AN ACT relating to taxation.

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

➔Section 1. KRS 140.130 is amended to read as follows:

(1) In addition to the inheritance tax ***levied under KRS 140.010***~~[hereinbefore imposed]~~, an estate tax is hereby levied on all estates equal to the amount by which the credits for state death taxes allowable under the federal tax law ***as it was in effect on January 1, 2003, and without any scheduled increases in the unified credit provided in 26 U.S.C. sec. 2010, in effect on January 2, 2001, or thereafter,*** exceeds the tax levied under KRS 140.010, less the discount allowed under KRS 140.210, if taken by the taxpayer. ***The estate***~~[Said]~~ tax shall be payable at the same time and in the same manner as the inheritance taxes levied by this chapter.

(2) In the case of resident decedents and nonresident decedents over part of whose estates Kentucky has tax jurisdiction the estate tax shall be computed as follows:

(a) The ratio which that part of the net estate over which Kentucky has jurisdiction for estate tax purposes bears to the total net estate wherever located shall be ascertained.

(b) The total maximum offset for state succession taxes allowed under the provisions of the federal estate tax law shall be multiplied by the ascertained ratio to determine the offset allocable to this state.

(c) The estate tax levied by this section shall equal the amount, if any, by which the offset allocable to this state shall exceed the inheritance taxes under KRS 140.010, less the discount allowed under KRS 140.210, if taken by the taxpayer.

(3) All administrative provisions of this chapter, to the extent that they are applicable, shall be available for the enforcement of this section and KRS 140.140.

➔Section 2. KRS 141.010 is amended to read as follows:

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

(1) "Commissioner" means the commissioner of the Department of Revenue;

(2) "Department" means the Department of Revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2013, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2013, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) "Modified gross income" means the greater of:

(a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent 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 (10) 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);

(9) "Gross income," in the case of taxpayers other than corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income," in the case of taxpayers other than corporations, means

gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(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 Public Law 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, 61.560, 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) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) 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;

(i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005***, and before January 1, 2017***, 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.

3. ***a. For taxable years beginning on or after January 1, 2017, exclude up to thirty-five thousand dollars ($35,000) of total***

distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans as follows:

i. If computed income is equal to or less than thirty-five thousand dollars ($35,000), exclude up to thirty-five thousand dollars ($35,000);

ii. If computed income is greater than thirty-five thousand dollars ($35,000), but less than seventy thousand dollars ($70,000), the exclusion shall be reduced one dollar ($1) for every dollar computed income exceeds thirty-five thousand dollars ($35,000); or

iii. If computed income is seventy thousand dollars ($70,000) or greater, the exclusion shall be zero.

b. For purposes of this subparagraph, "computed income" means adjusted gross income, minus capital gains attributable to the sale of a personal residence and minus federal or state unemployment benefits, calculated before applying this subparagraph;

4. As used in this paragraph:

a. "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;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; 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;

(j) 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 a 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;

(k) Exclude, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents, or for any person authorized to be provided excludable coverage by the taxpayer pursuant to the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-

148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No. 111-152, during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(t) Exclude all income from all sources for active duty and reserve members and

officers of the Armed Forces 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. 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; and

(u) For taxable years beginning on or after January 1, 2010, exclude all military pay received by active duty members of the Armed Forces 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;

(11) "Net income," in the case of taxpayers other than corporations, means adjusted gross income as defined in subsection (10) of this section, minus:

(a) The deduction allowed by KRS 141.0202;

(b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;

(c) For taxable years beginning on or after January 1, 2010***, and before January 1, 2016***, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and

(d) 1. 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 the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;

b. 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 such deduction has not been claimed under KRS 140.090(1)(h);

c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;

e. Any deduction 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;

f. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter;

g. ***Itemized deductions as defined in Section 63 of the Internal Revenue Code and modified by this section shall be limited to a maximum amount of seventeen thousand five hundred dollars ($17,500), with the maximum amount adjusted in the same manner as described in KRS 141.081(2), and*** the itemized deduction limitation established in 26 U.S.C. sec. 68 shall be determined using the applicable amount from 26 U.S.C. sec. 68 as it existed on December 31, 2006; and

h. 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; and

2. Nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted 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 all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection

(24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

(n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus:

(a) The deduction allowed by KRS 141.0202;

(b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;

(c) For taxable years beginning on or after January 1, 2010***, and before January 1, 2016***, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and

(d) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except:

1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

2. The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

4. Any deduction directly or indirectly allocable to income which is either

exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

6. Any deduction 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;

7. Any deduction prohibited by KRS 141.205;

8. Any dividends-paid deduction of any captive real estate investment trust; and

9. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;

(14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations that are taxable in this state

and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;

(c) "Taxable net income," in the case of 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 (3) 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) "Taxable net income," in the case of 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;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "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 regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;

(17) "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;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "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;

(22) "Wages" means "wages" as defined 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;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:

1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
3. A foreign limited liability company as defined in KRS 275.015;
4. A limited liability company as defined in KRS 275.015;

5. A professional limited liability company as defined in KRS 275.015;
6. A foreign limited partnership as defined in KRS 362.2-102(9);
7. A limited partnership as defined in KRS 362.2-102(14);
8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);
9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "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;

(25) "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;

(26) "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;

(27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;

(28) "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;~~[and]~~

(29) "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; and

(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;

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 the provisions of 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***; and***

(30) "Taxpayer" means any person:

(a) Subject to the taxes imposed by this chapter; or

(b) Required to file a return under this chapter.

➔Section 3. 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 ***or her*** 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 before January 1, 2005, 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); and
5. Six percent (6%) of the amount of net income over eight thousand dollars ($8,000).

(b) For taxable years beginning after December 31, 2004, ***and before January 1, 2017,*** 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).

(c) For taxable years beginning on or after January 1, 2017, 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. Three and one-half percent (3.5%) of the amount of net income over four thousand dollars ($4,000) and up to five thousand dollars ($5,000);

4. Four and one-half percent (4.5%) of the amount of net income over five thousand dollars ($5,000) and up to eight thousand dollars ($8,000);

5. Five and one-half percent (5.5%) of the amount of net income over eight thousand dollars ($8,000) and up to seventy-five thousand dollars ($75,000);

6. Six percent (6%) of the amount of net income over seventy-five

thousand dollars ($75,000) and up to one hundred fifty thousand dollars ($150,000); and

7. Six and one-half percent (6.5%) of the amount of net income over one hundred fifty thousand dollars ($150,000).

(3) (a) For taxable years beginning before January 1, 2014, 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. Twenty dollars ($20) for an unmarried individual;
2. 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;
3. Twenty dollars ($20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his 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 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 141.010(10), without the adjustments contained in (f) and (g) of that subsection, 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:
    a. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
    b. 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 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse;
9. In the case of an individual who becomes a resident of Kentucky during the taxable year, 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 subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code;

10. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars ($2);

11. In the case of an estate, the allowable tax credit shall be twenty dollars ($20); and

12. 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) 1. For taxable years beginning on or after January 1, 2014, 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:

a. Ten dollars ($10) for an unmarried individual;

b. Ten dollars ($10) for a married individual filing a separate return and an additional ten dollars ($10) 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 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;

c. Ten dollars ($10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his

spouse;

d. An additional forty dollars ($40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;

e. 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;

f. An additional forty dollars ($40) credit if the taxpayer is blind at the close of the taxable year;

g. 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;

h. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars ($2);

i. In the case of an estate, the allowable tax credit shall be ten dollars ($10); and

j. 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.

2. 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 141.010(10), without the adjustments contained in paragraphs (f)

and (g) of that subsection, 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:

a. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or

b. 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 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.

3. In the case of an individual who becomes a resident of Kentucky during the taxable year, 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 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, 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. 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) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing residence and as prescribed in subsection (1) of this section following the establishment of residence.

(7) An individual who becomes a nonresident of Kentucky during the taxable year 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 4. 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.

(4) For a qualifying married couple filing jointly, the family size tax credit ***allowed in subsection (3) of this section*** 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.

(5) For taxable years beginning on or after January 1, 2017, taxpayers who are subject to the tax imposed by Section 3 of this Act and who receive a federal earned income tax credit as permitted by 26 U.S.C. sec. 32 shall be allowed a refundable Kentucky earned income tax credit in addition to the family size tax credit allowed by subsection (3) of this section. The Kentucky earned income tax credit shall be equal to fifteen percent (15%) of the allowed federal earned income tax credit and shall be taken against the tax due under Section 3 of this Act.

➔Section 5. 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) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, 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, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;

(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 coal incentive credit permitted ***by***~~[under]~~ KRS 141.0405;

(k) The research facilities credit permitted ***by***~~[under]~~ KRS 141.395;

(l) The employer GED incentive credit permitted ***by***~~[under]~~ KRS 164.0062;

(m) The voluntary environmental remediation credit permitted by KRS 141.418;

(n) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(o) The environmental stewardship credit permitted by KRS 154.48-025;

(p) The clean coal incentive credit permitted by KRS 141.428;

(q) The ethanol credit permitted by KRS 141.4242;

(r) The cellulosic ethanol credit permitted by KRS 141.4244;

(s) The energy efficiency credits permitted by KRS 141.436;

(t) The railroad maintenance and improvement credit permitted by KRS 141.385;

(u) The Endow Kentucky credit permitted by KRS 141.438;

(v) The New Markets Development Program credit permitted by KRS 141.434;

(w) The food donation credit permitted by KRS 141.392;

(x) The distilled spirits credit permitted by KRS 141.389;~~[and]~~

(y) The angel investor credit permitted by KRS 141.396***; and***

(z) The film industry tax credit permitted by Section 16 of this Act.

(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***(2) or (3)***;

(c) The tuition credit permitted by KRS 141.069;

(d) The household and dependent care credit permitted by KRS 141.067; and

(e) The new home credit permitted by KRS 141.388.

(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) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);

(d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

(e) The ***earned income tax credit permitted by subsection (5) of Section 4 of this***

Act~~[film industry tax credit allowed by KRS 141.383]~~.

(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, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;

(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 coal incentive credit permitted ***by***~~[under]~~ KRS 141.0405;

(k) The research facilities credit permitted ***by***~~[under]~~ KRS 141.395;

(l) The employer GED incentive credit permitted ***by***~~[under]~~ KRS 164.0062;

(m) The voluntary environmental remediation credit permitted by KRS 141.418;

(n) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(o) The environmental stewardship credit permitted by KRS 154.48-025;

(p) The clean coal incentive credit permitted by KRS 141.428;

(q) The ethanol credit permitted by KRS 141.4242;

(r) The cellulosic ethanol credit permitted by KRS 141.4244;

(s) The energy efficiency credits permitted by KRS 141.436;

(t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;

(u) The railroad maintenance and improvement credit permitted by KRS 141.385;

(v) The railroad expansion credit permitted by KRS 141.386;

(w) The Endow Kentucky credit permitted by KRS 141.438;

(x) The New Markets Development Program credit permitted by KRS 141.434;

(y) The food donation credit permitted by KRS 141.392;~~[and]~~

(z) The distilled spirits credit permitted by KRS 141.389***; and***

(aa) The film industry tax credit permitted by Section 16 of this Act.

(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; ***and***

(b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b)~~[; and~~

~~(c) The film industry tax credit allowed in KRS 141.383]~~.

➔Section 6. 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 sales factor under the provisions of KRS 141.120***(11) to (13)***~~[(8)(c)]~~, KRS 141.120***(14)***~~[(9)]~~, 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 sales factor under the provisions of KRS 141.120***(11) to (13)***~~[(8)(c)]~~, KRS 141.120***(14)***~~[(9)]~~, 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) ***or (c)*** 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) ***For taxable years beginning before January 1, 2017,*** 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 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 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 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 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) ***For taxable years beginning on or after January 1, 2017, 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 one million dollars ($1,000,000) or less, the limited liability entity tax shall be zero;

b. If the corporation's or limited liability pass-through entity's

gross receipts from all sources are greater than one million dollars ($1,000,000) but less than two million dollars ($2,000,000), 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 nine hundred fifty dollars ($950) multiplied by a fraction, the numerator of which is two million dollars ($2,000,000) 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 one million dollars ($1,000,000), but in no case shall the result be less than zero; and

c. If the corporation's or limited liability pass-through entity's gross receipts from all sources are equal to or greater than two million dollars ($2,000,000), 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; or

2. a. If the corporation's or limited liability pass-through entity's gross profits from all sources are one million dollars ($1,000,000) or less, the limited liability entity tax shall be zero;

b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least one million dollars ($1,000,000) but less than two million dollars ($2,000,000), 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 seven thousand five hundred dollars ($7,500) multiplied by a fraction, the numerator of which is two million dollars ($2,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is one million dollars ($1,000,000), but in no case shall the result be less than zero; and

c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than two million dollars ($2,000,000), 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.

(d) 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.

(e)~~[(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 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) Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;

(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;

(c) Banks for cooperatives;

(d) Production credit associations;

(e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

(g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

(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:

1. The property consists of the final printed product, or copy from which the printed product is produced; and

2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120***(10)*** ~~[(8)(b)]~~;

(i) Public service corporations subject to tax under KRS 136.120;

(j) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

(k) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(l) An alcohol production facility as defined in KRS 247.910;

(m) Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

(n) Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

(o) Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

(p) Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

(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

(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.

(7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) to (r) 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 7. KRS 136.310 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property

and payroll within and without this state, shall, during January of each year, file with the Department of Revenue a report containing information and in such form as the department may require.

(2) The Department of Revenue shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the department shall be a three (3) step process as follows:

(a) 1. The total value of deposits maintained in Kentucky less any amounts where the amount borrowed by a member equals or exceeds the amount deposited by that member shall be determined.

2. The total value of deposits maintained in Kentucky shall be determined by the same method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation;

(b) 1. The Kentucky apportioned value of capital shall be determined by including undivided profits, surplus, general reserves, and paid-up stock.

2. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law.

3. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3); and

(c) 1. The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by

the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital.

2. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital.

3. The department shall immediately notify each institution of the value so fixed.

(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.

(4) (a) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky, and the denominator of which is the average balance of all outstanding loans.

(b) 1. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2).

2. If the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.

(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120***(10)*** ~~[(8)(b)]~~ and administrative regulations promulgated according to KRS Chapter 13A.

(6) (a) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section.

(b) The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020.

(c) Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.

(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.

(8) (a) Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to transact business in Kentucky but having no employees located within or without the state shall be subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary.

