

138.208 Replacement tax -- Total tax for school districts, fire districts, and emergency service boards -- Annual assessment -- Reduction -- Distribution -- Administrative regulations.

- (1) As used in this section:
 - (a) "Local jurisdiction" means:
 1. A school district;
 2. A fire protection district or subdistrict authorized to levy the ad valorem tax permitted by KRS 75.015 and 75.040 and that provides fire or other emergency services; and
 3. An area served by an emergency services board that levies the ad valorem tax permitted by KRS 75A.050 and provides fire or other emergency services;
 - (b) "Premises" means a bonded warehouse containing distilled spirits; and
 - (c) "Taxpayer" means the owner, proprietor, or custodian of one (1) of more premises.
- (2) Beginning with the 2026 calendar year and for each subsequent calendar year thereafter, in addition to any ad valorem taxes collected under KRS 132.150, there is imposed a replacement tax on every taxpayer with a premises located in a local jurisdiction that collected ad valorem tax during calendar year 2025.
- (3) The total replacement tax for each school district shall be:
 - (a) An amount that is not less than zero; and
 - (b) The result from the following calculation:
 1. The ad valorem tax under KRS 132.150 on distilled spirits stored or aging in a premises collected by or on behalf of the school district during calendar year 2023;
 2. Minus the amount of the ad valorem tax under KRS 132.150 collected by or on behalf of the school district for the applicable calendar year; and
 3. Minus the amount by which the Support Education Excellence in Kentucky program under KRS 157.310 to 157.440 final calculation for the school year ending during the applicable calendar year exceeds the Support Education Excellence in Kentucky program final calculation for the 2022-2023 school year, as determined by the Department of Education under KRS 157.410(3). For purposes of the Support Education Excellence in Kentucky final calculation under this subparagraph, the average daily attendance and equalization ratio for the school year ending during the applicable calendar year shall not be less than those for the 2022-2023 school year final calculation.
- (4) The total replacement tax for each fire district or emergency services board shall be:
 - (a) An amount that is not less than zero; and
 - (b) The result from the following calculation:
 1. The ad valorem tax under KRS 132.150 on distilled spirits stored or

- aging in a premises collected by or on behalf of the fire district or emergency services board during calendar year 2025;
2. Minus the amount of the ad valorem tax under KRS 132.150 collected by or on behalf of the district or board for the applicable calendar year.
- (5) (a) Each year the department shall assess taxpayers the replacement tax for the preceding calendar year in proportion to the number of barrels of distilled spirits stored and aging at their premises in the local jurisdiction on January 1 of that preceding calendar year.
- (b) If a business-wide reduction or extraordinary event occurs, any taxpayer may apply to the secretary of the Finance and Administration Cabinet for a reduction in the taxpayer's replacement tax assessment.
- (c) For purposes of this subsection:
1. "Business-wide reduction" means that the volume of distilled spirits produced by all taxpayers at all business locations in this state during the applicable calendar year is less than the volume of distilled spirits at all business locations in this state in calendar year 2025; and
 2. "Extraordinary event" means a pandemic, epidemic, restrictive governmental laws or regulations enacted after March 31, 2023, riots, insurrection, war, acts of a government authority imposed after March 31, 2023, court orders issued after March 31, 2023, a natural disaster, a decrease in sales in excess of ten percent (10%), or other reason of a like nature determined by the secretary not to be the fault of the taxpayer and any other items determined by the secretary to be beyond the taxpayer's reasonable control, which prevents the taxpayer from producing distilled spirits.
- (6) All revenues received by the department from the tax imposed by this section shall be distributed to the local jurisdiction for which the tax was levied within sixty (60) days from the date received.
- (7) The department shall administer the replacement tax levied by this section and, in conjunction or consultation with any agency representing a local jurisdiction, may promulgate administrative regulations to implement this section.

Effective: March 31, 2023

History: Created 2023 Ky. Acts ch. 148, sec. 2, effective March 31, 2023.