected to exceed five thousand dollars (\$5,000).
- (b) ~~The~~ ~~declaration and~~ payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.
- (6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.
- (b) An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner. An exemption so revoked shall be reinstated only with permission of the department. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.

- (7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
- (8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:
- (a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or
 - 2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and
- (b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.
- (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:
- (a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
 - 2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
- (b) Credits from the partnership.
- (10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.
- (b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:
- 1. Doing business both within and without this state; and
 - 2. A partner or member in another pass-through entity;
- then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.
- (c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.
- (d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.
- (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.

- (12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.
- (13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.
- (14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.
- (b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.
- (15) (a) 1. A pass-through entity may file a composite income tax return on behalf of electing nonresident individual partners, members, or shareholders.
2. The pass-through entity shall report and pay on the composite income tax return income tax at the highest marginal rate provided in this chapter on any portion of the partners', members', or shareholders' pro rata or distributive shares of income of the pass-through entity from doing business in this state or deriving income from sources within this state. Payments made pursuant to subsection (5) of this section shall be credited against any tax due.
3. The pass-through entity filing a composite return shall still make estimated tax payments if required to do so by subsection (5) of this section, and shall remain subject to any penalty ***under Sections 42 and 52 of this Act*** provided by KRS 131.180 or 141.990 for any ~~declaration~~ underpayment of ***estimated tax determined under Section 42 or 52 of this Act*** ~~for any installment not paid on time~~.
4. The partners', members', or shareholders' pro rata or distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member, or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains and losses, guaranteed payments, and rents.
- (b) A nonresident individual partner, member, or shareholder whose only source of income within this state is distributive share income from one (1) or more pass-through entities may elect to be included in a composite return filed pursuant to this section.
- (c) A nonresident individual partner, member, or shareholder that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the partner's behalf by the pass-through entity.
- (d) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its electing nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require. A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 50. KRS 141.207 is amended to read as follows:

- (1) The ~~declaration and~~ payment of estimated tax required by KRS 141.206 shall contain the following information:
- (a) For a nonresident individual partner, member, or shareholder, the amount of estimated tax calculated under KRS 141.020 ***and Section 52 of this Act*** for the taxable year; and
- (b) For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the amount of estimated tax calculated under KRS 141.040 ***and Section 42 of this Act*** for the taxable year.

- (2) ~~The declaration of estimated tax required under this section shall be filed with the department by the pass-through entity in the same manner and at the same times as provided by:~~
- ~~(a) KRS 141.300, for a nonresident individual partner, member, or shareholder; and~~
 - ~~(b) KRS 141.042, for a corporate partner or member.~~
- (3) The payment of estimated tax shall be made in installments by the pass-through entity in the same manner and at the same times as provided by:
- (a) KRS 141.305, for a nonresident individual partner, member, or shareholder; and
 - (b) KRS 141.044, for a corporate partner or member.
- (3)(4) A pass-through entity required to make a ~~declaration and~~ payment of estimated tax shall be subject to the penalty provisions ~~of KRS 131.180 and 141.990~~ for any ~~declaration~~ underpayment *of estimated tax* ~~for any installment not paid on time~~.

➔Section 51. KRS 141.235 is amended 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 this chapter.
- (2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:
 - (a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the department, 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 taxpayer 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.
 - (c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

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) Overpayments as defined in KRS 134.580 of taxes collected pursuant to KRS ~~141.305~~ ~~141.300~~, 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). Effective for refunds issued after April 24, 2008, the interest shall not begin to accrue until ninety (90) days after the latest of:
 - (a) The due date of the return;
 - (b) The date the return was filed;
 - (c) The date the tax was paid;
 - (d) The last day prescribed by law for filing the return; or
 - (e) The date an amended return claiming a refund is filed.

- (4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the commissioner or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

➔Section 52. KRS 141.305 is amended to read as follows:

- (1) *For taxable years beginning on or after January 1, 2019, every individual shall make estimated income tax payments if his or her:*
 - (a) *Gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed five thousand dollars (\$5,000) for the taxable year; or*
 - (b) *Adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.*

- (2) *No estimated tax shall be required if the estimated tax liability can reasonably be expected to be five hundred dollars (\$500) or less.*
- (3) *Estimated tax payment for the tax imposed under KRS 141.020 shall be made at the same time and calculated in the same manner as an estimated tax payment for federal income tax purposes under 26 U.S.C. sec. 6654, except:*
- (a) *The estimated tax liability for the tax imposed under KRS 141.020 shall be used to make the estimated payment;*
 - (b) *Any provisions in 26 U.S.C. sec. 6654 that apply for federal tax purposes but do not apply to the taxes imposed under KRS 141.020 shall not be included;*
 - (c) *The addition to tax identified by 26 U.S.C. sec. 6654(a) shall instead be considered a penalty under Section 4 of this Act;*
 - (d) *The tax interest rate identified under KRS 131.183 shall be used to determine the underpayment rate instead of the rate under 26 U.S.C. sec. 6621; and*
 - (e) *Any waiver of penalties shall be performed as provided in Section 3 of this Act.*
- (4) *The department may promulgate administrative regulations to implement this section*~~[The estimated tax provided for in KRS 141.300 shall be paid as follows:~~
- ~~(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;~~
 - ~~(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;~~
 - ~~(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;~~
 - ~~(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;~~
 - ~~(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent (50%) of the total estimated tax for 1954.~~
- ~~(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.~~
 - ~~(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.~~
 - ~~(4) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.~~
 - ~~(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds (2/3) of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on~~

~~or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.~~

~~(6) The application of this section and KRS 141.300 to taxable years of less than twelve (12) months shall be as prescribed in administrative regulations promulgated by the department.~~

~~(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.~~

➔ Section 53. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials;

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner;

(d) "Recapture period" means:

1. For qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from that date; or
2. For qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from that date;

(e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code; *and*

~~(f) "Baseline tax liability" means the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005; and~~

~~(g)~~ "Major recycling project" means a project *location* where the taxpayer:

1. Invests more than ten million dollars (\$10,000,000) in recycling or composting equipment to be used exclusively in this state;
2. Has more than *four hundred (400)* ~~seven hundred fifty (750)~~ full-time employees with an average hourly wage of more than three hundred percent (300%) of the federal minimum wage; and
3. Has plant and equipment with a total cost of more than five hundred million dollars (\$500,000,000).

