

AN ACT relating to local option sales and use taxes.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) "Consolidated local government" means a combined city-county government formed pursuant to KRS Chapter 67C;*
- (2) "Department" means the Department of Revenue;*
- (3) "Gross receipts" and "sales price" have the same meaning as in KRS 139.010;*
- (4) "Local government" means an incorporated city, county, urban-county government formed pursuant to KRS Chapter 67A, unified local government formed pursuant to KRS 67.900 to 67.940, charter county government formed pursuant to KRS 67.825 to 67.875, consolidated local government, or any other form of merged city-county government;*
- (5) "Member state" has the same meaning as in KRS 139.781;*
- (6) "SSUTA agreement" has the same meaning as in KRS 139.781; and*
- (7) "State sales and use tax" means the sales and use taxes imposed by the Commonwealth pursuant to KRS Chapter 139.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) A local government may impose a local option sales and use tax as provided in Sections 1 to 4 and 5 of this Act.*
- (2) Any local option sales and use tax imposed by a local government shall:*
 - (a) Be approved by the voters prior to imposition of the levy, as provided in Section 3 of this Act;*
 - (b) Be used solely for a specific capital project or projects, not to exceed ten (10) projects in any one (1) levy, subject to the following:*

1. The amount to be generated by the levy may include expenses associated with the issuance of debt to support the capital project or projects, and an amount not to exceed five percent (5%) of the total cost of the capital project or projects for maintenance of the project or projects. If these items are included in the total, they shall be separately identified and described in the ballot language proposing the levy;
 2. A portion of the amount collected from the levy necessary to offset the costs incurred by the department, retailers, and county clerks in collecting and timely remitting the taxes, may be used for those purposes; and
 3. Capital projects funded through a local option sales and use tax shall not include projects that consist primarily of general routine maintenance and up keep of existing infrastructure;
- (c) Be for a limited period of time, which shall be identified in the ballot language proposing the levy;
- (d) Be administered and collected by the department at the same time, and in the same manner, as the state sales and use tax;
- (e) Include both the sales tax and the use tax, which shall be imposed at the same rate throughout the entire area encompassed by the local government imposing the tax;
- (f) Be sourced as provided in KRS 139.105 or as provided by administrative regulation promulgated by the department that applies to sourcing for state sales and use tax purposes; and
- (g) If:
1. Kentucky is a member state to the SSUTA agreement, comply with all requirements of the SSUTA agreement relating to levies by local

governments;

2. Federal legislation authorizing states to require out-of-state vendors to collect and remit sales and use taxes on behalf of the state replaces the SSUTA, and that legislation includes requirements relating to levies by local governments, comply with all requirements of the federal legislation that will allow Kentucky to remain in compliance with the federal law; or

3. Neither subparagraph 1. nor 2. of this paragraph apply, comply with any requirements established by the department pursuant to an administrative regulation promulgated pursuant to KRS Chapter 13A establishing administrative, reporting, notice, and effective date requirements.

(3) (a) 1. Any county, or other merged form of government other than an urban-county government or consolidated local government may levy a local option sales and use tax rate not to exceed one-half of one percent (0.5%) of gross receipts;

2. Any incorporated city may levy a local option sales and use tax rate not to exceed one-half of one percent (0.5%) of gross receipts;

3. Any urban-county government may levy a local option sales and use tax rate not to exceed one percent (1%) of gross receipts; and

4. Any consolidated local government may levy a local option sales and use tax rate not to exceed one percent (1%) of gross receipts, after compliance with Section 4 of this Act.

(b) Notwithstanding paragraph (a) of this subsection, any combination of local governments may enter into an interlocal agreement pursuant to KRS 65.210 to 65.300 for the levy and collection of local option sales and use taxes that adjusts the maximum levies permitted by paragraph (a) of this

subsection, so long as the total local option sales and use tax rate imposed within any county does not exceed one percent (1%) of gross receipts.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) A majority of the members of the governing body of a local government may adopt an ordinance submitting to the qualified voters of the local government the question of whether a local option sales and use tax shall be imposed.

(b) If a joint local option sales and use tax levy is proposed by multiple local governments pursuant to an interlocal agreement, the ordinance adopted by the governing body of each participating local government shall be identical with regard to the information required by subsection (2) of this section.

