

CHAPTER 31

(HB 84)

AN ACT relating to exemptions for disaster response businesses and employees.

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

➔Section 1. 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) ***"Critical infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission or distribution systems, gas distribution systems, or water or wastewater pipelines that service multiple customers or citizens, including but not limited to real and personal property such as buildings, offices, lines, poles, pipes, structures, or equipment;***
- (6) ***"Declared state disaster or emergency" means a disaster or emergency event for which:***
 - (a) ***The Governor has declared a state of emergency pursuant to KRS 39A.100; or***
 - (b) ***A presidential declaration of a federal major disaster or emergency has been issued;***
- (7) "Department" means the Department of Revenue;
- (8) ~~(6)~~ "Dependent" means those persons defined as dependents in the Internal Revenue Code;

- (9) *"Disaster or emergency-related work" means repairing, renovating, installing, building, or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency;*
- (10) *"Disaster response business" means any entity:*
- (a) *That has no presence in the state and conducts no business in the state, except for disaster or emergency-related work during a disaster response period;*
 - (b) *Whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and*
 - (c) *That has no registrations, tax filings, or nexus in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency;*
- (11) *"Disaster response employee" means an employee who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;*
- (12) *"Disaster response period" means a period that begins ten (10) days prior to the first day of the Governor's declaration under KRS 39A.100, or the President's declaration of a federal major disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency;*
- (13)~~(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;
- (14)~~(8)~~ *"Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;*
- (15)~~(9)~~ *"Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;*
- (16)~~(10)~~ *"Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;*
- (17)~~(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;
- (18)~~(12)~~ *"Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;*

- ~~(19)~~~~(13)~~ "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;
- ~~(20)~~~~(14)~~ "Individual" means a natural person;
- ~~(21)~~~~(15)~~ "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;
- ~~(22)~~~~(16)~~ "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;
- ~~(23)~~~~(17)~~ "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);
- ~~(24)~~~~(18)~~ "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;
- ~~(25)~~~~(19)~~ "Nonresident" means any individual not a resident of this state;
- ~~(26)~~~~(20)~~ "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;
- ~~(27)~~~~(21)~~ "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;
- ~~(28)~~~~(22)~~ "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;
- ~~(29)~~~~(23)~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;
- ~~(30)~~~~(24)~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;
- (31) "Registered business" means a business entity that owns or otherwise possesses critical infrastructure and that is registered to do business in the state prior to the declared state disaster or emergency;**
- ~~(32)~~~~(25)~~ "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;

- ~~(33)~~~~(26)~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;
- ~~(34)~~~~(27)~~ "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;
- ~~(35)~~~~(28)~~ "Taxable net income":
- (a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection ~~(24)~~~~(18)~~ 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 ~~(24)~~~~(18)~~ 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 ~~(21)~~~~(15)~~ 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;
- ~~(36)~~~~(29)~~ "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
- ~~(37)~~~~(30)~~ "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 2. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2)
 - (a) For taxable years beginning on or after January 1, 2018, the tax shall be five percent (5%) of net income.
 - (b) For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:
 1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
 5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3)
 - (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
 1.
 - a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for an unmarried individual; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for an unmarried individual;

2.
 - a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
 3.
 - a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;
 4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 8. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);
 9. In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and
 10. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.
- (c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by

KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.

- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. ***For taxable years beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business.*** The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 3. 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) 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. 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. Banks for cooperatives;
 4. Production credit associations;
 5. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 6. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 7. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and
 8. 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); 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); *and*

5. For taxable years beginning before January 1, 2025, a disaster response business.

- (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.

➔Section 4. KRS 68.180 is amended to read as follows:

- (1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate not to exceed one and one-fourth percent (1.25%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county; and
 - (b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (3) (a) No public service company that pays an ad valorem tax shall be required to pay a license tax.
 - (b) 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.
 - 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.

