

1 AN ACT relating to taxation.

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

3 ➔Section 1. KRS 131.250 is amended to read as follows:

- 4 (1) For the purpose of facilitating the administration of the taxes it administers, the  
5 department may require any tax return, report, or statement to be electronically  
6 filed.
- 7 (2) The following reports, returns, or statements shall be electronically filed:
- 8 (a) The return required by KRS 136.620;
- 9 (b) For tax periods beginning on or after January 1, 2007, the report required by  
10 KRS 138.240;
- 11 (c) For tax periods beginning on or after August 1, 2010, the report required by  
12 KRS 138.260;
- 13 (d) For taxable years beginning on or after January 1, 2010, the return filed by a  
14 specified tax return preparer reporting the annual tax imposed by KRS  
15 141.020, if the specified tax return preparer is required to electronically file  
16 the return for federal income tax purposes;
- 17 (e) The annual withholding statement required by KRS 141.335, if the employer  
18 issues more than twenty-five (25) statements annually;
- 19 (f) For tax periods beginning on or after July 1, 2005, the return required by KRS  
20 160.615; and
- 21 (g) 1. For taxable years beginning on or after January 1, 2019, the returns  
22 required by KRS 141.201(3)~~[141.200(3)]~~ or 141.206(1), provided that  
23 the corporation or pass-through entity has gross receipts of one million  
24 dollars (\$1,000,000) or more.
- 25 2. "Gross receipts" as used in this paragraph means gross receipts reported  
26 by the corporation or pass-through entity on their federal income tax  
27 return filed for the same taxable year as the return due under KRS

1 Chapter 141.

2 (3) (a) A person required to electronically file a return, report, or statement may  
3 apply for a waiver from the requirement by submitting the request on a form  
4 prescribed by the department.

5 (b) The request shall indicate the lack of one (1) or more of the following:

- 6 1. Compatible computer hardware;
- 7 2. Internet access; or
- 8 3. Other technological capabilities determined relevant by the department.

9 ➔Section 2. KRS 132.360 is amended to read as follows:

10 (1) Any assessment of tangible personal property listed with the property valuation  
11 administrator or with the department~~[of Revenue]~~ as provided by KRS 132.220  
12 may be reopened by the department~~[of Revenue]~~ within five (5) years after the due  
13 date of the return, unless the assessed value has been established by a court of  
14 competent jurisdiction. If upon reopening the assessment the department finds that  
15 the assessment was less than the fair cash value and should be increased, it shall  
16 provide~~[give]~~ notice~~[thereof]~~ to the taxpayer. **If the taxpayer disagrees with the**  
17 **increase in the assessment, the taxpayer may protest the notice in accordance**  
18 **with KRS**~~[, who may within forty five (45) days thereafter protest to the department~~  
19 ~~and offer evidence to show that no increase should be made. After the department~~  
20 ~~has disposed of the protest, the taxpayer may appeal from any such additional~~  
21 ~~assessment as provided by KRS 49.220 and] 131.110.~~

22 (2) Upon the~~[such]~~ assessment becoming final, the department shall certify the amount  
23 due to the taxpayer. The tax bill shall be handled and collected as an omitted tax  
24 bill, and the additional tax shall be subject to the same penalties and interest as the  
25 tax on omitted property voluntarily listed.

26 ➔Section 3. KRS 136.990 is amended to read as follows:

27 (1) Any corporation that fails to pay its taxes, penalty, and interest as provided in

- 1 subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty  
2 dollars (\$50) for each day the same remains unpaid, to be recovered by indictment  
3 or civil action, of which the Franklin Circuit Court shall have jurisdiction.
- 4 (2) Any public service corporation, or officer thereof, that willfully fails or refuses to  
5 make reports as required by KRS 136.130 and 136.140 shall be fined one thousand  
6 dollars (\$1,000), and fifty dollars (\$50) for each day the reports are not made after  
7 April 30 of each year.
- 8 (3) Any superintendent of schools or county clerk who fails to report as required by  
9 KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars  
10 (\$50) nor more than one hundred dollars (\$100) for each offense.
- 11 (4) Any company or association that fails or refuses to return the statement or pay the  
12 taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars  
13 (\$1,000) for each offense.
- 14 (5) Any insurance company that fails or refuses for thirty (30) days to return the  
15 statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS  
16 136.330 or 136.340, shall forfeit one hundred dollars (\$100) for each offense. The  
17 commissioner of insurance shall revoke the authority of the company or its agents to  
18 do business in this state, and shall publish the revocation pursuant to KRS Chapter  
19 424.
- 20 (6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than  
21 one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each  
22 offense.
- 23 (7) Where no other penalty is mentioned for failing to do an act required, or for doing  
24 an act forbidden by this chapter, the penalty shall be not less than ten dollars (\$10)  
25 nor more than five hundred dollars (\$500).
- 26 (8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under  
27 subsections (4) to (6) of this section.

1 (9) Any person who violates any of the provisions of KRS 136.073~~[or KRS 136.090]~~  
2 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

3 (10) If the tax imposed by~~[KRS 136.070 or]~~ KRS 136.073, whether assessed by the  
4 department or the taxpayer, or any installment or portion of the tax, is not paid on or  
5 before the date prescribed for its payment, interest shall be collected upon the  
6 nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date  
7 prescribed for its payment until payment is actually made to the department.

8 (11) Any provider who violates the provisions of KRS 136.616(3) shall be subject to a  
9 penalty of twenty-five dollars (\$25) per purchaser offense, not to exceed ten  
10 thousand dollars (\$10,000) per month.

11 ➔Section 4. KRS 139.010 is amended to read as follows:

12 As used in this chapter, unless the context otherwise provides:

13 (1) "Admissions" means the fees paid for:

14 (a) The right of entrance to a display, program, sporting event, music concert,  
15 performance, play, show, movie, exhibit, fair, or other recreational,  
16 entertainment, or amusement event or venue; and

17 (b) The privilege of~~[using facilities or]~~ participating in a recreational,  
18 entertainment, or amusement~~[an]~~ event or activity at a facility or venue,  
19 including but not limited to:

- 20 1. Bowling centers;
- 21 2. Skating rinks;
- 22 3. Health spas;
- 23 4. Swimming pools;
- 24 5. Tennis courts;
- 25 6. Weight training facilities;
- 26 7. Fitness and recreational sports centers; and
- 27 8. Golf courses, both public and private;

1           regardless of whether the fee paid is per use or in any other form, including  
2           but not limited to an initiation fee, monthly fee, membership fee, or  
3           combination thereof;

4       (2) "Advertising and promotional direct mail" means direct mail the primary purpose of  
5           which is to attract public attention to a product, person, business, or organization, or  
6           to attempt to sell, popularize, or secure financial support for a product, person,  
7           business, or organization. As used in this definition, "product" means tangible  
8           personal property, an item transferred electronically, or a service;

9       (3) "Business" includes any activity engaged in by any person or caused to be engaged  
10           in by that person with the object of gain, benefit, or advantage, either direct or  
11           indirect;

12       (4) "Commonwealth" means the Commonwealth of Kentucky;

13       (5) "Department" means the Department of Revenue;

14       (6) (a) "Digital audio-visual works" means a series of related images which, when  
15           shown in succession, impart an impression of motion, with accompanying  
16           sounds, if any.