(2) (a) *I.* A taxpayer that purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the:

a. Income taxes *under KRS 141.020 or Section 40 of this Act; and*

b. *Limited liability entity tax under Section 41 of this Act;*

with the ordering of the credits under Section 79 of this Act. ~~[imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in]~~

2. The total tax credit shall be an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. ~~[Any credit allowed against the income taxes imposed~~

~~pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.~~

3. The amount of credit claimed in the **taxable**~~[tax]~~ year during which the recycling equipment is purchased shall not exceed:
 - a. Ten percent (10%) of the amount of the total credit allowable; ~~or [and shall not exceed]~~
 - b. Twenty-five percent (25%) of the total of each tax liability which would be otherwise due **for that taxable year.**
 4. ***The amount of credit claimed in a taxable year subsequent to the taxable year during which the recycling equipment is purchased shall not exceed twenty-five percent (25%) of the total of each tax liability, which would be otherwise due for that taxable year.***
- (b) 1. For taxable years beginning after December 31, ~~2019~~~~[2004]~~, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the:
- a. Income taxes ***under KRS 141.020 or Section 40 of this Act; and***
 - b. ***Limited liability entity tax under Section 41 of this Act;***
with the ordering of the credits under Section 79 of this Act.~~[imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in]~~
2. ***The total tax credit shall be*** an amount equal to ***twenty-five percent (25%)***~~[fifty percent (50%)]~~ of the installed cost of the recycling or composting equipment.~~[Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.]~~
 3. The credit described in this paragraph shall be limited to a period of ***thirty (30)***~~[ten (10)]~~ years commencing with the approval of the recycling credit application.
 4. ***The amount of credit claimed in the taxable year during which the recycling equipment is purchased shall not exceed seventy-five percent (75%)***~~[In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:~~
 1. ~~Fifty percent (50%) of the excess]~~ of the total of each tax liability ***which would be otherwise due for that taxable year***~~[over the baseline tax liability of the taxpayer; or~~
 2. ~~Two million five hundred thousand dollars (\$2,500,000), whichever is less].~~
 5. ***The amount of credit claimed in a taxable year subsequent to the taxable year during which the recycling equipment is purchased shall not exceed seventy-five percent (75%) of the total of each tax liability, which would be otherwise due for that taxable year.***
- (c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection, ***except that the total amount of credits under paragraphs (a) and (b) of this subsection claimed in a taxable year shall not exceed seventy-five percent (75%) of the total of each tax liability which would be otherwise due for that taxable year.***
- (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph (a) of this subsection and a credit computed under paragraph (b) of this subsection on the same recycling or composting equipment.
- (3) (a) Application for a tax credit shall be made to the department~~[of Revenue]~~ on or before the first day of the seventh month following the close of the taxable year in which the recycling or composting equipment is purchased ***or placed in service.***
- (b) The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the department~~[of Revenue]~~ may require ***to fulfill the reporting requirements under subsection (8) of this section.***

- (c) The department~~[of Revenue]~~ shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.
- (4) (a) Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section.
- (b) If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.
- (c) If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.
- (5) The total tax credit allowable under subsection (2) of this section for equipment that is sold, transferred, or otherwise disposed of before the end of the recapture period shall be adjusted as follows:
- (a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:
1. One (1) year or less after the purchase, no credit shall be allowed.
 2. Between one (1) year and two (2) years after the purchase, twenty percent (20%) of the total allowable credit shall be allowed.
 3. Between two (2) and three (3) years after the purchase, forty percent (40%) of the total allowable credit shall be allowed.
 4. Between three (3) and four (4) years after the purchase, sixty percent (60%) of the total allowable credit shall be allowed.
 5. Between four (4) and five (5) years after the purchase, eighty percent (80%) of the total allowable credit shall be allowed.
- (b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:
1. One (1) year or less after the purchase, no credit shall be allowed.
 2. Between one (1) year and two (2) years after the purchase, thirty-three percent (33%) of the total allowable credit shall be allowed.
 3. Between two (2) and three (3) years after the purchase, sixty-seven percent (67%) of the total allowable credit shall be allowed.
- (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or transfers due merely to a change in business ownership or organization as long as the equipment continues to be used exclusively in recycling or composting, or transactions to which Section 381(a) of the Internal Revenue Code applies.
- (7) The department~~[of Revenue]~~ may promulgate administrative regulations to carry out the provisions of this section.
- (8) (a) ***The purpose of expanding the tax credit for a major recycling project is to encourage more recycling and composting by businesses within the Commonwealth.***
- (b) ***In order for the General Assembly to evaluate the fulfillment of the purpose stated in paragraph (a) of this subsection, the department shall provide the following information on a cumulative basis for each taxable year to provide a historical impact of the tax credit to the Commonwealth:***
1. ***A narrative for each major recycling project approved for a tax credit, describing:***
 - a. ***The taxpayer claiming the tax credit;***
 - b. ***The industry sector within which the taxpayer operates in this state, including the NAICS code for the taxpayer; and***

- c. The type of recycling or composting equipment purchased by the taxpayer;*
- 2. The location, by county, of the major recycling project;*
- 3. The installed cost of the recycling or composting equipment;*
- 4. The total amount of tax credit approved for the major recycling project;*
- 5. The amount of tax credit allowed for the major recycling project for each taxable year; and*
- 6. a. In the case of all taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000) for the taxable year, the total amount of tax credits claimed and the number of returns claiming a tax credit for each adjusted gross income range; and*
 - b. In the case of all corporations, based on ranges of net income no larger than fifty thousand dollars (\$50,000) for the taxable year, the total amount of tax credit claimed and the number of returns claiming a tax credit for each net income range.*
- (c) The report required by paragraph (b) of this subsection shall be submitted to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2021, and no later than each November 1 thereafter, as long as the credit is claimed on any return processed by the department.*

➔Section 54. KRS 141.402 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.25-010;
 - (b) "Jobs retention project" shall have the same meaning as set forth in KRS 154.25-010;
 - (c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;
 - (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and
 - (e) "Tax credit" means the tax credit allowed in KRS 154.25-030.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040(1) shall:
 - (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~{(1)}~~ or taxable net income as defined by KRS 141.010~~{(1)}~~, including income from the jobs retention project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~{(1)}~~ or taxable net income as defined by KRS 141.010~~{(1)}~~, excluding net income attributable to the jobs retention project;
 2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.25-030.

- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to a jobs retention project at the rates provided in KRS 141.020(2).
- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.25-030.
- (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
- (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
- (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the jobs retention project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the jobs retention project using an alternative method approved by the Department of Revenue.
- (8) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this section and KRS 154.25-010 to 154.25-050 and the allowable income tax credit which an approved company may retain under this section and KRS 154.25-010 to 154.25-050.

