

1 AN ACT relating to the natural resources severance and processing tax.

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

3 ➔Section 1. KRS 143A.010 is amended to read as follows:

4 As used in this chapter:

- 5 (1) "Department" means the Department of Revenue;
- 6 (2) "Natural resource" means all forms of minerals including but not limited to rock,
7 stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which
8 are contained in or on the soils or waters of this state. For purposes of this chapter,
9 "natural resource" does not include coal and oil which are taxed under KRS 143.020
10 and 137.120;
- 11 (3) "Severing" or "severed" means the physical removal of the natural resource from the
12 earth or waters of this state by any means; however, "severing" or "severed" shall
13 not include the removal of natural gas from underground storage facilities into which
14 the natural gas has been mechanically injected following its initial removal from the
15 earth;
- 16 (4) (a) "Taxpayer" means and includes any individual, partnership, joint venture,
17 association, corporation, receiver, trustee, guardian, executor, administrator,
18 fiduciary, or representative of any kind engaged in the business of severing
19 and/or processing natural resources in this state for sale or use. In instances
20 where contracts, either oral or written, are entered into whereby persons,
21 organizations or businesses are engaged in the business of severing and/or
22 processing a natural resource but do not obtain title to or do not have an
23 economic interest therein, the party who owns the natural resource or has an
24 economic interest is the taxpayer.
- 25 (b) For purposes of this chapter, a taxpayer possesses an economic interest in a
26 natural resource where the taxpayer has acquired by investment any interest in
27 a natural resource and secures, by any form of legal relationship, income

1 derived from the severance or processing of the natural resource, to which he
2 must look for a return of his capital. A party who has no capital investment in
3 the natural resource or who only receives an arm's length royalty shall not be
4 considered as having an economic interest;

5 (5) "Gross value" is defined as follows:

- 6 (a) For natural resources severed and/or processed and sold during a reporting
7 period, gross value is the amount received or receivable by the taxpayer;
- 8 (b) For natural resources severed and/or processed, but not sold during a reporting
9 period, gross value shall be determined as follows:
- 10 1. If the natural resource is to be sold under the terms of an existing
11 contract, the contract price shall be used in computing gross value; and
- 12 2. If there is no existing contract, the fair market value for that grade and
13 quality of the natural resource shall be used in computing gross value;
- 14 (c) In a transaction involving related parties, gross value shall not be less than the
15 fair market value for natural resources of similar grade and quality;
- 16 (d) In the absence of a sale, gross value shall be the fair market value for natural
17 resources of similar grade and quality;
- 18 (e) If severed natural resources are purchased for the purpose of processing and
19 resale, the gross value is the amount received or receivable during the
20 reporting period reduced by the amount paid or payable to the taxpayer
21 actually severing the natural resource;
- 22 (f) If severed natural resources are purchased for the purpose of processing and
23 consumption, the gross value is the fair market value of processed natural
24 resources of similar grade and quality reduced by the amount paid or payable
25 to the taxpayer actually severing the natural resource;
- 26 (g) In all instances, the gross value shall not be reduced by any taxes including the
27 tax levied in KRS 143A.020, royalties, sales commissions, or any other

1 expense; and

2 (h) In all instances, transportation expense incurred in transporting a natural
3 resource shall not be considered as gross income from the property;

4 (6) (a) "Processing," **for all natural resources,** includes but is not limited to breaking,
5 crushing, cleaning, drying, sizing, or loading or unloading for any purpose.

6 (b) "Processing," **for all natural resources other than limestone,** shall not include
7 the act of unloading or loading for shipment natural resources, **including sand**
8 **and gravel,** that have not been severed, cleaned, broken, crushed, dried, sized,
9 or otherwise treated in Kentucky;

10 (7) "Related parties" means two (2) or more persons, organizations or businesses owned
11 or controlled directly or indirectly by the same interests; and

12 (8) (a) "Transportation expense" means:

13 1. The amount paid by a taxpayer to a third party for transporting natural
14 resources; and

15 2. The expenses incurred by a taxpayer using his own facilities in
16 transporting natural resources from the point of extraction to a
17 processing plant, tipple, or loading dock.