- (c) No license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered.
 - (d) No license tax shall be imposed upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training.
 - (e) No license tax shall be imposed upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
 - (f) No license tax shall be imposed upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.
 - (g) **1. No license tax shall be imposed upon:**
 - a. The profits earned; or**
 - b. Income received for work performed;**

during a disaster response period by a disaster response business or a disaster response employee.

 - 2. As used in this paragraph, "disaster response business," "disaster response employee," and "disaster response period" have the same meaning as in Section 1 of this Act.**
 - (4) The provisions and limitations of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes as to form and amount, or to the license fees authorized by KRS 160.482 to 160.488.
 - (5) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.
- ➔Section 5. KRS 68.197 is amended to read as follows:
- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
 - (2) License fees on business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
 - (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
 - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
 - (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
 - (a) For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
 - (b) For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.
 - (4) (a) Licenses imposed for regulatory purposes are not subject to limitations as to form and amount.

- (b) No public service company that pays an ad valorem tax is required to pay a license tax.
- (c) 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to the effective date of this section.
- 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.
- (d) No license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license fee.
- (5) No license fee shall be imposed or collected on:
 - (a) Income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training;~~[- or on]~~
 - (b) Income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;~~[- or upon]~~
 - (c) Any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor; *or*
 - (d) 1. *a. The profits earned; or*
b. Income received for work performed;
during a disaster response period by a disaster response business or a disaster response employee.
 - 2. *As used in this paragraph, "disaster response business," "disaster response employee," and "disaster response period" have the same meaning as in Section 1 of this Act.*
- (6) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.
- (7) The provisions of subsection (6) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.
- (8) Notwithstanding any statute to the contrary, the provisions of subsection (7) of this section shall apply as follows from March 14, 2012, through July 15, 2014:
 - (a) Any set-off or credit of city license fees against county license fees that exists between a city and county as of March 15, 2012, shall remain in effect as it is on March 15, 2012; and
 - (b) The provisions of subsection (7) of this section shall not apply to a city and county unless both the city and the county have both levied and are collecting license fees on March 15, 2012.
- (9) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

- (10) Notwithstanding any statute to the contrary:
- (a) In those counties where a license fee has been authorized by a public question approved by the voters, there shall be no credit of a city license fee against a county license fee except by agreement between the county and the city in accordance with subsection (6) of this section;
 - (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall be refunded or credited for any overpayment of a license tax paid to any county to the extent the overpayment is attributable to or derives from this section as it existed at any time subsequent to July 15, 1986, and the taxpayer seeks a credit for a license tax paid to a city located within such county, if such refund claim or amended tax return claim was filed or perfected after November 18, 2004, except by agreement between the city and county in accordance with subsection (6) of this section;
 - (c) In those counties where a license fee has been authorized by a public question approved by the voters, the percentage rate of the license fee in effect on January 1, 2005, and any maximum salary limit upon which the license fee is calculated shall remain unchanged for subsequent fiscal years. A percentage rate higher than the percentage rate in effect on January 1, 2005, or any change in the maximum salary limit upon which a license fee is calculated shall be prohibited unless approved by the voters at a public referendum. The percentage rate of a license fee in such counties shall at no time exceed one percent (1%). Any question to be placed before the voters as a result of this paragraph shall be placed on the ballot at a regular election or nominating primary.
 - (d) This subsection shall have retroactive application; and
 - (e) If any provision of this subsection or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.
- (11) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.
- ➔Section 6. KRS 91.200 is amended to read as follows:
- (1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.
 - (2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on:
 - (a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages"); and
 - (b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").
 - (3)
 - (a) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount.
 - (b) No company that pays an ad valorem tax and a franchise tax is required to pay a license tax.
 - (c)
 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.
 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services, this

exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services.

