

1 AN ACT relating to the taxation of rental equipment.

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

3 ➔Section 1. KRS 132.010 is amended to read as follows:

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

- 5 (1) "Department" means the Department of Revenue;
- 6 (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- 7 (3) "Real property" includes all lands within this state and improvements thereon;
- 8 (4) "Personal property" includes every species and character of property, tangible and
9 intangible, other than real property;
- 10 (5) "Resident" means any person who has taken up a place of abode within this state
11 with the intention of continuing to abide in this state; any person who has had his or
12 her actual or habitual place of abode in this state for the larger portion of the twelve
13 (12) months next preceding the date as of which an assessment is due to be made
14 shall be deemed to have intended to become a resident of this state;
- 15 (6) "Compensating tax rate" means that rate which, rounded to the next higher one-
16 tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and
17 applied to the current year's assessment of the property subject to taxation by a
18 taxing district, excluding new property and personal property, produces an amount
19 of revenue approximately equal to that produced in the preceding year from real
20 property. However, in no event shall the compensating tax rate be a rate which,
21 when applied to the total current year assessment of all classes of taxable property,
22 produces an amount of revenue less than was produced in the preceding year from
23 all classes of taxable property. For purposes of this subsection, "property subject to
24 taxation" means the total fair cash value of all property subject to full local rates,
25 less the total valuation exempted from taxation by the homestead exemption
26 provision of the Constitution and the difference between the fair cash value and
27 agricultural or horticultural value of agricultural or horticultural land;

- 1 (7) "Net assessment growth" means the difference between:
- 2 (a) The total valuation of property subject to taxation by the county, city, school
3 district, or special district in the preceding year, less the total valuation
4 exempted from taxation by the homestead exemption provision of the
5 Constitution in the current year over that exempted in the preceding year, and
- 6 (b) The total valuation of property subject to taxation by the county, city, school
7 district, or special district for the current year;
- 8 (8) "New property" means the net difference in taxable value between real property
9 additions and deletions to the property tax roll for the current year. "Real property
10 additions" shall mean:
- 11 (a) Property annexed or incorporated by a municipal corporation, or any other
12 taxing jurisdiction; however, this definition shall not apply to property
13 acquired through the merger or consolidation of school districts, or the
14 transfer of property from one (1) school district to another;
- 15 (b) Property, the ownership of which has been transferred from a tax-exempt
16 entity to a nontax-exempt entity;
- 17 (c) The value of improvements to existing nonresidential property;
- 18 (d) The value of new residential improvements to property;
- 19 (e) The value of improvements to existing residential property when the
20 improvement increases the assessed value of the property by fifty percent
21 (50%) or more;
- 22 (f) Property created by the subdivision of unimproved property, provided, that
23 when ~~the~~^{such} property is reclassified from farm to subdivision by the
24 property valuation administrator, the value of ~~the~~^{such} property as a farm
25 shall be a deletion from that category;
- 26 (g) Property exempt from taxation, as an inducement for industrial or business
27 use, at the expiration of its tax exempt status;

1 (h) Property, the tax rate of which will change, according to the provisions of
2 KRS 82.085, to reflect additional urban services to be provided by the taxing
3 jurisdiction, provided, however, that ~~the~~^{such} property shall be considered
4 "real property additions" only in proportion to the additional urban services to
5 be provided to the property over the urban services previously provided; and

6 (i) The value of improvements to real property previously under assessment
7 moratorium.

8 "Real property deletions" shall be limited to the value of real property removed
9 from, or reduced over the preceding year on, the property tax roll for the current
10 year;

11 (9) "Agricultural land" means:

12 (a) Any tract of land, including all income-producing improvements, of at least
13 ten (10) contiguous acres in area used for the production of livestock,
14 livestock products, poultry, poultry products and/or the growing of tobacco
15 and/or other crops including timber;

16 (b) Any tract of land, including all income-producing improvements, of at least
17 five (5) contiguous acres in area commercially used for aquaculture; or

18 (c) Any tract of land devoted to and meeting the requirements and qualifications
19 for payments pursuant to agriculture programs under an agreement with the
20 state or federal government;

21 (10) "Horticultural land" means any tract of land, including all income-producing
22 improvements, of at least five (5) contiguous acres in area commercially used for
23 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
24 flowers, or ornamental plants;

25 (11) "Agricultural or horticultural value" means the use value of "agricultural or
26 horticultural land" based upon income-producing capability and comparable sales of
27 farmland purchased for farm purposes where the price is indicative of farm use