18 (b) "Transportation expense" shall not include:

19 1. The cost of acquisition, improvements, and maintenance of real property;

20 2. The cost of acquisition and operating expenses of mining and nonmining
21 loading or unloading facilities; or

22 3. The cost of acquisition and operating expenses of equipment used to load
23 or unload the natural resource at the point of extraction, processing
24 facility, or mining and nonmining loading facility.

25 ➔Section 2. KRS 143A.035 is amended to read as follows:

26 (1) A credit is hereby allowed against the tax imposed by **KRS 143A.020**~~[this chapter]~~
27 on the gross value of limestone which is severed or processed within this state and

1 sold to a purchaser outside of this state. **This credit shall:**

2 ~~(a)(2)~~ ~~{The credit allowed in subsection (1) of this section shall }~~Be equal to the
3 tax imposed by **KRS 143A.020**~~{this chapter}~~ on the gross value of a similar
4 quantity of severed or processed limestone valued as of the day the sale is
5 made to a purchaser outside of this state;~~{-}~~

6 ~~(b)(3)~~ ~~{The credit allowed in this section shall }~~Extend only to a taxpayer who
7 severs or processes limestone through the rip-rap construction aggregate or
8 agricultural limestone stages, and who sells in interstate commerce not less
9 than sixty percent (60%) of such stone; **and**~~{-}~~

10 ~~(c)~~ ~~{The credit shall }~~Not be allowed to a taxpayer who processes the limestone
11 beyond the agricultural limestone stage.

12 **(2) A credit is hereby allowed against the tax imposed by KRS 143A.020, from**
13 **August 1, 2018, to July 1, 2022, on the gross value of limestone that has been**
14 **severed or processed outside this state and then unloaded in this state, upon**
15 **which a severance tax substantially identical to the tax imposed by KRS 143A.020**
16 **for the privilege of severing or processing limestone has been paid by the**
17 **taxpayer to another state or any political subdivision thereof. This credit shall be**
18 **allowed as follows:**

19 **(a) The credit shall be equal to the amount of tax actually paid by the taxpayer**
20 **to the other state or political subdivision thereof, but shall not exceed the**
21 **liability of the taxpayer for the tax imposed by KRS 143A.020; and**

22 **(b) Proof of payment of the tax shall be submitted as prescribed by the**
23 **department.**

24 **(3) A taxpayer may not claim both of the credits allowed in subsection (1) and in**
25 **subsection (2) of this section in relation to the same limestone.**

26 **(4) In no event shall a taxpayer be eligible to receive a total amount of any credit, or**
27 **any combination of credits, allowed by this section that exceeds the liability of the**

1 taxpayer for the tax imposed by KRS 143A.020.

2 (5) On or before December 1, 2018, and annually thereafter as long as the credits in
 3 subsection (1) and in subsection (2) of this section are permitted, the Department
 4 of Revenue shall report to the Legislative Research Commission:

5 (a) The cumulative amount of tax credits claimed under subsection (1) and
 6 under subsection (2) of this section by taxpayers for each taxable year;

7 (b) The number of taxpayers that claimed the credits under subsection (1) and
 8 under subsection (2) of this section for each taxable year;

9 (c) Based on the mailing address of the return, the total amount of credits
 10 claimed under subsection (1) and under subsection (2) of this section by
 11 county for each taxable year; and

12 (d) 1. In the case of taxpayers other than corporations, based on ranges of
 13 adjusted gross income of no larger than five thousand dollars
 14 (\$5,000), the total amount of credits claimed under subsection (1) and
 15 under subsection (2) of this section for each adjusted gross income
 16 range for each taxable year; or

17 2. In the case of corporations, based on ranges of net income of no
 18 larger than fifty thousand dollars (\$50,000), the total amount of
 19 credits claimed for each net income range for each taxable year.

20 ➔Section 3. KRS 131.190 is amended to read as follows:

21 (1)~~[(a)]~~ No present or former commissioner or employee of the department ~~of~~
 22 ~~Revenue~~, present or former member of a county board of assessment appeals,
 23 present or former property valuation administrator or employee, present or former
 24 secretary or employee of the Finance and Administration Cabinet, former secretary
 25 or employee of the Revenue Cabinet, or any other person, shall intentionally and
 26 without authorization inspect or divulge any information acquired by him of the
 27 affairs of any person, or information regarding the tax schedules, returns, or reports

1 required to be filed with the department or other proper officer, or any information
2 produced by a hearing or investigation, insofar as the information may have to do
3 with the affairs of the person's business.