➔Section 55. KRS 141.408 is amended to read as follows:

- (1) There shall be allowed a nonrefundable and nontransferable credit against the tax imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits as provided in KRS 141.0205, for any taxpayer that, on or after January 1, 2018, timely pays an ad valorem tax to the Commonwealth or any political subdivision thereof for property described in KRS 132.020(1)(e)~~(n)~~ or 132.099.
- (2) The credit allowed under subsection (1) of this section shall be in an amount equal to:
- (a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2018, and before January 1, 2019;
- (b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2019, and before January 1, 2020;
- (c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2020, and before January 1, 2021; and

- (d) One hundred percent (100%) of the ad valorem taxes timely paid, for taxable years beginning on or after January 1, 2021.
- (3) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.
- (4) No later than October 1, 2019, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:
 - (a) The name of each taxpayer taking the credit permitted by subsection (1) of this section;
 - (b) The location of the property upon which the credit was allowed; and
 - (c) The amount of credit taken by that taxpayer.

➔Section 56. KRS 141.421 is amended to read as follows:

- (1) As used in this section:
 - (a) "Approved company" has the same meaning as in KRS 154.27-010;
 - (b) "Eligible project" has the same meaning as in KRS 154.27-010;
 - (c) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
 - (d) "Kentucky gross profits" has the same meaning as in KRS 141.0401; and
 - (e) "Tax credit" means the tax credit allowed in KRS 154.27-080.
- (2) An approved company shall compute the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040(1) shall:
 - (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~{(14)}~~ or taxable net income as defined by KRS 141.010~~{(14)}~~, including income from the eligible project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the eligible project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010~~{(14)}~~ or taxable net income as defined by KRS 141.010~~{(14)}~~, excluding net income attributable to the eligible project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the eligible project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.27-020.
- (4)
 - (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an eligible project at the rates provided in KRS 141.020(2).
 - (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an

estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.

- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.27-020.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, tax credit, and estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
- (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If an approved company can show to the satisfaction of the department that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the eligible project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the eligible project using an alternative method approved by the department.
- (8) The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of this section and KRS 154.27-080 and the allowable income tax credit which an approved company may retain under this section and KRS 154.27-080.

➔Section 57. KRS 141.428 is amended to read as follows:

- (1) As used in this section:
- (a) "Clean coal facility" means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than one hundred fifty million dollars (\$150,000,000) that is located in the Commonwealth of Kentucky and is certified by the Energy and Environment Cabinet as reducing emissions of pollutants released during generation of electricity through the use of clean coal equipment and technologies;
 - (b) "Clean coal equipment" means equipment purchased and installed for commercial use in a clean coal facility to aid in reducing the level of pollutants released during the generation of electricity from eligible coal;
 - (c) "Clean coal technologies" means technologies incorporated for use within a clean coal facility to lower emissions of pollutants released during the generation of electricity from eligible coal;
 - (d) "Eligible coal" means coal that is subject to the tax imposed under KRS 143.020;
 - (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and
 - (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).
- (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit shall be allowed for:
- (a) Any electric power company subject to tax under KRS 136.120 and certified as a clean coal facility or any taxpayer that owns or operates a clean coal facility and purchases eligible coal that is used by the taxpayer in a certified clean coal facility; or

- (b) A parent company of an entity identified in paragraph (a) of this subsection if the subsidiary is wholly owned.
- (3) (a) The credit may be taken against the taxes imposed by:
1. ~~1. KRS 136.070;~~
 2. ~~2.~~ KRS 136.120; or
 2. ~~3.~~ KRS 141.020 or 141.040, and 141.0401.
- (b) The credit shall not be carried forward and must be used on the tax return filed for the period during which the eligible coal was purchased. The Energy and Environment Cabinet must approve and certify use of the clean coal equipment and technologies within a clean coal facility before any taxpayer may claim the credit.
- (c) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (4) The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal purchased that is used to generate electric power at a certified clean coal facility ~~except that no credit shall be allowed if the eligible coal has been used to generate a credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary.~~
- (5) Each taxpayer eligible for the credit provided under subsection (2) of this section shall file a clean coal incentive credit claim on forms prescribed by the department ~~of Revenue~~. At the time of filing for the credit, the taxpayer shall submit an electronic report verifying the tons of coal subject to the tax imposed by KRS 143.020 purchased for each year in which the credit is claimed. The department ~~of Revenue~~ shall determine the amount of the approved credit and issue a credit certificate to the taxpayer.
- (6) Corporations and pass-through entities subject to the tax imposed under KRS 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed under this section, the approved credit against its liability for the taxes, in consecutive order as follows:
- (a) The credit shall first be applied against both the tax imposed by KRS 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering of credits as provided in KRS 141.0205;
 - (b) The credit shall then be applied to the tax imposed by KRS 136.120.
- The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order before applying any remaining credit to the next tax listed. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.
- (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income of the pass-through entity. The credit shall be claimed in the same manner as specified in subsection (6) of this section. Each pass-through entity shall notify the department ~~of Revenue~~ electronically of all partners, members, or shareholders who may claim any amount of the approved credit. Failure to provide information to the department ~~of Revenue~~ in a manner prescribed by regulation may constitute the forfeiture of available credits to all partners, members, or shareholders associated with the pass-through entity.
- (8) The taxpayer shall maintain all records associated with the credit for a period of five (5) years. Acceptable verification of eligible coal purchased shall include invoices that indicate the tons of eligible coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.
- (9) The department ~~of Revenue~~ shall develop the forms required under this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.
- (10) The Office of Energy Policy within the Energy and Environment Cabinet and the department ~~of Revenue~~ shall promulgate administrative regulations necessary to administer this section.
- (11) This section shall be known as the Kentucky Clean Coal Incentive Act.
- ➔ Section 58. KRS 141.985 is amended to read as follows:

Except for the addition to tax required when an underpayment of estimated tax occurs under Sections 42 and 52 of this Act, any ~~If the~~ tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

➔Section 59. KRS 141.990 is amended to read as follows:

- (1) Any individual, fiduciary, corporation, employer, or other person who violates any of the provisions of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- ~~(2) Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay the declaration of estimated tax shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting declaration credits allowed by KRS 141.070, declaration installment payments actually made, and credit for tax withheld as allowed by KRS 141.350 from seventy percent (70%) of the total income tax liability computed by the taxpayer as shown on the return filed for the tax year. This subsection shall not apply to the tax year in which the death of the taxpayer occurs, nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305, nor in the case of any person having a tax liability of five hundred dollars (\$500) or less.~~
- ~~(3) Any corporation or limited liability pass through entity required by KRS 141.042 to file a declaration of estimated tax and required to pay the declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any installment not paid on time. Declaration underpayment, for purposes of this subsection, is determined by subtracting five thousand dollars (\$5,000) and declaration payments actually made from seventy percent (70%) of the total tax liability due under KRS 141.040 and computed by the taxpayer on the return filed for the tax year. For taxable years beginning on or after January 1, 2006, the penalty imposed by this subsection shall not apply if estimated payments made under subsection (1) of KRS 141.044 are equal to the amount of tax due under KRS 141.040 for the previous taxable year, and the amount of tax due under KRS 141.040 for the previous year was equal to or less than twenty five thousand dollars (\$25,000).~~
- ~~(4)~~ Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.
- ~~(3)~~~~(5)~~ In addition to the penalties herein prescribed, any taxpayer 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 D felony.
- ~~(4)~~~~(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 this chapter 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 such return, affidavit, claim, or document, shall be guilty of a Class D felony.
- ~~(5)~~~~(7)~~ A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the department and required to be filed with the department by the provisions of this chapter, or by the rules and regulations of the department or by written request for information to the taxpayer by the department.