17           (b) "Digital audio-visual works" includes movies, motion pictures, musical  
18           videos, news and entertainment programs, and live events.

19           (c) "Digital audio-visual works" shall not include video greeting cards, video  
20           games, and electronic games;

21       (7) (a) "Digital audio works" means works that result from the fixation of a series of  
22           musical, spoken, or other sounds.

23           (b) "Digital audio works" includes ringtones, recorded or live songs, music,  
24           readings of books or other written materials, speeches, or other sound  
25           recordings.

26           (c) "Digital audio works" shall not include audio greeting cards sent by electronic  
27           mail;

- 1 (8) (a) "Digital books" means works that are generally recognized in the ordinary and  
2 usual sense as books, including any literary work expressed in words,  
3 numbers, or other verbal or numerical symbols or indicia if the literary work is  
4 generally recognized in the ordinary or usual sense as a book.
- 5 (b) "Digital books" shall not include digital audio-visual works, digital audio  
6 works, periodicals, magazines, newspapers, or other news or information  
7 products, chat rooms, or Web logs;
- 8 (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain  
9 one (1) or more types of digital property. A "digital code" may be obtained by  
10 any means, including electronic mail messaging or by tangible means,  
11 regardless of the code's designation as a song code, video code, or book code.
- 12 (b) "Digital code" shall not include a code that represents:
- 13 1. A stored monetary value that is deducted from a total as it is used by the  
14 purchaser; or
- 15 2. A redeemable card, gift card, or gift certificate that entitles the holder to  
16 select specific types of digital property;
- 17 (10) (a) "Digital property" means any of the following which is transferred  
18 electronically:
- 19 1. Digital audio works;
- 20 2. Digital books;
- 21 3. Finished artwork;
- 22 4. Digital photographs;
- 23 5. Periodicals;
- 24 6. Newspapers;
- 25 7. Magazines;
- 26 8. Video greeting cards;
- 27 9. Audio greeting cards;

1           10. Video games;

2           11. Electronic games; or

3           12. Any digital code related to this property.

4           (b) "Digital property" shall not include digital audio-visual works or satellite  
5           radio programming;

6       (11) (a) "Direct mail" means printed material delivered or distributed by United States  
7           mail or other delivery service to a mass audience or to addressees on a mailing  
8           list provided by the purchaser or at the direction of the purchaser when the  
9           cost of the items are not billed directly to the recipient.

10          (b) "Direct mail" includes tangible personal property supplied directly or  
11           indirectly by the purchaser to the direct mail retailer for inclusion in the  
12           package containing the printed material.

13          (c) "Direct mail" does not include multiple items of printed material delivered to  
14           a single address;

15       (12) "Directly used in the manufacturing or industrial processing process" means the  
16           process within a plant facility that commences with the movement of raw materials  
17           from storage into a continuous, unbroken, integrated process and ends when the  
18           finished product is packaged and ready for sale;

19       (13) (a) "Extended warranty services" means services provided through a service  
20           contract agreement between the contract provider and the purchaser where the  
21           purchaser agrees to pay compensation for the contract and the provider agrees  
22           to repair, replace, support, or maintain tangible personal property or digital  
23           property according to the terms of the contract if:

24           1.{(a)}     The service contract agreement is sold or purchased on or after  
25           July 1, 2018; and

26           2.{(b)}     The tangible personal property or digital property for which the  
27           service contract agreement is provided is subject to tax under this

1 chapter or under KRS 138.460.

2 **(b) "Extended warranty services" does not include the sale of a service contract**  
 3 **agreement for tangible personal property to be used by a small telephone**  
 4 **utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in**  
 5 **KRS 65.7621 to deliver communications services as defined in KRS 136.602**  
 6 **or broadband as defined in KRS 278.5461;**

7 (14) (a) "Finished artwork" means final art that is used for actual reproduction by  
 8 photomechanical or other processes or for display purposes.

9 (b) "Finished artwork" includes:

- 10 1. Assemblies;
- 11 2. Charts;
- 12 3. Designs;
- 13 4. Drawings;
- 14 5. Graphs;
- 15 6. Illustrative materials;
- 16 7. Lettering;
- 17 8. Mechanicals;
- 18 9. Paintings; and
- 19 10. Paste-ups;

20 (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration,  
 21 including cash, credit, property, and services, for which tangible personal  
 22 property, digital property, or services are sold, leased, or rented, valued in  
 23 money, whether received in money or otherwise, without any deduction for  
 24 any of the following:

- 25 1. The retailer's cost of the tangible personal property, ~~or~~ digital property,  
 26 **or services** sold;
- 27 2. The cost of the materials used, labor or service cost, interest, losses, all



- 1 costs of transportation to the retailer, all taxes imposed on the retailer, or  
2 any other expense of the retailer;
- 3 3. Charges by the retailer for any services necessary to complete the sale;
- 4 4. Delivery charges, which are defined as charges by the retailer for the  
5 preparation and delivery to a location designated by the purchaser  
6 including transportation, shipping, postage, handling, crating, and  
7 packing;
- 8 5. Any amount for which credit is given to the purchaser by the retailer,  
9 other than credit for tangible personal property or digital property traded  
10 when the tangible personal property or digital property traded is of like  
11 kind and character to the property purchased and the property traded is  
12 held by the retailer for resale; and
- 13 6. The amount charged for labor or services rendered in installing or  
14 applying the tangible personal property, digital property, or service sold.
- 15 (b) "Gross receipts" and "sales price" shall include consideration received by the  
16 retailer from a third party if:
- 17 1. The retailer actually receives consideration from a third party and the  
18 consideration is directly related to a price reduction or discount on the  
19 sale to the purchaser;
- 20 2. The retailer has an obligation to pass the price reduction or discount  
21 through to the purchaser;
- 22 3. The amount of consideration attributable to the sale is fixed and  
23 determinable by the retailer at the time of the sale of the item to the  
24 purchaser; and
- 25 4. One (1) of the following criteria is met:
- 26 a. The purchaser presents a coupon, certificate, or other  
27 documentation to the retailer to claim a price reduction or discount

1 where the coupon, certificate, or documentation is authorized,  
2 distributed, or granted by a third party with the understanding that  
3 the third party will reimburse any seller to whom the coupon,  
4 certificate, or documentation is presented;

5 b. The price reduction or discount is identified as a third-party price  
6 reduction or discount on the invoice received by the purchaser or  
7 on a coupon, certificate, or other documentation presented by the  
8 purchaser; or

9 c. The purchaser identifies himself or herself to the retailer as a  
10 member of a group or organization entitled to a price reduction or  
11 discount. A "preferred customer" card that is available to any  
12 patron does not constitute membership in such a group.