(2) The ordinance shall conform to the template developed by the department pursuant to subsection (5)(a) of Section 5 of this Act, and shall set forth the specific wording of the ballot question, which shall, at a minimum, include the following:

(a) Identification of the local governments that will receive revenues from the levy, and if more than one (1) local government will receive revenues, the percentage or amount of the tax collected by the department to be received by each local government;

(b) A description of the specific capital project or projects to be funded by the levy, including a description of where each project is located, the estimated cost of each project, the amount included to finance the project, and the amount included for maintenance of each project;

(c) The proposed rate of the levy;

(d) The total amount of revenues to be generated from the levy;

(e) The proposed effective date of the levy, which shall be established only after

consultation with the department regarding timeframes for providing required notice and the development of database information as required by subsection (5) of this section; and

(f) The period for which the levy will be imposed, which shall not exceed the earlier of:

1. The date on which the total amount approved by the voters has been generated through imposition of the tax; or

2. The date on which all projects approved by the voters are completed.

(3) (a) The ordinance adopted pursuant to subsections (1) and (2) of this section shall be submitted by the local government to the department for review. The department shall review the ordinance to determine compliance with any requirements of the SSUTA agreement, federal legislation, Section 5 of this Act, and administrative regulations of the department. The department shall return the ordinance to the local government within thirty (30) days of receipt with any changes necessary for compliance noted. The governing body of the local government shall make all changes required by the department and shall submit the amended ordinance to the department for final approval prior to filing the ordinance with the county clerk.

(b) After making any changes requested by the department, the ordinance shall be filed with the county clerk of each county in which the vote will take place no later than the second Tuesday in August prior to the next regular election, and the clerk shall cause the question to be placed before the voters of the local government at the next general election.

(4) (a) If a majority of the votes cast are in favor of the imposition of a local option sales and use tax levy, the governing body of the imposing local governments shall forward to the department:

1. A copy of the ordinance or ordinances placing the local option sales

- and use tax levy on the ballot;
2. Certification of the results of the election from the county clerk or clerks;
 3. Boundary information, in the form and format required by the department;
 4. A copy of the interlocal agreement if the levy will be imposed in multiple local governments, or if revenues from the levy will be distributed among multiple local governments; and
 5. Any other information required by the department pursuant to an administrative regulation promulgated pursuant to KRS Chapter 13A.
- (b) If a local option sales and use tax levy is considered by voters residing in multiple counties pursuant to an interlocal agreement, the levy shall apply only upon a majority of the votes cast in each county being in favor of the local option sales and use tax levy. If the voters in one (1) or more counties fail to approve the levy by a simple majority vote, the levy shall not be imposed.
- (c) If a local option sales and use tax levy is being proposed by a county and one (1) or more incorporated cities within that county pursuant to an interlocal agreement, the levy shall become effective upon a simple majority vote in favor of the levy by residents of the county.
- (d) If a local option sales and use tax levy is being proposed by an incorporated city, the levy shall become effective upon a simple majority vote in favor of the levy by the residents of the city.
- (5) Unless a later effective date is specified in the ballot question approved by the voters, the local option sales and use tax levy shall become effective on the first day of the calendar quarter following the provision of notice and establishment of database information as required by:

- (a) The SSUTA agreement, if Kentucky remains a member and the SSUTA agreement is not replaced by federal legislation;
- (b) Federal legislation, if the SSUTA agreement is replaced by federal legislation that includes notification requirements relating to the imposition of local option sales and use taxes; or
- (c) The department, pursuant to an administrative regulation promulgated under KRS Chapter 13A if neither paragraph (a) nor (b) of this subsection apply.
- (6) (a) Upon approval of a local option sales and use tax by the voters of a local government, the rate, duration of the levy, boundaries for application of the levy, specific capital projects for which funds may be expended, and total amount approved by the voters shall not be amended without prior approval of a simple majority of voters of the local government in which the levy applies during a general election. The process established for the initial levy of the local option sales and use tax shall also apply to any amendment of an original levy.
- (b) The effective start date of a levy approved by the voters may be extended beyond the date stated in the ballot language if the extension is necessary to comply with the requirements of:
1. The SSUTA agreement, if Kentucky remains a member and the SSUTA agreement is not replaced by federal legislation;
 2. Federal legislation, if the SSUTA agreement is replaced by federal legislation that includes notification requirements relating to the imposition of local option sales and use taxes; or
 3. If neither subparagraph 1. nor 2. of this paragraph apply, notification and administrative requirements established by the department pursuant to an administrative regulation promulgated pursuant to

KRS Chapter 13A.