(b) For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

➔Section 8. KRS 136.530 is amended to read as follows:

(1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:

(a) Receipts from the lease or rental of real property owned by the financial institution;

(b) Receipts from the lease or rental of tangible personal property owned by the financial institution;

(c) Interest and fees or penalties in the nature of interest from loans secured by real property;

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property;

(e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;

(g) Net gains, but not less than zero (0), from the sale of credit card receivables;

(h) All credit card issuer's reimbursement fees;

(i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;

(j) Loan servicing fees derived from loans secured by real property;

(k) Loan servicing fees derived from loans not secured by real property;

(l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:

1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and

2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;

(m) All receipts derived from sales that would be included in the factor established by KRS 141.120***(11) to (13)*** ~~[(8)(c)]~~; and

(n) Receipts from services not otherwise specifically listed.

(2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:

(a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.

(b) 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible personal property owned by the financial

institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.

2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.

2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.

(e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual

fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.

(g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to

paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.

(k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.

(l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by

multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the department may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by

multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

3. If the financial institution elects or is required by the department to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the department to use, or the department requires, a different method.

4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by

demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(m) The numerator of the receipts factor includes all other receipts derived from sales as determined pursuant to the provisions set forth in KRS 141.120***(11) to (13)***~~[(8)(c)]~~.

(n) 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.

2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:

a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net

income; or

b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

➔Section 9. KRS 141.040 is amended to read as follows:

(1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation computed under this section at the rates specified in this section:

(a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;

(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;

(c) Banks for cooperatives;

(d) Production credit associations;

(e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

(g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

(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:

1. The property consists of the final printed product, or copy from which the printed product is produced; and

2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120***(10)*** ~~[(8)(b)]~~; and

(i) For all taxable years except those beginning after December 31, 2004, and before January 1, 2007, S corporations.

(2) For tax years ending before January 1, 1990, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:

(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Six percent (6%) of the amount of taxable net income in excess of fifty

thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) For taxable years beginning after December 31, 2004, and before January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:

(a) 1. Four percent (4%) of the first fifty thousand dollars ($50,000) of taxable net income;

2. Five percent (5%) of taxable net income over fifty thousand dollars ($50,000) up to one hundred thousand dollars ($100,000); and

3. Seven percent (7%) of taxable net income over one hundred thousand dollars ($100,000); or

(b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:

1. The gross receipts calculation contained in subsection (11) of this section; or

2. The gross profits calculation contained in subsection (12) of this section.

(6) For taxable years beginning on or after January 1, 2007, 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).

(7) For taxable years beginning on or after January 1, 2005, and before January 1, 2007, a minimum of one hundred seventy-five dollars ($175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.

(8) The alternative minimum calculation portion of the tax computation provided in subsection (5) of this section shall not apply to:

(a) Public service corporations subject to tax under KRS 136.120;

(b) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

(c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(d) An alcohol production facility as defined in KRS 247.910; and

(e) For taxable years beginning after December 31, 2005, and before January 1, 2007, political organizations as defined in Internal Revenue Code Section 527 and related regulations.

(9) For taxable years beginning after December 31, 2004, and before January 1, 2007:

(a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) 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 or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

(c) Any corporation that reduces taxable net income, 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 KRS 141.420.

(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.

(10) For taxable years beginning after December 31, 2004, and before January 1, 2007:

(a) To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:

1. Be used by the department~~[of Revenue]~~ or the taxpayer to assert that the party making the election is doing business in Kentucky;
2. Result in an increase of the amount of credit allowable under KRS 141.420; or
3. Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).

(b) The department~~[of Revenue]~~ shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.

(11) The alternative minimum calculation for gross receipts shall be:

(a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's Kentucky gross receipts; and

(b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:

1. If the corporation's gross receipts from all sources are three million dollars ($3,000,000) or less, the alternative minimum calculation shall be zero;
2. If the corporation'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 alternative minimum calculation shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation'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 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 zero;

3. If the corporation's gross receipts from all sources are equal to or greater than six million dollars ($6,000,000), the alternative minimum calculation shall be nine and one-half cents ($0.095) per one hundred dollars ($100) of the corporation's Kentucky gross receipts.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross receipts of the affiliated group shall include the total gross receipts from all sources of the affiliated group, including eliminating entries for transactions among the group.

(12) The alternative minimum calculation for gross profits shall be:

(a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, seventy-five cents ($0.75) per one hundred dollars ($100) of the corporation's Kentucky gross profits; and

(b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:

1. If the corporation's gross profits from all sources are three million dollars ($3,000,000) or less, the tax shall be zero;

2. If the corporation'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 tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of the corporation'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 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 zero;

3. If the corporation's gross profits from all sources are equal to or greater than six million dollars ($6,000,000), the tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) on all of the corporation's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross profits of the affiliated group shall include the total gross profits from all sources of the affiliated group, including eliminating entries for transactions among the group.

(13) As used in subsections (11) and (12) of this section:

(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120***(11) to (13)***~~[(8)(c)]~~;

(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120***(11) to (13)***~~[(8)(c)]~~; and

(c) The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning as provided in KRS 141.0401.

(14) (a) For taxable years beginning on or after January 1, 2007, 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 10. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "***Apportionable***~~[Business]~~ income" means***:***

1. All income ***that is apportionable under the Constitution of the United States and is not allocated under the laws of this state, including:***

a. Income arising from transactions and activity in the regular course of a trade or business of the corporation***;*** and~~[includes]~~

b. Income ***arising*** from tangible and intangible property if the acquisition, management, ***employment, development,*** or disposition of the property ***is or was related to the operation***~~[constitutes integral parts]~~ of the corporation's~~[regular]~~ trade or business~~[operations]~~; ***and***

2. Any income that would be allocable to this state under the Constitution of the United States, but that is apportioned rather than

allocated pursuant to the laws of this state;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "***Nonapportionable***~~[Nonbusiness]~~ income" means all income other than ***apportionable***~~[business]~~ income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) through (7) of this section, except as provided by KRS 141.121; and

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute ***nonapportionable***~~[nonbusiness]~~ income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is

in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided in subsection ***(14)*** ~~[(9)]~~ of this section, all ***apportionable*** ~~[business]~~ income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor ***as determined under subsection (9) of this section***, representing twenty-five percent (25%) of the fraction, plus the payroll factor ***as determined under subsection (10) of this section***, representing twenty-five percent (25%) of the fraction, plus the sales factor ***as determined under subsections (11) to (13) of this section***, representing fifty percent (50%) of the fraction, 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).

(9) (a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.1-300 shall be excluded from the property factor.

(b) ~~[1.]~~ Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the department pursuant to administrative regulations promulgated by the department. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the department determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the department may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

(c) ~~[2.]~~ The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.

(10) ~~[(b)]~~ The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for

compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

(a) ~~[1.]~~ The individual's service is performed entirely within the state;

(b) ~~[2.]~~ The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) ~~[3.]~~ Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(11) ~~[(c) 1.]~~ The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

(12) ~~[2.]~~ Sales of tangible personal property are in this state if:

(a) ~~[a.]~~ The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) ~~[b.]~~ The property is shipped from an office, store, warehouse, factory, or other place of storage in this state***:*** and

1. The purchaser is the United States government***; or***

2. The taxpayer is not taxable in the state of the purchaser.

(13) ~~[3.]~~ Sales, other than sales of tangible personal property, are in this state if***:***

(a) For taxable years beginning before January 1, 2016, the income-producing activity is performed in this state; or the income-producing activity is

performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance***; or***

(b) For taxable years beginning on or after January 1, 2016, the corporation's market for the sales is in this state. The corporation's market for the sales is in this state in the case of:

1. Sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

2. Rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

3. Sale of a service, if and to the extent the service is delivered to a location or performed in this state; and

4. Intangible property:

a. That is rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is used in this state if that good or service is purchased by a consumer who is in this state; or

b. That is sold, if and to the extent the property is used in this state, provided that:

i. A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is used in this state if the geographic area includes all or part of this state; or

ii. Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease,

or licensing of the intangible property under subdivision a. of this subparagraph; and

iii. All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the sales factor.

(14) ~~[(9)]~~ (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the department may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;
2. The exclusion of any one (1) or more of the factors;
3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or
4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's ***apportionable*** ~~[business]~~ income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All ***apportionable*** ~~[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:

a. Total ***apportionable*** ~~[business]~~ 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.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period 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.

c. ***Nonapportionable*** ~~[Nonbusiness]~~ income shall be allocated to this state as provided in subsections (4) through (7) of this section.

2. All ***apportionable*** ~~[business]~~ 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 defined in KRS 154.655(2), 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 ***apportionable*** ~~[business]~~ income apportioned to Kentucky shall be determined by multiplying the total ***apportionable*** ~~[business]~~ income from the sale of these services by a fraction determined in the

following manner:

a. 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; and

b. 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.

c. ***Nonapportionable***~~[Nonbusiness]~~ income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(15)~~[(10)]~~ Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) ***Nonapportionable***~~[Nonbusiness]~~ income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) ***Apportionable***~~[Business]~~ income shall be apportioned to this state by multiplying the ***apportionable***~~[business]~~ income by a 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, 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). The payroll factor shall be determined as provided in subsection ***(10)***~~[(8)(b)]~~ of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the department.

(c) An affiliated group electing to file a consolidated return~~[under KRS 141.200(4)]~~ or required to file a consolidated return under KRS 141.200~~[(11)]~~ that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection ***(10)***~~[(8)(b)]~~ of this section. The amount of property and sales of the public service company, provider of communications services or multichannel video programming services as defined in KRS 136.602, or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the department under paragraph (b) of this subsection.

(16)~~[(11)]~~ For taxable years beginning on or after January 1, 2007, a corporation that:

(a) Owns an interest in a limited liability pass-through entity; or

(b) Owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006;

shall include the proportionate share of sales, property, and payroll of the limited liability pass-through entity or general partnership when apportioning income, and shall include the proportionate share of sales in calculating the tax due pursuant to KRS 141.0401. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership organized or formed as a general partnership after January 1, 2006," shall extend to each level of multiple-tiered pass-through entities.

➔Section 11. 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) "Liquid asset" means an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. "Liquid assets" include:

1. Foreign currency and trading positions therein, other than functional currency used in the regular course of the corporation's trade or business;

2. Marketable instruments, including stocks, bonds, debentures, options, warrants, and futures contracts; and

3. Mutual funds which hold liquid assets;

(e) "Marketable instrument" means an instrument that is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market;

(f) "Overall net gain" means the total net gain from all transactions incurred at each treasury function for the entire taxable period. "Overall net gain" does not mean the net gain from a specific transaction if multiple transactions occur during the taxable period;

(g) "Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;

(h) "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;

(i) "Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241; and

(j) "Treasury function" means the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business and includes the following situations:

1. Providing liquidity for a corporation's business cycle; and

2. Providing a reserve for business contingencies or business acquisitions.

(2) If a corporation holds liquid assets in connection with one (1) or more treasury functions of the corporation, and the liquid assets produce ***apportionable*** ~~[business]~~ income when sold, exchanged, or otherwise disposed of, the overall net gain from those transactions for each treasury function for the tax period shall be included in the sales factor. For purposes of this subsection:

(a) Each treasury function shall be considered separately; and

(b) A corporation principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets is not performing a treasury function with respect to that income produced.

(3) For purposes of apportioning ***apportionable*** ~~[business]~~ income to this state:

(a) Passenger airlines shall determine the property, payroll, and sales factors as follows:

1. Except as modified by this subparagraph, the property factor shall be determined as provided in KRS 141.120***(9)*** ~~[(8)(a)]~~. 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:

a. The total average value of the aircraft operated by the passenger airline; and

b. 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;

2. Except as modified by this subparagraph, the payroll factor shall be determined as provided in KRS 141.120***(10)***~~[(8)(b)]~~. 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:

a. The total amount paid during the taxable year to flight personnel; and

b. 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

3. Except as modified by this subparagraph, the sales factor shall be determined as provided in KRS 141.120***(11) to (13)***~~[(8)(c)]~~. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:

a. The total transportation revenues of the passenger airline for the taxable year; and

b. 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

(b) Qualified air freight forwarders shall determine the property, payroll, and sales factors as follows:

1. The property factor shall be determined as provided in KRS

141.120***(9)***~~[(8)(a)]~~;

2. The payroll factor shall be determined as provided in KRS 141.120***(10)***~~[(8)(b)]~~; and

3. Except as modified by this subparagraph, the sales factor shall be determined as provided in KRS 141.120***(11) to (13)***~~[(8)(c)]~~. Freight forwarding revenues shall be included in the numerator of the sales factor by determining the product of:

a. The total freight forwarding revenues of the qualified air freight forwarder for the taxable year; and

b. 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.

➔Section 12. KRS 141.200 is amended to read as follows:

(1) Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.

(2) As used in subsections (2) to (7) of this section, unless the context requires otherwise:

(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 the provisions of 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 the provisions of this chapter;

(d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(e) "Election period" means the 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, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (4) of this section.

(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 the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.

(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) Notwithstanding subsections (9) to ***(14) and (20)*** ~~[(15)]~~ of this section, 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 ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with 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~~[of Revenue]~~ 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 such 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.

(8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005, ***and before January 1, 2016***~~[unless otherwise provided]~~.

(9) As used in subsections (9) to (14) of this section:

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, "affiliated group" means one (1) or more chains of includible corporations connected through stock ownership, membership interest, or partnership interest with a common parent corporation which is an includible corporation if:

a. The common parent owns directly an ownership interest meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and

b. An ownership interest meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.

2. The ownership interest of any corporation meets the requirements of this paragraph if the ownership interest encompasses at least eighty percent (80%) of the voting power of all classes of ownership interests and has a value equal to at least eighty percent (80%) of the total value of all ownership interests;

(b) 1. For taxable years beginning after December 31, 2006, ***and before***

January 1, 2016, "affiliated group" means one (1) or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if:

a. The common parent owns directly stock meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and

b. Stock meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.

2. The stock of any corporation meets the requirements of this paragraph if the stock encompasses at least eighty percent (80%) of the voting power of all classes of stock and has a value equal to at least eighty percent (80%) of the total value of all stock;

(c) "Common parent corporation" means the member of an affiliated group that meets the ownership requirement of paragraph (a)1. or (b)1. of this subsection;

(d) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and is related to a member of an affiliated group through stock ownership;

(e) "Includible corporation" means any corporation that is doing business in this state except:

1. Corporations exempt from corporation income tax under KRS 141.040(1)(a) to (i);

2. Foreign corporations;

3. Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year;

4. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
5. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
6. A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code;
7. Any corporation that realizes a net operating loss whose Kentucky property, payroll, and sales factors pursuant to KRS 141.120~~[(8)]~~ are de minimis;
8. Any corporation for which the sum of the property, payroll and sales factors described in KRS 141.120~~[(8)]~~ is zero; and
9. For taxable years beginning prior to January 1, 2006, and taxable years beginning on or after January 1, 2007, an S corporation as defined in Section 1361(a) of the Internal Revenue Code;

(f) "Ownership interest" means stock, a membership interest in a limited liability company, or a partnership interest in a limited partnership or limited liability partnership;

(g) "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 the provisions of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code;

(h) "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 the provisions of this

chapter; and

(i) "Stock" means stock in a corporation, or a membership interest in a limited liability company that has elected to be treated as a corporation for federal tax purposes.