➔Section 60. KRS 148.853 is amended to read as follows:

- (1) *Beginning July 1, 2020, no applications for the incentives under Section 32 of this Act and KRS 148.851 to 148.860 shall be accepted. All projects with preliminary or final approval under Section 32 of this Act and KRS 148.851 to 148.860 on June 30, 2020, shall continue to be governed by Section 32 of this Act and KRS 148.851 to 148.860.* ~~The General Assembly finds and declares that:

 - ~~(a) The general welfare and material well being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth;~~
 - ~~(b) It is in the best interest of the Commonwealth to provide incentives for the creation of new tourism attractions and the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not~~~~

~~exist if not for the incentives offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth;~~

- ~~(c) The authorities granted by KRS 148.851 to 148.860 are proper governmental and public purposes for which public moneys may be expended; and~~
- ~~(d) That the creation or expansion of tourism development projects is of paramount importance mandating that the provisions of KRS 139.536 and KRS 148.851 to 148.860 be liberally construed and applied in order to advance public purposes.]~~
- (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the following requirements shall be met:
- (a) For a tourism attraction project:
1. The total eligible costs shall exceed one million dollars (\$1,000,000), except for a tourism attraction project located in a county designated as an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6), the total eligible costs shall exceed five hundred thousand dollars (\$500,000);
 2. In any year, including the first year of operation, the tourism attraction project shall be open to the public at least one hundred (100) days; and
 3. In any year following the third year of operation, the tourism attraction project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (b) For an entertainment destination center project:
1. The total eligible costs shall exceed five million dollars (\$5,000,000);
 2. The facility shall contain a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction project or a major convention facility;
 3. The incentives shall be dedicated to a public infrastructure purpose that shall relate to the entertainment destination center project;
 4. In any year, including the first year of operation, the entertainment destination center project shall:
 - a. Be open to the public at least one hundred (100) days per year;
 - b. Maintain at least one (1) major theme restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large-format theater, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities; and
 - c. Maintain a minimum occupancy of sixty percent (60%) of the total gross area available for lease with entertainment and food and drink options not including the retail sale of tangible personal property; and
 5. In any year following the third year of operation, the entertainment destination center project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (c) For a theme restaurant destination attraction project:
1. The total eligible costs shall exceed five million dollars (\$5,000,000);
 2. In any year, including the first year of operation, the attraction shall:
 - a. Be open to the public at least three hundred (300) days per year and for at least eight (8) hours per day; and
 - b. Generate no more than fifty percent (50%) of its revenue through the sale of alcoholic beverages;

3. In any year following the third year of operation, the theme restaurant destination attraction project shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; and
 4. The theme restaurant destination attraction project shall:
 - a. At the time of final approval, offer a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;
 - b. In any year, including the first year of operation, maintain seating capacity of four hundred fifty (450) guests and offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public; or
 - c. Within three (3) years of the completion date, the attraction shall obtain a top two (2) tier rating by a nationally accredited service and shall maintain a top two (2) tier rating through the term of the agreement;
- (d) For a lodging facility project:
1.
 - a. The eligible costs shall exceed five million dollars (\$5,000,000) unless the provisions of subdivision b. of this subparagraph apply.
 - b.
 - i. If the lodging facility is an integral part of a major convention or sports facility, the eligible costs shall exceed six million dollars (\$6,000,000); and
 - ii. If the lodging facility includes five hundred (500) or more guest rooms, the eligible costs shall exceed ten million dollars (\$10,000,000); and
 2. In any year, including the first year of operation, the lodging facility shall:
 - a. Be open to the public at least one hundred (100) days; and
 - b. Attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (e) Any tourism development project shall not be eligible for incentives if it includes material determined to be lewd, offensive, or deemed to have a negative impact on the tourism industry in the Commonwealth; and
- (f) An expansion of any tourism development project shall in all cases be treated as a new stand-alone project.
- (3) The incentives offered under the Kentucky Tourism Development Act shall be as follows:
- (a) An approved company may be granted a sales tax incentive based on the Kentucky sales tax imposed on sales generated by or arising at the tourism development project; and
 - (b)
 1. For a tourism development project other than a lodging facility project described in KRS 148.851(14)(e) or (f), or a tourism attraction project described in subparagraph 2. of this paragraph:
 - a. A sales tax incentive shall be allowed to an approved company over a period of ten (10) years, except as provided in subparagraph 5. of this paragraph; and
 - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed twenty-five percent (25%);
 2. For a tourism attraction project located in an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6):
 - a. A sales tax incentive shall be allowed to the approved company over a period of ten (10) years; and
 - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed thirty percent (30%);

3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
 - a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and
 - b. The sales tax incentive shall not exceed the lesser of total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);
4. Any unused incentives from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire specified percentage of the approved costs has been received through sales tax incentives; and
5. If the approved company is an entertainment destination center that has dedicated at least thirty million dollars (\$30,000,000) of the incentives provided under the agreement to a public infrastructure purpose, the agreement may be amended to extend the term of the agreement up to two (2) additional years if the approved company agrees to:
 - a. Reinvest in the original entertainment destination project one hundred percent (100%) of any incentives received during the extension that were outstanding at the end of the original term of the agreement; and
 - b. Report to the authority at the end of each fiscal year the amount of incentives received during the extension and how the incentives were reinvested in the original entertainment destination project.

➔Section 61. KRS 154.20-232 is amended to read as follows:

~~(1)(a) Beginning on April 14, 2018, the authority shall not accept any new applications for the Kentucky Angel Investment Act until on or after July 1, 2022.~~

~~(b)~~ KRS 154.20-230 to 154.20-240 shall be known as the "Kentucky Angel Investment Act."

- (2) The purpose of KRS 141.396 and 154.20-230 to 154.20-240 is to encourage capital investment in the Commonwealth by individual investors that will further the establishment or expansion of small businesses, create additional jobs, and foster the development of new products and technologies, by providing tax credits for certain investments in small businesses located in the Commonwealth, operating in the fields of knowledge-based, high-tech, and research and development, and showing a potential for rapid growth.
- (3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-240:
 - (a) Small businesses and individual investors shall request certification from the authority pursuant to KRS 154.20-236. To be qualified, the small businesses and individual investors shall fulfill the requirements outlined in KRS 154.20-234; and
 - (b) Once certified, qualified investors may make investments in qualified small businesses, and may apply to the authority for a credit in return for making the investment if that investment qualifies under KRS 154.20-234.
- (4) Any qualified investment made in a qualified small business under KRS 154.20-230 to 154.20-240 shall be used by that business, insofar as possible, to leverage additional capital investments from other sources.