13 (c) "Gross receipts" and "sales price" shall not include:

14 1. Discounts, including cash, term, or coupons that are not reimbursed by a  
15 third party and that are allowed by a retailer and taken by a purchaser on  
16 a sale;

17 2. Interest, financing, and carrying charges from credit extended on the sale  
18 of tangible personal property, digital property, or services, if the amount  
19 is separately stated on the invoice, bill of sale, or similar document given  
20 to the purchaser; or

21 3. Any taxes legally imposed directly on the purchaser that are separately  
22 stated on the invoice, bill of sale, or similar document given to the  
23 purchaser.

24 (d) As used in this subsection, "third party" means a person other than the  
25 purchaser;

26 (16) "In this state" or "in the state" means within the exterior limits of the  
27 Commonwealth and includes all territory within these limits owned by or ceded to

1 the United States of America;

2 (17) "Industrial processing" includes:

3 (a) Refining;

4 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

5 (c) Mining, quarrying, fabricating, and industrial assembling;

6 (d) The processing and packaging of raw materials, in-process materials, and  
7 finished products; and

8 (e) The processing and packaging of farm and dairy products for sale;

9 (18) (a) "Lease or rental" means any transfer of possession or control of tangible  
10 personal property for a fixed or indeterminate term for consideration. A lease  
11 or rental shall include future options to:

12 1. Purchase the property; or

13 2. Extend the terms of the agreement and agreements covering trailers  
14 where the amount of consideration may be increased or decreased by  
15 reference to the amount realized upon sale or disposition of the property  
16 as defined in 26 U.S.C. sec. 7701(h)(1).

17 (b) "Lease or rental" shall not include:

18 1. A transfer of possession or control of property under a security  
19 agreement or deferred payment plan that requires the transfer of title  
20 upon completion of the required payments;

21 2. A transfer of possession or control of property under an agreement that  
22 requires the transfer of title upon completion of the required payments  
23 and payment of an option price that does not exceed the greater of one  
24 hundred dollars (\$100) or one percent (1%) of the total required  
25 payments; or

26 3. Providing tangible personal property and an operator for the tangible  
27 personal property for a fixed or indeterminate period of time. To qualify

1 for this exclusion, the operator must be necessary for the equipment to  
2 perform as designed, and the operator must do more than maintain,  
3 inspect, or setup the tangible personal property.

4 (c) This definition shall apply regardless of the classification of a transaction  
5 under generally accepted accounting principles, the Internal Revenue Code, or  
6 other provisions of federal, state, or local law;

7 (19) (a) "Machinery for new and expanded industry" means machinery:  
8 1. Directly used in the manufacturing or industrial processing process;  
9 2. Which is incorporated for the first time into a plant facility established  
10 in this state; and  
11 3. Which does not replace machinery in the plant facility unless that  
12 machinery purchased to replace existing machinery:  
13 a. Increases the consumption of recycled materials at the plant  
14 facility by not less than ten percent (10%);  
15 b. Performs different functions;  
16 c. Is used to manufacture a different product; or  
17 d. Has a greater productive capacity, as measured in units of  
18 production, than the machinery being replaced.

19 (b) "Machinery for new and expanded industry" does not include repair,  
20 replacement, or spare parts of any kind, regardless of whether the purchase of  
21 repair, replacement, or spare parts is required by the manufacturer or seller as  
22 a condition of sale or as a condition of warranty;

23 (20) "Manufacturing" means any process through which material having little or no  
24 commercial value for its intended use before processing has appreciable commercial  
25 value for its intended use after processing by the machinery;

26 (21) "Marketplace" means any physical or electronic means through which one (1) or  
27 more retailers may advertise and sell tangible personal property, digital property,

1 or services, or lease tangible personal property or digital property, such as a catalog,  
2 Internet Web site, or television or radio broadcast, regardless of whether the  
3 tangible personal property, digital property, or retailer is physically present in this  
4 state;

5 (22) (a) "Marketplace provider~~[facilitator]~~" means a person, including any affiliate of  
6 the person, who facilitates a retail sale by satisfying subparagraphs 1. and  
7 2. of this paragraph as follows:

8 1. The person directly or indirectly:

9 a. Lists, makes available, or advertises tangible personal property,  
10 digital property, or services for sale by a marketplace retailer in a  
11 marketplace owned, operated, or controlled by the person;

12 b. Facilitates the sale of a marketplace retailer's product through a  
13 marketplace by transmitting or otherwise communicating an  
14 offer or acceptance of a retail sale of tangible personal property,  
15 digital property, or services between a marketplace retailer and a  
16 purchaser in a forum including a shop, store, booth, catalog,  
17 Internet site, or similar forum;

18 c. Owns, rents, licenses, makes available, or operates any electronic  
19 or physical infrastructure or any property, process, method,  
20 copyright, trademark, or patent that connects marketplace  
21 retailers to purchasers for the purpose of making retail sales of  
22 tangible personal property, digital property, or services;

23 d. Provides a marketplace for making retail sales of tangible  
24 personal property, digital property, or services, or otherwise  
25 facilitates retail sales of tangible personal property, digital  
26 property, or services, regardless of ownership or control of the  
27 tangible personal property, digital property, or services, that are

- 1                   *the subject of the retail sale;*
- 2           *e. Provides software development or research and development*
- 3                   *activities related to any activity described in this subparagraph, if*
- 4                   *the software development or research and development activities*
- 5                   *are directly related to the physical or electronic marketplace*
- 6                   *provided by a marketplace provider;*
- 7           *f. Provides or offers fulfillment or storage services for a*
- 8                   *marketplace retailer;*
- 9           *g. Sets prices for a marketplace retailer's sale of tangible personal*
- 10                   *property, digital property, or services;*
- 11           *h. Provides or offers customer service to a marketplace retailer or a*
- 12                   *marketplace retailer's customers, or accepts or assists with*
- 13                   *taking orders, returns, or exchanges of tangible personal*
- 14                   *property, digital property, or services sold by a marketplace*
- 15                   *retailer; or*
- 16           *i. Brands or otherwise identifies sales as those of the marketplace*
- 17                   *provider.*
- 18           *2. The person directly or indirectly:*
- 19                   *a. Collects the sales price or purchase price of a retail sale of*
- 20                   *tangible personal property, digital property, or services;*
- 21                   *b. Provides payment processing services for a retail sale of tangible*
- 22                   *personal property, digital property, or services;*
- 23                   *c. Charges, collects, or otherwise receives selling fees, listing fees,*
- 24                   *referral fees, closing fees, fees for inserting or making available*
- 25                   *tangible personal property, digital property, or services on a*
- 26                   *marketplace, or receives other consideration from the facilitation*
- 27                   *of a retail sale of tangible personal property, digital property, or*

1 services, regardless of ownership or control of the tangible  
 2 personal property, digital property, or services that are the  
 3 subject of the retail sale;

4 d. Through terms and conditions, agreements, or arrangements  
 5 with a third party, collects payment in connection with a retail  
 6 sale of tangible personal property, digital property, or services  
 7 from a purchaser and transmits that payment to the marketplace  
 8 retailer, regardless of whether the person collecting and  
 9 transmitting the payment receives compensation or other  
 10 consideration in exchange for the service; or

11 e. Provides a virtual currency that purchasers are allowed or  
 12 required to use to purchase tangible personal property, digital  
 13 property, or services.