1 value, excluding sales representing purchases for farm expansion, better
2 accessibility, and other factors which inflate the purchase price beyond farm use
3 value, if any, considering the following factors as they affect a taxable unit:

- 4 (a) Relative percentages of tillable land, pasture land, and woodland;
- 5 (b) Degree of productivity of the soil;
- 6 (c) Risk of flooding;
- 7 (d) Improvements to and on the land that relate to the production of income;
- 8 (e) Row crop capability including allotted crops other than tobacco;
- 9 (f) Accessibility to all-weather roads and markets; and
- 10 (g) Factors which affect the general agricultural or horticultural economy, such
11 as: interest, price of farm products, cost of farm materials and supplies, labor,
12 or any economic factor which would affect net farm income;

13 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural
14 value and the tax based on fair cash value;

15 (13) "Homestead" means real property maintained as the permanent residence of the
16 owner with all land and improvements adjoining and contiguous thereto including
17 but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all
18 other land connected thereto;

19 (14) "Residential unit" means all or that part of real property occupied as the permanent
20 residence of the owner;

21 (15) "Special benefits" are those which are provided by public works not financed
22 through the general tax levy but through special assessments against the benefited
23 property;

24 (16) "Mobile home" means a structure, transportable in one (1) or more sections, which
25 when erected on site measures eight (8) body feet or more in width and thirty-two
26 (32) body feet or more in length, and which is built on a permanent chassis and
27 designed to be used as a dwelling, with or without a permanent foundation, when

1 connected to the required utilities, and includes the plumbing, heating, air-
2 conditioning, and electrical systems contained therein. It may be used as a place of
3 residence, business, profession, or trade by the owner, lessee, or their assigns and
4 may consist of one (1) or more units that can be attached or joined together to
5 comprise an integral unit or condominium structure;

6 (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
7 living quarters for recreational, camping, or travel use, which either has its own
8 motive power or is mounted on or drawn by another vehicle. The basic entities are:
9 travel trailer, camping trailer, truck camper, and motor home.

10 (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide
11 temporary living quarters for recreational, camping, or travel use, and of
12 ~~a~~^{such} size or weight that does~~as~~ not~~to~~ require special highway
13 movement permits when drawn by a motorized vehicle, and with a living area
14 of less than two hundred twenty (220) square feet, excluding built-in
15 equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and
16 bath and toilet rooms.

17 (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed
18 with collapsible partial side walls which fold for towing by another vehicle
19 and unfold at the camp site to provide temporary living quarters for
20 recreational, camping, or travel use.

21 (c) Truck camper: A portable unit constructed to provide temporary living
22 quarters for recreational, travel, or camping use, consisting of a roof, floor,
23 and sides, designed to be loaded onto and unloaded from the bed of a pick-up
24 truck.

25 (d) Motor home: A vehicular unit designed to provide temporary living quarters
26 for recreational, camping, or travel use built on or permanently attached to a
27 self-propelled motor vehicle chassis or on a chassis cab or van which is an

1 integral part of the completed vehicle;

2 (18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;

3 (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;

4 (20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and
5 KRS 224.60-115;

6 (21) "Qualifying voluntary environmental remediation property" means real property
7 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the
8 Energy and Environment Cabinet has made a determination that:

9 (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or
10 petroleum products at the property occurred prior to the property owner's
11 acquisition of the property;

12 (b) The property owner has made all appropriate inquiry into previous ownership
13 and uses of the property in accordance with generally accepted practices prior
14 to the acquisition of the property;

15 (c) The property owner or a responsible party has provided all legally required
16 notices with respect to hazardous substances, pollutants, contaminants,
17 petroleum, or petroleum products found at the property;

18 (d) The property owner is in compliance with all land use restrictions and does
19 not impede the effectiveness or integrity of any institutional control;

20 (e) The property owner complied with any information request or administrative
21 subpoena under KRS Chapter 224; and

22 (f) The property owner is not affiliated with any person who is potentially liable
23 for the release of hazardous substances, pollutants, contaminants, petroleum,
24 or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405,
25 or 224.60-135, through:

26 1. Direct or indirect familial relationship;

27 2. Any contractual, corporate, or financial relationship, excluding

1 relationships created by instruments conveying or financing title or by
2 contracts for sale of goods or services; or