(7) All proceeds from the local option sales and use tax received by a local government shall be maintained in a separate, discrete account, which shall be audited on an annual basis as part of the annual audit required for the local government establishing the separate account.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Commission" means a community investment commission established pursuant to subsection (2) of this section;

(b) "Mayor" means the mayor of a consolidated local government; and

(c) "Metro council" means the consolidated local government council established by KRS 67C.103.

(2) (a) The process established by this section shall be the only means by which a local option sales and use tax may be imposed within the boundaries of a consolidated local government.

(b) The process shall begin with the adoption of an ordinance by the metro council directing the formation of a commission. The ordinance shall also establish operating parameters for the commission in accordance with the provisions of this section, and shall establish a deadline by which the commission shall submit a recommended capital project or slate of capital projects to the metro council for consideration as provided in subsection (5) of this section.

(3) (a) The commission shall consist of twenty (20) members. Any individual member or category or class of member described in this subsection who is prohibited from serving on the commission because his or her service on the commission would be incompatible with a position he or she holds as an

elected official of the Commonwealth or an elected official or employee of a local government shall appoint a delegate to serve in his or her stead as provided in paragraph (c)1.b. or (c)2.c. of this subsection if one of those provisions applies, or, if neither paragraph (c)1.b. or (c)2.c. of this subsection applies, he or she shall designate a citizen residing in the district he or she represents to serve in his or her stead.

(b) All members of the commission shall be residents of the consolidated local government, and the overall makeup of the commission shall be representative of the demographic makeup of the residents of the consolidated local government, including a gender balance representative of the number of males and females in the overall population of the consolidated local government.

(c) Commission members shall be appointed within ninety (90) days of the adoption of the ordinance under paragraph (2)(b) of this section, and shall be determined as follows:

1. a. Seven (7) members shall be members of the metro council, appointed by the president of the metro council, or designees of appointed members of the council as described in subdivision b. of this subparagraph. The members appointed by the president of the metro council shall meet the following requirements:

i. No more than four (4) of the seven (7) members shall be of the same political party affiliation at the time of appointment; and

ii. At least two (2) of the seven (7) members shall represent minority populations.

b. Any council member appointed to serve on the commission may designate a citizen from the district he or she represents to serve

in his or her place. Any appointment made under this subdivision of this subparagraph shall be made prior to the first meeting of the commission, shall remain in effect for the term of the appointed council member, and shall conform to the requirements of subdivision a. of this subparagraph;

2. a. Four (4) members shall represent the separately incorporated cities located within the consolidated local government. These members shall be appointed by the membership organization of separately incorporated cities within the consolidated local government, or, if no such organization exists, the appointments shall be made by an organization that represents a statewide association of cities, where the majority of the governing body is composed of mayors.

b. Members appointed pursuant to this subparagraph may be an elected city official from one (1) of the incorporated cities within the consolidated local government.

c. Any elected city official appointed to serve on the commission may designate a citizen from or a full-time employee of his or her city to serve in his or her place. Any appointment made under this subdivision of this subparagraph shall be made prior to the first meeting of the commission and shall remain in effect for the term of the appointed elected city official;

3. Six (6) at-large members, who shall be appointed by the mayor as follows:

a. The territory of the consolidated local government shall be divided into three (3) districts, with the districts established as provided in KRS 67.060. Two (2) at-large members shall be

appointed from each district, with one (1) member from each district within the urban services district and one (1) from outside the urban services district; and

b. At least two (2) at-large members shall represent minority populations;

4. Two (2) members who represent the consolidated local government in the Kentucky General Assembly, with one (1) member from the House of Representatives and one (1) member from the Senate. These members shall be selected by a majority vote of all members of the General Assembly representing the consolidated local government, and shall be included on the commission only if their service on the commission does not constitute an incompatible office with their service as a member of the Kentucky General Assembly; and

5. One (1) nonvoting member, who shall serve as the chairperson and facilitator of the commission, to be nominated by the mayor and agreed to by the presidents of the metro council and the city organization directed to appoint members to the commission as provided in subparagraph 2. of this paragraph. If agreement cannot be reached, the mayor shall continue to nominate additional candidates until an agreement can be reached.

(d) Appointed commission members shall serve for as long as the commission exists, subject to the following:

1. The term of any commission member appointed who is an elected official, and who is serving on the commission in that capacity, or of any citizen delegate appointed by the elected official, shall expire upon the elected official no longer serving in that capacity;

2. Any member may resign at any time by submitting a written letter of

resignation to the chairperson of the commission;

3. Any member may be removed from the commission upon the vote of at least twelve (12) members of the commission for:

a. Misconduct arising from any act that constitutes a crime involving fraud or moral turpitude; or

b. Any act which constitutes a violation of the ethics code of the consolidated local government;

except a vote to remove a member of the commission shall occur only after the member is given written notice of the specific conduct believed to warrant removal, and a reasonable opportunity to respond to the allegations.