14 (b) "Marketplace provider" includes but is not limited to a person who satisfies  
 15 the requirements of this subsection through the ownership, operation, or  
 16 control of a digital distribution service, digital distribution platform, online  
 17 portal, or application store~~[that facilitates the retail sale of tangible personal~~  
 18 ~~property or digital property by listing or advertising the tangible personal~~  
 19 ~~property for sale at retail and either directly or indirectly through agreements~~  
 20 ~~or arrangements with third parties, collects the payment from the purchaser,~~  
 21 ~~and transmits the payment to the person selling the property];~~

22 (23) "Marketplace retailer" means a seller that makes retail sales through any  
 23 marketplace owned, operated, or controlled by a marketplace provider~~[person that~~  
 24 ~~has an agreement with a marketplace facilitator and makes retail sales of tangible~~  
 25 ~~personal property or digital property through a marketplace];~~

26 (24) (a) "Occasional sale" includes:

27 1. A sale of tangible personal property or digital property not held or used

1 by a seller in the course of an activity for which he or she is required to  
2 hold a seller's permit, provided such sale is not one (1) of a series of  
3 sales sufficient in number, scope, and character to constitute an activity  
4 requiring the holding of a seller's permit. In the case of the sale of the  
5 entire, or a substantial portion of the nonretail assets of the seller, the  
6 number of previous sales of similar assets shall be disregarded in  
7 determining whether or not the current sale or sales shall qualify as an  
8 occasional sale; or

9 2. Any transfer of all or substantially all the tangible personal property or  
10 digital property held or used by a person in the course of such an activity  
11 when after such transfer the real or ultimate ownership of such property  
12 is substantially similar to that which existed before such transfer.

13 (b) For the purposes of this subsection, stockholders, bondholders, partners, or  
14 other persons holding an interest in a corporation or other entity are regarded  
15 as having the "real or ultimate ownership" of the tangible personal property or  
16 digital property of such corporation or other entity;

17 (25) (a) "Other direct mail" means any direct mail that is not advertising and  
18 promotional direct mail, regardless of whether advertising and promotional  
19 direct mail is included in the same mailing.

20 (b) "Other direct mail" includes but is not limited to:

21 1. Transactional direct mail that contains personal information specific to  
22 the addressee, including but not limited to invoices, bills, statements of  
23 account, and payroll advices;

24 2. Any legally required mailings, including but not limited to privacy  
25 notices, tax reports, and stockholder reports; and

26 3. Other nonpromotional direct mail delivered to existing or former  
27 shareholders, customers, employees, or agents, including but not limited



1 to newsletters and informational pieces.

2 (c) "Other direct mail" does not include the development of billing information or  
3 the provision of any data processing service that is more than incidental to the  
4 production of printed material;

5 (26) "Person" includes any individual, firm, copartnership, joint venture, association,  
6 social club, fraternal organization, corporation, estate, trust, business trust, receiver,  
7 trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other  
8 group or combination acting as a unit;

9 (27) "Permanent," as the term applies to digital property, means perpetual or for an  
10 indefinite or unspecified length of time;

11 (28) "Plant facility" means a single location that is exclusively dedicated to  
12 manufacturing or industrial processing activities. A location shall be deemed to be  
13 exclusively dedicated to manufacturing or industrial processing activities even if  
14 retail sales are made there, provided that the retail sales are incidental to the  
15 manufacturing or industrial processing activities occurring at the location. The term  
16 "plant facility" shall not include any restaurant, grocery store, shopping center, or  
17 other retail establishment;

18 (29) (a) "Prewritten computer software" means:

19 1. Computer software, including prewritten upgrades, that are not designed  
20 and developed by the author or other creator to the specifications of a  
21 specific purchaser;

22 2. Software designed and developed by the author or other creator to the  
23 specifications of a specific purchaser when it is sold to a person other  
24 than the original purchaser; or

25 3. Any portion of prewritten computer software that is modified or  
26 enhanced in any manner, where the modification or enhancement is  
27 designed and developed to the specifications of a specific purchaser,

1 unless there is a reasonable, separately stated charge on an invoice or  
2 other statement of the price to the purchaser for the modification or  
3 enhancement.

4 (b) When a person modifies or enhances computer software of which the person  
5 is not the author or creator, the person shall be deemed to be the author or  
6 creator only of the modifications or enhancements the person actually made.

7 (c) The combining of two (2) or more prewritten computer software programs or  
8 portions thereof does not cause the combination to be other than prewritten  
9 computer software;

10 (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,  
11 or rental, conditional or otherwise, in any manner or by any means  
12 whatsoever, of:

- 13 1. Tangible personal property;
- 14 2. An extended warranty service;~~[-or]~~
- 15 3. Digital property transferred electronically; **or**

16 **4. Services included in Section 5 of this Act;**

17 for a consideration.

18 (b) "Purchase" includes:

- 19 1. When performed outside this state or when the customer gives a resale  
20 certificate, the producing, fabricating, processing, printing, or imprinting  
21 of tangible personal property for a consideration for consumers who  
22 furnish either directly or indirectly the materials used in the producing,  
23 fabricating, processing, printing, or imprinting;
- 24 2. A transaction whereby the possession of tangible personal property or  
25 digital property is transferred but the seller retains the title as security for  
26 the payment of the price; and
- 27 3. A transfer for a consideration of the title or possession of tangible

1           personal property or digital property which has been produced,  
2           fabricated, or printed to the special order of the customer, or of any  
3           publication;

4 (31) "Recycled materials" means materials which have been recovered or diverted from  
5       the solid waste stream and reused or returned to use in the form of raw materials or  
6       products;

7 (32) "Recycling purposes" means those activities undertaken in which materials that  
8       would otherwise become solid waste are collected, separated, or processed in order  
9       to be reused or returned to use in the form of raw materials or products;

10 ~~(33) "Referrer" means a person that:~~

11       ~~(a) Contracts with a retailer or retailer's representative to advertise or list tangible~~  
12       ~~personal property or digital property for sale or lease;~~

13       ~~(b) Makes referrals by connecting a person to the retailer or the retailer's~~  
14       ~~representative, but not acting as a marketplace facilitator; and~~

15       ~~(c) Received in the prior calendar year or the current calendar year, in the~~  
16       ~~aggregate, at least ten thousand dollars (\$10,000) in consideration from~~  
17       ~~remote retailers, marketplace retailers, or representatives of remote retailers or~~  
18       ~~marketplace retailers for referrals on retail sales to purchasers in this state;~~

19 ~~(34) (a) "Remote retailer" means a retailer with no physical presence in this state[;~~

20       ~~(b) "Remote retailer" does not include a marketplace facilitator or a referrer];~~

21 (34)~~(35)~~ (a) "Repair, replacement, or spare parts" means any tangible personal  
22       property used to maintain, restore, mend, or repair machinery or equipment.