3 3. Reorganization of a business entity that was potentially liable;

4 (22) "Intangible personal property" means stocks, mutual funds, money market funds,
5 bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits,
6 patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred
7 compensation, retirement plans, and any other type of personal property that is not
8 tangible personal property;

9 (23) (a) "County" means any county, consolidated local government, urban-county
10 government, unified local government, or charter county government;

11 (b) "Fiscal court" means the legislative body of any county, consolidated local
12 government, urban-county government, unified local government, or charter
13 county government; and

14 (c) "County judge/executive" means the chief executive officer of any county,
15 consolidated local government, urban-county government, unified local
16 government, or charter county government;

17 (24) "Taxing district" means any entity with the authority to levy a local ad valorem tax,
18 including special purpose governmental entities;

19 (25) "Special purpose governmental entity" shall have the same meaning as in KRS
20 65A.010, and as used in this chapter shall include only those special purpose
21 governmental entities with the authority to levy ad valorem taxes, and that are not
22 specifically exempt from the provisions of this chapter by another provision of the
23 Kentucky Revised Statutes;

24 (26) (a) "Broadcast" means the transmission of audio, video, or other signals, through
25 any electronic, radio, light, or similar medium or method now in existence or
26 later devised over the airwaves to the public in general.

27 (b) "Broadcast" shall not apply to operations performed by multichannel video

1 programming service providers as defined in KRS 136.602 or any other
 2 operations that transmit audio, video, or other signals, exclusively to persons
 3 for a fee; ~~and~~

4 (27) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,
 5 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid
 6 species; and

7 (28) "Equipment rental inventory" means:

8 (a) 1. Machinery and equipment held in a retailer's inventory for sale or
 9 rental without an operator and primarily used for construction,
 10 mining, forestry, or industrial purposes, including but not limited to
 11 cranes, earthmoving equipment, and well-drilling machinery and
 12 equipment; and

13 2. Attachments, ancillary equipment, and tools held in a retailer's
 14 inventory for sale or rental and used in conjunction with the
 15 machinery and equipment in subparagraph 1. of this paragraph in
 16 order to perform the function for which it is being rented or sold,
 17 including but not limited to pumps, generators, and pollution-
 18 reducing equipment; and

19 (b) Equipment held in a retailer's inventory for sale or rental and used solely to
 20 set up or host events and banquets, including but not limited to tables,
 21 chairs, tableware, and tents.

22 ➔Section 2. KRS 132.020 is amended to read as follows:

23 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes
 24 at the rate of:

25 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
 26 of value of all real property directed to be assessed for taxation;

27 (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of

1 value of all privately owned leasehold interests in industrial buildings, as
2 defined under KRS 103.200, owned and financed by a tax-exempt
3 governmental unit, or tax-exempt statutory authority under the provisions of
4 KRS Chapter 103, upon the prior approval of the Kentucky Economic
5 Development Finance Authority, except that the rate shall not apply to the
6 proportion of value of the leasehold interest created through any private
7 financing;

8 (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
9 value of all qualifying voluntary environmental remediation property,
10 provided the property owner has corrected the effect of all known releases of
11 hazardous substances, pollutants, contaminants, petroleum, or petroleum
12 products located on the property consistent with a corrective action plan
13 approved by the Energy and Environment Cabinet pursuant to KRS 224.1-
14 400, 224.1-405, or 224.60-135, and provided the cleanup was not financed
15 through a public grant or the petroleum storage tank environmental assurance
16 fund. This rate shall apply for a period of three (3) years following the Energy
17 and Environment Cabinet's issuance of a No Further Action Letter or its
18 equivalent, after which the regular tax rate shall apply;

19 (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
20 value of all tobacco directed to be assessed for taxation;

21 (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
22 value of unmanufactured agricultural products;

23 (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
24 of all farm implements and farm machinery owned by or leased to a person
25 actually engaged in farming and used in his *or her* farm operations;

26 (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
27 of all livestock and domestic fowl;