- (d) No license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered.
- (e) No license tax shall be imposed upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training.
- (f) No license tax shall be imposed on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (g) No license tax shall be imposed upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in any other case where the city is prohibited by statute from imposing a license tax.
- (h) **1. No license tax shall be imposed upon:**
 - a. The profits earned; or**
 - b. Income received for work performed;**

during a disaster response period by a disaster response business or a disaster response employee.
- 2. As used in this paragraph, "disaster response business," "disaster response employee," and "disaster response period" have the same meaning as in Section 1 of this Act.**
- (4) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).
- (5) License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.
- (6) Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.
- (7) The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:
 - (a) The purchase of rights of way for highways, expressways, and the widening of existing streets;
 - (b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;
 - (c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;
 - (d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;
 - (e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;
 - (f) The purchase and installation of traffic control devices and fire alarm equipment;
 - (g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;
 - (h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and

- (i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.
- (8) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.
- (9) Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.
- (10) Pursuant to this section, no city of the first class shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the city on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

➔Section 7. KRS 92.300 is amended to read as follows:

- (1) (a) The legislative body of an urban-county government and any city of the home rule class may by ordinance exempt manufacturing establishments, including qualified data centers, from city taxation for a period not exceeding five (5) years as an inducement to their location in the urban-county government, or city.
- (b) As used in this subsection:
 - 1. "Data center" means a structure or portion of a structure that is predominantly used to house and continuously operate computer servers and associated telecommunications, electronic data processing or storage, or other similar components;
 - 2. "Overall tier rating" means the overall tier rating of a data center according to the TIA-942 Telecommunications Infrastructure Standard for Data Centers established by the Telecommunications Industry Association and published in April 2005, exclusive of any amendments made subsequent to that date; and
 - 3. "Qualified data center" means a data center having an overall tier rating of three (3) or four (4) on the assessment date of a given taxable year, as established by the owner thereof.
- (2) (a) No city of the home rule class or urban-county government may impose or collect any license tax upon:
 - 1. Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state;
 - 2. Any savings and loan association whether state or federally chartered; ~~or~~
 - 3. The provision of multichannel video programming services or communications services as defined in KRS 136.602. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006. If only a portion of an entity's business is providing multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services; **or**
 - 4. ***A disaster relief business as defined in Section 1 of this Act for work performed during a disaster response period as defined in Section 1 of this Act.***
- (b) No city of the home rule class or urban-county government may impose or collect any license tax upon income received:
 - 1. By members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training; ~~or~~
 - 2. By precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections; **or**
 - 3. ***By a disaster response employee as defined in Section 1 of this Act for work performed during a disaster response period as defined in Section 1 of this Act.***

- (3) Pursuant to KRS 92.281, no city shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the city enacted pursuant to KRS 92.281.

➔Section 8. KRS 227.480 is amended to read as follows:

- (1) (a) A city, county, urban-county government, charter county, or consolidated local government or the state shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments or the state, require any person to obtain a permit before commencing construction, alteration, or repairs of any electrical system.
- (b) The city, county, urban-county government, charter county, or consolidated local government or the state shall require all inspections that are deemed necessary by the department for the safety of life and property. The department shall promulgate administrative regulations to describe the circumstances where inspections are required.
- (2) A city, county, urban-county government, charter county, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed as an electrical contractor under KRS Chapter 227A or of acting on behalf of a licensed electrical contractor. However, the provisions of this subsection shall not apply to:
- (a) A homeowner or farmer who does construction, alteration, or repairs of any electrical system on his or her own premises or any other person exempt from licensing under KRS 227A.030 or 227A.150;
- (b) Electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county government, charter county, or consolidated local government, or any subdivision thereof; ~~or~~
- (c) A company with a recently deceased licensed electrical contractor, which shall be granted an interim period of up to one hundred eighty (180) continuous calendar days by the city, county, urban-county government, charter county, consolidated local government, or state to allow the company to utilize the license of the deceased electrical contractor if:
1. The company effectuates and documents all necessary bonding and insurance policies required by KRS Chapter 227A; and
 2. Ensures that the bonding and insurance policies remain in effect for the entirety of the interim period of time extended; **or**
- (d) *A disaster response business as defined in Section 1 of this Act.*
- (3) A city, county, urban-county government, charter county, or consolidated local government shall appoint and may fix the compensation of city, county, urban-county government, charter county, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors shall be certified under KRS 227.489.
- (4) Reasonable standards for the construction, alteration, and repair of any electrical system shall be those adopted in the Uniform State Building Code, as promulgated by the department, and shall have as a minimum standard the requirements of the National Electrical Code, which may include Kentucky amendments. These standards shall be used by the electrical inspector in making his inspections.