23       (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or  
24       industrial tools;

25 (35)~~(36)~~ (a) "Retailer" means:

26       1. Every person engaged in the business of making retail sales of tangible  
27       personal property, digital property, or furnishing any services ***in a retail***

- 1           sale included in KRS 139.200;
- 2           2. Every person engaged in the business of making sales at auction of
- 3           tangible personal property or digital property owned by the person or
- 4           others for storage, use or other consumption, except as provided in
- 5           paragraph (c) of this subsection;
- 6           3. Every person making more than two (2) retail sales of tangible personal
- 7           property, ~~or~~ digital property, or services included in Section 5 of this
- 8           Act during any twelve (12) month period, including sales made in the
- 9           capacity of assignee for the benefit of creditors, or receiver or trustee in
- 10          bankruptcy;
- 11          4. Any person conducting a race meeting under the provision of KRS
- 12          Chapter 230, with respect to horses which are claimed during the
- 13          meeting.
- 14          (b) When the department determines that it is necessary for the efficient
- 15          administration of this chapter to regard any salesmen, representatives,
- 16          peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
- 17          employers under whom they operate or from whom they obtain the tangible
- 18          personal property, ~~or~~ digital property, or services sold by them, irrespective
- 19          of whether they are making sales on their own behalf or on behalf of the
- 20          dealers, distributors, supervisors or employers, the department may so regard
- 21          them and may regard the dealers, distributors, supervisors or employers as
- 22          retailers for purposes of this chapter.
- 23          (c) 1. Any person making sales at a charitable auction for a qualifying entity
- 24          shall not be a retailer for purposes of the sales made at the charitable
- 25          auction if:
- 26                  a. The qualifying entity, not the person making sales at the auction, is
- 27                  sponsoring the auction;

- 1           b. The purchaser of tangible personal property at the auction directly  
2           pays the qualifying entity sponsoring the auction for the property  
3           and not the person making the sales at the auction; and
- 4           c. The qualifying entity, not the person making sales at the auction, is  
5           responsible for the collection, control, and disbursement of the  
6           auction proceeds.
- 7           2. If the conditions set forth in subparagraph 1. of this paragraph are met,  
8           the qualifying entity sponsoring the auction shall be the retailer for  
9           purposes of the sales made at the charitable auction.
- 10          3. For purposes of this paragraph, "qualifying entity" means a resident:
- 11           a. Church;
- 12           b. School;
- 13           c. Civic club; or
- 14           d. Any other nonprofit charitable, religious, or educational  
15           organization;
- 16          ~~(36)~~~~(37)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,  
17          sublease, or subrent;
- 18          ~~(37)~~~~(38)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a  
19          device and that may be used to alert the customer with respect to a  
20          communication.
- 21          (b) "Ringtones" shall not include ringback tones or other digital files that are not  
22          stored on the purchaser's communications device;
- 23          ~~(38)~~~~(39)~~ (a) "Sale" means:
- 24           1. The furnishing of any services included in KRS 139.200;
- 25           2. Any transfer of title or possession, exchange, barter, lease, or rental,  
26           conditional or otherwise, in any manner or by any means whatsoever, of:
- 27           a. Tangible personal property; or

1           b. Digital property transferred electronically;  
2           for a consideration.

3           (b) "Sale" includes but is not limited to:

- 4           1. The producing, fabricating, processing, printing, or imprinting of  
5           tangible personal property or digital property for a consideration for  
6           purchasers who furnish, either directly or indirectly, the materials used  
7           in the producing, fabricating, processing, printing, or imprinting;  
8           2. A transaction whereby the possession of tangible personal property or  
9           digital property is transferred, but the seller retains the title as security  
10          for the payment of the price; and  
11          3. A transfer for a consideration of the title or possession of tangible  
12          personal property or digital property which has been produced,  
13          fabricated, or printed to the special order of the purchaser.

14          (c) This definition shall apply regardless of the classification of a transaction  
15          under generally accepted accounting principles, the Internal Revenue Code, or  
16          other provisions of federal, state, or local law;

17        ~~(39)~~~~(40)~~ "Seller" includes every person engaged in the business of selling tangible  
18        personal property, digital property, or services of a kind, the gross receipts from the  
19        retail sale of which are required to be included in the measure of the sales tax, and  
20        every person engaged in making sales for resale;

21        ~~(40)~~~~(41)~~ (a) "Storage" includes any keeping or retention in this state for any purpose  
22        except sale in the regular course of business or subsequent use solely outside  
23        this state of tangible personal property or digital property purchased from a  
24        retailer.

25        (b) "Storage" does not include the keeping, retaining, or exercising any right or  
26        power over tangible personal property for the purpose of subsequently  
27        transporting it outside the state for use thereafter solely outside the state, or for

1 the purpose of being processed, fabricated, or manufactured into, attached to,  
2 or incorporated into, other tangible personal property to be transported outside  
3 the state and thereafter used solely outside the state;

4 ~~(41)~~~~(42)~~ "Tangible personal property" means personal property which may be seen,  
5 weighed, measured, felt, or touched, or which is in any other manner perceptible to  
6 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,  
7 and prewritten computer software;

8 ~~(42)~~~~(43)~~ "Taxpayer" means any person liable for tax under this chapter;

9 ~~(43)~~~~(44)~~ "Transferred electronically" means accessed or obtained by the purchaser by  
10 means other than tangible storage media; and

11 ~~(44)~~~~(45)~~ (a) "Use" includes the exercise of:

- 12 1. Any right or power over tangible personal property or digital property  
13 incident to the ownership of that property, or by any transaction in which  
14 possession is given, or by any transaction involving digital property  
15 where the right of access is granted; or
- 16 2. Any right or power to benefit from extended warranty services.

17 (b) "Use" does not include the keeping, retaining, or exercising any right or power  
18 over tangible personal property or digital property for the purpose of:

- 19 1. Selling tangible personal property or digital property in the regular  
20 course of business; or
- 21 2. Subsequently transporting tangible personal property outside the state  
22 for use thereafter solely outside the state, or for the purpose of being  
23 processed, fabricated, or manufactured into, attached to, or incorporated  
24 into, other tangible personal property to be transported outside the state  
25 and thereafter used solely outside the state.