➔Section 62. KRS 154.20-250 is amended to read as follows:

~~{(1) Beginning on April 14, 2018, the authority shall not accept any new applications or make preliminary approvals for the Kentucky Investment Fund until on or after July 1, 2022.~~

~~(2)~~ The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small businesses in Kentucky, to provide additional jobs, and to encourage the development of new products and technologies in the state through capital investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment preference to Kentucky small businesses showing a potential for rapid growth. Insofar as possible, any investment made in a Kentucky small business under the provisions of KRS 154.20-250 to 154.20-284 shall be used by that business to leverage additional capital investments from other sources.

➔Section 63. KRS 154.20-258 is amended to read as follows:

- (1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%) of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The aggregate tax credit available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to its investment fund. The credit may be applied against:
 - (a) Both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205;
 - ~~(b) The corporation license tax imposed by KRS 136.070;~~
 - ~~(c) The insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270; and~~
 - ~~(d) The taxes on financial institutions imposed by KRS 136.300, 136.310, and 136.505.~~
- (2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed fifty percent (50%) of the initial aggregate credit amount approved by the authority for the investment fund which would be proportionally available to the investor. An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.
- (3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section, exceeds the investor's combined tax liabilities against which the credit may be claimed for that year, the investor may carry the excess tax credit forward until the tax credit is used, but the carry-forward of any excess tax credit shall not increase the fifty percent (50%) limitation established by subsection (2) of this section. Any tax credits not used within fifteen (15) years of the approval by the authority of the aggregate tax credit amount available to the investor shall be lost.
- (4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, past due taxes, or any other additions to the investor's tax liability. The holder of the tax credit shall assume any and all liabilities and responsibilities of the credit.
- (5) The tax credits allowed by this section are not transferable, except that:
 - (a) A nonprofit entity may transfer, for some or no consideration, any or all of the credits it receives under this section and any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits pursuant to this subsection, the nonprofit entity shall notify the authority and the Department of Revenue of:
 1. The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the nonprofit entity transferred its credits;
 2. The amount of credits transferred; and
 3. Any additional information the authority or the Department of Revenue deems necessary.
 - (b) If an investor is an entity and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.
 - (c) If an individual investor dies, the tax credits shall pass to the investor's estate or beneficiaries in a manner consistent with the transfer of ownership of the investor's interest in the investment fund.
- (6) The tax credit amount that may be claimed by an investor shall reflect only the investor's participation in qualified investments properly reported to the authority by the investment fund manager. No tax credit authorized by this section shall become effective until the Department of Revenue receives notification from the authority that includes:
 - (a) A statement that a qualified investment has been made that is in compliance with KRS 154.20-250 to 154.20-284 and all applicable regulations; and
 - (b) A list of each investor in the investment fund that owns a portion of the small business in which a qualified investment has been made by virtue of an investment in the investment fund, and each investor's amount of credit granted to the investor for each qualified investment.

The authority shall, within sixty (60) days of approval of credits, notify the Department of Revenue of the information required pursuant to this subsection and notify each investor of the amount of credits granted to that investor, and the year the credits may first be claimed.

- (7) After the date on which investors in an investment fund have cumulatively received an amount of credits equal to the amount of credits allocated to the investment fund by the authority, no investor shall receive additional credits by virtue of its investment in that investment fund unless the investment fund's allocation of credits is increased by the authority pursuant to an amended application.
- (8) The maximum amount of credits to be authorized by the authority shall be three million dollars (\$3,000,000) for each of fiscal years 2002-03 and 2003-04.

→Section 64. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

- (1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.
- (2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.
- (3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.
- (4) (a) The term of the tax incentive agreement shall commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date unless paragraph (b) of this subsection applies.
 - (b) 1. An approved company may request an extension of the fifteen (15) year term as provided in this paragraph. The extension may be granted by the authority for up to ten (10) years under the following conditions:
 - a. The approved company commits to an additional investment or the creation of additional jobs at the approved economic development project;
 - b. The approved company consolidates operations, facilities, or services currently located in another state to the Kentucky facility;
 - c. At the time the extension is granted, the approved company has used less than sixty percent (60%) of the inducements awarded under the tax incentive agreement; and
 - d. The authority shall not increase the maximum amount of incentives established by the existing tax incentive agreement.
 - 2. If the authority approves the extension, the tax incentive agreement shall be amended as necessary to extend the term, and to incorporate any additional requirements established by the authority as required by this paragraph.
- (5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Department of Revenue, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.
- (6) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the

site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

- (7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.
- (8) The approved company may be permitted the following inducements during the term of the tax incentive agreement:
 - (a) A one hundred percent (100%) credit against the Kentucky income tax and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income, Kentucky gross receipts, or Kentucky gross profits of the approved company generated by or arising from the economic development project. The ordering of the credits shall be as provided in KRS 141.0205; and
 - (b) The aggregate assessments withheld by the approved company in each year.
- (9) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.
- (10) The approved company shall not be required to pay estimated tax payments *under Section 42 of this Act* ~~as prescribed in KRS 141.042~~ on the Kentucky taxable income, Kentucky gross receipts or Kentucky gross profits generated by or arising from the economic development project.
- (11) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.
- (12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:
 - (a) Suspend the tax credits and assessments available to the approved company;
 - (b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and
 - (c) Pursue any other remedy at law to which it may be entitled.
- (13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

➔Section 65. KRS 154.23-035 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into a tax incentive agreement with any approved company engaged in manufacturing activities with respect to its economic development project. The terms and provisions of each tax incentive agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

- (1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.
- (2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.
- (3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.
- (4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.
- (5) The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If

the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

- (6) The approved company shall comply with the hourly wage criteria set forth in KRS 154.23-025(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.
- (7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:
 - (a) A one hundred percent (100%) credit against the Kentucky income tax and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.401, to the Commonwealth by the approved company on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project. The ordering of the credits shall be as provided in KRS 141.0205; and
 - (b) The aggregate assessments withheld by the approved company each year.
- (8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.
- (9) The tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments *under Section 42 of this Act* ~~as prescribed in KRS 141.042~~ on the Kentucky taxable income, Kentucky gross receipts or Kentucky gross profits generated by or arising from the economic development project.
- (10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.
- (11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.
- (12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:
 - (a) Suspend the tax credits and assessments available to the approved company, pursuant to subsection (11) of this section;
 - (b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and
 - (c) Pursue any other remedy at law to which it may be entitled.
- (13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.
- (14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

➔Section 66. KRS 154.26-085 is amended to read as follows:

- (1) If, prior to July 13, 2004, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:
 - (a) Operate under the existing agreement as preliminarily approved; or
 - (b) Request the authority to amend the agreement to comply with the amendments to KRS 154.26-090, 154.26-100, ~~136.0704,~~ and 141.310 in 2004 Ky. Acts ch. 105, secs. 12, 13, 14, and 21.