(e) Any vacancy on the commission shall be filled in the same manner as the original appointment.

(f) A majority of the full authorized membership of the commission shall constitute a quorum, except the chairperson shall not be considered in determining whether a quorum exists.

(g) The commission shall be attached to the office of the mayor for administrative and staffing purposes.

(h) The commission shall:

1. Hold public hearings and host online forums to receive input from citizens on proposed capital projects they would like to see in the community;

2. Coordinate and collaborate with the metro council, the mayor's office, experts, and consultants to gather data and information and to prepare cost estimates, feasibility studies, and return on investment projections for proposed capital projects;

3. Develop a list of proposed capital projects to be presented to the metro

council as provided in subsection (4) of this section;

4. If the ballot initiative is approved, provide oversight and monitoring for capital projects funded with the local option sales and use tax levy; and

5. Perform any other functions and duties assigned to it by the metro council.

(i) Meetings of the commission shall be subject to KRS 61.800 to 61.850 and 61.870 to 61.884.

(j) Members of the commission shall be subject to the code of ethics adopted by the metro council pursuant to KRS 65.003.

(4) In developing a list of capital projects to present to the metro council for consideration, the commission shall consider input received from the public, and shall address capital projects proposed by incorporated cities within the consolidated local government as follows:

(a) 1. The commission shall consider all proposed capital projects submitted by incorporated cities within the consolidated local government that have a demonstrable and direct benefit on the quality of life of the citizens residing within the city, as determined by the commission.

2. The commission shall hold a separate vote for each capital project submitted by an incorporated city that meets the requirements established by subparagraph 1. of this paragraph, to determine whether the capital project will be included on the capital project list to be presented to the metro council. All capital projects proposed by incorporated cities within the consolidated local government shall be included on the list presented to the metro council for consideration unless twelve (12) members of the commission vote to exclude the capital project from the final list;

- (b) The final list of capital projects recommended by the commission to the metro council shall include the estimated cost of each capital project, including any maintenance costs that will be included in the proposed levy; and
- (c) At least five percent (5%) but not more than twenty percent (20%) of the total amount expected to be generated from the local option sales and use tax levy shall be devoted to capital projects proposed by incorporated cities.
- (5) (a) The commission shall forward a recommended list of not more than ten (10) capital projects to the metro council for consideration within the time frames established by the metro council in the ordinance establishing the commission.
- (b) The following conditions shall apply to consideration and approval of the list of capital projects by the metro council:
1. To amend, delete, or add a capital project, a supermajority of sixty percent (60%) of the total membership of the metro council voting in favor of the amendment, deletion, or addition shall be required;
 2. If less than ten percent (10%) of the total amount expected to be generated from the local option sales and use tax levy is recommended by the commission to support capital projects proposed by incorporated cities, the metro council shall not amend or delete any of the capital projects included on the list and recommended by incorporated cities; and
 3. If ten percent (10%) or more of the total amount expected to be generated from the local option sales and use tax levy is recommended by the commission to support capital projects proposed by incorporated cities, the metro council may vote to amend, delete, or revise any of the capital projects proposed by incorporated cities,

except after all amendments, deletions, and revisions are made, at least ten percent (10%) of the total amount expected to be generated from the local option sales and use tax shall be devoted to capital projects proposed by incorporated cities.

(c) Upon approval of a capital project or list of capital projects to be supported by a local option sales and use tax levy, the metro council may adopt an ordinance submitting to the qualified voters of the consolidated local government the question of whether a local option sales and use tax shall be proposed using the process established in Section 3 of this Act.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Local government" has the same meaning as in Section 1 of this Act;

(b) "Member state" has the same meaning as in KRS 139.781; and

(c) "SSUTA agreement" has the same meaning as in KRS 139.781.