(10) Every corporation doing business in this state except those exempt from taxation under KRS 141.040(1)(a) to (i) shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year:

(a) An includible corporation in an affiliated group;

(b) A common parent corporation doing business in this state;

(c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation;

(d) A qualified real estate investment trust subsidiary that is included in the return filed by the real estate investment trust parent; or

(e) A disregarded entity that is included in the return filed by its parent entity.

(11) (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.

(b) An affiliated group required to file a consolidated return under this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120. Includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in accordance with KRS 141.011. The department

~~of Revenue]~~ shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.

(12) Each includible 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 includible 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.

(13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The department~~[of Revenue]~~ may require a further or supplemental report of further information and data necessary for computation of the tax.

(14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. 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.

(15) ***Subsections (15) to (19) of this section shall apply to taxable years beginning on or after January 1, 2016. As used in subsections (15) to (19) of this section:***

(a) "Combined group" means the group of all persons whose income and apportionment factors are required to be taken into account as provided in subsection (16) of this section in determining the taxpayer's share of the net apportionable income or loss apportionable to this state;

(b) "Tax haven" means tax haven as defined in Section 15 of this Act; and

(c) "Unitary business" means a single economic enterprise that is either made up of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, or 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.

(16) (a) A corporation engaged in a unitary business with one (1) or more other corporations shall become a member of a combined group and shall file a combined report which includes:

1. The income of all corporations that are members of the unitary business;

2. The apportionment factors of all corporations that are members of the unitary business; and

3. Any other information required by the department.

(b) The department may, by administrative regulation, require that the combined report include the income and apportionment factors of any

person not included as provided in paragraph (a) of this subsection, but that is a member of a combined group, in order to reflect proper apportionment of income from the entire unitary business. The promulgation of an administrative regulation shall include the authority to require combination of persons that are not subject to tax under Section 3 or 9 of this Act.

(c) If the department determines that the reported income or loss of a taxpayer engaged in a unitary business with any person not included as provided in 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 apportionment factors of that person to be included in the combined report.

(d) The apportionment factors shall be computed as required by Section 10 of this Act.

(17) (a) The combined report filed by a combined group shall take into account the entire income and apportionment factors of any member which:

1. Is 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;

2. Has, regardless of the place incorporated or formed, an average of the property, payroll, and sales factors within the United States equal to or greater than twenty percent (20%); or

3. Is:

a. A domestic international sales corporation as described in Internal Revenue Code Sections 991 to 994;

b. An export trade corporation as described in Internal Revenue Code Sections 970 to 971; or

c. Doing business in a tax haven.

(b) 1. Any member that is a controlled foreign corporation, as defined in Internal Revenue Code Section 957, shall include the income of that member that is defined in Section 952 of Subpart F of the Internal Revenue Code, including lower-tier subsidiaries' distributions of that income which were previously taxed, determined without regard to federal treaties, and the apportionment factors related to that income. Any income received by a controlled foreign corporation shall be excluded if the income was subject to an effective rate of income tax imposed by a foreign country greater than ninety percent (90%) of the maximum rate of income tax specified in Internal Revenue Code Section 11.

2. 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 shall be included to the extent of that income and the apportionment factors related thereto.

(c) Any member not described in paragraph (a) or (b) of this subsection shall include the portion of its income derived from or attributable to sources within the United States, as determined under the Internal Revenue Code, without regard to federal treaties, and its apportionment factors related thereto.

(18) (a) 1. The use of a combined report does not disregard the separate identities of the members within a combined group. Each taxpayer within a combined group is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include the taxpayer's:

a. Share of any apportionable income apportionable to this state of

geach of the combined groups of which it is a member as determined in paragraph (b) of this subsection;

b. Share of any apportionable income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer;

c. Income from a business conducted wholly by the taxpayer entirely within this state;

d. Income sourced to this state from the sale or exchange of capital assets;

e. Nonapportionable income or loss allocable to this state;

f. Income or loss allocated or apportioned in an earlier year, required to be taken into account in the taxable year, other than a net operating loss; and

g. Net operating loss carryover. If the computation results in a loss of a member within the combined group, that taxpayer has a Kentucky net operating loss, subject to KRS 141.011. The net operating loss shall be applied as a deduction in a subsequent year only if that taxpayer has net income, whether or not the taxpayer is or was a member of a combined group in that subsequent year.

2. a. No tax credit earned by one (1) member of the combined group, but not fully used by or allowed to that member, shall be used in whole or in part by another member of the combined group or applied in whole or in part against the total income of the combined group.

b. A post-apportionment deduction carried over into a subsequent year to the member that incurred the deduction, and available as

a deduction to that member in the subsequent year, shall 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.

(b) 1. The taxpayer's share of the apportionable income apportionable to this state of each combined group of which the taxpayer is a member shall be the product of:

a. The apportionable income of the combined group as determined in paragraph (c) of this subsection; and

b. The taxpayer's apportionment percentage as determined in Section 10 of this Act, including in the property, payroll, and sales factor numerators, the taxpayer's property, payroll, and sales, respectively, associated with the combined group's unitary business in this state; and including in the denominator, the property, payroll, and sales of all members of the combined group including the taxpayer, which property, payroll, and sales are associated with the combined group's unitary business wherever located.

2. The property, payroll, and sales of a partnership 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 partnership's unitary income included in the income of the combined group in accordance with paragraph (c) of this subsection and the denominator of which is the amount of the partnership's total unitary income.

(c) 1. The total income of a combined group is the sum of net income for each member of the combined group.

2. If a unitary business includes income from a partnership, 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 partnership's unitary apportionable income.

3. Apportionable income from an intercompany transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. sec. 1.1502-13.

(19) As a filing convenience, and without changing the respective liability of the group members, members of a combined group may annually elect to designate one (1) taxpayer of the combined group to file a combined return in the form and manner prescribed by the department, in lieu of filing their own respective returns, provided that the taxpayer designated to file the single return consents to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report, and agrees to act as agent on behalf of those taxpayers for the year of the election for tax matters relating to the combined report for that year. If for any reason the surety is unwilling or unable to perform its responsibilities, tax liability shall be assessed against the taxpayer members.

(20) For any taxable year ending on or after December 31, 1995, ***and beginning before January 1, 2016,*** except as provided under this section and KRS 141.205, nothing in this chapter shall be construed as allowing or requiring the filing of:

(a) A combined return under the unitary business concept; or

(b) A consolidated return.

(21) ~~[(16)]~~ No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(22) ~~[(17)]~~ No claim for refund or credit of a tax overpayment for any taxable year ending on or 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, shall be effective or recognized for any purpose.

(23) ~~[(18)]~~ No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.

(24) ~~[(19)]~~ This section shall not be construed to limit or otherwise impair the department's authority under KRS 141.205.

➔Section 13. KRS 141.206 is amended to read as follows:

(1) As used in this section unless the context requires otherwise:

(a) For taxable years beginning after December 31, 2004, and before January 1, 2007, "pass-through entity" means a general partnership not subject to the tax imposed by KRS 141.040, including any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code and its 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 all other taxable years, "pass-through entity" means pass-through entity as defined in KRS 141.010.

(2) 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.

(3) Pass-through entities shall determine net income in the same manner as in the case of an individual under KRS 141.010(9) to (11) 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.

(4) 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(14).

(5) (a) Every pass-through entity required to file a return under subsection (2) of this section, except publicly traded partnerships as defined in KRS 141.0401(6)(r), 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.

(6) (a) Effective for taxable years beginning after December 31, 2011, every pass-through entity required to withhold Kentucky income tax as provided by

subsection (5) of this section shall 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.

(7) (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.

(8) 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.

(9) 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 (2) 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 (12) of this section; and

(b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.

(10) 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) For taxable years beginning prior to January 1, 2007, the items of income, loss, and deduction, when applicable, shall be multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (12) of this section; or

(b) For taxable years beginning on or after January 1, 2007:

1. A corporation that owns an interest in a limited liability pass-through entity or that owns an interest in a general partnership organized or

formed as a general partnership after January 1, 2006, 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;

2. A corporation that owns an interest in a general partnership organized or formed on or before January 1, 2006, shall follow the provisions of paragraph (a) of this subsection; and

(c) Credits from the partnership.

(11) (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 (12) 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 (12) of this section.

(12) 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 141.120~~[(8)]~~, 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).

(13) 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.

(14) 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.

(15) (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.

(16) (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 (6) 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 (6) of this section, and shall remain subject to any penalty provided by KRS 131.180 or 141.990 for any declaration underpayment or 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 14. KRS 141.420 is amended to read as follows:

For taxable years beginning after December 31, 2004, and before January 1, 2007:

(1) (a) Every corporation identified in KRS 141.010(24)(b)2. to 8. that is 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 applicable federal return with the form prescribed and furnished by the department.

(b) For a corporation filing a return under paragraph (a) of this subsection, the individual partner's, member's, or shareholder's distributive share of net income, gain, loss, or deduction shall be computed as nearly as practicable in a manner identical to that required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(2) (a) Resident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section.

(b) Nonresident individuals who are members, partners, or shareholders of a

corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section multiplied by the apportionment fraction in KRS 141.120~~[(8)]~~.

(3) (a) Resident and nonresident individuals who are members, shareholders, or partners of a corporation required to file a return under paragraph (a) of subsection (1) of this section shall be entitled to a nonrefundable credit against the tax imposed under KRS 141.020.

(b) The credit determined under this subsection shall be the member's, shareholder's, or partner's proportionate share of the tax due from the corporation as determined under KRS 141.040, before the application of any credits identified in KRS 141.0205(5) and reduced by the required minimum imposed by KRS 141.040(7).

(c) Notwithstanding the provisions of paragraph (a) of this subsection, for taxable years beginning after December 31, 2004, and before January 1, 2007, the portion of the credit computed under paragraph (b) of this subsection that exceeds the credit that would have been utilized if the corporation's income were taxed at the rates in KRS 141.020 shall be refundable. The refundable portion of the credit shall be the individual member's, shareholder's, or partner's proportionate share of the amount computed by multiplying the amount the corporation's income exceeds two hundred sixteen thousand six hundred dollars ($216,600) by one percent (1%).

(d) The credit determined under paragraphs (a) and (b) of this subsection shall not operate to reduce the member's, shareholder's, or partner's tax due to an amount that is less than what would have been payable were the income attributable to doing business in this state by the corporation ignored.

(e) If a corporation identified in KRS 141.010(24)(b)1. to 8. is a partner,

shareholder, or member of another corporation identified in KRS 141.010(24)(b)2. to 8., the amount of income, gain, loss, deduction, refundable credit, or nonrefundable credit that the entity receives from the entity in which it is a partner, shareholder, or member shall proportionately pass through to the corporation's individual partners, members, or shareholders based upon the distributive share ratio. The phrase "a corporation identified in KRS 141.010(24)(b)1. to 8. is a partner, shareholder, or member of another corporation identified in KRS 141.010(24)(b)2. to 8." shall extend through each level of multitiered ownership.

(f) The nonrefundable and refundable credits provided by this section shall be allowed only to the extent that the tax is paid by the corporation. If after the credits are disallowed the corporation subsequently pays the tax due, the nonrefundable and refundable credits shall then be allowed.

(4) For purposes of computing the basis of an ownership interest or stock in a corporation identified in KRS 141.010(24)(b)2. to 8., the basis attributable to a member, partner, or shareholder shall be adjusted by the distributive share of the items of net income, gain, loss and deduction as though the items had been passed through to the member, partner, or shareholder.

(5) Except as otherwise provided in this chapter, distributions by or from a corporation shall be treated in the same manner as they are treated for federal tax purposes.

➔Section 15. KRS 141.205 is amended to read as follows:

(1) As used in this section:

(a) "Intangible property" means franchises, patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and similar types of intangible assets;

(b) "Intangible expenses" includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income

before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code:

1. Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;
3. Royalty, patent, technical, and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs;

(c) "Intangible interest expense" means only those amounts which are directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;

(d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code;

(e) "Affiliated group" has the same meaning as provided in KRS 141.200;

(f) "Foreign corporation" means a corporation that is organized under the laws of

a country other than the United States and that would be a related member if it were a domestic corporation;

(g) "Related member" means a person that, with respect to the entity during all or any portion of the taxable year, is:

1. A person or entity that has, directly or indirectly, at least fifty percent (50%) of the equity ownership interest in the taxpayer, as determined under Section 318 of the Internal Revenue Code;
2. A component member as defined in Section 1563(b) of the Internal Revenue Code;
3. A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs 1. to 3. of this paragraph;

(h) "Recipient" means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid;

(i) "Unrelated party" means a person that has no direct, indirect, beneficial or constructive ownership interest in the recipient; and in which the recipient has no direct, indirect, beneficial or constructive ownership interest;

(j) "Disclosure" means that the entity shall provide the following information to the Department of Revenue with its tax return regarding a related party transaction:

1. The name of the recipient;
2. The state or country of domicile of the recipient;
3. The amount paid to the recipient; and
4. A description of the nature of the payment made to the recipient;

(k) "Other related party transaction" means a transaction which:

1. Is undertaken by an entity which was not required to file a consolidated return under KRS 141.200;

2. Is undertaken by an entity, directly or indirectly, with one (1) or more of its stockholders, members, partners, or affiliated entities; and

3. Is not within the scope of subsections (2) and (3) of this section;

(l) "Related party costs" means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions;~~[and]~~

(m) "Entity" means any taxpayer other than a natural person***;***

(n) "Reportable transaction" means any transaction or arrangement:

1. Having the potential for avoidance or evasion of the tax imposed by KRS 141.020 or 141.040 and 141.0401, whether through:

a. Deduction;

b. Credit;

c. Exclusion or omission of any income;

d. Manipulation of any allocation or apportionment rule; or

e. The securing of any other tax benefit;

2. Described in 26 C.F.R. sec. 1.6011-4;

3. Identified as a tax avoidance transaction for purposes of 26 U.S.C. sec. 6011;

4. Lacking economic substance, including the creation of an entity lacking a valid nontax business purpose; or

5. With an entity that is incorporated in a tax haven; and

(o) "Tax haven" means:

1. Andorra;

2. Anguilla;

3. Antigua;

4. Aruba;

5. The Bahamas;

6. Bahrain;

7. Barbados;

8. Barbuda;

9. Belize;

10. Bermuda;

11. British Virgin Islands;

12. Caicos Islands;

13. Cayman Islands;

14. Cook Islands;

15. Cyprus;

16. Dominica;

17. Gibraltar;

18. Grenada;

19. Grenadines;

20. Guernsey-Sark-Alderney;

21. Isle of Man;

22. Jersey;

23. Liberia;

24. Liechtenstein;

25. Luxembourg;

26. Malta;

27. Marshall Islands;

28. Mauritius;

29. Monaco;

30. Montserrat;

31. Nauru;

32. Netherlands Antilles;

33. Nevis;

34. Niue;

35. Panama;

36. Samoa;

37. San Marion;

38. Seychelles;

39. St. Kitts;

40. St. Lucia;

41. St. Vincent;

42. Turks;

43. U.S. Virgin Islands; or

44. Vanuatu.

(2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct an intangible expense, an intangible interest expense, or a management fee directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more related members or with a foreign corporation as defined in subsection (1) of this section, or with an entity that would be included in the affiliated group based upon ownership interest if it were organized as a corporation.