- 1 (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
2 of all tangible personal property located in a foreign trade zone established
3 pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in
4 accordance with the regulations of the United States Customs Service and the
5 Foreign Trade Zones Board;
- 6 (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all
7 machinery actually engaged in manufacturing;
- 8 (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all
9 commercial radio and television equipment used to receive, capture, produce,
10 edit, enhance, modify, process, store, convey, or transmit audio or video
11 content or electronic signals which are broadcast over the air to an antenna,
12 including radio and television towers used to transmit or facilitate the
13 transmission of the signal broadcast and equipment used to gather or transmit
14 weather information, but excluding telephone and cellular communication
15 towers;
- 16 (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all
17 tangible personal property which has been certified as a pollution control
18 facility as defined in KRS 224.1-300. In the case of tangible personal property
19 certified as a pollution control facility which is incorporated into a landfill
20 facility, the tangible personal property shall be presumed to remain tangible
21 personal property for purposes of this paragraph if the tangible personal
22 property is being used for its intended purposes;
- 23 (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
24 of all property which has been certified as an alcohol production facility as
25 defined in KRS 247.910, or as a fluidized bed energy production facility as
26 defined in KRS 211.390;
- 27 (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of

1 motor vehicles qualifying for permanent registration as historic motor vehicles
2 under the provisions of KRS 186.043;

3 (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
4 held for sale in the regular course of business, which includes:

5 1. Machinery and equipment held in a retailer's inventory for sale or lease
6 originating under a floor plan financing arrangement;

7 2. Motor vehicles:

8 a. Held for sale in the inventory of a licensed motor vehicle dealer,
9 including licensed motor vehicle auction dealers, which are not
10 currently titled and registered in Kentucky and are held on an
11 assignment pursuant to the provisions of KRS 186A.230; or

12 b. That are in the possession of a licensed motor vehicle dealer,
13 including licensed motor vehicle auction dealers, for sale, although
14 ownership has not been transferred to the dealer;

15 3. Raw materials, which includes distilled spirits and distilled spirits
16 inventory; ~~and~~

17 4. In-process materials, which includes distilled spirits and distilled spirits
18 inventory, held for incorporation in finished goods held for sale in the
19 regular course of business; *and*

20 **5. Equipment rental inventory;**

21 (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the
22 operating property of railroads or railway companies that operate solely within
23 the Commonwealth;

24 (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed
25 value on aircraft not used in the business of transporting persons or property
26 for compensation or hire;

27 (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed

1 value on federally documented vessels not used in the business of transporting
2 persons or property for compensation or hire, or for other commercial
3 purposes; and

4 (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all
5 other property directed to be assessed for taxation shall be paid by the owner
6 or person assessed, except as provided in KRS 132.030, 132.200, 136.300,
7 and 136.320, providing a different tax rate for particular property.

8 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
9 shall be reduced to compensate for any increase in the aggregate assessed value of
10 real property to the extent that the increase exceeds the preceding year's assessment
11 by more than four percent (4%), excluding:

12 (a) The assessment of new property as defined in KRS 132.010(8);

13 (b) The assessment from property which is subject to tax increment financing
14 pursuant to KRS Chapter 65; and

15 (c) The assessment from leasehold property which is owned and financed by a
16 tax-exempt governmental unit, or tax-exempt statutory authority under the
17 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
18 one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any
19 year in which the aggregate assessed value of real property is less than the
20 preceding year, the state rate shall be increased to the extent necessary to
21 produce the approximate amount of revenue that was produced in the
22 preceding year from real property.

23 (3) By July 1 each year, the department shall compute the state tax rate applicable to
24 real property for the current year in accordance with the provisions of subsection (2)
25 of this section and certify the rate to the county clerks for their use in preparing the
26 tax bills. If the assessments for all counties have not been certified by July 1, the
27 department shall, when either real property assessments of at least seventy-five

1 percent (75%) of the total number of counties of the Commonwealth have been
2 determined to be acceptable by the department, or when the number of counties
3 having at least seventy-five percent (75%) of the total real property assessment for
4 the previous year have been determined to be acceptable by the department, make
5 an estimate of the real property assessments of the uncertified counties and compute
6 the state tax rate.

7 (4) If the tax rate set by the department as provided in subsection (2) of this section
8 produces more than a four percent (4%) increase in real property tax revenues,
9 excluding:

10 (a) The revenue resulting from new property as defined in KRS 132.010(8);

11 (b) The revenue from property which is subject to tax increment financing
12 pursuant to KRS Chapter 65; and

13 (c) The revenue from leasehold property which is owned and financed by a tax-
14 exempt governmental unit, or tax-exempt statutory authority under the
15 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
16 one-half cents (\$0.015) pursuant to subsection (1) of this section;

17 the rate shall be adjusted in the succeeding year so that the cumulative total of each
18 year's property tax revenue increase shall not exceed four percent (4%) per year.