(2) If the voters of a local government approve the imposition of a local option sales and use tax pursuant to Sections 1 to 4 of this Act:

(a) The local option sales tax shall be imposed on the same tax base as the sales tax imposed under KRS 139.200 except as otherwise provided in this section;

(b) The local option use tax shall be imposed on the same tax base as the use tax imposed under KRS 139.310, except as otherwise provided in this section;

(c) All exemptions and exclusions from the taxes imposed under KRS 139.200 and 139.310 shall apply to the local option sales and use taxes levied by local jurisdictions in this state unless otherwise provided in this section or in an administrative regulation promulgated by the department pursuant to

KRS Chapter 13A; and

- (d) The department shall administer and collect the local option sales and use tax on behalf of the local jurisdiction as provided in this section.
- (3) All provisions of this chapter and all administrative regulations promulgated by the department relating to the collection and administration of the state sales and use taxes shall apply to any local option sales and use taxes unless otherwise provided in this section or in an administrative regulation promulgated by the department. The department shall have all the powers, rights, duties, and authority with respect to the administration, collection, and refund of local option sales and use taxes as provided under this chapter and KRS Chapters 131, 134, and 135.
- (4) (a) If Kentucky is a member state of the SSUTA agreement, or if the SSUTA agreement is replaced by federal legislation that includes requirements for sales and use tax levies imposed by local governments, the department shall comply with all requirements of the SSUTA agreement or the subsequent federal legislation relating to the imposition and collection of local sales and use taxes in administering the local option sales and use tax.
- (b) If Kentucky ceases to be a member state of the SSUTA agreement and there is no federal legislation that includes reporting, notification, or other requirements for the imposition of local sales and use taxes, the department shall establish processes and procedures to ensure proper notification, reporting, and administration of local option sales and use tax levies through the promulgation of an administrative regulation pursuant to KRS Chapter 13A.
- (5) (a) In an effort to ensure uniformity and to streamline the review and approval process, the department shall promulgate an administrative regulation pursuant to KRS Chapter 13A on or before October 1, 2017, establishing a

template that shall be used by local governments in drafting ordinances proposing to place the imposition of a local option sales and use tax on the ballot for voter approval. The template shall incorporate all requirements established for local option sales and use tax levies under subsection (2) of Section 3 of this Act and this section. In developing the template, the department shall consult with public entities as defined in KRS 65.310.

(b) Upon receipt of an ordinance proposing to place the imposition of a local option sales and use tax on the ballot for voter approval, as required by subsection (3)(a) of Section 3 of this Act, the department shall review the ordinance to ensure that the template was used, and that the provisions of the ordinance comply with the requirements established for local option sales and use tax levies under subsection (2) of Section 3 of this Act and this section.

(c) The department shall return the ordinance to the local jurisdiction with all changes necessary for compliance noted, or shall notify the local government that no changes are needed within thirty (30) days of receipt. The governing body of the local government shall make all changes required by the department and shall submit the revised ordinance to the department for review prior to filing the ordinance with the county clerk.

(6) Upon receipt of notification pursuant to Section 3 of this Act that a local option sales and use tax levy has been approved by the voters of a local government, the department shall:

(a) Immediately begin the process of providing notice and establishing or amending any database required by:

1. The SSUTA agreement, if Kentucky remains a member state and the SSUTA agreement is not replaced by federal legislation;
2. Federal legislation, if the SSUTA agreement is replaced by federal

- legislation that includes notification requirements relating to the imposition of local option sales and use taxes; or
3. Administrative regulations promulgated by the department pursuant to KRS Chapter 13A, if subparagraphs 1. and 2. of this paragraph do not apply; and
- (b) Establish or amend necessary forms to facilitate the reporting and collection of the local option sales and use tax.
- (7) (a) Each local government that levies a local option sales and use tax shall provide to the department the tax rate and the boundaries of the local government at the time and in the form and format required by the department.
- (b) If the tax rate or boundaries reported to the department change, the local government shall report the changes to the department at the time and in the form and format required by the department. If the local government does not report the changes to the department in a timely manner as required by the department, the effective date of the tax rate or boundary change shall be delayed to the first day of the calendar quarter following the required public notice period.
- (c) The department, any retailer or other person responsible for collecting and remitting local option sales and use taxes, and any person responsible for remitting local use taxes shall not be responsible for collection or distribution errors resulting from incorrect rate or boundary information provided by a local government, and may rely on the most recent tax rate and boundary information provided by the local government and published on the department's Web site.
- (8) (a) Any retailer required or voluntarily registered to collect the state sales and use taxes imposed under this chapter, or to remit state use taxes imposed

under this chapter shall also collect, report, and remit any local option sales and use tax or local option use tax imposed under Sections 1 to 4 of this Act. The local option sales and use tax shall be reported and remitted at the same time and in the same manner as the taxes imposed by KRS 139.200 and 139.310.

(b) Any local option sales and use tax to be collected by a retailer pursuant to this subsection constitutes a debt owed by the retailer to the local government and all amounts collected shall be held in trust for the applicable local government.