4 ~~(2)(b)~~ The prohibition established by subsection (1)~~paragraph (a)~~ of this section
5 shall~~subsection does~~ not extend to:

6 ~~(a)(1)~~ Information required in prosecutions for making false reports or returns
7 of property for taxation, or any other infraction of the tax laws;

8 ~~(b)(2)~~ Any matter properly entered upon any assessment record, or in any way
9 made a matter of public record;

10 ~~(c)(3)~~ Furnishing any taxpayer or his properly authorized agent with
11 information respecting his own return;

12 ~~(d)(4)~~ Testimony provided by the commissioner or any employee of the
13 department~~of Revenue~~ in any court, or the introduction as evidence of
14 returns or reports filed with the department, in an action for violation of state
15 or federal tax laws or in any action challenging state or federal tax laws;

16 ~~(e)(5)~~ Providing an owner of unmined coal, oil or gas reserves, and other
17 mineral or energy resources assessed under KRS 132.820~~(1)~~, or owners of
18 surface land under which the unmined minerals lie, factual information about
19 the owner's property derived from third-party returns filed for that owner's
20 property, under the provisions of KRS 132.820~~(2)~~, that is used to determine
21 the owner's assessment. This information shall be provided to the owner on a
22 confidential basis, and the owner shall be subject to the penalties provided in
23 KRS 131.990(2). The third-party filer shall be given prior notice of any
24 disclosure of information to the owner that was provided by the third-party
25 filer;

26 ~~(f)(6)~~ Providing to a third-party purchaser pursuant to an order entered in a
27 foreclosure action filed in a court of competent jurisdiction, factual information

1 related to the owner or lessee of coal, oil, gas reserves, or any other mineral
2 resources assessed under KRS 132.820~~[(4)]~~. The department may promulgate
3 an administrative regulation establishing a fee schedule for the provision of the
4 information described in this ~~paragraph~~~~[subparagraph]~~. Any fee imposed shall
5 not exceed the greater of the actual cost of providing the information or ten
6 dollars (\$10);~~[-or]~~

7 ~~(g)~~~~[7-]~~ Providing information to a licensing agency, the Transportation Cabinet,
8 or the Kentucky Supreme Court under KRS 131.1817;

9 *(h) Statistics of gasoline and special fuels gallonage reported to the department*
10 *under KRS 138.210 to 138.448;*

11 *(i) Statistics of crude oil reported to the department under the crude oil excise*
12 *tax requirements of KRS Chapter 137;*

13 *(j) Statistics of natural gas production reported to the department under the*
14 *natural resources severance tax requirements of KRS Chapter 143A;*

15 *(k) Those portions of mine maps submitted by taxpayers to the department*
16 *pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the*
17 *boundaries of mined-out parcel areas. These electronic maps shall not be*
18 *relied upon to determine actual boundaries of mined-out parcel areas.*
19 *Property boundaries contained in mine maps required under KRS Chapters*
20 *350 and 352 shall not be construed to constitute land surveying or boundary*
21 *surveys defined by KRS 322.010 and any administrative regulations;*

22 *(l) Providing to other state agencies the report, filed with the department by an*
23 *employer, listing the policy number and the name and address of the*
24 *employer's workers' compensation insurance carrier under Section 4 of this*
25 *Act;*

26 *(m) The name and address of a cigarette stamping agent or distributor and the*
27 *number of sticks by brand name that have been purchased from a*

1 nonparticipating manufacturer and have been stamped with Kentucky
 2 stamps by that agent or distributor provided by Section 5 of this Act;

3 (n) A list of taxpayers that owe delinquent taxes or fees administered by the
 4 department provided by Section 6 of this Act;

5 (o) Providing any utility gross receipts license tax return information that is
 6 necessary to administer the provisions of KRS 160.613 to 160.617 to
 7 applicable school districts on a confidential basis;

8 (p) Information made available by the department, for official use only and on
 9 a confidential basis, to the proper officer, agency, board, or commission of
 10 this state, any Kentucky city or county, any other state, or the federal
 11 government, under reciprocal agreements whereby the department shall
 12 receive similar or useful information in return; or

13 (q) Providing information to the Legislative Research Commission under:

14 1. KRS 139.519 for purposes of the sales and use tax refund on building
 15 materials used for disaster recovery;

16 2. KRS 141.436 for purposes of the energy efficiency products credits;

17 3. KRS 141.437 for purposes of the ENERGY STAR home and the
 18 ENERGY STAR manufactured home credits;

19 4. Section 8 of this Act for purposes of the distilled spirits credit; or

20 5. Section 2 of this Act for purposes of the limestone severance and
 21 processing tax credits.