26 ➔Section 5. KRS 139.200 is amended to read as follows:

27 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross

1 receipts derived from:

2 (1) Retail sales of:

3 (a) Tangible personal property, regardless of the method of delivery, made within  
4 this Commonwealth; and

5 (b) Digital property regardless of whether:

6 1. The purchaser has the right to permanently use the property;

7 2. The purchaser's right to access or retain the property is not permanent; or

8 3. The purchaser's right of use is conditioned upon continued payment; and

9 (2) The furnishing of the following:

10 (a) The rental of any room or rooms, lodgings, campsites, or accommodations  
11 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,  
12 recreational vehicle parks, or any other place in which rooms, lodgings,  
13 campsites, or accommodations are regularly furnished to transients for a  
14 consideration. The tax shall not apply to rooms, lodgings, campsites, or  
15 accommodations supplied for a continuous period of thirty (30) days or more  
16 to a person;

17 (b) Sewer services;

18 (c) The sale of admissions, except:

19 1. Admissions to racetracks taxed under KRS 138.480;

20 2. Admissions to historical sites exempt under KRS 139.482;~~and~~

21 3. A portion of the admissions to county fairs exempt under KRS 139.470;

22 **4. Admissions taxed under KRS 229.031;**

23 **5. Admissions charged by nonprofit educational, charitable, or religious**  
24 **institutions exempt under Section 13 of this Act; and**

25 **6. Admissions charged by nonprofit civic, governmental, or other**  
26 **nonprofit organizations exempt under Section 14 of this Act;**

27 (d) Prepaid calling service and prepaid wireless calling service;



- 1 (e) Intrastate, interstate, and international communications services as defined in  
2 KRS 139.195, except the furnishing of pay telephone service as defined in  
3 KRS 139.195;
- 4 (f) Distribution, transmission, or transportation services for natural gas that is for  
5 storage, use, or other consumption in this state, excluding those services  
6 furnished:
- 7 1. For natural gas that is classified as residential use as provided in KRS  
8 139.470(7); or
- 9 2. To a seller or reseller of natural gas;
- 10 (g) Landscaping services, including but not limited to:
- 11 1. Lawn care and maintenance services;
- 12 2. Tree trimming, pruning, or removal services;
- 13 3. Landscape design and installation services;
- 14 4. Landscape care and maintenance services; and
- 15 5. Snow plowing or removal services;
- 16 (h) Janitorial services, including but not limited to residential and commercial  
17 cleaning services, and carpet, upholstery, and window cleaning services;
- 18 (i) Small animal veterinary services, excluding veterinary services for equine,  
19 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and  
20 cervids;
- 21 (j) Pet care services, including but not limited to grooming and boarding services,  
22 pet sitting services, and pet obedience training services;
- 23 (k) Industrial laundry services, including but not limited to industrial uniform  
24 supply services, protective apparel supply services, and industrial mat and rug  
25 supply services;
- 26 (l) Non-coin-operated laundry and dry cleaning services;
- 27 (m) Linen supply services, including but not limited to table and bed linen supply

- 1 services and nonindustrial uniform supply services;
- 2 (n) Indoor skin tanning services, including but not limited to tanning booth or
- 3 tanning bed services and spray tanning services;
- 4 (o) Non-medical diet and weight reducing services;
- 5 (p) Limousine services, if a driver is provided; and
- 6 (q) Extended warranty services.

7 ➔Section 6. KRS 139.260 is amended to read as follows:

8 For the purpose of the proper administration of this chapter and to prevent evasion of the

9 duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that

10 all gross receipts and all tangible personal property, digital property, and services sold by

11 any person for delivery or access in this state are subject to the tax until the contrary is

12 established. The burden of proving the contrary is upon the person who makes the sale of:

- 13 (1) Tangible personal property or digital property unless the person takes from the
- 14 purchaser a certificate to the effect that the property is either:
- 15 (a) Purchased for resale according to the provisions of KRS 139.270;
- 16 (b) Purchased through a fully completed certificate of exemption or fully
- 17 completed Streamlined Sales and Use Tax Agreement Certificate of
- 18 Exemption in accordance with KRS 139.270; or
- 19 (c) Purchased according to administrative regulations promulgated by the
- 20 department governing a direct pay authorization;~~and~~

21 (2) A service **included in paragraphs (a) to (f) in subsection (2) of Section 5 of this**

22 **Act** unless the person takes from the purchaser a certificate to the effect that the

23 service is purchased through a fully completed certificate of exemption or fully

24 completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in

25 accordance with KRS 139.270; **and**

26 **(3) A service included in paragraphs (g) to (q) in subsection (2) of Section 5 of this**

27 **Act unless the person takes from the purchaser a certificate to the effect that the**

1 property is:

2 (a) Purchased for resale according to Section 7 of this Act;

3 (b) Purchased through a fully completed certificate of exemption or fully  
 4 completed Streamlined Sales and Use Tax Agreement Certificate of  
 5 Exemption in accordance with Section 7 of this Act; or

6 (c) Purchased according to administrative regulations promulgated by the  
 7 department governing a direct pay authorization.

8 ➔Section 7. KRS 139.270 is amended to read as follows:

9 (1) The resale certificate, certificate of exemption, or Streamlined Sales and Use Tax  
 10 Agreement Certificate of Exemption relieves the retailer or seller from the burden  
 11 of proof if the retailer or seller:

12 (a) Within ninety (90) days after the date of sale:

- 13 1. Obtains a fully completed resale certificate, certificate of exemption, or  
 14 Streamlined Sales and Use Tax Agreement Certificate of Exemption; or  
 15 2. Captures the relevant data elements that correspond to the information  
 16 that the purchaser would otherwise provide to the retailer or seller on the  
 17 Streamlined Sales and Use Tax Agreement Certificate of Exemption;  
 18 and

19 (b) Maintains a file of the certificate obtained or relevant data elements captured  
 20 in accordance with KRS 139.720.

21 (2) The relief from liability provided to the retailer or the seller in this section does not  
 22 apply to a retailer or seller who:

23 (a) Fraudulently fails to collect the tax;

24 (b) Solicits purchasers to participate in the unlawful claiming of an exemption; or

25 (c) Accepts an exemption certificate when the purchaser claims an entity-based  
 26 exemption when:

27 1. The product sought to be covered by the exemption certificate is actually

1 received by the purchaser at a location operated by the retailer or seller;  
2 and

3 2. The state in which that location resides provides an exemption  
4 certificate that clearly and affirmatively indicates that the claimed  
5 exemption is not available in that state.

6 For purposes of this paragraph, "entity-based exemption" means an exemption  
7 based on who purchases the product or who sells the product. An exemption  
8 available to all individuals shall not be considered an entity-based exemption.