(9) The retailer or, if a purchaser is reporting a use tax, the purchaser shall separately identify and display the local option sales and use tax rate from the state sales tax rate and shall identify and display the applicable local government for which the tax is charged from the sales price, the price advertised in the premises, the marked price, or the other price on the sales receipt or other proof of sales.

(10) (a) 1. The department shall distribute the local option sales and use taxes collected to each local government imposing the taxes by the twenty-fifth day of the next calendar month following the month in which the taxes were received. Distributions shall be made in accordance with the information submitted by taxpayers to the department based upon where the transaction is sourced.

2. If the amount remitted by a taxpayer is less than the aggregate state and local option sales and use tax liability of the taxpayer, the amount collected shall be distributed pro rata to the state and the local governments. Subsequent collections shall apply first to the outstanding state liability before the remaining balance is distributed to local governments.

3. If the taxpayer fails to submit local allocation information along with payment of the local option sales and use tax collected, the department shall retain the amounts of local option sales and use taxes collected until the taxpayer provides information that will allow the department to allocate tax collections among the local governments. Any taxpayer failing to submit local allocation information along with payment of amounts collected shall be subject to the penalties imposed by subsection (17) of this section, in addition to any other penalties which may be applicable.
- (b) From each distribution, the department shall deduct an amount equal to one percent (1%) of the amount collected to offset the department's expenses incurred in the administration and collection of the local option sales and use taxes. The remaining local option sales and use taxes collected by the department on behalf of local governments shall remain the property of the local government levying the tax.
- (11) (a) The department shall provide to each local government for which it collects taxes a monthly report reflecting the amount collected, the amount retained by the department pursuant to subsection (10)(b) of this section, any adjustments or offsets due to refunds or reallocations, and any interest and penalties collected.
- (b) The department shall notify a local government at least thirty (30) days prior to making an offset, adjustment, or reallocation if the offset, adjustment, or reallocation represents twenty-five percent (25%) or more of the next scheduled distribution to that local government.
- (12) (a) Upon discovery of a misallocation by a taxpayer of local option sales and use tax receipts that requires a redistribution between or among local governments of twenty-five percent (25%) or more of the next scheduled

distribution to one (1) or more of the affected local governments, the department shall:

1. Make a proposed administrative adjustment to address the misallocation;
2. Notify the taxpayer and the impacted local governments in writing of the misallocation, including the dollar amount at issue, and the proposed administrative adjustment; and
3. Retain any local option sales and use tax revenues remitted and still on hand for distribution until the proposed administrative adjustment is final.

- (b) 1. The proposed administrative adjustment shall become final upon the earlier of the receipt by the department of written acceptance of the administrative adjustment by all impacted local governments or the expiration of forty-five (45) days from the date of the notice with no exception having been filed.
2. Exceptions to the proposed administrative adjustment shall be filed with the commissioner within forty-five (45) days from the date of the notice, and shall include a supporting statement setting forth the basis of the exception. A copy of any exception filed shall be mailed by the department to any other impacted local government.
 3. After an exception has been filed, the impacted local government may, in writing, request a conference with the department. The request shall be granted in writing stating the time and date of the conference. Other impacted local governments may also attend any conference. Additional conferences may be held upon mutual agreement.
 4. After considering the exceptions filed by the local government, including any information provided during any conferences, a final

administrative ruling shall be issued by the department. The final administrative ruling shall be mailed to all impacted local governments.

5. The local government filing the exception may request in writing a final administrative ruling at any time after filing exceptions and a supporting statement, and the department shall issue the ruling within thirty (30) days after the request is received by the department.

6. After a final administrative ruling has been issued, the local government may appeal to the Franklin Circuit Court.

(c) The taxpayer shall correct any allocation errors that impact the reporting of local government revenues going forward by the next filing period after notification by the department that a misallocation has occurred. Any taxpayer failing to correct misallocation errors shall be subject to the penalties established by subsection (17) of this section in addition to any other penalties that may be applicable.

(d) Any reallocation of local option sales and use tax receipts between or among local governments due to misallocation by a taxpayer on a return may go back a maximum of one (1) year from the date the misallocation was discovered.

(13) (a) Any refund of local option sales and use taxes shall be made solely at the discretion of the department in accordance with this chapter.

(b) 1. The department shall make authorized refunds, including interest, from the current tax collections in the account of the local government from which the refund is owed.