22 ~~(3)[(2) — The commissioner shall make available any information for official use only~~
 23 ~~and on a confidential basis to the proper officer, agency, board or commission of this~~
 24 ~~state, any Kentucky county, any Kentucky city, any other state, or the federal~~
 25 ~~government, under reciprocal agreements whereby the department shall receive~~
 26 ~~similar or useful information in return.~~

27 ~~(3) — Statistics of tax paid gasoline gallonage reported monthly to the department of~~

1 ~~Revenue under the gasoline excise tax law may be made public by the department.~~

2 (4) Access to and inspection of information received from the Internal Revenue Service
3 is for department~~[of Revenue]~~ use only, and is restricted to tax administration
4 purposes.~~[Notwithstanding the provisions of this section to the contrary,]~~
5 Information received from the Internal Revenue Service shall not be made available
6 to any other agency of state government, or any county, city, or other state, and
7 shall not be inspected intentionally and without authorization by any present
8 secretary or employee of the Finance and Administration Cabinet, commissioner or
9 employee of the department~~[of Revenue]~~, or any other person.

10 ~~[(5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
11 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
12 as reported to the Department of Revenue under the natural resources severance tax
13 requirements of KRS Chapter 143A may be made public by the department by
14 release to the Energy and Environment Cabinet, Department for Natural Resources.~~

15 ~~(6) Notwithstanding any provision of law to the contrary, beginning with mine map
16 submissions for the 1989 tax year, the department may make public or divulge only
17 those portions of mine maps submitted by taxpayers to the department pursuant to
18 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
19 out parcel areas. These electronic maps shall not be relied upon to determine actual
20 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
21 required under KRS Chapters 350 and 352 shall not be construed to constitute land
22 surveying or boundary surveys as defined by KRS 322.010 and any administrative
23 regulations promulgated thereto.~~

24 ~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The
25 department may divulge to the applicable school districts on a confidential basis any
26 utility gross receipts license tax return information that is necessary to administer the
27 provisions of KRS 160.613 to 160.617.]~~

1 ➔Section 4. KRS 131.135 is amended to read as follows:

2 ~~{(1)} Each employer subject to KRS Chapter 342 shall file annually with the department{~~
3 ~~of Revenue}, in accordance with administrative regulations, a report providing the policy~~
4 number and the name and address of the employer's workers' compensation insurance
5 carrier.{

6 ~~(2) The report may be made available to other state agencies notwithstanding the~~
7 ~~confidentiality provisions of KRS 131.190.}~~

8 ➔Section 5. KRS 131.618 is amended to read as follows:

9 (1) ~~[Notwithstanding KRS 131.190,]~~The commissioner is authorized to disclose to the
10 Attorney General the name and address of a stamping agent or distributor and the
11 number of sticks by brand name that have been purchased from a nonparticipating
12 manufacturer and have been stamped with Kentucky stamps by that agent or
13 distributor. The Attorney General may share this information with federal, other
14 state, or local agencies only for the purposes of enforcement of KRS 131.600 to
15 131.630 or corresponding laws of other states. The Attorney General is further
16 authorized to disclose to a nonparticipating manufacturer or its importers this
17 information that has been provided by a stamping agent regarding the purchases
18 from that nonparticipating manufacturer or its importers. This information provided
19 by a stamping agent may be used in any enforcement action against the
20 nonparticipating manufacturer or its importers by the Attorney General.

21 (2) In addition to the information required to be submitted pursuant to KRS 131.608,
22 131.614, and 131.620, the Attorney General or the commissioner may require a
23 stamping agent, distributor, participating manufacturer, nonparticipating
24 manufacturer, or a nonparticipating manufacturer's importers to submit any
25 additional information including but not limited to samples of the packaging or
26 labeling of each brand family as is necessary to enable the Attorney General to
27 determine whether the participating manufacturer or the nonparticipating

1 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

2 ➔Section 6. KRS 131.650 is amended to read as follows:

3 (1) ~~[Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to~~
 4 ~~the contrary,]~~The department may publish a list or lists of taxpayers that owe
 5 delinquent taxes or fees administered by the department~~[of Revenue]~~, and that meet
 6 the requirements of KRS 131.652.