9 (3) (a) If the department requests that the seller or retailer substantiate that the sale  
10 was a sale for resale or an exempt sale and the retailer or seller has not  
11 complied with subsection (1) of this section, the seller or retailer shall be  
12 relieved of any liability for the tax on the transaction if the seller or retailer,  
13 within one hundred twenty (120) days of the department's request:

14 1. Obtains a fully completed resale certificate, exemption certificate, or  
15 Streamlined Sales and Use Tax Agreement Certificate of Exemption  
16 from the purchaser for an exemption that:

17 a. Was available under this chapter on the date the transaction  
18 occurred;

19 b. Could be applicable to the item being purchased; and

20 c. Is reasonable for the purchaser's type of business; or

21 2. Obtains other information establishing that the transaction was not  
22 subject to the tax.

23 (b) Notwithstanding paragraph (a) of this subsection, if the department discovers  
24 through the audit process that the seller or retailer had knowledge or had  
25 reason to know at the time the information was provided that the information  
26 relating to the exemption claimed was materially false, or the seller or retailer  
27 otherwise knowingly participated in activity intended to purposefully evade

1 the tax that is properly due on the transaction, the seller or retailer shall not be  
 2 relieved of the tax on the transaction. The department shall bear the burden of  
 3 proof that the seller or retailer had knowledge or had reason to know at the  
 4 time the information was provided that the information was materially false.

5 (4) Notwithstanding subsections (1) and (3) of this section, the seller or retailer may  
 6 still offer additional documentation that is acceptable by the department that the  
 7 transaction is not subject to tax and to relieve the seller or retailer from the tax  
 8 liability.

9 (5) If the department later finds that the retailer or seller complied with subsections (1),  
 10 (3), and (4) of this section, but that the purchaser used the property or service in a  
 11 manner that would not have qualified for resale status or the purchaser issued a  
 12 certificate of exemption or a Streamlined Sales and Use Tax Agreement Certificate  
 13 of Exemption and used the property or service in some other manner or for some  
 14 other purpose, the department shall hold the purchaser liable for the remittance of  
 15 the tax originally due and may apply penalties provided in KRS 139.990.

16 ➔Section 8. KRS 139.280 is amended to read as follows:

17 (1) The resale certificate shall:

- 18 (a) Be signed by and bear the name and address of the purchaser;
- 19 (b) Indicate the number of the permit issued to the purchaser;
- 20 (c) Indicate the general character of the tangible personal property, ~~or~~ digital  
 21 property, or services sold by the purchaser in the regular course of business.

22 (2) The certificate shall be substantially in a form as the department may prescribe.

23 (3) A signature shall not be required if the purchaser provides the retailer with an  
 24 electronic resale certificate.

25 ➔Section 9. KRS 139.340 is amended to read as follows:

26 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business  
 27 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and

1 give to the purchaser a receipt therefor in the manner and form prescribed by the  
2 department. The taxes collected or required to be collected by the retailer under this  
3 section shall be deemed to be held in trust for and on account of the  
4 Commonwealth.

5 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section  
6 includes any of the following:

7 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,  
8 directly or indirectly, or through a subsidiary or any other related entity,  
9 representative, or agent, by whatever name called, an office, place of  
10 distribution, sales or sample room or place, warehouse or storage place, or  
11 other place of business. Property owned by a person who has contracted with a  
12 printer for printing, which consists of the final printed product, property which  
13 becomes a part of the final printed product, or copy from which the printed  
14 product is produced, and which is located at the premises of the printer, shall  
15 not be deemed to be an office, place of distribution, sales or sample room or  
16 place, warehouse or storage place, or other place of business maintained,  
17 occupied, or used by the person;

18 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor  
19 operating in this state under the authority of the retailer or its subsidiary for  
20 the purpose of selling, delivering, or the taking of orders for any tangible  
21 personal property, digital property, or an extended warranty service. An  
22 unrelated printer with which a person has contracted for printing shall not be  
23 deemed to be a representative, agent, salesman, canvasser, or solicitor for the  
24 person;

25 (c) Any retailer soliciting orders for tangible personal property, digital property,  
26 or an extended warranty service from residents of this state on a continuous,  
27 regular, or systematic basis in which the solicitation of the order, placement of

1 the order by the customer or the payment for the order utilizes the services of  
2 any financial institution, telecommunication system, radio or television  
3 station, cable television service, print media, or other facility or service  
4 located in this state;

5 (d) Any retailer deriving receipts from the lease or rental of tangible personal  
6 property situated in this state;

7 (e) Any retailer soliciting orders for tangible personal property, digital property,  
8 or an extended warranty service from residents of this state on a continuous,  
9 regular, systematic basis if the retailer benefits from an agent or representative  
10 operating in this state under the authority of the retailer to repair or service  
11 tangible personal property or digital property sold by the retailer;

12 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,  
13 either full-time or part-time, if the representative performs any activities that  
14 help establish or maintain a marketplace for the retailer, including receiving or  
15 exchanging returned merchandise; or

16 (g) 1. Any remote retailer selling tangible personal property or digital property  
17 delivered or transferred electronically to a purchaser in this state,  
18 **including retail sales facilitated by a marketplace provider on behalf**  
19 **of the remote retailer,** if:

20 a.~~[1.]~~ The remote retailer sold tangible personal property or digital  
21 property that was delivered or transferred electronically to a  
22 purchaser in this state in two hundred (200) or more separate  
23 transactions in the previous calendar year or the current calendar  
24 year; or

25 b.~~[2.]~~ The remote retailer's gross receipts derived from the sale of  
26 tangible personal property or digital property delivered or  
27 transferred electronically to a purchaser in this state in the previous

1 calendar year or current calendar year exceeds one hundred  
2 thousand dollars (\$100,000).

3 2. Any remote retailer that meets either threshold provided in  
4 subparagraph 1. of this paragraph shall register for a sales and use  
5 tax permit and collect the tax imposed by KRS 139.310 from the  
6 purchaser by the first day of the calendar month that begins no later  
7 than thirty (30) days after either threshold is reached.

8 ➔Section 10. KRS 139.450 is amended to read as follows:

- 9 (1) It shall be presumed that:
- 10 (a) Tangible personal property shipped or brought to this state by the purchaser;  
11 or  
12 (b) Digital property delivered or transferred electronically into this state;  
13 was purchased from a retailer for storage, use, or other consumption in this state.
- 14 (2) (a) A marketplace provider that makes retail sales on its own behalf or  
15 facilitates retail sales of tangible personal property, digital property, or  
16 services that are delivered or transferred electronically to a purchaser in  
17 this state for one (1) or more marketplace retailers that in any sales  
18 combination exceeds one hundred thousand dollars (\$100,000) or reaches  
19 two hundred (200) or more separate transactions in the immediately  
20 preceding calendar year or current calendar year shall be subject to this  
21 section.
- 22 (b) The marketplace provider shall:
- 23 1. Register for a sales and use tax permit number to report and remit the  
24 tax due on the marketplace provider's sales;
- 25 2. Register for a separate sales and use tax permit number to report and  
26 remit the tax due on all of the sales it facilitates for one (1) or more  
27 marketplace retailers; and



1           3. Collect tax imposed under this chapter;  
 2           by the first day of the calendar month that begins no later than thirty (30)  
 3           days after either threshold in paragraph (a) of this subsection is reached.