19 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value
20 of unmined coal certified by the department after July 1, 1994, shall not be included
21 with the assessed value of other real property in determining the state real property
22 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also
23 be excluded from the provisions of subsection (2) of this section. The calculated
24 rate shall, however, be applied to unmined coal property, and the state revenue shall
25 be devoted to the program described in KRS 146.550 to 146.570, except that four
26 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to
27 the State Treasury and credited to the Department for Energy Development and

1 Independence for the purpose of public education of coal-related issues.

2 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) As used in this section:

5 (a) "Equipment rental company" means an entity engaged in a line of business
6 described in Code 532412 or 532310 of the North American Industry
7 Classification System (NAICS) published in 2017;

8 (b) "Rental agreement" means an agreement under which rental equipment is
9 rented:

10 1. For a period of three hundred sixty-five (365) days or less; or

11 2. Under a contract with unlimited terms; and

12 (c) "Equipment rental inventory" has the same meaning as in Section 1 of this
13 Act.

14 (2) (a) An equipment rental company may include in a rental agreement or on a
15 rental invoice a tangible personal property tax recovery fee at a rate of one
16 and one-half percent (1.5%) of the total amount charged by an equipment
17 rental company for equipment rental inventory rented under a rental
18 agreement, exclusive of any taxes, fees, charges for delivery or pick up,
19 damage waiver fees, environmental fees, or other separately stated ancillary
20 fees or charges. The tangible personal property tax recovery fee shall be
21 separately stated in the rental agreement or on the rental invoice.

22 (b) The tangible personal property tax recovery fee shall not apply to the rental
23 of equipment rental inventory directly to:

24 1. The federal government, state government, or any political subdivision
25 thereof; or

26 2. A nonprofit educational, charitable, or religious institution which has
27 qualified for exemption from income taxation under Section 501(c)(3)

1 of the Internal Revenue Code.

2 (3) (a) All tangible personal property tax recovery fees collected by the equipment
3 rental company under this section shall be retained by the equipment rental
4 company in a separate account to pay tangible personal property taxes
5 imposed against the equipment rental company on the equipment rental
6 inventory.

7 (b) On or before the date the tangible personal property taxes are due, the
8 equipment rental company shall remit all tangible personal property tax
9 recovery fees collected under the authority of this section to the sheriff as
10 required by KRS 134.119 and to the tax collector for any city separately
11 imposing and collecting tangible personal property taxes against the
12 equipment rental company. If distributions are made to both the sheriff and
13 the city tax collector, the total amount shall be apportioned based on the
14 proportion of the total tax bill each is owed.

15 (c) If the total tangible personal property tax recovery fees collected under this
16 section exceed the total tangible personal property taxes owed by the
17 equipment rental company, the excess amount shall be distributed by the
18 equipment rental company proportionately among the various taxing
19 jurisdictions imposing tangible personal property taxes against the
20 equipment rental company on the equipment rental inventory.

21 (d) If the amount collected under this section is less than the total amount of
22 tangible personal property taxes owed to all jurisdictions imposing a
23 tangible personal property tax against the equipment rental company, the
24 equipment rental company shall pay the balance from other resources as
25 required by this chapter.

26 ➔Section 4. KRS 139.470 is amended to read as follows:

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

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

1 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
2 retailer is primarily engaged in making the sales and maintains records satisfactory
3 to the department. As used in this subsection, "bulk vending machine" means a
4 vending machine containing unsorted merchandise which, upon insertion of a coin,
5 dispenses the same in approximately equal portions, at random and without
6 selection by the customer;

7 (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
8 other statutory or constitutional agency of the state and gross receipts from sales to
9 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
10 apply only to purchases of tangible personal property, digital property, or services
11 for use solely in the government function. A purchaser not qualifying as a
12 governmental agency or unit shall not be entitled to the exemption even though the
13 purchaser may be the recipient of public funds or grants;

14 (8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
15 residents for use in heating, water heating, cooking, lighting, and other
16 residential uses. As used in this subsection, "fuel" shall include but not be
17 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
18 Determinations of eligibility for the exemption shall be made by the
19 department~~[of Revenue]~~;

20 (b) In making the determinations of eligibility, the department shall exempt from
21 taxation all gross receipts derived from sales:

22 1. Classified as "residential" by a utility company as defined by applicable
23 tariffs filed with and accepted by the Public Service Commission;

24 2. Classified as "residential" by a municipally owned electric distributor
25 which purchases its power at wholesale from the Tennessee Valley
26 Authority;

27 3. Classified as "residential" by the governing body of a municipally owned

1 electric distributor which does not purchase its power from the
2 Tennessee Valley Authority, if the "residential" classification is
3 reasonably consistent with the definitions of "residential" contained in
4 tariff filings accepted and approved by the Public Service Commission
5 with respect to utilities which are subject to Public Service Commission
6 regulation.