➔Section 9. KRS 227A.030 is amended to read as follows:

- (1) The provisions of KRS 227A.010 to 227A.140 shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.
- (2) Nothing in KRS 227A.010 to 227A.140 shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.
- (3) Nothing in KRS 227A.010 to 227A.140 shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her real property.

- (4) Nothing in KRS 227A.010 to 227A.140 shall require that a retailer or its agent engaged in making installations of an appliance purchased at a retail establishment be licensed.
- (5) Nothing in KRS 227A.010 to 227A.140 shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.
- (6) Nothing in KRS 227A.010 to 227A.140 shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of ten (10) days. No unlicensed, nonresident electrician shall be employed or engaged in electrical work in the Commonwealth of Kentucky for a total of more than thirty (30) days in any calendar year without applying for an electrician's license or a master electrician's license. The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.
- (7) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.
- (8) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work for a telecommunications company for which the voltage is fifty (50) volts or less.
- (9) Nothing in KRS 227A.010 to 227A.140 shall prohibit a factory-authorized representative from the installation, maintenance, or service of a medical equipment device. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.
- (10) Nothing in KRS 227A.010 to 227A.140 shall apply to low-voltage, power-limited installations for control or coordination of interconnected devices separated from a power source by a Class 2 or Class 3 transformer installed by a person licensed as:
 - (a) A master or journeyman heating, ventilation, and air conditioning technician employed by a licensed HVAC contractor pursuant to KRS 198B.658;
 - (b) A fire protection sprinkler contractor pursuant to KRS 198B.560;
 - (c) A manufactured housing dealer or certified installer pursuant to KRS 227.610;
 - (d) A boiler mechanic pursuant to KRS 236.210;
 - (e) A master or journeyman plumber pursuant to KRS 318.030;
 - (f) An onsite sewage disposal system installer pursuant to KRS 211.357; or
 - (g) An electrician or master electrician employed by an electrical contractor pursuant to KRS 227A.010 to 227A.140.
- (11) The provisions of KRS 227A.010 to 227A.140 shall not apply to work performed at industrial manufacturing facilities or natural gas pipeline facilities by employees of those facilities.
- (12) *Notwithstanding subsection (6) of this section, KRS 227A.010 to 227A.140 shall not apply to a disaster response employee as defined in Section 1 of this Act who is licensed as an electrician or master electrician in another state.*
- (13) *KRS 227A.010 to 227A.140 shall not apply to a disaster response business as defined in Section 1 of this Act that is licensed as an electrical contractor in another state.*

➔SECTION 10. A NEW SECTION OF KRS 67.750 TO 67.790 IS CREATED TO READ AS FOLLOWS:

- (1) *The exceptions contained in subsection (3)(g) of Section 4 of this Act, subsection (5)(d) of Section 5 of this Act, subsection (3)(h) of Section 6 of this Act, and subsection (2)(a)4. and (b)3. of Section 7 of this Act shall not be interpreted, construed, or otherwise relied upon in any way to establish a minimum nexus or other minimum contact requirements for the purposes of determining the liability for either a tax or fee placed upon a business or employee by a taxing jurisdiction, except as related to disaster response businesses and disaster response employees for work performed within the taxing jurisdiction during a disaster response period.*

- (2) *As used in this section, the terms "disaster response business," "disaster response employee," and "disaster response period" shall have the same meaning as in Section 1 of this Act.*

Signed by Governor March 17, 2021.