(3) The disallowance of deductions provided by subsection (2) of this section shall not apply if:

(a) The entity and the recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year; or

(b) The entity makes a disclosure, and establishes by a preponderance of the

evidence that:

1. The payment made to the recipient was subject to, in its state or country of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income. If the recipient is a foreign corporation, the foreign nation shall have in force a comprehensive income tax treaty with the United States; and
2. The recipient is engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property; and
3. The transaction giving rise to the intangible interest expense, intangible expense, or management fees between the entity and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or

(c) The entity makes a disclosure, and establishes by preponderance of the evidence that the recipient regularly engages in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction; or

(d) The entity and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under KRS 141.120***(14)*** ~~[(9)]~~.

(4) An entity subject to the tax imposed by this chapter may deduct expenses or costs associated with an other related party transaction only in an amount equal to the amount which would have resulted if the other related party transaction had been carried out at arm's length. In any dispute between the department and the entity with respect to the amount which would have resulted if the transaction had been

carried out at arm's length, the entity shall bear the burden of establishing the amount by a preponderance of the evidence.

(5) Nothing in this section shall be deemed to prohibit an entity from deducting a related party cost in an amount permitted by this section, provided that the entity has incurred related party costs equal to or greater than the amounts permitted by this section.

(6) If it is determined by the department that the amount of a deduction claimed by an entity with respect to a related party cost is greater than the amount permitted by this section, the net income of the entity shall be adjusted to reflect the amount of the related party cost permitted by this section.

(7) For ***taxable years***~~[tax periods]~~ ending before January 1, 2005, in the case of entities not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated entities directly or indirectly, the department shall adjust the net income of such entities to an amount that would result if such transactions were carried on at arm's length.

(8) (a) For taxable years beginning on or after January 1, 2016, any person that is subject to the taxes imposed by this chapter and that has participated in a reportable transaction shall disclose the reportable transaction on:

1. The return filed for the taxable year in which the reportable transaction occurred;

2. Any amended return for the taxable year in which the reportable transaction occurred; and

3. Any return for any other taxable year reflecting a reduction in tax resulting from the reportable transaction.

(b) Any income resulting from a reportable transaction shall be included in the computation of gross income defined in KRS 141.010(9) or (12).

(c) Any deduction, credit, exclusion, or any other tax benefit accruing from a

reportable transaction shall be disallowed.

(d) For purposes of Section 10 of this Act, income shifted to a tax haven, to the extent taxable under this chapter, shall be income subject to apportionment.

(e) Any person failing to include information on any return or report any income related to a reportable transaction shall pay a ten percent (10%) penalty on the tax liability ultimately due for the taxable year, in addition to any other penalty levied pursuant to KRS 131.180 or 141.990.

(f) No privilege of confidentiality shall apply to any written communication which is between a tax practitioner and any other person related to the promotion of the direct or indirect participation of that person in any reportable transaction.

(9) The department may require any person to submit an accounting, in spreadsheet format, to provide full disclosure for the taxable year of the:

(a) Income reported to each state or nation;

(b) Tax liability for each state or nation;

(c) Method used for allocating or apportioning income to the states or nations; and

(d) Identity of any group of taxpayers filing within a single report or return for any state or nation.

(10) On July 1, 2017, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue with an update of countries that may be considered a tax haven as defined in subsection (1) of this section.

➔Section 16. KRS 141.383 is amended to read as follows:

(1) As used in this section:

(a) "Above-the-line production crew" means the same as defined in KRS 148.542;

(b) "Approved company" means the same as defined in KRS 148.542;

(c) "Below-the-line production crew" means the same as defined in KRS 148.542;

(d) "Cabinet" means the same as defined in KRS 148.542;

(e) "Office" means the same as defined in KRS 148.542;

(f) "Qualifying expenditure" means the same as defined in KRS 148.542;

(g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;

(h) "Secretary" means the same as defined in KRS 148.542; and

(i) "Tax incentive agreement" means the same as defined in KRS 148.542.

(2) There is hereby created a ***nonrefundable and nontransferable***~~[refundable]~~ tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.

(3) An approved company may receive a~~[refundable]~~ tax credit on and after July 1, 2010, if:

(a) The cabinet has received notification from the office that the approved company has satisfied all requirements of KRS 148.542 to 148.546; and

(b) The approved company has provided a detailed cost report and sufficient documentation to the office, which has been forwarded by the office to the cabinet, that:

1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and

2. The approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures.

(4) The~~[refundable]~~ tax credit shall not apply until the taxable year in which the secretary notifies the approved company of the amount of~~[refundable]~~ credit that is available. If the notification of approval is provided prior to July 1, 2010, the company shall not claim the credit and the department shall not issue any refunds until on or after July 1, 2010.

(5) ~~[Interest shall not be allowed or paid on any refundable credits provided under this section.~~

~~(6)]~~The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.

(6)~~[(7)]~~ On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the cabinet shall report to the office the names of the approved companies and the amounts of~~[refundable]~~ income tax credit claimed.

➔Section 17. KRS 148.544 is amended to read as follows:

(1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:

(a) Encourage the film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;

(b) Encourage the development of a film and entertainment industry in Kentucky;

(c) Encourage increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and

(d) Encourage the development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.

(2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage Cabinet to administer, together with the Finance and Administration Cabinet and the Tourism Development Finance Authority, the tax incentive established by KRS 141.383 and 148.542 to 148.546.

(3) To qualify for the tax incentive provided in subsection (4) of this section, the following requirements shall be met:

(a) For an approved company that is also a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial

film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars ($125,000);

2. Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars ($100,000);
3. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars ($20,000); or
4. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars ($10,000); and

(b) For an approved company that is not a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars ($250,000);
2. Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars ($100,000); or
3. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying

expenditures and qualifying payroll expenditures shall be twenty thousand dollars ($20,000).

(4) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is a ***nonrefundable and nontransferable*** ~~[refundable]~~ credit against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, as provided in KRS 141.383.

(b) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:

a. Qualifying expenditures;

b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and

c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars ($1,000,000) in payroll expenditures per employee.

2. a. To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (c) of this subsection.

b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the

approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.

(c) For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:

1. Thirty percent (30%) of the approved company's:
   a. Qualifying expenditures;
   b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
   c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars ($1,000,000) in payroll expenditures per employee; and
2. Thirty-five percent (35%) of the approved company's:
   a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
   b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars ($1,000,000) in payroll expenditures per employee.

~~[(d) The Tourism Development Finance Authority may accept applications, authorize the execution of tax incentive agreements, and enter into tax incentive agreements beginning on June 26, 2009; however, no credit amount shall be claimed by the taxpayer as a refund or paid by the Department of Revenue prior to July 1, 2010.]~~

➔Section 18. KRS 148.546 is amended to read as follows:

(1) An eligible company shall, at least thirty (30) days prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the office. The application shall include:

(a) The name and address of the applicant;

(b) Verification that the applicant is a Kentucky-based company;

(c) The production script or a detailed synopsis of the script;

(d) The locations where the filming or production will occur;

(e) The anticipated date on which filming or production shall begin;

(f) The anticipated date on which the production will be completed;

(g) The total anticipated qualifying expenditures;

(h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;

(i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;

(j) The address of a Kentucky location at which records of the production will be kept;

(k) An affirmation that if not for the incentive offered under KRS 148.542 to 148.546, the eligible company would not film or produce the production in the Commonwealth; and

(l) Any other information the office may require.

(2) The office shall notify the eligible company within thirty (30) days after receiving the application of its status.

(3) (a) Upon review of the application and any additional information submitted, the office shall present the application and its recommendation to the Tourism Development Finance Authority established by KRS 148.850 which may, by resolution, authorize the execution of a tax incentive agreement between the Tourism Development Finance Authority and the approved company.

(b) 1. The total amount of tax credits authorized by the Tourism Development Finance Authority during fiscal year 2010-2011 shall not exceed five million dollars ($5,000,000).

2. The total amount of tax credits authorized by the Tourism Development Finance Authority during the fiscal year 2011-2012 shall not exceed seven million five hundred thousand dollars ($7,500,000).

(4) The tax incentive agreement shall include the following provisions:

(a) The duties and responsibilities of the parties;

(b) A detailed description of the motion picture or entertainment production for which incentives are requested;

(c) The anticipated qualifying expenditures and qualifying payroll expenditures for resident and nonresident above-the-line and below-the-line crews by county;

(d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;

(e) That the approved company shall have no more than two (2) years from the date the tax incentive agreement is executed to start the motion picture or entertainment production;

(f) That the approved company shall have no more than four (4) years from the execution of the tax incentive agreement to complete the motion picture or entertainment production;

(g) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;

(h) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;

(i) That the approved company shall submit to the office within one hundred

eighty (180) days of the completion of the motion picture or entertainment production a detailed cost report of the qualifying expenditures, qualifying payroll expenditures, and final script;

(j) That the approved company shall provide the office with documentation that the approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures for which an incentive under KRS 141.383 and 148.544 is sought;

(k) That, if the office determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:

1. The office may deny the incentives available to the approved company;
2. Both the office and the cabinet may pursue any remedy provided under the tax incentive agreement;
3. The office may terminate the tax incentive agreement; and
4. Both the office and the cabinet may pursue any other remedy at law to which it may be entitled;

(l) That the office shall monitor the tax incentive agreement;

(m) That the approved company shall provide to the office and the cabinet all information necessary to monitor the tax incentive agreement;

(n) That the office may share information with the cabinet or any other entity the office determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;

(o) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture or entertainment production was produced or filmed in the Commonwealth of Kentucky;

(p) That the approved company shall include screen credits in its final production that:

1. Indicate that the approved company received tax incentives from the

Commonwealth of Kentucky; and

2. Display the "Unbridled Spirit" logo;

(q) Terms of default;

(r) The method and procedures by which the approved company shall request and receive the incentive provided under KRS 141.383 and 148.544;

(s) That the approved company may be required to pay an administrative fee as authorized under subsection (5) of this section; and

(t) Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.

(5) The office may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars ($500), whichever is greater.

(6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.

(7) The office shall notify the cabinet upon approval of an approved company. The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production, and any other information required by the cabinet.

(8) Within one hundred eighty days (180) days of completion of the motion picture or entertainment production, the approved company shall submit to the office a detailed cost report of:

(a) Qualifying expenditures;

(b) Qualifying payroll expenditures for resident and nonresident above-the-line crew by county;

(c) Qualifying payroll expenditures for resident and nonresident below-the-line crew by county; and

(d) The final script.

(9) (a) The office, together with the secretary, shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.

(b) Upon confirmation that all requirements of the tax incentive agreement have been met, the office, and the secretary shall review the final script, and if they determine that the motion picture or entertainment production does not:

1. Contain visual or implied scenes that are obscene; or

2. Negatively impact the economy or the tourism industry of the Commonwealth;

the office shall forward the detailed cost report to the cabinet for calculation of the~~[refundable]~~ credit.

(10) The cabinet shall verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures, and the cabinet shall notify the office of the total amount of~~[refundable]~~ credit available on qualifying expenditures and qualifying payroll expenditures.

(11) On or before October 1, 2010, and on or before each October 1 thereafter, for the immediately preceding fiscal year, the office shall report to the Tourism Development Finance Authority:

(a) The number of tax incentive agreements that have been executed;

(b) The estimated amount of tax incentives that have been requested under KRS 141.383 and 148.542 to 148.546; and

(c) The amount of tax incentives approved under KRS 139.538, 141.383, and

148.542 to 148.546.

(12) (a) By November 1 of each year, the authority shall file an annual report with the Governor and the Legislative Research Commission. The report shall be submitted in cooperation with the Cabinet for Economic Development and included in the single annual report required in KRS 154.12-2035. The report shall also be available on the Tourism, Arts and Heritage Cabinet's Web site.

(b) The report shall include information for all motion picture or entertainment production projects approved.

(c) The report shall include the following information:

1. For each approved motion picture or entertainment production project:
   a. The name of the approved company and a brief description of the project;
   b. The amount of approved costs included in the agreement; and
   c. The total amount recovered under the tax incentive agreement;
2. The number of applications for projects submitted during the prior fiscal year;
3. The number of projects finally approved during the prior fiscal year; and
4. The total dollar amount approved for recovery for all projects approved during the prior fiscal year, and cumulatively under KRS 141.383 and 148.542 to 148.546 since its inception, by year of approval.

(d) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

➔SECTION 19. A NEW SECTION OF KRS 6.905 TO 6.935 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that a systematic review of the inducements for tax

increment financing, tourism development, and economic development programs is appropriate and necessary to ensure that:

(a) The general welfare and material well-being of the citizens of the Commonwealth are maintained;

(b) The development, growth, and maintenance of commerce and industry are sustained; and

(c) The public purpose of relieving unemployment is advanced.

(2) (a) As provided by the timetable established in subsection (5) of this section, each tax increment financing, tourism development, and economic development program referenced in this section shall expire.

(b) Without further action by the General Assembly, no additional tax increment financing, tourism development, or economic development projects authorized under a particular tax increment financing, tourism development, or economic development program shall receive final approval after the expiration date of that particular program.

(c) A project grant agreement or a tax incentive agreement receiving final approval prior to the expiration date of a tax increment financing, tourism development, or economic development program shall continue to be administered as provided by the approved agreement and in accordance with the expired statutory provisions.

(d) Any extension of the provisions of a tax increment financing, tourism development, or economic development program by the General Assembly shall include a sunset date no later than the June 30 occurring eight (8) years following the date of enactment of the extension.