7 (2) For purposes of this section, a taxpayer may be included on a list if:

8 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the
 9 dates they became due and payable; and

10 (b) A tax lien or judgment lien has been filed of public record against the taxpayer
 11 before notice is given under KRS 131.654.

12 (3) In the case of listed taxpayers that are business entities, the department~~[of Revenue]~~
 13 may also list the names of responsible persons assessed pursuant to KRS 136.565,
 14 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected
 15 from publication by subsection (2) of this section, and for whom the requirements of
 16 KRS 131.652 are satisfied with regard to the personal assessment.

17 (4) Before any list is published under this section, the department shall document that
 18 each of the conditions for publication as provided in this section has been satisfied,
 19 and that procedures were followed to ensure the accuracy of the list and notice was
 20 given to the affected taxpayers.

21 ➔Section 7. KRS 131.990 (Effective June 29, 2017) is amended to read as
 22 follows:

23 (1) (a) Any person who violates the intentional unauthorized inspection provisions of
 24 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
 25 imprisoned for not more than six (6) months, or both.

26 (b) Any person who violates the provisions of KRS 131.190(1) by divulging
 27 confidential taxpayer information shall be fined not more than one thousand

- 1 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 2 (c) Any person who violates the intentional unauthorized inspection provisions of
3 KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars
4 (\$1,000) or imprisoned for not more than one (1) year, or both.
- 5 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging
6 confidential taxpayer information shall be fined not more than five thousand
7 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- 8 (e) Any present secretary or employee of the Finance and Administration Cabinet,
9 commissioner or employee of the department, member of a county board of
10 assessment appeals, property valuation administrator or employee, or any other
11 person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~(4)~~ may, in
12 addition to the penalties imposed under this subsection, be disqualified and
13 removed from office or employment.
- 14 (2) Any person who willfully fails to comply with the rules and regulations promulgated
15 by the department for the administration of delinquent tax collections shall be fined
16 not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- 17 (3) Any person who fails to do any act required or does any act forbidden by KRS
18 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
19 dollars (\$500).
- 20 (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it
21 is shown to the satisfaction of the department that the failure is due to reasonable
22 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should
23 have been remitted under the provisions of KRS 131.155 for each failure to comply.
- 24 (5) (a) Any person or financial institution that fails to comply with the provisions of
25 KRS 131.672 and 131.674 within ninety (90) days after notification by the
26 department shall, unless the failure is due to reasonable cause as defined in
27 KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no

1 more than five thousand dollars (\$5,000) for each full month of
2 noncompliance. The fine shall begin on the first day of the month beginning
3 after the expiration of the ninety (90) days.

4 (b) Any financial institution that fails or refuses to comply with the provisions of
5 KRS 131.672 and 131.674 within one hundred twenty (120) days after the
6 notification by the department shall, unless the failure is due to reasonable
7 cause as defined in KRS 131.010, forfeit its right to do business within the
8 Commonwealth, unless and until the financial institution is in compliance.
9 Upon notification by the department, the commissioner of the Department of
10 Financial Institutions shall, as applicable, revoke the authority of the financial
11 institution or its agents to do business in the Commonwealth.

12 (6) Any taxpayer or tax return preparer who fails or refuses to comply with the
13 provisions of KRS 131.250 or an administrative regulation promulgated under KRS
14 131.250 shall, unless it is shown to the satisfaction of the department that the failure
15 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each
16 return not filed as required.

17 ➔Section 8. KRS 141.389 is amended to read as follows:

18 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each
19 taxpayer paying the distilled spirits ad valorem tax as follows:

20 1. For taxable years beginning on or after January 1, 2015, and before
21 December 31, 2015, the credit shall be equal to twenty percent (20%) of
22 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
23 timely basis;

24 2. For taxable years beginning on or after January 1, 2016, and before
25 December 31, 2016, the credit shall be equal to forty percent (40%) of
26 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
27 timely basis;

