

1 AN ACT relating to taxation.

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

3 ➔Section 1. KRS 139.470 is amended to read as follows:

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

- 5 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
6 state of, tangible personal property or digital property which this state is prohibited
7 from taxing under the Constitution or laws of the United States, or under the
8 Constitution of this state;
- 9 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
10 of:
- 11 (a) Nonreturnable and returnable containers when sold without the contents to
12 persons who place the contents in the container and sell the contents together
13 with the container; and
- 14 (b) Returnable containers when sold with the contents in connection with a retail
15 sale of the contents or when resold for refilling;
- 16 As used in this section the term "returnable containers" means containers of a kind
17 customarily returned by the buyer of the contents for reuse. All other containers are
18 "nonreturnable containers";
- 19 (3) Gross receipts from the sale of, and the storage, use, or other consumption in this
20 state of, tangible personal property used for the performance of a lump-sum, fixed-
21 fee contract of public works executed prior to February 5, 1960;
- 22 (4) Gross receipts from occasional sales of tangible personal property or digital
23 property and the storage, use, or other consumption in this state of tangible personal
24 property or digital property, the transfer of which to the purchaser is an occasional
25 sale;
- 26 (5) Gross receipts from sales of tangible personal property to a common carrier,
27 shipped by the retailer via the purchasing carrier under a bill of lading, whether the

- 1 freight is paid in advance or the shipment is made freight charges collect, to a point
2 outside this state and the property is actually transported to the out-of-state
3 destination for use by the carrier in the conduct of its business as a common carrier;
- 4 (6) Gross receipts from sales of tangible personal property sold through coin-operated
5 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
6 retailer is primarily engaged in making the sales and maintains records satisfactory
7 to the department. As used in this subsection, "bulk vending machine" means a
8 vending machine containing unsorted merchandise which, upon insertion of a coin,
9 dispenses the same in approximately equal portions, at random and without
10 selection by the customer;
- 11 (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
12 other statutory or constitutional agency of the state and gross receipts from sales to
13 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
14 apply only to purchases of tangible personal property, digital property, or services
15 for use solely in the government function. A purchaser not qualifying as a
16 governmental agency or unit shall not be entitled to the exemption even though the
17 purchaser may be the recipient of public funds or grants;
- 18 (8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
19 residents for use in heating, water heating, cooking, lighting, and other
20 residential uses. As used in this subsection, "fuel" shall include but not be
21 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
22 Determinations of eligibility for the exemption shall be made by the
23 department~~[Department of Revenue]~~;
- 24 (b) In making the determinations of eligibility, the department shall exempt from
25 taxation all gross receipts derived from sales:
- 26 1. Classified as "residential" by a utility company as defined by applicable
27 tariffs filed with and accepted by the Public Service Commission;

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

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

13 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
14 billed to an owner or operator of a multi-unit residential rental facility or
15 mobile home and recreational vehicle park other than residential
16 classification; and

17 (d) The exemption shall apply also to residential property which may be held by
18 legal or equitable title, by the entireties, jointly, in common, as a
19 condominium, or indirectly by the stock ownership or membership
20 representing the owner's or member's proprietary interest in a corporation
21 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

22 (9) Gross receipts from sales to an out-of-state agency, organization, or institution
23 exempt from sales and use tax in its state of residence when that agency,
24 organization, or institution gives proof of its tax-exempt status to the retailer and the
25 retailer maintains a file of the proof;

26 (10) Gross receipts derived from the sale of, and the storage, use, or other consumption
27 in this state of, tangible personal property to be used in the manufacturing or

1 industrial processing of tangible personal property at a plant facility and which will
2 be for sale. The property shall be regarded as having been purchased for resale.
3 "Plant facility" shall have the same meaning as defined in KRS 139.010. For
4 purposes of this subsection, a manufacturer or industrial processor includes an
5 individual or business entity that performs only part of the manufacturing or
6 industrial processing activity and the person or business entity need not take title to
7 tangible personal property that is incorporated into, or becomes the product of, the
8 activity.

9 (a) Industrial processing includes refining, extraction of petroleum and natural
10 gas, mining, quarrying, fabricating, and industrial assembling. As defined
11 herein, tangible personal property to be used in the manufacturing or industrial
12 processing of tangible personal property which will be for sale shall mean:

- 13 1. Materials which enter into and become an ingredient or component part
14 of the manufactured product;
- 15 2. Other tangible personal property which is directly used in manufacturing
16 or industrial processing, if the property has a useful life of less than one
17 (1) year. Specifically these items are categorized as follows:
 - 18 a. Materials. This refers to the raw materials which become an
19 ingredient or component part of supplies or industrial tools exempt
20 under subdivisions b. and c. below.
 - 21 b. Supplies. This category includes supplies such as lubricating and
22 compounding oils, grease, machine waste, abrasives, chemicals,
23 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
24 dyes, refrigerants, explosives, etc. The supplies indicated above
25 need not come in direct contact with a manufactured product to be
26 exempt. "Supplies" does not include repair, replacement, or spare
27 parts of any kind.