(e) Any new provisions establishing a tax increment financing, tourism development, or economic development program by the General Assembly shall include a sunset date no later than the June 30 occurring eight (8)

years following the date of the enactment.

(3) (a) Beginning January 1 of the year prior to the year in which a program is set to expire under the timetable established in subsection (5) of this section, a systematic review of the program shall be conducted by the committee with the assistance of the Tourism, Arts and Heritage Cabinet, the Cabinet for Economic Development, and the Department of Revenue, except that the first systematic review shall begin on the effective date of this Act.

(b) The results of the systematic review shall be presented to the Legislative Research Commission no later than November 30 of the year occurring prior to the expiration date of the program.

(c) The Legislative Research Commission may employ a consultant to assist in the systematic review of the program. If a consultant is employed, the consultant shall be held to the same confidentiality standards as the Legislative Research Commission staff as provided in subsection (8) of Section 20 of this Act.

(4) The systematic review shall consider the following, as applicable to the program under review:

(a) Whether the program is being administered and used as intended by the General Assembly;

(b) Whether there are administrative issues which hinder the effectiveness of the program;

(c) Whether the agency consistently applies the statutory criteria when awarding tax incentives;

(d) Whether the direct benefit received by the Commonwealth from the program exceeds the cost of the program to the Commonwealth;

(e) Whether the direct gains from the investment in the program by the Commonwealth produce an acceptable return on that investment;

(f) Whether there is duplication or overlapping of the program with other programs administered in the Commonwealth;

(g) Whether the program is affecting the economic condition of the Commonwealth;

(h) Whether tax incentives are given only when necessary to fulfill the goals outlined in subsection (1) of this section;

(i) Whether tax incentives are sufficiently and appropriately targeted to produce the benefit expected for the Commonwealth;

(j) Whether, on a project-by-project basis, the benefit received by the Commonwealth from the tax incentives awarded for the project exceeds the cost of the tax incentives;

(k) Whether, on a project-by-project basis, the direct gains from the investment in the program by the Commonwealth produce an acceptable return on that investment;

(l) Whether the performance standards within each project agreement are being met by the approved company;

(m) Whether the performance standards and other items contained in the agreement are enforced; and

(n) Whether the performance standards and program requirements are sufficient to accomplish legislative intent.

(5) (a) The following timetable shall be followed for the expiration of economic development programs:

1. The Skills Training Investment Credit Act provided by KRS 154.12-2084 to 154.12-2089 shall expire on June 30, 2017;

2. The Kentucky Investment Fund Act provided by KRS 154.20-250 to 154.20-284 shall expire on June 30, 2018;

3. The Kentucky Alternative Fuel and Renewable Energy Fund Act

provided by KRS 154.20-400 to 154.20-420 shall expire on June 30, 2020;

4. The incentives for companies located in a city of the first class provided by KRS 154.25-010 to 154.25-050 shall expire on June 30, 2020;

5. The Kentucky Industrial Revitalization Act provided by KRS 154.26-010 to 154.26-120 shall expire on June 30, 2017;

6. The Incentives for Energy Independence Act provided by KRS 154.27-010 to 154.27-090 shall expire on June 30, 2020;

7. The tax increment financing provisions established in KRS 154.30-010 to 154.30-090 shall expire on June 30, 2019;

8. The Kentucky Investment Act provided by KRS 154.31-010 to 154.31-030 shall expire on June 30, 2022;

9. The Kentucky Business Investment Program Act provided by KRS 154.32-010 to 154.32-100 shall expire on June 30, 2022;

10. The Kentucky Reinvestment Act provided by KRS 154.34-010 to 154.34-120 shall expire on June 30, 2018;

11. The Kentucky Environmental Stewardship Act provided by KRS 154.48-010 to 154.48-035 shall expire on June 30, 2018;

12. The Small Business Job Stimulus Act provided by KRS 154.60-010 to 154.60-030 shall expire on June 30, 2022;

13. The Kentucky Enterprise Initiative Act provided by KRS 154.20-200 to 154.20-216 shall expire on June 30, 2021;

14. The Endow Kentucky credit permitted by KRS 141.438 shall expire on December 31, 2024;

15. The New Markets Development Program credit permitted by KRS 141.434 shall expire on December 31, 2024; and

16. The distilled spirits tax credit permitted by KRS 141.389 shall expire on December 31, 2024.

(b) The Kentucky Tourism Development Act provided by KRS 139.536 and 148.851 to 148.860 shall expire on June 30, 2017.

➔Section 20. KRS 131.190 is amended to read as follows:

(1) (a) No present or former commissioner or employee of the department~~[of Revenue]~~, 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 any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

(b) The prohibition established by paragraph (a) of this subsection does not extend to:

1. Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
2. Any matter properly entered upon any assessment record, or in any way made a matter of public record;
3. Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
4. Testimony provided by the commissioner or any employee of the department~~[of Revenue]~~ 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;

5. Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), 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(2), 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;

6. 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(1). The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this subparagraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars ($10); or

7. Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817.

(2) 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.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the department~~[of Revenue]~~ under the gasoline excise tax law may be made public by the department.

(4) Access to and inspection of information received from the Internal Revenue Service is for department~~[of Revenue]~~ use only, and is restricted to tax administration purposes. Notwithstanding the provisions of this section to the contrary, 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~~[of Revenue]~~, 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.

(7) Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer

the provisions of KRS 160.613 to 160.617.

(8) (a) For the purposes of carrying out the systematic reviews required by Section 19 of this Act, the staff of the Legislative Research Commission shall have access to confidential data to perform research for the systematic review.

(b) The Legislative Research Commission shall limit the Legislative Research Commission staff who shall have access to confidential data to those whose duties and responsibilities involve the review and analysis of data. The Legislative Research Commission shall provide a list of these staff members to the department at the time the data is requested and shall update the list as necessary when staff members with access change.

(c) Access to information provided to the staff of the Legislative Research Commission pursuant to this section shall not extend to members of the General Assembly. While staff of the Legislative Research Commission may share summary analysis and research resulting from the information and data provided pursuant to this section that is required by law to be confidential, the unsummarized confidential data and information that could identify an individual taxpayer or company shall not be shared with members of the General Assembly by staff of the Legislative Research Commission.

(d) As provided by KRS 131.990(2)(a) and (b), the staff of the Legislative Research Commission shall be subject to penalties for improper browsing or dissemination of confidential information.

(e) The staff of the Legislative Research Commission shall not have access to information received by the department from the Internal Revenue Service.

➔Section 21. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions

shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, and handling and reporting the tax, each dealer shall be allowed compensation equal to ***one percent (1%)*** ~~[two and one-fourth percent (2.25%)]~~ of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.490 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358. No compensation shall be allowed if the completed tax return and payment are not submitted to the department within the time prescribed by KRS 138.210 to 138.490.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the department, by the twenty-fifth day of the next month, an estimated tax due amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the report month, shall not be required to file the monthly reports required by this chapter until the last day of the month following the report month, and shall be permitted to claim as a credit against the tax liability shown due on the report the estimated tax due amount so paid.

➔Section 22. 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) ***Twelve and two-tenths cents ($0.122)*** ~~[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 motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;***

(c) Fifteen cents ($0.15) upon each one hundred dollars ($100) of value of:

1. All machinery actually engaged in manufacturing;

2. 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; and

3. Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(d) Ten cents ($0.10) upon each one hundred dollars ($100) of value of 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; 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;

(f) One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of***:***

1. All 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;

(a)~~[(f)]~~ One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of***:***

1. All 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***

~~[(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;~~]

4.[~~(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)(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 ***state real property tax***~~[calculated]~~ rate ***levied under subsection (1)(a) of this section*** 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 Department for Energy Development and Independence for the purpose of public education of coal-related issues.

➔Section 23. KRS 132.260 is amended to read as follows:

(1) Every person providing rental space for***:***

(a) The parking of***:***

1. Aircraft;

2. Manufactured homes;

3. Mobile homes***;*** and

4. Recreational vehicles ***not registered in this state under KRS 186.655; or***

(b) The docking or storage of boats, including federally documented vessels;

shall by February 1 of each year ***file with the property valuation administrator of the county where the property is located a*** report ***listing*** the ***property located on his or her premises on the prior January 1.***

(2) (a) For manufactured homes,~~[name of the owner and type and size of all]~~ mobile homes***,*** and recreational vehicles***, the report shall include the name and address of the owner and the type and size of the manufactured home, mobile home, or recreational vehicle.***

(b) For aircraft, the report shall include the name and address of the owner and the make, model, year, and tail number of the aircraft.

(c) For boats, including federally documented vessels, the report shall include the name and address of the owner and the name, port of call, width, and length of the vessel~~[not registered in this state under KRS 186.655 on his premises on the prior January 1 to the property valuation administrator of the county in which the property is located]~~.

(3) The report shall be made in accordance with forms prescribed by the department~~[of Revenue]~~ and shall be signed and verified by the chief officer or person in charge of the business. The property valuation administrator may make a personal inspection and investigation of the premises on which ***manufactured homes,*** mobile homes***,***~~[and]~~ recreational vehicles***, aircraft, or boats, including federally documented vessels,*** are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

➔Section 24. KRS 132.730 is amended to read as follows:

All ***manufactured homes,*** mobile homes***,*** and recreational vehicles which are within this state on January 1 each year shall be subject to all ad valorem tax levies applicable to other property subject to full state and local rates, except that any ***manufactured home,*** mobile home***, or***~~[and]~~ recreational vehicle not licensed in this state and not remaining within this state for a period of more than ninety (90) days in any twelve (12) month period shall not have a taxable situs in this state unless an occupant is employed in this state.

➔Section 25. KRS 132.751 is amended to read as follows:

(1) ***As used in this section:***

(a) "Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land; and

(b) "Unit" means any single mobile home, manufactured home, or recreational vehicle.

(2) Mobile homes or manufactured homes not held for resale by a dealer shall be classified as real property for the purpose of the levy and assessment of ad valorem taxes, regardless of whether or not the wheels or mobile parts have been removed and whether or not the unit rests on a permanent, fixed foundation.

(3) ~~[(2)]~~ Recreational vehicles shall be classified as real property if the wheels or mobile parts have been removed and the unit rests on a permanent, fixed foundation.

➔Section 26. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the department. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally

disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.

(d) 1. Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis, except as provided by subparagraph 2. of this paragraph.

2. a. A service-connected totally disabled veteran of the United States Armed Forces; or

b. A totally and permanently disabled individual found disabled under:

i. The applicable rules of the Social Security Administration;

ii. The applicable rules of the Kentucky Retirement Systems; or

iii. Any other provision of the Kentucky Revised Statutes;

shall document the disability at the time of application for the homestead exemption and shall not be required to apply for the homestead exemption on an annual basis.

(e) 1. Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally

disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit.

2. The sixty-five hundred dollars ($6,500) exemption provided in Section 170 of the Constitution of Kentucky shall be construed to mean sixty-five hundred dollars ($6,500) in terms of the purchasing power of the dollar in 1972.

3. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.

(f) The real property 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. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A ***manufactured home,*** mobile home, ***or*** recreational vehicle, when classified as real property as provided for in KRS 132.751,~~[or a manufactured house]~~ shall qualify as a residential unit for purposes of the homestead exemption provision.

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead

exemption provision for state, county, city, or special district purposes.

(4) (a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

(5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

➔Section 27. KRS 132.815 is amended to read as follows:

(1) Each electrical inspector certified under KRS 227.489 shall submit a monthly report to the Department of Revenue showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated ***manufactured homes or*** mobile homes, and other new or relocated

structures during the preceding month. Each building, ***manufactured home,*** mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be used for the purpose of making and maintaining accurate assessment records. The Department of Revenue shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1) ***of this section***.

➔Section 28. KRS 140.300 is amended to read as follows:

As used in KRS 140.310 to 140.360~~[, these words shall have the following meaning]~~:

(1) "Agricultural land" ***has the same meaning as in KRS 132.010;***~~[means that real estate which is defined in KRS 132.010(9).]~~

(2) ***"Agricultural or horticultural value" has the same meaning as in KRS 132.010;***

(3) "Horticultural land" ***has the same meaning as in KRS 132.010;***~~[means that real estate which is defined in KRS 132.010(10).~~

~~(3) "Agricultural or horticultural value" means the value as defined in KRS 132.010(11).]~~

(4) ***"Qualified person" means the spouse of a deceased owner of agricultural or horticultural land; the children, adopted children, and stepchildren of that deceased owner; the spouses and issue of that deceased owner's children, adopted children, and stepchildren; and who is a person who proposes to devote the real property to agricultural or horticultural purposes for at least five (5) years after the death of the decedent in whose estate the agricultural or horticultural land is subject to assessment; and***

(5) "Qualified real estate" means real property which:

(a) Is either horticultural or agricultural land;

(b) Has been used for agricultural or horticultural purposes for five (5) years prior

to the death of the owner of the real estate or a joint owner thereof; and

(c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of decedent for Kentucky inheritance tax purposes.

~~[(5) "Qualified person" means the spouse of a deceased owner of agricultural or horticultural land; the children, adopted children, and stepchildren of that deceased owner; the spouses and issue of that deceased owner's children, adopted children, and stepchildren, and is a person who proposes to devote the real property to agricultural or horticultural purposes for at least five (5) years after the death of the decedent in whose estate the agricultural or horticultural land is subject to assessment.]~~

➔Section 29. KRS 279.200 is amended to read as follows:

Corporations formed under this chapter shall be exempt from all profit taxes, gross and net taxes, sales taxes, occupation taxes, privilege taxes, income taxes, taxes on electric current consumed and from all excise taxes whatsoever, any statute now existing or hereafter passed to the contrary notwithstanding.~~[In lieu of all other state, county, city and district taxes, except ad valorem and franchise taxes, corporations formed under this chapter shall pay to the State Treasurer an annual tax of ten dollars ($10).]~~

➔Section 30. KRS 279.530 is amended to read as follows:

Corporations formed under KRS 279.310 to 279.600 shall be exempt from all profit taxes, gross and net taxes, sales taxes, occupation taxes, privilege taxes, income taxes, taxes on telephone service and from all excise taxes whatsoever, any statute now existing or hereafter passed to the contrary notwithstanding.~~[In lieu of all other state, county, city and district taxes, except ad valorem and franchise taxes, corporations formed under KRS 279.310 to 279.600 shall pay to the State Treasurer an annual tax of ten dollars ($10).]~~

➔Section 31. KRS 279.220 is amended to read as follows:

(1) Any rural electric cooperative corporation organized under a law of any state contiguous to this state, which law is substantially similar to the law under which

such corporations may be organized in this state, may extend its operations into this state for a distance not exceeding three (3) miles from the boundary between that state and this state, and such extension shall not be considered doing business in this state within the meaning of the statutes regulating or taxing foreign corporations doing business in this state. Such corporation shall be entitled to the same exemptions granted to~~[, and shall pay the same tax required of,]~~ domestic corporations under KRS 279.200.