- 1 3. For taxable years beginning on or after January 1, 2017, and before
2 December 31, 2017, the credit shall be equal to sixty percent (60%) of
3 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
4 timely basis;
- 5 4. For taxable years beginning on or after January 1, 2018, and before
6 December 31, 2018, the credit shall be equal to eighty percent (80%) of
7 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
8 timely basis; and
- 9 5. For taxable years beginning on or after January 1, 2019, the credit shall
10 be equal to one hundred percent (100%) of the tax assessed under KRS
11 132.160 and paid under KRS 132.180 on a timely basis.
- 12 (b) The credit shall be applied both to the income tax imposed under KRS 141.020
13 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401,
14 with the ordering of the credits as provided in KRS 141.0205.
- 15 (2) The amount of distilled spirits credit allowed under subsection (1) of this section
16 shall be used only for capital improvements at the premises of the distiller licensed
17 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"
18 means any costs associated with:
- 19 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 20 (b) Purchases of barrels and pallets used for the storage and aging of distilled
21 spirits in maturing warehouses;
- 22 (c) Acquisition, construction, or installation of equipment for the use in the
23 manufacture, bottling, or shipment of distilled spirits;
- 24 (d) Addition or replacement of access roads or parking facilities; and
- 25 (e) Construction, replacement, or remodeling of facilities to market or promote
26 tourism, including but not limited to a visitor's center.
- 27 (3) The distilled spirits credit allowed under subsection (1) of this section:

- 1 (a) May be accumulated for multiple taxable years;
- 2 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
3 which the credits were used pursuant to subsection (2) of this section; and
- 4 (c) Shall not include:
- 5 1. Any delinquent tax paid to the Commonwealth; or
- 6 2. Any interest, fees, or penalty paid to the Commonwealth.
- 7 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
8 improvements required by subsection (2) of this section shall be completed and
9 specifically associated with the credit allowed on the return.
- 10 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
11 improvement associated with the credit is sold or otherwise disposed of prior
12 to the exhaustion of the useful life of the asset for Kentucky depreciation
13 purposes.
- 14 (c) If the allowed credit is associated with multiple capital improvements, and not
15 all capital improvements are sold or otherwise disposed of, the distilled spirits
16 credit shall be prorated based on the cost of the capital improvement sold over
17 the total cost of all improvements associated with the credit.
- 18 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
19 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
20 through to its members, partners, or shareholders in the same proportion as the
21 distributive share of income or loss is passed through.
- 22 (6) The department may promulgate an administrative regulation pursuant to KRS
23 Chapter 13A to implement the allowable credit under this section, require the filing
24 of forms designed by the department, and require specific information for the
25 evaluation of the credit taken by any taxpayer.
- 26 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually
27 thereafter, the department shall report to the Interim Joint Committee on

1 Appropriations and Revenue:

- 2 (a) The name of each taxpayer taking the credit permitted by subsection (1) of this
- 3 section;
- 4 (b) The amount of credit taken by that taxpayer; and
- 5 (c) The type of capital improvement made for which the credit is claimed.

6 ➔Section 9. KRS 131.020 (Effective June 29, 2017) is amended to read as
7 follows:

8 (1) The department~~[of Revenue]~~, headed by a commissioner appointed by the secretary
9 with the approval of the Governor, shall be organized into the following functional
10 units:

11 (a) Office of the Commissioner, which shall consist of:

- 12 1. The Division of Protest Resolution, headed by a division director who
- 13 shall report directly to the commissioner. The division shall administer
- 14 the protest functions for the department from office resolution through
- 15 court action; and
- 16 2. The Division of Taxpayer Ombudsman, headed by a division director
- 17 who shall report to the commissioner. The division shall perform those
- 18 duties set out in KRS 131.083;

19 (b) Office of Tax Policy and Regulation, headed by an executive director who shall
20 report directly to the commissioner. The office shall be responsible for:

- 21 1. Providing oral and written technical advice on Kentucky tax law;
- 22 2. Drafting proposed tax legislation and regulations;
- 23 3. Testifying before legislative committees on tax matters;
- 24 4. Analyzing tax publications;
- 25 5. Providing expert witness testimony in tax litigation cases;
- 26 6. Providing consultation and assistance in protested tax cases; and
- 27 7. Conducting training and education programs;

1 (c) Office of Processing and Enforcement, headed by an executive director who
2 shall report directly to the commissioner. The office shall be responsible for
3 processing documents, depositing funds, collecting debt payments, and
4 coordinating, planning, and implementing a data integrity strategy. The office
5 shall consist of the:

- 6 1. Division of Operations, which shall be responsible for opening all tax
7 returns, preparing the returns for data capture, coordinating the data
8 capture process, depositing receipts, maintaining tax data, and assisting
9 other state agencies with similar operational aspects as negotiated
10 between the department and the other agency;
- 11 2. Division of Collections, which shall be responsible for initiating all
12 collection enforcement activity related to due and owing tax assessments,
13 including protest resolution, and for assisting other state agencies with
14 similar collection aspects as negotiated between the department and the
15 other state agency; and
- 16 3. Division of Registration and Data Integrity, which shall be responsible
17 for registering businesses for tax purposes, ensuring that the data entered
18 into the department's tax systems is accurate and complete, and assisting
19 the taxing areas in proper procedures to ensure the accuracy of the data
20 over time;

21 (d) Office of Property Valuation, headed by an executive director who shall report
22 directly to the commissioner. The office shall consist of the:

- 23 1. Division of Local Support, which shall be responsible for providing
24 supervision, assistance, and training to the property valuation
25 administrators and sheriffs within the Commonwealth;
- 26 2. Division of State Valuation, which shall be responsible for providing
27 assessments of public service companies and motor vehicles, and

1 providing assistance to property valuation administrators and sheriffs
2 with the administration of tangible and omitted property taxes within the
3 Commonwealth; and

4 3. Division of Minerals Taxation and Geographical Information System
5 Services, which shall be responsible for providing geographical
6 information system mapping support, ensuring proper filing of severance
7 tax returns, ensuring consistency of unmined coal assessments, and
8 gathering and providing data to properly assess minerals to the property
9 valuation administrators within the Commonwealth;

10 (e) Office of Sales and Excise Taxes, headed by an executive director who shall
11 report directly to the commissioner. The office shall administer all matters
12 relating to sales and use taxes and miscellaneous excise taxes, including but not
13 limited to technical tax research, compliance, taxpayer assistance, tax-specific
14 training, and publications. The office shall consist of the:

15 1. Division of Sales and Use Tax, which shall administer the sales and use
16 tax; and

17 2. Division of Miscellaneous Taxes, which shall administer various other
18 taxes, including but not limited to alcoholic beverage taxes; cigarette
19 enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise
20 tax; inheritance and estate tax; insurance premiums and insurance
21 surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels
22 taxes;

23 (f) Office of Income Taxation, headed by an executive director who shall report
24 directly to the commissioner. The office shall administer all matters related to
25 income and corporation license taxes, including technical tax research,
26 compliance, taxpayer assistance, tax-specific training, and publications. The
27 office shall consist of the:

- 1 1. Division of Individual Income Tax, which shall administer the following
2 taxes or returns: individual income, fiduciary, and employer withholding;
3 and
4 2. Division of Corporation Tax, which shall administer the corporation
5 income tax, corporation license tax, pass-through entity withholding, and
6 pass-through entity reporting requirements; and
7 (g) Office of Field Operations, headed by an executive director who shall report
8 directly to the commissioner. The office shall manage the regional taxpayer
9 service centers and the field audit program.
- 10 (2) The functions and duties of the department shall include conducting conferences,
11 administering taxpayer protests, and settling tax controversies on a fair and equitable
12 basis, taking into consideration the hazards of litigation to the Commonwealth of
13 Kentucky and the taxpayer. The mission of the department shall be to afford an
14 opportunity for taxpayers to have an independent informal review of the
15 determinations of the audit functions of the department, and to attempt to fairly and
16 equitably resolve tax controversies at the administrative level.
- 17 (3) The department shall maintain an accounting structure for the one hundred twenty
18 (120) property valuation administrators' offices across the Commonwealth in order
19 to facilitate use of the state payroll system and the budgeting process.
- 20 (4) Except as provided in KRS 131.190(3)~~(4)~~, the department shall fully cooperate
21 with and make tax information available as prescribed under KRS 131.190(2)(p) to
22 the Governor's Office for Economic Analysis as necessary for the office to perform
23 the tax administration function established in KRS 42.410.
- 24 (5) Executive directors and division directors established under this section shall be
25 appointed by the secretary with the approval of the Governor.
- 26 ➔Section 10. This Act takes effect August 1, 2018.