2. Applicable distributions to the local government shall be adjusted proportionately to reflect the refunds paid. If available funds in the local government account are insufficient, the department shall pay

the refunds from subsequent amounts collected for distribution to the local government until all refund payments, including interest, if applicable, have been made.

3. a. If the department receives a refund request related to local option sales and use taxes previously distributed to a local government that is no longer receiving monthly tax collections, the department shall forward the request to the local government.

b. The department shall assist the local government as necessary to confirm the validity of the refund and to facilitate payment of the amount due from the local government to the taxpayer.

(c) The amount of any claim for refund shall be reduced by the amount deducted by the taxpayer or certified service provider pursuant to Section 7 of this Act, at the time the taxes were paid to the department and by the administrative fee retained by the department pursuant to subsection (10)(b) of this section.

(14) The refunds or incentives allowed under KRS 139.495(5), 139.505, 139.515, 139.517, 139.518, 139.533, 139.534, 139.535, 139.536, 139.537, and 139.538 shall not apply to local option sales and use taxes.

(15) The local option sales and use tax shall not apply to sales or purchases of:

(a) Tangible personal property to be used in the performance of a lump-sum, fixed-fee contract executed at least ninety (90) days prior to the date the voters of a local jurisdiction approve the imposition of a local option sales and use tax pursuant to Sections 1 to 5 of this Act;

(b) Sales made under fixed-price sales contracts executed at least ninety (90) days prior to the date the voters of a local jurisdiction approve the imposition of a local option sales and use tax pursuant to Sections 1 to 5 of

this Act;

(c) A lease agreement or rental agreement entered into at least ninety (90) days prior to the date the voters of a local jurisdiction approve the imposition of a local option sales and use tax pursuant to Sections 1 to 5 of this Act; or

(d) The sale of electricity, piped natural or artificial gas, or other fuels to an energy direct pay authorization holder for storage, use, or other consumption at the location authorized. This exclusion shall not apply to sales prior to the authorization of energy direct pay by the department. As used in this paragraph, "energy direct pay authorization holder" means a person who qualifies for the exemption provided by KRS 139.480(3) as authorized by the department.

(16) (a) The tax levied by a local jurisdiction pursuant to Sections 1 to 4 of this Act shall not apply with respect to the storage, use, or other consumption of tangible personal property or digital property in this state upon which a local tax substantially identical to the tax levied by a local jurisdiction pursuant to Sections 1 to 4 of this Act, not including any special excise taxes imposed on alcoholic beverages, cigarettes, or other specific categories of tangible personal property or digital property, equal to or greater than the amount of tax imposed by the local jurisdiction has been legally paid in another state.

(b) Proof of payment of such tax shall be according to administrative regulations of the department.

(c) No credit shall be given under this section for local sales taxes paid in another state if that state does not grant credit for local sales taxes paid in this state.

(17) In addition to the penalties imposed by KRS 131.180, 139.980, and 139.990, any taxpayer that fails to:

- (a) Correct allocation errors after notification by the department as provided in subsection (12)(c) of this section; or**
- (b) Submit an allocation of local option sales and use tax revenues with the sales and use tax return;**
- shall be subject to a penalty of twenty-five dollars (\$25) per sales transaction, not to exceed ten thousand dollars (\$10,000) per reporting period.**

➔Section 6. KRS 139.570 is amended to read as follows:

- (1) (a) For reimbursement of the cost of collecting and remitting the tax, the seller shall deduct on each return one and three-quarters percent (1.75%) of the first one thousand dollars (\$1,000) of tax due and one and one-half percent (1.5%) of the tax due in excess of one thousand dollars (\$1,000), provided the amount due is not delinquent at the time of payment.
- (b) The total reimbursement allowed for each seller in any reporting period shall not exceed fifty dollars (\$50).
- (2) **For reimbursement of the cost of collecting and remitting the local option sales and use tax, the seller shall deduct on each return, from the amount due for local option sales and use taxes, one percent (1%) of the local option sales and use taxes due, but only if the amount due is not delinquent at the time of payment.**
- (3) Notwithstanding **subsections (1) and (2)**~~subsection (1)~~ of this section, the rate of compensation for taxes collected ~~on~~~~for~~ returns filed by certified service providers and other model sellers participating in the agreement as defined in KRS 139.781 shall be determined according to the terms of the agreement as provided in KRS 139.789(7).

➔Section 7. KRS 139.670 is amended to read as follows:

If any retailer liable for any amount under this chapter **or the local option sales and use tax levied by a local jurisdiction pursuant to Sections 1 to 4 of this Act** sells out his business or stock of goods, or otherwise quits business, his successors or assigns shall

withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the department showing that it has been paid or a certificate stating that no amount is due.