- (2) If, prior to July 13, 2004, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:
- (a) Operate under the existing final agreement; or
 - (b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment to KRS 154.26-100 in 2004 Ky. Acts ch. 105, sec. 13.

→Section 67. KRS 154.26-095 is amended to read as follows:

~~{(1) Beginning on April 14, 2018, the authority shall not accept any new applications or make preliminary approvals of a revitalization agreement until on or after July 1, 2022.~~

~~{(2)}~~By July 1, 2019, and by each July 1 thereafter, the authority and the Department of Revenue shall jointly provide a report to the Interim Joint Committee on Appropriations and Revenue for each project approved under this subchapter. The report shall contain the following information:

- ~~{(1)}~~~~{(a)}~~ The name of each approved company and the location of each economic revitalization project;
- ~~{(2)}~~~~{(b)}~~ The amount of approved costs for each economic revitalization project;
- ~~{(3)}~~~~{(c)}~~ The date the agreement was approved;
- ~~{(4)}~~~~{(d)}~~ Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement;
- ~~{(5)}~~~~{(e)}~~ The number of employees employed in manufacturing, the number of employees employed in coal mining and processing, or the number of employees employed in agribusiness operations;
- ~~{(6)}~~~~{(f)}~~ Whether the project was a supplemental project; and
- ~~{(7)}~~~~{(g)}~~ By taxable year, the amount of tax credit claimed on the taxpayer's return, any amount denied by the department, and the amount of any tax credit remaining to be carried forward.

→Section 68. KRS 154.26-115 is amended to read as follows:

- (1) If, prior to July 13, 2004, the authority has given its preliminary approval designating an eligible company as a preliminarily approved company and authorizing the undertaking of an economic revitalization project, but has not entered into a final agreement with the company, the company shall have the one-time option to:
 - (a) Operate under the existing agreement as preliminarily approved; or
 - (b) Request the authority to amend the agreement to comply with the amendments to KRS 154.26-090, 154.26-100, ~~{136.0704}~~ and 141.310 in 2004 Ky. Acts ch. 18, secs. 1, 2, 4, and 5.
- (2) If, prior to July 13, 2004, the authority has entered into a final agreement with an eligible company, and if the final agreement is still in effect, the company shall have the one-time option to:
 - (a) Operate under the existing final agreement; or
 - (b) Request the authority to amend only the employee assessment portion of the final agreement to comply with the amendment to KRS 154.26-100 in 2004 Ky. Acts ch. 18, sec. 2.

→Section 69. KRS 154.27-080 is amended to read as follows:

An approved company may be eligible for income tax-related incentives as follows:

- (1) A credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.040 or 141.020, and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed by the approved company to the Commonwealth for the approved company's tax year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the eligible project, with the ordering of credits as provided in KRS 141.0205.
 - (a) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the tax year for which the tax return of the approved company is filed.
 - (b) The approved company shall not be required to pay estimated tax payments *under Section 42 of this Act*~~{as prescribed in KRS 141.042}~~ on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.

- (c) The credit provided by this subsection shall be determined as provided in KRS 141.421.
- (2) The approved company or, with the authority's consent, an affiliate of the approved company may require that each employee subject to the state income tax imposed by KRS 141.020, as a condition of employment, agree to pay an assessment of up to four percent (4%) of his or her gross wages. The assessment shall be uniform against all employees against whom it is assessed and shall be imposed at a percentage rate that is negotiated as part of the tax incentive agreement.
- (a) 1. The assessment may be imposed against each employee:
- a. Whose job was created as a result of the eligible project;
 - b. Who is employed by the approved company to work at the facility; and
 - c. Who is on the payroll of the approved company or, with the authority's consent, is on the payroll of an affiliate of the approved company.
2. Construction workers, employees of the approved company directly employed in the construction, retrofit, or upgrade of the eligible facility, contract workers, and leased workers shall not be considered employees of the approved company for purposes of the assessment permitted by this subsection.
- (b) Each employee so assessed shall be entitled to credits against Kentucky income tax equal to the assessment withheld from wages during the calendar year as provided by KRS 141.310 and 141.421.
- (c) An approved company that elects to impose the assessment as a condition of employment is authorized to deduct the assessment from each paycheck of each employee.
- (d) The approved company shall provide to the authority the information necessary to monitor the tax incentive agreement and the authorization for the authority to share the information with the department as necessary for purposes of enforcing the terms of the tax incentive agreement.
- (e) Any assessment imposed pursuant to this subsection shall permanently expire upon termination or expiration of the tax incentive agreement.

➔Section 70. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

- (1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.
- (2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.
- (3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.
- (4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Department of Revenue, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

- (5) The tax agreement shall also state that if the total number of new full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.
- (6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.
- (7) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:
 - (a) A one hundred percent (100%) credit against the Kentucky income tax and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project, with the ordering of credits as provided in KRS 141.0205; or
 - (b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.
- (8) Either the total tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.
- (9) If the approved company elects to use the tax credit, the income tax and limited liability entity tax imposed under KRS 141.0401 credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments *under Section 42 of this Act* ~~as prescribed in KRS 141.042~~ on the Kentucky taxable income, Kentucky gross profits, or Kentucky gross receipts generated by or arising from the economic development project.
- (10) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.
- (11) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:
 - (a) Suspend either the income tax credits or assessments available to the approved company, pursuant to subsection (5) of this section;
 - (b) Pursue any remedy provided under the agreement, including termination thereof; and
 - (c) Pursue any other remedy at law to which it may be entitled.
- (12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.
- (13) By October 1 of each year, the Department of Revenue shall certify to the authority, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken tax credits or assessments equal to its total inducements.

➔Section 71. KRS 154.32-070 is amended to read as follows:

- (1) For taxable years beginning after December 31, 2009, an approved company may be eligible for a credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, that would otherwise be owed by the approved company to the Commonwealth for the approved company's taxable year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project.
- (2) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the taxable year for which the tax return of the approved company is filed,

subject to the annual maximum set forth in the tax incentive agreement. Any credit not used in the year in which it was first available may be carried forward to subsequent years, provided that no credit may be carried forward beyond the term of the tax incentive agreement.

- (3) The approved company shall not be required to pay estimated tax payments *under Section 42 of this Act* ~~as prescribed in KRS 141.042~~ on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.
- (4) The credit provided by this section shall be determined as provided in KRS 141.415.
- (5) The amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the economic development project for that year or the annual maximum approved costs set forth in the tax incentive agreement. The incentives shall be allowed for each fiscal year of the approved company during the term of the tax incentive agreement for which a tax return is filed by the approved company.