- 1 c. Industrial tools. This group is limited to hand tools such as jigs,
2 dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc.,
3 and to tools attached to a machine such as molds, grinding balls,
4 grinding wheels, dies, bits, cutting blades, etc. Normally, for
5 industrial tools to be considered directly used in manufacturing,
6 they shall come into direct contact with the product being
7 manufactured; and
- 8 3. Materials and supplies that are not reusable in the same manufacturing
9 process at the completion of a single manufacturing cycle, excluding
10 repair, replacement, or spare parts of any kind. A single manufacturing
11 cycle shall be considered to be the period elapsing from the time the raw
12 materials enter into the manufacturing process until the finished product
13 emerges at the end of the manufacturing process.
- 14 (b) It shall be noted that in none of the three (3) categories is any exemption
15 provided for repair, replacement, or spare parts. Repair, replacement, or spare
16 parts shall not be considered to be materials, supplies, or industrial tools
17 directly used in manufacturing or industrial processing. "Repair, replacement,
18 or spare parts" shall have the same meaning as set forth in KRS 139.010;
- 19 (11) Any water use fee paid or passed through to the Kentucky River Authority by
20 facilities using water from the Kentucky River basin to the Kentucky River
21 Authority in accordance with KRS 151.700 to 151.730 and administrative
22 regulations promulgated by the authority;
- 23 (12) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
24 use, or other consumption outside this state and delivered by the retailer's own
25 vehicle to a location outside this state, or delivered to the United States Postal
26 Service, a common carrier, or a contract carrier for delivery outside this state,
27 regardless of whether the carrier is selected by the purchaser or retailer or an agent

1 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
2 shipping point or purchaser's destination.

3 (a) As used in this subsection:

4 1. "Catalogs" means tangible personal property that is printed to the special
5 order of the purchaser and composed substantially of information
6 regarding goods and services offered for sale; and

7 2. "Newspaper inserts" means printed materials that are placed in or
8 distributed with a newspaper of general circulation.

9 (b) The retailer shall be responsible for establishing that delivery was made to a
10 non-Kentucky location through shipping documents or other credible evidence
11 as determined by the department;

12 (13) Gross receipts from the sale of water used in the raising of equine as a business;

13 (14) Gross receipts from the sale of metal retail fixtures manufactured in this state and
14 purchased for storage, use, or other consumption outside this state and delivered by
15 the retailer's own vehicle to a location outside this state, or delivered to the United
16 States Postal Service, a common carrier, or a contract carrier for delivery outside
17 this state, regardless of whether the carrier is selected by the purchaser or retailer or
18 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
19 retailer's shipping point or the purchaser's destination.

20 (a) As used in this subsection, "metal retail fixtures" means check stands and
21 belted and nonbelted checkout counters, whether made in bulk or pursuant to
22 specific purchaser specifications, that are to be used directly by the purchaser
23 or to be distributed by the purchaser.

24 (b) The retailer shall be responsible for establishing that delivery was made to a
25 non-Kentucky location through shipping documents or other credible evidence
26 as determined by the department;

27 (15) Gross receipts from the sale of unenriched or enriched uranium purchased for

1 ultimate storage, use, or other consumption outside this state and delivered to a
2 common carrier in this state for delivery outside this state, regardless of whether the
3 carrier is selected by the purchaser or retailer, or is an agent or representative of the
4 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
5 purchaser's destination;

6 (16) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
7 means an agreement whereby an amount, whether paid in money, credit, or
8 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
9 the quantity and unit price of tobacco products sold at retail that requires the retailer
10 to reduce the selling price of the product to the purchaser without the use of a
11 manufacturer's or wholesaler's coupon or redemption certificate;

12 (17) Gross receipts from the sale of tangible personal property or digital property
13 returned by a purchaser when the full sales price is refunded either in cash or credit.
14 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
15 required to purchase other tangible personal property or digital property at a price
16 greater than the amount charged for the property that is returned;

17 (18) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
18 Chapter 138;

19 (19) The amount of any tax imposed by the United States upon or with respect to retail
20 sales, whether imposed on the retailer or the consumer, not including any
21 manufacturer's excise or import duty;

22 (20) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
23 is:

24 (a) Sold to a Kentucky resident, registered for use on the public highways, and
25 upon which any applicable tax levied by KRS 138.460 has been paid; or

26 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
27 vehicle in a state that:

- 1 1. Allows residents of Kentucky to purchase motor vehicles without
2 payment of that state's sales tax at the time of sale; or
- 3 2. Allows residents of Kentucky to remove the vehicle from that state
4 within a specific period for subsequent registration and use in Kentucky
5 without payment of that state's sales tax;
- 6 (21) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
7 trailer as defined in KRS 189.010(17);
- 8 (22) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions
9 to county fairs held in Kentucky in any calendar year by a nonprofit county fair
10 board; and
- 11 (23) Gross receipts from the collection of:
- 12 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 13 (b) The charge imposed by KRS 65.7629(3);
- 14 (c) The fee imposed by KRS 65.7634; and
- 15 (d) The service charge imposed by KRS 65.7636.
- 16 ➔Section 2. KRS 139.785 is amended to read as follows:
- 17 (1) The department is authorized and directed to enter into the SSUTA agreement with
18 one (1) or more states to simplify and modernize sales and use tax administration in
19 order to substantially reduce the burden of tax compliance for all sellers and for all
20 types of commerce. To further the SSUTA agreement, the department is authorized
21 to act jointly with other states that are members of the SSUTA agreement to
22 establish standards for certification of a certified service provider and certified
23 automated system and establish performance standards for multistate sellers.
- 24 (2) The department is further authorized to take other actions reasonably required to
25 implement the provisions set forth in KRS 139.780 to 139.795. Other actions
26 authorized by this section include but are not limited to the adoption of rules and
27 regulations and the joint procurement, with other member states, of goods and

1 services to further the cooperative agreement. Notwithstanding the provisions of
2 KRS Chapter 13A, the department may issue educational bulletins to the extent
3 necessary to enhance the understanding of and compliance with terms of the
4 agreement.

5 (3) The commissioner of the department~~{Department of Revenue}~~ or the
6 commissioner's designee, the state budget director or the director's designee, and
7 two (2) legislators are authorized to represent this state before the other states that
8 are signatories to the SSUTA agreement. One (1) member of the Senate shall be
9 appointed by the President of the Senate, and one (1) member of the House of
10 Representatives shall be appointed by the Speaker of the House of Representatives.