➔Section 8. KRS 139.778 is amended to read as follows:

- (1) The county clerk shall collect any applicable sales and use tax *imposed by KRS 139.200 or 139.310, and any applicable local option sales and use tax imposed by a local jurisdiction pursuant to Sections 1 to 4 of this Act.* for the following tangible personal property purchased out of state at the time the property is offered for titling or first registration:
 - (a) Recreational vehicles as defined in KRS 186.650;
 - (b) Manufactured homes as defined in KRS 186.650;
 - (c) Motorboats as defined in KRS 235.010;
 - (d) Vessels as defined in KRS 235.010; and
 - (e) Any other tangible personal property offered for titling or first registration in Kentucky.
- (2) The *state and applicable local option sales and use* tax shall be collected unless the owner:
 - (a) Presents a tax receipt from the seller verifying that the *state and applicable local option sales and use* tax has been previously paid;
 - (b) Demonstrates that the transfer of the property is exempt under KRS 139.470(4); or
 - (c) Provides a properly executed resale certificate or certificate of exemption in accordance with KRS 139.270.
- (3) The *state and local option sales and use* tax collected by the county clerk shall be reported and remitted to the department on forms provided by the department.
- (4) *(a)* For services provided in collecting the *state sales and use* tax, the county clerk shall deduct a fee of three percent (3%) of the *state sales and use* tax

collected and remit the balance to the department as provided in KRS 138.464; and

(b) For services provided in collecting the local option sales and use tax, the county clerk shall deduct a fee of three percent (3%) of the local option sales and use tax collected and remit the balance to the department as provided in KRS 138.464.

➔Section 9. KRS 144.132 is amended to read as follows:

- (1) Subject to the provisions of subsection (2) of this section, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid **and any local option sales and use tax paid** on aircraft fuel, including jet fuel, purchased after June 30, 2000, as determined under subsection (2) of this section.
- (2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the first one million dollars (\$1,000,000) in **combined** Kentucky sales and use tax **and local option sales and use taxes** due that ~~are~~^{is} applicable to the purchase of aircraft fuel, including jet fuel. The one million dollars (\$1,000,000) shall be increased to reflect the sales and use tax on aviation fuel attributable to operations of any other company when such company is purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The increase shall be based on the tax applicable to aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or in combination with the certificated air carrier. The sales and use tax credit shall be an amount equal to the Kentucky **state** sales and use tax **and local option sales and use taxes** otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year beginning after June 30, 2000, in excess of one million dollars (\$1,000,000).
- (3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which

Kentucky state sales and use tax and local option sales and use taxes for the fiscal year ~~are~~^{is} reasonably expected to exceed one million dollars (\$1,000,000) shall report and pay directly to the Department of Revenue the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

- (4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the Department of Revenue on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

➔Section 10. KRS 183.525 is amended to read as follows:

- (1) The "Kentucky Aviation Economic Development Fund" is established in the State Treasury. Beginning on July 1, 2000, all receipts collected under KRS Chapter 139 from the sales or use tax on aviation jet fuel and from any local option sales and use tax imposed under Sections 1 to 4 of this Act on jet fuel and aviation gasoline shall be deposited in this fund.
- (2) The fund may also receive state appropriations, gifts, grants, and federal funds and shall include earnings from investments of moneys from the fund.
- (3) Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- (4) The Transportation Cabinet shall use all moneys deposited in the fund or accruing to the fund for the development, rehabilitation, and maintenance of publicly owned or operated aviation facilities and for other aviation programs within the Commonwealth that will benefit publicly owned or operated aviation facilities.
- (5) The cabinet shall be prohibited from expending moneys deposited in the fund for administrative costs incurred by the cabinet or for any purpose other than the development, rehabilitation, and maintenance of publicly owned or operated

aviation facilities and other aviation programs benefiting publicly owned or operated aviation facilities.

➔Section 11. 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) Notwithstanding any other provision of the Kentucky Revised Statutes, the**

commissioner may divulge to a local jurisdiction on a confidential basis any sales local and use tax return information that is necessary to administer Sections 1 to 4 and 5 of this Act.

→Section 12. The provisions of this Act shall be effective on January 1, 2017, if a proposed constitutional amendment is ratified at the November 2016 general election authorizing the Kentucky General Assembly to confer upon any local government the power to levy a local option sales and use tax. If such a proposed constitutional amendment is not ratified, this Act shall be void.