➔Section 72. KRS 154.34-120 is amended to read as follows:

- (1) Except as provided in subsection (5) of this section, for taxable years beginning after December 31, 2009, an approved company may be eligible for a nonrefundable credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed by the approved company to the Commonwealth for the approved company's tax year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the reinvestment project.
- (2) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the tax year for which the tax return of the approved company is filed. Any credit not used in the year in which it was first available may be carried forward to subsequent years, provided that no credit may be carried forward beyond the term of the reinvestment agreement.
- (3) The approved company shall not be required to pay estimated tax payments *under Section 42 of this Act* ~~as prescribed in KRS 141.042~~ on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.
- (4) The credit provided by this section shall be determined as provided in KRS 141.415.
- (5)
 - (a) For an approved company which receives preliminary approval prior to February 1, 2010, the amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the reinvestment project for that taxable year or the approved costs that have not yet been recovered.
 - (b) For an approved company which receives preliminary approval on or after February 1, 2010, the amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the reinvestment project for that taxable year or twenty percent (20%) of the total amount of the approved costs.
 - (c) The incentives shall be allowed for each taxable year of the approved company during the term of the reinvestment agreement for which a tax return is filed by the approved company.

➔Section 73. KRS 155.170 is amended to read as follows:

- (1) An annual excise tax is hereby levied on every corporation organized under this chapter for the privilege of transacting business in this Commonwealth during the calendar year, according to or measured by its entire net income, as defined herein, received or accrued from all sources during the preceding calendar year, hereinafter referred to as taxable year, at the rate of four and one-half percent (4.5%) of such entire net income. The minimum tax assessable to any one (1) such corporation shall be ten dollars (\$10). The liability for the tax imposed by this section shall arise upon the first day of each calendar year, and shall be based upon and measured by the entire net income of each such corporation for the preceding calendar year, including all income received from government securities in such year. As used in this section the words "taxable year" mean the calendar year next preceding the calendar year for which and during which the excise tax is levied.
- (2) The excise tax levied under subsection (1) of this section shall be in lieu of ~~the corporation license tax imposed by KRS 136.070,~~ the taxes imposed by KRS 141.040, and the taxes imposed by KRS 141.0401. It is the purpose and intent of the General Assembly to levy taxes on corporations organized pursuant to this chapter so that all such corporations will be taxed uniformly in a just and equitable manner in accordance with

the provisions of the Constitution of the Commonwealth of Kentucky. The intent of this section is for the General Assembly to exercise the powers of classification and of taxation on property, franchises, and trades conferred by Section 171 of the Constitution of the Commonwealth.

- (3) On or before June 1 of each year, the executive officer or officers of each corporation shall file with the commissioner of the Department of Revenue a full and accurate report of all income received or accrued during the taxable year, and also an accurate record of the legal deductions in the same calendar year to the end that the correct entire net income of the corporation may be determined. This report shall be in such form and contain such information as the commissioner of the Department of Revenue may specify. At the time of making such report by each corporation, the taxes levied by this section with respect to an excise tax on corporations organized pursuant to this chapter shall be paid to the commissioner of the Department of Revenue.
- (4) The securities, evidences of indebtedness, and shares of the capital stock issued by the corporation established under the provisions of this chapter, their transfer, and income therefrom and deposits of financial institutions invested therein, shall at all times be free from taxation within the Commonwealth.
- (5) Any stockholder, member, or other holder of any securities, evidences of indebtedness, or shares of the capital stock of the corporation who realizes a loss from the sale, redemption, or other disposition of any securities, evidences of indebtedness, or shares of the capital stock of the corporation, including any such loss realized on a partial or complete liquidation of the corporation, and who is not entitled to deduct such loss in computing any of such stockholder's, member's, or other holder's taxes to the Commonwealth shall be entitled to credit against any taxes subsequently becoming due to the Commonwealth from such stockholder, member, or other holder, a percentage of such loss equivalent to the highest rate of tax assessed for the year in which the loss occurs upon mercantile and business corporations.

➔Section 74. KRS 160.613 is amended to read as follows:

- (1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the district, of utility services, except that "gross receipts" shall not include:
 - (a) Amounts received for furnishing energy or energy-producing fuels *to a person engaged in manufacturing or industrial processing if that person provides the utility services provider with a copy of its utility gross receipts license tax energy direct pay authorization, as provided in subsection (3) of this section, and the utility service provider retains a copy of the authorization in its records* ~~used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production~~; or
 - (b) Amounts received for furnishing utility services which are to be resold.
- (2) If any user of utility services purchases the utility services directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax, then the user of the utility services, if the tax has been levied in the user's *school* district, shall be liable for the tax and shall *register with and* pay directly to the department, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all utility services received by the tax rate levied under the provisions of this section.
- (3) ~~If~~ A person engaged in manufacturing *or industrial* ~~processing~~ *whose cost of* ~~mining, or refining~~ chooses to claim that the energy or energy-producing fuels *used in the course of manufacturing or industrial processing* ~~purchased from a utility services provider~~ exceeds an amount equal to three percent (3%) of the cost of production *may apply to the department for a utility gross receipts license tax energy direct pay authorization. Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or processing production process that ends with a product packaged and ready for sale. If the person* ~~as provided in subsection (1)(a) of this section and~~ receives confirmation of eligibility from the department, the person shall:
 - (a) Provide the utility services provider with a copy of the *utility gross receipts license tax* energy direct pay authorization issued by the department *for all purchases of energy and energy-producing fuels*; and
 - (b) Report and pay directly to the department, in accordance with the provisions of KRS 160.615, the utility gross receipts license tax due.

- (4) *A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.*
- (5) *For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:*
- (a) *Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;*
 - (b) *Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;*
 - (c) *Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;*
 - (d) *Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of utility gross receipts license tax liability for the purchases of energy and energy-producing fuels; and*
 - (e) *Provides information to the department upon request that documents fulfillment of the requirements in paragraphs (a) to (d) of this subsection and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility.*

➔Section 75. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

- (1) "Department" means the Department of Revenue;
- (2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.
 - (a) "Communications service" includes but is not limited to:
 - 1. Local and long-distance telephone services;
 - 2. Telegraph and teletypewriter services;
 - 3. Postpaid calling services;
 - 4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;
 - 5. Channel services involving a path of communications between two (2) or more points;
 - 6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;
 - 7. Caller ID services, ring tones, voice mail, and other electronic messaging services;
 - 8. Mobile wireless telecommunications service and fixed wireless service as defined in KRS 139.195; and
 - 9. Voice over Internet Protocol (VOIP).
 - (b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:
 - 1. Information services;
 - 2. Internet access as defined in 47 U.S.C. sec. 151;