(2) The operations of such corporation within this state shall be subject to the supervision of the Public Service Commission, and the commission may take the necessary action to require the corporation to furnish adequate service at reasonable rates. If the corporation fails to comply with the regulations and requirements of the commission it shall forfeit the privilege granted by this section.

(3) The privilege granted by this section shall be effective for a period of five (5) years from June 12, 1940, at which date it shall expire, unless the contiguous state grants a similar privilege to rural electric cooperative corporations incorporated in this state, in which case it shall continue so long as the contiguous state continues to grant the same privilege.

(4) A rural electric cooperative corporation organized under a law of any state other than Kentucky not satisfying the exemptions set forth in subsections (1), (2) and (3) of this section is subject to KRS 14A.9-010.

➔Section 32. KRS 139.530 is amended to read as follows:

The taxes imposed by this chapter shall be in addition to any excise, license, privilege or other tax imposed under existing provisions of the Kentucky Revised Statutes~~[, including KRS 279.200 and 279.530]~~.

➔Section 33. KRS 132.097 is amended to read as follows:

There shall be exempt from ad valorem tax for state purposes, personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-

state destination. Personal property shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be ***permanently*** shipped out of state within the next six (6) months.

➔Section 34. KRS 132.099 is amended to read as follows:

(1) The tax rate levied by cities, counties, charter counties, urban-counties, and school districts on personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall be as follows:

(a) Eighty percent (80%) of the tax rate levied on other tangible personal property for tax assessments made on January 1, 2000; and

(b) Fifty percent (50%) of the tax rate levied on other tangible personal property for tax assessments made on January 1, 2001.

(2) Personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall be exempt from the ad valorem tax levied by cities, counties, charter counties, urban-counties, and school districts for tax assessments made on or after January 1, 2002.

(3) Any fire district or other special taxing district may exempt from the ad valorem tax personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination.

(4) (a) As used in this subsection:

1. "Affiliate" means a partnership, limited liability entity, corporation, or any other business entity that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another partnership, limited liability entity, corporation, or other business entity;

2. "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation that is recognized in the official United States Pharmacopoeia, official Homeopathic

Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:

a. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or

b. Intended to affect the structure or any function of the human body; and

3. "Pharmaceutical manufacturer" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; but does not include a drug wholesaler or a retail pharmacy.

(b) For assessments made on and after January 1, 2012, the maximum ad valorem tax rate that may be levied by any special taxing district on drugs held by a pharmaceutical manufacturer or by an affiliate of a pharmaceutical manufacturer in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall not exceed three cents ($0.03) upon each one hundred dollars ($100) of value. This subsection shall not apply to any fire district.

(5) For the purpose of this section, personal property shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be ***permanently*** shipped out of state within the next six (6) months.

➔Section 35. KRS 139.105 is amended to read as follows:

(1) (a) For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by KRS 139.200 and 139.310, the retailer shall source retail sales not addressed in subsections (2), (3), and (4) of this section as follows:

1. Over the counter. When the purchaser receives tangible personal property, digital property, or service at a business location of the retailer, the sale is sourced to that business location;
2. Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property, digital property, or service at a location specified by the purchaser, the sale is sourced to that location; or
3. Address unknown. When the retailer of a product does not know the address where the tangible personal property, digital property, or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:
   a. The address of the purchaser;
   b. The billing address of the purchaser;
   c. The address of the purchaser's payment instrument; or
   d. The address from which the tangible personal property was shipped; from which the computer software delivered electronically or the digital property transferred electronically was first available for transmission by the retailer; or from which the service was provided, disregarding for these purposes any location that merely provided the actual digital transfer of the product sold.

(b) Nothing included in this subsection shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.

(c) For purposes of this subsection:

1. "Receive" means:

a. Taking possession of tangible personal property;

b. Making first use of services; or

c. Taking possession or making first use of digital property,

whichever comes first; but

2. "Receive" does not mean possession by a shipping company on behalf of the purchaser.

(2) The retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid wireless calling service, shall be sourced to the customer's or other purchaser's place of primary use;

(b) A sale of postpaid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer;

(c) A sale of prepaid calling service or a sale of a prepaid wireless calling service shall be sourced according to the provisions of subsection (1) of this section. If the sale is of a prepaid wireless calling service and the retailer does not know the address where the service is received, the sale shall be sourced to the first of the following that is known by the retailer:

1. The address of the customer available from the business records of the retailer;
2. The billing address of the customer;
3. The address from which the service was provided; or
4. The location associated with the mobile telephone number;

(d) A sale of a private communications service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.
2. Service where all customer termination points are located entirely within

one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points;

(e) A sale of an ancillary service is sourced to the customer's place of primary use; and

(f) A sale of other communications services:

1. Sold on a call-by-call basis shall be sourced based on the taxing jurisdiction where the call either originates or terminates and in which the service address is also located; or

2. Sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(3) Florist wire sales shall be sourced in accordance with an administrative regulation promulgated by the department.

(4) Advertising and promotional direct mail and other direct mail shall be sourced as provided in KRS 139.777.

➔Section 36. 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, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions***, including private golf club or private country club golf course greens fees and membership fees. For the purposes of this paragraph, "private golf club or private country club" means any golf club or country club that requires membership in the golf club or country club, or a reciprocal membership in another golf club or country club, to utilize any portion of its facility or function. The tax shall not apply to admissions***~~[except those]~~ taxed under KRS 138.480;

(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;~~[and]~~

(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(8); or

2. To a seller or reseller of natural gas***;***

(g) Janitorial services, including carpet, upholstery, and window cleaning;

(h) Garment alteration and garment repair services;

(i) Non-coin-operated laundry and dry-cleaning services;

(j) Armored car services;

(k) Security services;

(l) Exterminating and pest-control services;

(m) Landscaping services, excluding lawn-care services;

(n) Non-coin-operated vehicle washing and waxing services;

(o) Commercial linen services, excluding:

1. Commercial uniform services; and

2. Commercial linen services provided to hospitals and nursing homes; and

(p) Limousine services if a driver is included.

➔Section 37. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 or required to be collected under KRS 139.340 or any part thereof will be assumed or absorbed by the retailer or that the tax will not be added to the ***sales***~~[selling]~~ price~~[of the tangible personal property or digital property sold]~~ or that if added the tax or any part thereof will be refunded.

➔Section 38. 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 ***tangible personal property, digital property, or services***~~[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 ***tangible personal property, digital property, or services***~~[product]~~ or who sells the ***tangible personal property, digital***

property, or services~~[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 ***tangible personal*** property ***or digital property*** 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 ***tangible personal*** property***, digital property, or services*** in some other manner or for some other purpose, the department shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

➔Section 39. 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 or digital property. 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 or digital property 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**:**

1. The lease or rental of tangible personal property situated in this state; ***or***

2. The furnishing of services in this state;

(e) Any retailer soliciting orders for tangible personal property or digital property 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; or

(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.

➔Section 40. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property**,**~~[or]~~ digital property***, or services*** unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the department a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the department may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the department, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.

(4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

➔Section 41. KRS 243.0305 is amended to read as follows:

(1) Any licensed Kentucky distiller that is located in wet territory and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.

(2) A wholesaler registered to distribute the brands of any distiller may permit the distiller to deliver a souvenir package directly from the distillery proper to the portion of the distillery premises operated by the licensee for the sale of souvenir packages. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS ***243.720***~~[243.710]~~ to ***243.850, 243.884 to 243.892,***~~[243.895]~~ and 243.990.

(3) A distiller may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of three (3) liters per visitor per day, with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one (1) liter per visitor attending the event. These sales shall be permitted only through the gift shop or other retail outlet on the distiller's premises.

(4) Hours of sale for souvenir packages at retail shall be 9 a.m. until 9 p.m. prevailing time Monday through Saturday. The licensed premises may remain open if it has a separate department pursuant to KRS 244.290(1).

(5) Except as provided in this section, souvenir package sales shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.

(6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.

➔Section 42. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no

other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or herself or through another, directly or indirectly, violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he or she shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he or she shall be guilty of a Class D felony.

(3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a violation.

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 or 243.082 shall be guilty of a violation.

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be guilty of a Class A misdemeanor.

(6) Any person who violates any provision of KRS ***243.720*** ~~[243.710]~~ to 243.850 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(7) In every case, any tax imposed by KRS~~[243.710 to]~~ 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.

(8) Any person who, by himself or herself or acting through another, directly or indirectly, violates KRS 243.502(1) shall, for the first offense, be guilty of a Class B misdemeanor, and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the suspension or revocation of the offender's license.

(9) Any person who violates the provisions of KRS 243.897 shall be subject to a fine not to exceed one thousand dollars ($1,000).

➔Section 43. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "Department" means the Department of Revenue;

(2) "Manufacturer" means any person who manufactures or produces cigarettes, or tobacco products within or without this state;

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;

(4) "Sale at retail" means a sale to any person for any other purpose other than resale;

(5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. "Cigarettes" shall not mean reference cigarettes**, *electronic cigarettes, or e-cigarettes***;

(6) "Reference cigarettes" means cigarettes made by a manufacturer specifically for a state public university to be held by the university until sale or transfer to a laboratory, hospital, medical center, institute, college or university, manufacturer, or other institution. A reference cigarette package shall carry a marking labeling the contents as research cigarettes to be used only for tobacco-health research and experimental purposes, which shall not be offered for sale, sold, or distributed to consumers;

(7) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes or tobacco products, and distribution in any manner or by any means whatsoever;

(8) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by administrative regulation as a means of denoting the payment of tax;

(9) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular;

(10) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by the wholesaler directly from the manufacturer on which the tax provided for in KRS 138.140(1), (2), and (3) is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes;

(11) "Nonresident wholesaler" means any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid;

(12) "Sub-jobber" means any person who purchases cigarettes from a resident wholesaler, nonresident wholesaler, or unclassified acquirer licensed under KRS 138.195 on which the tax imposed by KRS 138.140(1), (2), and (3) has been paid and makes them available to retailers for resale. No person shall make cigarettes available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business;

(13) "Vending machine operator" means any person who operates one (1) or more cigarette vending machines;

(14) "Transporter" means any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof;

(15) "Unclassified acquirer" means any person in this state who acquires cigarettes from any source on which the tax imposed by KRS 138.140(1), (2), and (3) has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195;

(16) "Tobacco products" means***:***

(a) Electronic cigarettes and e-cigarettes; and

(b) Any smokeless tobacco products, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in an individual's oral cavity, except:

1. ~~[(a)]~~ Cigarettes; and

2. ~~[(b)]~~ Reference cigarettes;

(17) "Distributor" means any person within this state in possession of tobacco products for resale within this state on which the tax imposed under KRS 138.140(4) has not been paid;

(18) "Retail distributor" means a retailer who has obtained a retail distributor's license under KRS 138.195(7)(b);

(19) "Chewing tobacco" means any leaf tobacco that is not intended to be smoked and includes loose leaf chewing tobacco, plug chewing tobacco, and twist chewing tobacco, but "chewing tobacco" does not include snuff;

(20) "Single unit" means a consumer-sized container, pouch, or package:

(a) Containing less than four (4) ounces of chewing tobacco by net weight;

(b) Produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately; and

(c) Containing one (1) individual container, pouch, or package;

(21) "Half-pound unit" means a consumer-sized container, pouch, or package:

(a) Containing at least four (4) ounces but not more than eight (8) ounces of

chewing tobacco by net weight;

(b) Produced by the manufacturer to be sold to consumers as a half-pound unit and not produced to be divided or sold separately; and

(c) Containing one (1) individual container, pouch, or package;

(22) "Pound unit" means a consumer-sized container, pouch, or package:

(a) Containing more than eight (8) ounces but not more than sixteen (16) ounces of chewing tobacco by net weight;

(b) Produced by the manufacturer to be sold to consumers as a pound unit and not produced to be divided or sold separately;~~[and]~~

(c) Containing one (1) individual container, pouch, or package; and

(23) (a) "Snuff" means tobacco that:

1. Is finely cut, ground, or powdered; and

2. Is not for smoking.

(b) "Snuff" includes snus***; and***

(24) (a) "Electronic cigarette" means any device, regardless of shape or size, that:

1. Contains a heating element, battery, electronic circuit, power source, or other electronic, chemical, or mechanical means; and

2. Can be used to deliver a vapor of nicotine or any other substance; the use of which simulates smoking.

(b) "Electronic cigarette" includes but is not limited to:

1. The device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or similar product and every variation thereof;

2. Any vapor cartridge or other container of a liquid solution or other material that is intended to be used with or in the device; and

3. Any component of the device or related product, that may be sold with or without the device.

➔Section 44. KRS 138.140 is amended to read as follows:

(1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents ($0.03) on each twenty (20) cigarettes.

(2) Effective ***October 1, 2016***~~[April 1, 2009]~~, a surtax shall be paid in addition to the tax levied in subsection (1) of this section at a proportionate rate of ***one dollar and fifty-six cents ($1.56)***~~[fifty-six cents ($0.56)]~~ on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid.

(3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section and in addition to the surtax levied by subsection (2) of this section, at a proportionate rate of one cent ($0.01) on each twenty (20) cigarettes. This tax shall be paid at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid. The revenues from this surtax shall be deposited in the cancer research institutions matching fund created in KRS 164.043.

(4) (a) Effective ***October 1, 2016***~~[August 1, 2013]~~, an excise tax is hereby imposed upon every distributor for the privilege of selling tobacco products in this state at the following rates:

1. Upon snuff at the rate of ***fifty-one cents ($0.51)***~~[nineteen cents ($0.19)]~~ per each one and one-half (1-1/2) ounces or portion thereof by net weight sold;
2. Upon chewing tobacco at the rate of:
   a. ***Fifty-one cents ($0.51)***~~[Nineteen cents ($0.19)]~~ per each single unit sold;
   b. ***One dollar and seven cents ($1.07)***~~[Forty cents ($0.40)]~~ per each half-pound unit sold; or
   c. ***One dollar and seventy-three cents ($1.73)***~~[Sixty-five cents~~

~~($0.65)]~~ per each pound unit sold.

If the container, pouch, or package on which the tax is levied contains more than sixteen (16) ounces by net weight, the rate that shall be applied to the unit shall equal the sum of ***one dollar and seventy-three cents ($1.73)***~~[sixty-five cents ($0.65)]~~ plus ***fifty-one cents ($0.51)***~~[nineteen cents ($0.19)]~~ for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

3. Upon tobacco products sold, at the rate of ***forty percent (40%)***~~[fifteen percent (15%)]~~ of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth.