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

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

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

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

22 (10) Gross receipts derived from the sale of, and the storage, use, or other consumption
23 in this state of, tangible personal property to be used in the manufacturing or
24 industrial processing of tangible personal property at a plant facility and which will
25 be for sale. The property shall be regarded as having been purchased for resale.
26 "Plant facility" shall have the same meaning as defined in KRS 139.010. For
27 purposes of this subsection, a manufacturer or industrial processor includes an

1 individual or business entity that performs only part of the manufacturing or
2 industrial processing activity and the person or business entity need not take title to
3 tangible personal property that is incorporated into, or becomes the product of, the
4 activity.

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

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

1 industrial tools to be considered directly used in manufacturing,
2 they shall come into direct contact with the product being
3 manufactured; and

4 3. Materials and supplies that are not reusable in the same manufacturing
5 process at the completion of a single manufacturing cycle, excluding
6 repair, replacement, or spare parts of any kind. A single manufacturing
7 cycle shall be considered to be the period elapsing from the time the raw
8 materials enter into the manufacturing process until the finished product
9 emerges at the end of the manufacturing process.

10 (b) It shall be noted that in none of the three (3) categories is any exemption
11 provided for repair, replacement, or spare parts. Repair, replacement, or spare
12 parts shall not be considered to be materials, supplies, or industrial tools
13 directly used in manufacturing or industrial processing. "Repair, replacement,
14 or spare parts" shall have the same meaning as set forth in KRS 139.010;

15 (11) Any water use fee paid or passed through to the Kentucky River Authority by
16 facilities using water from the Kentucky River basin to the Kentucky River
17 Authority in accordance with KRS 151.700 to 151.730 and administrative
18 regulations promulgated by the authority;

19 (12) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
20 use, or other consumption outside this state and delivered by the retailer's own
21 vehicle to a location outside this state, or delivered to the United States Postal
22 Service, a common carrier, or a contract carrier for delivery outside this state,
23 regardless of whether the carrier is selected by the purchaser or retailer or an agent
24 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
25 shipping point or purchaser's destination.

26 (a) As used in this subsection:

27 1. "Catalogs" means tangible personal property that is printed to the special

1 order of the purchaser and composed substantially of information
2 regarding goods and services offered for sale; and

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

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

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

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

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

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

23 (15) Gross receipts from the sale of unenriched or enriched uranium purchased for
24 ultimate storage, use, or other consumption outside this state and delivered to a
25 common carrier in this state for delivery outside this state, regardless of whether the
26 carrier is selected by the purchaser or retailer, or is an agent or representative of the
27 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or

1 purchaser's destination;

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

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

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

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

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

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

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

24 1. Allows residents of Kentucky to purchase motor vehicles without
25 payment of that state's sales tax at the time of sale; or

26 2. Allows residents of Kentucky to remove the vehicle from that state
27 within a specific period for subsequent registration and use in Kentucky

- 1 without payment of that state's sales tax;
- 2 (21) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
- 3 trailer as defined in KRS 189.010(17);
- 4 (22) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions
- 5 to county fairs held in Kentucky in any calendar year by a nonprofit county fair
- 6 board;~~and~~
- 7 (23) Gross receipts from the collection of:
- 8 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 9 (b) The charge imposed by KRS 65.7629(3);
- 10 (c) The fee imposed by KRS 65.7634; and
- 11 (d) The service charge imposed by KRS 65.7636; **and**

12 **(24) (a) As used in this subsection:**

13 **1. "Equipment rental company" has the same meaning as in Section 3**

14 **of this Act; and**

15 **2. "Equipment rental inventory" has the same meaning as in Section 1**

16 **of this Act.**

17 **(b) Gross receipts derived from tangible personal property tax recovery fees**

18 **collected by an equipment rental company on the rental of equipment rental**

19 **inventory in accordance with Section 3 of this Act.**

20 ➔Section 5. This Act shall take effect on January 1, 2019.