3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;
 4. The sale of directory and other advertising and listing services;
 5. Billing and collection services provided to another communications service provider;
 6. Cable service, satellite broadcast, satellite master antenna television, wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996, and Internet protocol television provided through wireline facilities without regard to delivery technology;
 7. The sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale, including:
 - a. Carrier access charges, excluding user access fees;
 - b. Right of access charges;
 - c. Interconnection charges paid by the provider of mobile telecommunications services or other communications providers;
 - d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and
 - e. Charges for use of facilities for providing or receiving communications service;
 8. The sale of communications services provided to the public by means of a pay phone;
 9. Prepaid calling services and prepaid wireless calling service;
 10. Interstate telephone service, if the interstate charge is separately itemized for each call; and
 11. If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records;
- (3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased;
 - (4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services;
 - (5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas;
 - (6) "Cable service" has the same meaning as ~~provided~~ in KRS 136.602;
 - (7) "Satellite broadcast and wireless cable service" has the same meaning as ~~provided~~ in KRS 136.602;
 - (8) "Ring tones" has the same meaning as ~~provided~~ in KRS 136.602; ~~and~~
 - (9) "Multichannel video programming service" has the same meaning as in KRS 136.602;
 - (10) ***"Industrial processing" has the same meaning as in Section 19 of this Act;***
 - (11) ***"Manufacturing" has the same meaning as in Section 19 of this Act; and***
 - (12) ***"Plant facility" has the same meaning as in Section 19 of this Act.***

➔Section 76. KRS 160.637 is amended to read as follows:

- (1) "Requesting school districts" shall mean those school districts for which the Department of Revenue is requested to act as tax collector under the authority of KRS 160.627(2).
- (2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the Department of Revenue, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of

education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

- (3) The following shall apply only when the Department of Revenue is acting as tax collector under the authority of KRS 160.627(2):
- (a) When the department is initially requested to be the tax collector under KRS 160.627(2), the department shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the department ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the department. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the department has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the department.
 - (b) The Department of Revenue shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the department in collecting the excise tax. The expenses, which shall be deducted by the Department of Revenue from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the department to school districts on a basis proportionate to the number of returns processed by the Department of Revenue for each district compared to the total processed by the Department of Revenue for all districts.
 - (c) All funds received by the department under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the department for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.
 - (d) The department may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the Department of Revenue to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(6)~~[(5)]~~, and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(7)~~[(6)]~~, within four (4) years of payment.
 - (e) KRS 160.621 notwithstanding, when the department is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.
 - (f) Beginning August 1, 1982, any school district which requests the department to collect taxes under the authority of KRS 160.627(2) shall inform the department of this request not less than one hundred fifty (150) days prior to January 1.
 - (g) The department shall not be required to collect taxes authorized in KRS 160.621 of an individual when the department is not pursuing collection of that individual's state income taxes. The department shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.
 - (h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.
 - (i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the Department of Revenue with respect to the performance of its duties under KRS 160.621.

➔Section 77. KRS 243.884 is amended to read as follows:

- (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, and all microbreweries selling malt beverages under KRS 243.157.
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made

within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).

- (c) On and after July 1, 2015, the following rates shall apply:
1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;
 - b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
- (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, and microbreweries shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries to consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:
- (a) Sales made between wholesalers or between distributors; and
 - (b) Sales *from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year* made by: ~~the~~
 1. *The* small farm winery; or
 2. A wholesaler of *that* wine produced by *the* ~~the~~ small farm winery ~~if that small farm winery produces no more than fifty thousand (50,000) gallons of wine per year.~~

➔Section 78. KRS 272.333 is amended to read as follows:

The provisions of KRS 136.060 ~~and 136.070~~ shall not apply to the issuance of membership certificates, shares of stock or any other evidence of member, shareholder, or patron interest by any such agricultural cooperative association.

➔Section 79. KRS 141.0205 is amended to read as follows:

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

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;

- (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 164.0062;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (s) The Endow Kentucky credit permitted by KRS 141.438;
 - (t) The New Markets Development Program credit permitted by KRS 141.434;
 - (u) The distilled spirits credit permitted by KRS 141.389;
 - (v) The angel investor credit permitted by KRS 141.396;
 - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and
 - (x) The inventory credit permitted by KRS 141.408.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;~~and~~
 - (d) The household and dependent care credit permitted by KRS 141.067; **and**
 - (e) ***The income gap credit permitted by Section 43 of this Act.***
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (b) The qualified farming operation credit permitted by KRS 141.412;

- (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 164.0062;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (t) The railroad expansion credit permitted by KRS 141.386;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The distilled spirits credit permitted by KRS 141.389;
 - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and
 - (y) The inventory credit permitted by KRS 141.408.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

➔Section 80. The following KRS sections are repealed:

- 136.078 Disposition of receipts.
- 136.090 Reports of corporations for license tax purposes -- Subject matter.
- 136.100 Time of filing reports -- Period covered -- Change of period.
- 136.377 Filing of declaration of estimated tax by company -- Payment -- Penalty.
- 141.042 Declaration of estimated corporation and limited liability pass-through entity tax.
- 141.300 Declaration of estimated tax.

➔Section 81. Sections 9 and 10 of this Act shall apply to tangible personal property assessed on or after January 1, 2020.

➔Section 82. Sections 17 to 25, 28 to 30, 33, 34, 74, and 75 apply to transactions occurring on or after July 1, 2019.

➔Section 83. Sections 35 to 39 and 46 to 48 apply to taxable years beginning on or after January 1, 2019.

➔Section 84. Section 53 applies to taxable years beginning on or after January 1, 2021.

➔Section 85. Sections 61 to 71 apply retroactively to April 14, 2018.

➔Section 86. No claim for refund or credit of a tax overpayment for any taxable period ending prior to July 1, 2018, made by an amended return, tax refund application, or any other method after June 30, 2018, and based on the amendments to subsection (3) of Section 27 of this Act or based on the amendments to Section 74 or 75 of this Act, shall be recognized for any purpose.

➔Section 87. Notwithstanding KRS 446.090, the amendments to subsection (3) of Section 27 of this Act and the amendments to Sections 74 and 75 of this Act are not severable. If the amendment made to subsection (3) of Section 27 of this Act or the amendments to Section 74 or 75 of this Act is declared invalid for any reason, then all amendments to subsection (3) of Section 27 of this Act and the amendments to Sections 74 and 75 of this Act shall also be invalid.

➔Section 88. It is the intent of the General Assembly to study the long-term impact of the income tax on certain family-size households and to extend the provisions of Section 43 of this Act or find a permanent alternative to those provisions.

➔Section 89. Whereas it is important for the General Assembly to clarify certain tax provisions immediately, an emergency is declared to exist, and Sections 28 and 29 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 26, 2019.