(b) The net weight posted by the manufacturer on the container, pouch, or package or on the manufacturer's invoice shall be used to calculate the tax due on snuff or chewing tobacco.

(c) 1. A retailer located in this state shall not purchase tobacco products for resale to consumers from any person within or outside this state unless that person is a distributor licensed under KRS 138.195(7)(a) or the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b) for the privilege of purchasing untaxed tobacco products and remitting the tax as provided in this paragraph.

2. A licensed retail distributor of tobacco products shall be subject to the excise tax as follows:

a. On purchases of untaxed snuff, at the same rate levied by paragraph (a)1. of this subsection;

b. On purchases of untaxed chewing tobacco, at the same rates levied by paragraph (a)2. of this subsection; and

c. On purchases of untaxed tobacco products, except snuff and chewing tobacco, fifteen percent (15%) of the total purchase price

as invoiced by the retail distributor's supplier.

(d) 1. The licensed distributor that first possesses tobacco products for sale to a retailer in this state or for sale to a person who is not licensed under KRS 138.195(7) shall be the distributor liable for the tax imposed by this subsection except as provided in subparagraph 2. of this paragraph.

2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco products to another distributor licensed under KRS 138.195(7)(a) without payment of the excise tax. In such case, the purchasing licensed distributor shall be the distributor liable for the tax.

3. A licensed distributor or licensed retail distributor shall:

a. Identify and display the distributor's or retail distributor's license number on the invoice to the retailer; and

b. Identify and display the excise tax separately on the invoice to the retailer. If the excise tax is included as part of the product's sales price, the licensed distributor or licensed retail distributor shall list the total excise tax in summary form by tax type with invoice totals.

4. It shall be presumed that the excise tax has not been paid if the licensed distributor or licensed retail distributor does not comply with subparagraph 3. of this paragraph.

(e) No tax shall be imposed on tobacco products under this subsection that are not within the taxing power of this state under the Commerce Clause of the United States Constitution.

(5) The taxes imposed by subsections (1) to (4) of this section shall be paid only once, regardless of the number of times the cigarettes, or tobacco products may be sold.

(6) The department may prescribe forms and promulgate administrative regulations to execute and administer the provisions of this section.

(7) The General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses some risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related disease.

➔Section 45. KRS 138.143 is amended to read as follows:

(1) Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer shall:

(a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~. Inventory of cigarettes in vending machines may be accomplished by:

1. Taking an actual physical inventory;
2. Estimating the cigarettes in vending machines by reporting one-half (1/2) of the normal fill capacity of the machines, as reflected in individual inventory records maintained for vending machines; or
3. Using a combination of the methods prescribed in subparagraphs 1. and 2. of this paragraph;

(b) File a return with the department on or before ***October 10, 2016***~~[April 10, 2009]~~, showing the entire wholesale and retail inventories of cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette

tax stamps possessed by them or in their control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~; and

(c) Pay a floor stock tax at a proportionate rate equal to ***one dollar ($1)***~~[thirty cents ($0.30)]~~ on each twenty (20) cigarettes in packages bearing a Kentucky tax stamp and unaffixed Kentucky tax stamps in their possession or control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~.

(2) Every retailer and sub-jobber shall:

(a) ***For snuff:***

1. Take a physical inventory of all units of snuff possessed by them or in their control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~;
2. File a return with the department on or before ***October 10, 2016***~~[April 10, 2009]~~, showing the entire inventory of snuff possessed by them or in their control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~; and
3. Pay a floor stock tax at a proportionate rate equal to ***thirty-two cents ($0.32)***~~[nine and one-half cents ($0.095)]~~ on each unit of snuff in their possession or control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~;~~[and]~~

(b) ***For chewing tobacco:***

1. Take a physical inventory of all units of chewing tobacco possessed by them or in their control at 11:59 p.m. on September 30, 2016;

2. File a return with the department on or before October 10, 2016, showing the entire inventory of chewing tobacco possessed by them or in their control at 11:59 p.m. on September 30, 2016; and

3. Pay a floor stock tax at a proportionate rate equal to:

a. For single units, thirty-two cents ($0.32) on each single unit in their possession or control at 11:59 p.m. on September 30, 2016;

b. For half-pound units, sixty-seven cents ($0.67) on each half-

pound unit in their possession or control at 11:59 p.m. on September 30, 2016;

c. For pound units, one dollar and eight cents ($1.08) on each pound unit in their possession or control at 11:59 p.m. on September 30, 2016; and

d. For containers of more than sixteen (16) ounces by net weight, one dollar and eight cents ($1.08) plus thirty-two cents ($0.32) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces, on each container in their possession or control at 11:59 p.m. on September 30, 2016; and

(c) For tobacco products other than snuff or chewing tobacco:

1. ~~[a.]~~Take a physical inventory of all~~[other]~~ tobacco products ***other than snuff or chewing tobacco*** possessed by them or in their control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~;

2. ~~[b.]~~File a return with the department on or before ***October 10, 2016***~~[April 10, 2009]~~, showing the entire inventories of~~[other]~~ tobacco products ***other than snuff or chewing tobacco*** possessed by them or in their control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~; and

3. ~~[c.]~~Pay a floor stock tax at a proportionate rate equal to ***twenty-five percent (25%)***~~[seven and one-half percent (7.5%)]~~ on the purchase price of~~[other]~~ tobacco products ***other than snuff or chewing tobacco*** in their possession or control at 11:59 p.m. on ***September 30, 2016***~~[March 31, 2009]~~.

~~[2. a.]~~ As used in this paragraph, "purchase price" means the actual amount paid for the~~[other]~~ tobacco products subject to the tax imposed by this paragraph.

~~[b. If the retailer or sub-jobber cannot determine the actual amount~~

~~paid for each item of other tobacco product, the retailer or sub-jobber may use as the purchase price the amount per unit paid as reflected on the most recent invoice received prior to April 1, 2009, for the same category of other tobacco product.~~

~~c. To prevent double taxation, if the invoice used by the retailer or sub-jobber to determine the purchase price of the other tobacco product does not separately state the tax paid by the wholesaler, the retailer or sub-jobber may reduce the amount paid per unit by seven and one-half percent (7.5%).]~~

(3) (a) The taxes imposed by this section may be paid in three (3) installments. The first installment, in an amount equal to at least one-third (1/3) of the total amount due, shall be remitted with the return provided by the department on or before ***October 10, 2016***~~[April 10, 2009]~~. The second installment, in an amount that brings the total amount paid to at least two-thirds (2/3) of the total amount due, shall be remitted on or before ***November 10, 2016***~~[May 10, 2009]~~. The third installment, in an amount equal to the remaining balance, shall be remitted on or before ***December 10, 2016***~~[June 10, 2009]~~.

(b) Interest shall not be imposed against any outstanding installment payment not yet due from any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who files the return and makes payments as required under this section.

(c) Any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who fails to file a return or make a payment on or before the dates provided in this section shall, in addition to the tax, pay interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the return was required to be filed.

➔Section 46. KRS 65.125 is amended to read as follows:

(1) For the purposes of this section, "local government" means a city or county government.

(2) In order that a local government may provide funding for a specified project, program, or service, any local government may enact a special ad valorem tax for the purpose subject to the following:

(a) Any such tax shall be enacted by ordinance as provided in KRS 83A.060 for cities and KRS 67.076 to 67.078 for counties. The ordinance shall identify and generally describe the program, project, or service designated by the local government and provide for the levy of an annual tax sufficient to defray the cost;

(b) Upon first reading of the ordinance which will enact a special ad valorem tax, the chief executive authority shall direct that a copy of the ordinance be delivered to the county clerk;

(c) Upon receipt of the ordinance, the county clerk shall have prepared the question, which shall be "Are you in favor of the proposal entitled .....? Yes.... No...." The question shall be placed before the voters of the local government at the next regular election if the clerk receives the ordinance not later than the second Tuesday in August preceding the day of a general election. The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as other voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal;

(d) The provisions of the general election law shall apply to questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the chief executive authority of the local government proposing the special ad valorem tax. The certificate shall be entered upon the records of the local government at the next regular

meeting of the legislative body;

(e) Upon passage of the question by a simple majority of those voting, the local government may proceed with the final adoption of the ordinance levying the special ad valorem tax at a rate not to exceed that approved by the voters.

(3) Any special ad valorem tax imposed under the authority of this section shall be based upon the assessed valuation of all taxable property within the jurisdictional boundaries of the local government.

(4) Any special ad valorem tax shall be collected in the same manner as are other ad valorem taxes. The revenues generated shall be in addition to other taxes and used solely for the specified project, program, or service as designated by the ordinance enacting the tax. The proceeds of the tax shall be accounted for in a separate fund and shall not be disbursed, expended, encumbered, or transferred for any use or purpose other than provided by the ordinance enacting the special ad valorem tax.

(5) Any special ad valorem tax shall be in addition to the tax rate levied~~[and exclusive of the recall provisions]~~ in KRS 68.245, 91.260, 92.280,~~[132.017,]~~ and 132.027.

➔Section 47. KRS 65.674 is amended to read as follows:

~~[(1)]~~Once an emergency services board assumes control over fire, ambulance, or emergency squad districts, a fiscal court, or fiscal courts through an interlocal agreement, may opt to provide fire, ambulance, and emergency squad services directly or through an agency of county government. If that is the case, a dedicated ad valorem tax for the provision of fire, ambulance, and emergency squad services exclusive of all other taxes may be levied by the county or counties. The provisions of the ad valorem tax of KRS 65.670 shall apply.

~~[(2) The initial levy of the ad valorem tax for the provision of funding to the emergency services board under this section shall not be subject to the recall provisions of KRS 68.245 or 132.023, whichever is applicable. Subsequent changes to the amount shall be subject to the provisions of KRS 68.245 or 132.023, whichever is applicable.]~~

➔Section 48. KRS 67.862 is amended to read as follows:

The provisions of KRS 68.245 ***and*** ~~[,]~~ 132.010 ~~[, and 132.017]~~ shall apply to ad valorem tax rates levied by charter county governments.

➔Section 49. KRS 67.938 is amended to read as follows:

(1) The tax structure, tax rates, and level of services in effect in the county and in each of the participating cities upon the adoption of a unified local government shall remain in effect after the adoption of the unified local government and shall remain the same until changed by the newly elected unified local government legislative council.

(2) In order to maintain the tax structure, tax rates, or level of services in the areas of the unified local government formerly comprising incorporated cities, the unified local government council may provide, in a manner described in this section, for taxes and services within the formerly incorporated cities that are different from the taxes and services which are applicable in the remainder of the unified local government. If a unified local government is formed that contains a participating city with a restaurant tax imposed pursuant to KRS 91A.400, the restaurant tax may be retained by the unified local government in the area of the participating city.

(3) Any difference in the ad valorem tax rate on the class of property which includes the surface of the land in the portion of the county formerly comprising the incorporated cities, and the surface of the land in the portion of the county other than that formerly comprising the incorporated cities, may be imposed directly by the unified local government legislative council. Any change in these ad valorem tax rates shall comply with KRS 68.245, 132.010, ~~[132.017,]~~ and 132.027 and shall be used for services as provided by KRS 82.085.

(4) All delinquent taxes of a participating city in a unified local government shall be filed with the county clerk and shall be known as certificates of delinquency or personal property certificates of delinquency and shall be governed by the

procedures set out in KRS Chapter 134, except that certificates of delinquency and personal property certificates of delinquency on former city tax bills may be paid or purchased directly from the clerk under KRS 134.126 and 134.127.

➔Section 50. KRS 67A.843 is amended to read as follows:

(1) An urban-county government is authorized to place before the public, via referendum according to the procedure established in KRS 67A.847, the question of whether to fund a purchase of development rights program by means of one (1) or more of the following special tax levies which shall be in addition to all taxes otherwise permitted by law in the urban-county:

(a) An ad valorem tax not to exceed five cents ($0.05) per one hundred dollars ($100) of assessed value upon all taxable property in the urban-county, subject only to the aggregate limits on property taxes set forth in the Kentucky Constitution~~[, but not subject to the recall provisions of KRS 132.017]~~;

(b) A license fee not to exceed one-eighth of one percent (0.125%) on franchises, trades, occupations and professions in accordance with KRS 92.280(2), except that no fee shall be collected from any individual who is not a resident of the urban-county; and

(c) A transient room tax as defined in KRS 91A.390 not to exceed one percent (1%) of rents.

(2) The proposal put before the voters shall set forth the following information:

(a) General descriptions of the types and locations of the properties from which development rights may be purchased under the program; and in describing the types of property, general descriptions such as "agricultural," "agriculturally zoned," or "farm" shall be sufficient, and in indicating the locations, general descriptions such as "northern section" and "eastern quadrant" shall be sufficient; and

(b) The type, rate, and effective date, including the ending date if the levy is for a

specific duration, of the special tax levy, or levies, from among those authorized in subsection (1) of this section, which is proposed to fund the program.

➔Section 51. KRS 68.245 is amended to read as follows:

(1) The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the~~[following:~~

~~(a) The~~] compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it~~[;~~

~~(b) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it~~].

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the Department of Revenue upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote

upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in

the preceding year is to be allocated;

6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for testimony.

~~[(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.~~

~~(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the~~

~~voters of that county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:~~

~~1. The fact that the county fiscal court has adopted a rate;~~

~~2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and~~

~~3. The name, address, and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.]~~

➔Section 52. KRS 68.248 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a county fiscal court will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the county fiscal court may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property.

(2) The tax rate applicable to personal property levied by a county fiscal court under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 68.245(5)~~[and to the recall provisions of KRS 68.245(6)]~~.

➔Section 53. KRS 82.095 is amended to read as follows:

(1) Any city with a population equal to or greater than three thousand (3,000) but less than twenty thousand (20,000) based upon the most recent federal decennial census,

located in a county containing a consolidated local government, which provides police, fire, or garbage collection services for the residents of the city may levy a supplemental tax which shall be in addition to ad valorem property taxes.

(2) Such supplemental tax shall be in an amount not to exceed the reasonable cost of police, fire, and garbage collection services actually provided by the city. The rate of such tax shall be established by an ordinance which shall have readings at no less than two (2) different meetings of the city legislative body before passage.

(3) The rate of such supplemental tax may be apportioned in a reasonable manner, other than an ad valorem approach, so that the recipient of police, fire, or garbage collection services pays an amount based on the cost of services actually received.

~~[(4) Any ordinance levying a supplemental tax pursuant to subsection (2) of this section may be recalled as provided in subsections (2) and (3) of KRS 160.485, provided that the petition for recall shall be effective upon the signature of a number of registered and qualified voters as described therein equal to five percent (5%) instead of the percentage provided therein.]~~

➔Section 54. KRS 97.590 is amended to read as follows:

(1) For the purpose of purchasing and maintaining public parks within the jurisdictional limits, cities of any class, counties, charter counties, and urban-county governments may levy taxes not exceeding five cents ($0.05) on each one hundred dollars ($100) of all taxable property within the corporate limits, subject only to the aggregate limits on property taxes set forth in the Kentucky Constitution~~[, but not subject to the recall provisions of KRS 132.017]~~. No city, county, charter county, or urban-county government shall levy the tax until a public referendum has been conducted in accordance with the provisions of KRS 83A.120 in the case of a city, county, or charter county or in accordance with the provisions of KRS 67A.160 in the case of an urban-county government and has been adopted by the city's, county's, charter county's, or urban-county government's voters. The public referendum provisions in

this section shall not apply to any city, county, charter county, or urban-county government that has in effect on July 15, 1998, a tax for park purposes in accordance with this section or KRS 97.550.

(2) The funds derived from the levy shall be held by the treasurer of the city or the treasurer of the county in a separate and distinct fund designated the "Park Fund." The funds shall be paid out by the treasurer only upon order issued by the park board signed by the secretary and countersigned by the president after the bill for the withdrawal has been approved by the board, unless a park board has not been appointed under KRS 97.550 to 97.600, in which case the funds shall be appropriated by the city legislative body, the fiscal court, or the legislative body of the charter county government or urban-county government for purposes consistent with the levy. The treasurer shall not honor in any one (1) year orders for a greater sum than the amount apportioned and levied for that year for park and playground purposes.

➔Section 55. KRS 132.0225 is amended to read as follows:

~~[(1)]~~A taxing district~~[that does not elect to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010]~~ shall establish a final tax rate within forty-five (45) days of the department's certification of the county's property tax roll. A city that does not elect to have city ad valorem taxes collected by the sheriff as provided in KRS 91A.070(1) shall be exempt from this deadline. Any nonexempt taxing district that fails to meet this deadline shall be required to use the compensating tax rate for that year's property tax bills.

~~[(2) A taxing district that elects to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating~~

~~tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.~~]

➔Section 56. KRS 132.023 is amended to read as follows:

(1) No special purpose governmental entity shall levy a tax rate which exceeds the compensating tax rate until the taxing district has complied with the provisions of subsection (2) of this section.

(2) (a) A special purpose governmental entity proposing to levy a tax rate which exceeds the compensating tax rate shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the same location where the governing body of the city or county where the largest number of citizens served by the special purpose governmental entity reside meets, and shall be held immediately before a regularly scheduled meeting of that governing body.

(b) The special purpose governmental entity shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the special purpose governmental entity, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The special purpose governmental entity may set reasonable time limits for testimony.

~~[(3) (a) That portion of a tax rate levied by an action of a special purpose governmental entity which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate shall be subject to a recall vote or reconsideration by the special purpose governmental entity, as provided for in KRS 132.017, and shall be advertised as provided in paragraph (b) of this subsection.~~

~~(b) The special purpose governmental entity shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:~~

~~1. The fact that the taxing district has adopted a rate;~~

~~2. The fact that the part of the rate which will produce revenue from real~~

~~property, exclusive of new property, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate is subject to recall; and~~

~~3. The name, address, and telephone number of the county clerk of the county in which the special purpose governmental entity is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.]~~

➔Section 57. KRS 132.024 is amended to read as follows:

(1) If the tax rate applicable to real property levied by a special purpose governmental entity will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the special purpose governmental entity may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property.

(2) The tax rate applicable to personal property levied by a special purpose governmental entity under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.023(2)~~[and to the recall provisions of KRS 132.023(3)]~~.

➔Section 58. KRS 132.027 is amended to read as follows:

(1) No city or urban-county government shall levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010 until the city or urban-county government has complied with the provisions of subsection (2) of this section.

(2) (a) Cities or urban-county governments proposing to levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a

hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The city or urban-county government shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for testimony.

~~[(3) (a) That portion of a tax rate levied by an action of a city or urban-county government which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.~~

~~(b) The city or urban-county government shall, within seven (7) days following adoption of an ordinance to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:~~

~~1. The fact that the city or urban-county government has adopted a rate;~~

~~2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall, and~~

~~3. The name, address, and telephone number of the county clerk of the county or urban-county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.]~~

➔Section 59. KRS 132.029 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a city or urban-county government will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the city or

urban-county government may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property.

(2) The tax rate applicable to personal property levied by a city or urban-county government under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.027(2)~~[and to the recall provisions of KRS 132.027(3)]~~.

➔Section 60. KRS 157.440 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection ***(8)***~~[(9)(a)]~~ of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.

(b) To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities, or the purchase of land if approved by the commissioner of education as provided in KRS 157.420(4)(b). The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470***(8)***~~[(9)]~~ and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year.

Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420.

(c) The board of education of each school district may contribute the levy equivalent tax rate of five cents ($0.05) and equalization funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:

1. Energy conservation measures shall include facility alteration;
2. Energy conservation measures shall be identified in the district's approved facility plan pursuant to KRS 157.420;
3. The current facility systems are consuming excess maintenance and operating costs;
4. The savings generated by the energy conservation measures are guaranteed;
5. The levy equivalent tax rate of five cents ($0.05) and equalization funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
6. The equipment that is replaced has exceeded its useful life as determined by a life cycle cost analysis.

(d) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(7)~~[or to the recall provisions of KRS 160.470(8)]~~.

(e) A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

(2) (a) A district may exceed the maximum provided by subsection (1) of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of this subsection, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (1) of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county clerk, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the

school district.

(3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(4) Notwithstanding the limitations contained in subsection (3) of this section, no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.

(5) The chief state school officer shall certify the compensating tax rate to the levying authorities.

➔Section 61. KRS 160.470 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate that could have been levied in the preceding year to the preceding year's assessment, except as provided in ***subsection (8)***~~[subsections (9) and (10)]~~ of this section and KRS

157.440.

(b) ~~[If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "...general tax rate that could have been levied in the preceding year...," referred to in subsection (1)(a) of this section, for purposes of computing the general tax rate for succeeding years.~~

~~]~~In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(2) No district board of education shall levy a general tax rate within the limits imposed in subsection (1) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in ***subsection (8)*** ~~[subsections (9) and (10)]~~ of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7) of this section.

(3) Upon receipt of property assessments from the Department of Revenue, the commissioner of education shall certify the following to each district board of education:

(a) The general tax rate that a district board of education could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced; ***and***

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate the amount of revenue expected to be produced~~[;~~

~~(c) The general tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced]~~.

(4) Upon completion of action on property assessment data, the Department of Revenue shall submit certified property assessment data as required in KRS 133.125 to the

chief state school officer.

(5) Within thirty (30) days after the district board of education has received its assessment data, the rates levied shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the rates within the time prescribed shall not invalidate any levy made thereafter.

(6) (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education.

(7) (a) Except as provided in ***subsection (8)***~~[subsections (9) and (10)]~~ of this section and KRS 157.440, a district board of education proposing to levy a general tax rate within the limits of subsection (1) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the

newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate levied in the preceding year, and the revenue produced by that rate;
2. The general tax rate for the current year, and the revenue expected to be produced by that rate;
3. The compensating general tax rate, and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(8) (a)~~[That portion of a general tax rate, except as provided in subsections (9) and (10) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent~~

~~(4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.~~

~~(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsections (9) and (10) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:~~

~~1. The fact that the district board of education has adopted such a rate;~~

~~2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and~~

~~3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.~~

~~(9) (a)~~] Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for general school purposes. "Equivalent tax rate" ***means*** ~~is defined as~~] the rate which results when the income collected during the prior year from all taxes

levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Department of Revenue. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with paragraph (a) of this subsection, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

~~[(10) A district board of education may levy a general tax rate that will produce revenue from real property, exclusive of revenue from new property, that is four percent (4%) over the amount of the revenue produced by the compensating tax rate as defined in KRS 132.010.]~~

➔Section 62. KRS 160.473 is amended to read as follows:

(1) In the event that a general tax rate applicable to real property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the general tax rate levied by the district board of education applicable to personal property exceed the prior year general tax rate applicable to personal property levied by the respective district board of education.

(2) The general tax rate applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470(7)~~[and to the recall provisions of KRS 160.470(8)]~~.

➔Section 63. KRS 67C.147 is amended to read as follows:

(1) In order to maintain the tax structure, tax rates, or level of services in the area of the consolidated local government formerly comprising the city of the first class, the legislative council of a consolidated local government may provide in the manner described in this chapter for taxes and services within the area comprising the former city of the first class which are different from the taxes and services which are applicable in the remainder of the county. These differences may include differences in tax rates upon the class of property which includes the surface of the land, differences in ad valorem tax rates upon personal property, and differences in tax rates upon insurance premiums.

(2) Any difference in the ad valorem tax rate on the class of property which includes the surface of the land in the portion of the county formerly comprising the city of the first class and in the portion of the county other than that formerly comprising the city of the first class may be imposed directly by the consolidated local government council. Any change in these ad valorem tax rates shall comply with KRS 68.245, 132.010,~~[132.017,]~~ and 132.027 and shall be used for services as provided by KRS 82.085.

(3) If the consolidated local government council determines to provide for tax rates applicable to health insurance premiums and personal property which are different in the area formerly comprising the city of the first class than the rates applicable in the remainder of the county, it shall do so in the following manner. The consolidated local government council shall by ordinance create a tax district to be known as the "urban service tax district" bounded by the former boundaries of the former city of the first class. The ordinance shall designate the number of members of the board of this taxing district and the manner in which they shall be appointed. The ordinance shall provide that the board of the taxing district shall receive the income derived from the differential in tax rate applicable in the area formerly

comprising the city of the first class with respect to personal property, health insurance premiums, or both, and shall contract with the consolidated local government to pay all sums collected to the consolidated local government, in return for the provision of services performed by the consolidated local government within the area formerly comprising the city of the first class which services are in addition to services performed by the consolidated local government in the remainder of the county.

(4) After the initial formation of an urban service taxing district in a consolidated local government, the boundaries of the district may be modified in the following manner. The proposal to alter the boundaries of the urban service taxing district within a consolidated local government may be initiated by:

(a) A resolution enacted by the consolidated local government describing the boundaries of the area to be added to or deleted from the taxing district and duly passed and signed by the mayor not less than one hundred twenty (120) days before the next regularly scheduled election day within the county; or

(b) A petition signed by a number of qualified voters living within precincts within the area to be added to or deleted from the taxing district equal to ten percent (10%) of the votes cast within each precinct in the last general election for President of the United States and delivered to the clerk of the legislative council more than one hundred twenty (120) days next preceding the next regularly scheduled election day within the county.

The boundaries so described in either case shall not cross precinct lines. The question of whether the area bounded as described should be added to or deleted from, as the case may be, the urban services taxing district shall then be placed upon the ballot in the precincts in the area to be added or deleted at the next regular election and the question stated on the ballot shall be so phrased that a "Yes" vote shall be cast in favor of making the proposed change and a "No" vote shall be cast

to oppose the proposed change. If a majority of those voting in those precincts support the change, then the change in the boundaries of the urban service district shall be implemented.

➔Section 64. KRS 78.530 is amended to read as follows:

(1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:

1. County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement; and

2. Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

(2) Once a county or school board participates, it shall thereafter continue to

participate, except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is

desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS~~[132.017 or]~~ 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the

provisions of KRS~~[132.017 or]~~ 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 61.522;

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

(e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and

employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and

(f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

(g) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the system on or after January 1, 2014, and no county that elects to

participate in the system on or after January 1, 2014, shall be eligible to participate under the alternate participation plan.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) (a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local

pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

(7) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

➔Section 65. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall:

(a) Insure and keep insured its liability for compensation in some corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state; or

(b) Furnish to the commissioner satisfactory proof of its financial ability to pay directly the compensation in the amount and manner and when due as provided in this chapter. In this case, the commissioner shall require the deposit of an acceptable security, indemnity, or bond to secure, to the extent the commissioner directs, the payment of compensation liabilities as they are incurred. A public sector self-insured employer shall not be required to deposit funds as security, indemnity, or bond to secure the payment of liabilities under this chapter, if the public employer has authority to raise taxes ***or***~~[, notwithstanding provisions of KRS 68.245, 132.023, 132.027, and 160.470 relating to recall and reconsideration of local taxes; raise tuition; issue bonds;]~~ raise fees or fares for services provided**,**~~[;]~~ or has other authority to generate funds for its operation.

(2) Every employer subject to this chapter shall file, or have filed on its behalf, with the department, as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. Any insurance carrier or self-insured group providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the commissioner, evidence of the employer's compliance with this chapter. Evidence of compliance filed with the department may include a named additional insured who has been provided proof of workers' compensation insurance coverage by the employer. The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage. Every employer who has complied with the foregoing provision and has subsequently canceled its insurance or its membership in an approved self-insured group, as the case may be, shall

immediately notify, or have notice given on its behalf to the department of the cancellation, the date, and the reasons; and every insurance carrier or self-insured group shall in like manner notify the commissioner upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or self-insured group need not set forth its reasons unless requested by the commissioner. The above filings are to be made on the forms prescribed by the commissioner. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of the notification by the commissioner unless the employer has obtained other insurance and the commissioner is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the commissioner shall promptly notify interested government agencies of this failure and, with particular reference to employers engaged in coal mining, the commissioner shall promptly report any failures to the Department for Natural Resources so that appropriate action may be undertaken pursuant to KRS 351.175.

➔Section 66. 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)*** ~~[(n)]~~ 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 67. The following KRS sections are repealed:

132.017 Recall petition -- Requirements and procedures -- Reconsideration -- Election -- Second billing.

132.018 Reduction of tax rate on personal property.

132.025 Cumulative increase for 1982-83 only by taxing district -- Limit -- Public hearing and recall provisions not applicable.

132.720 Definitions for KRS 132.260 and 132.751.

143A.035 Credit against tax imposed on severed or processed limestone.

243.710 Wholesaler's tax on distilled spirits.

➔Section 68. Section 1 of this Act shall apply to deaths occurring on or after August 1, 2016.

➔Section 69. Sections 16 to 18 of this Act shall apply for tax years beginning on or after January 1, 2017.

➔Section 70. Sections 22, 23, and 46 to 65 of this Act shall apply to assessments made and rates established on and after January 1, 2017.

➔Section 71. Section 28 of this Act shall apply to dates of death occurring on or after January 1. 2017.

➔Section 72. Section 21 of this Act takes effect August 1, 2016.

➔Section 73. Sections 35 to 43 of this Act take effect October 1, 2016.