4           (c) The marketplace provider shall collect Kentucky tax on the entire sales  
 5           price or purchase price paid by a purchaser on each retail sale subject to tax  
 6           under this chapter that is made on its own behalf or that is facilitated by the  
 7           marketplace provider, regardless of whether the seller would have been  
 8           required to collect the tax had the retail sale not been facilitated by the  
 9           marketplace provider.

10          (3) Nothing in this section shall be construed to relieve the marketplace provider of  
 11          liability for collecting but failing to remit the taxes imposed under this chapter.

12          (4) (a) The marketplace provider shall be subject to audit on all sales made on its  
 13          own behalf and on all sales facilitated by the marketplace provider.

14          (b) The marketplace retailer shall be relieved of all liability for the collection  
 15          and remittance of the sales or use tax on sales facilitated by the marketplace  
 16          provider. ~~Except as provided in subsection (8) of this section, every retailer~~

17          ~~that:~~

18                 ~~1. Is making sales of tangible personal property or digital property from a~~  
 19                         ~~place outside this state for storage, use, or other consumption in this~~  
 20                         ~~state; and~~

21                 ~~2. Is not required to collect the use tax under KRS 139.340;~~

22                 ~~— shall notify the purchaser that the purchaser is required to report and pay the~~  
 23                         ~~Kentucky use tax directly to the department on purchases from that retailer~~  
 24                         ~~unless the purchases are otherwise exempt under this chapter.~~

25                 ~~(b) The required use tax notification shall be readily visible and shall be included~~  
 26                         ~~on the retailer's Internet Web site, retail catalog, and invoices provided to the~~  
 27                         ~~purchaser, as provided in subsection (4) of this section.~~

- 1       ~~(c) A retailer shall not advertise, state, display, or imply on the retailer's Internet~~  
2           ~~Web site or retail catalog that there is no Kentucky tax due on the purchases~~  
3           ~~made from the retailer.~~
- 4       ~~(3) The use tax notification required by subsection (2) of this section shall contain the~~  
5           ~~following language:~~
- 6           ~~(a) "The retailer is not required to and does not collect Kentucky sales or use~~  
7           ~~tax.";~~
- 8           ~~(b) "The purchase may be subject to Kentucky use tax unless the purchase is~~  
9           ~~exempt from taxation in Kentucky.";~~
- 10          ~~(c) "The purchase is not exempt merely because it is made over the Internet, by~~  
11          ~~catalog, or by other remote means."; and~~
- 12          ~~(d) "The Commonwealth of Kentucky requires Kentucky purchasers to report all~~  
13          ~~purchases of tangible personal property or digital property that are not taxed~~  
14          ~~by the retailer and pay use tax on those purchases unless exempt under~~  
15          ~~Kentucky law. The tax may be reported and paid on the Kentucky individual~~  
16          ~~income tax return or by filing a consumer use tax return with the Kentucky~~  
17          ~~Department of Revenue. These forms and corresponding instructions may be~~  
18          ~~found on the Kentucky Department of Revenue's Internet Web site.".~~
- 19       ~~(4) Except as provided in subsection (5) of this section, the retailer shall include the~~  
20           ~~exact required use tax notification language provided in subsection (3) of this~~  
21           ~~section on the:~~
- 22           ~~(a) Internet Web site page necessary to facilitate an online sales transaction;~~  
23           ~~(b) Electronic order confirmation or, if an electronic order confirmation is not~~  
24           ~~issued, the required use tax notification shall be included on the purchase~~  
25           ~~order, invoice, bill, receipt, sales slip, order form, or packing statement; and~~
- 26           ~~(c) Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing~~  
27           ~~statement.~~

1 ~~(5) If the retailer provides a prominent reference to a supplemental page in the retailer's~~  
2 ~~catalog or on the retailer's Internet Web site, or provides a prominent electronic~~  
3 ~~linking notice on the retailers' Internet Web site, that states, "See important~~  
4 ~~Kentucky sales and use tax information regarding tax you may owe directly to the~~  
5 ~~Commonwealth of Kentucky," and that supplemental page or electronic link~~  
6 ~~contains the required use tax notification language as provided in subsection (3) of~~  
7 ~~this section, the retailer is relieved from the requirements of subsection (4) of this~~  
8 ~~section.~~

9 ~~(6) If the retailer is required to provide a similar use tax notification for another state in~~  
10 ~~addition to the use tax notification required by this section, the retailer may provide~~  
11 ~~a consolidated notification if the consolidated notification meets the requirements of~~  
12 ~~this section.~~

13 ~~(7) Except for the notification requirement on invoices in subsection (4)(c) of this~~  
14 ~~section, subsections (2) to (8) of this section shall also apply to online auction Web~~  
15 ~~sites. For purposes of this section, "online auction Web site" means a collection of~~  
16 ~~Internet Web pages that allows persons to display tangible personal property or~~  
17 ~~digital property for sale that is purchased through a competitive process where~~  
18 ~~participants place bids with the highest bidder purchasing the item when the bidding~~  
19 ~~period ends.~~

20 ~~(8) Any retailer that made total gross sales of less than one hundred thousand dollars~~  
21 ~~(\$100,000) to Kentucky residents or businesses located in Kentucky, and that~~  
22 ~~reasonably expects that its Kentucky sales in the current calendar year will be less~~  
23 ~~than one hundred thousand dollars (\$100,000), shall be exempt from subsections (2)~~  
24 ~~to (8) of this section}.~~

25 ➔Section 11. KRS 139.470 is amended to read as follows:

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

27 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this

1 state of, tangible personal property or digital property which this state is prohibited  
2 from taxing under the Constitution or laws of the United States, or under the  
3 Constitution of this state;

4 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state  
5 of:

6 (a) Nonreturnable and returnable containers when sold without the contents to  
7 persons who place the contents in the container and sell the contents together  
8 with the container; and

9 (b) Returnable containers when sold with the contents in connection with a retail  
10 sale of the contents or when resold for refilling;

11 As used in this section the term "returnable containers" means containers of a kind  
12 customarily returned by the buyer of the contents for reuse. All other containers are  
13 "nonreturnable containers";

14 (3) Gross receipts from occasional sales of tangible personal property or digital  
15 property and the storage, use, or other consumption in this state of tangible personal  
16 property or digital property, the transfer of which to the purchaser is an occasional  
17 sale;

18 (4) Gross receipts from sales of tangible personal property to a common carrier,  
19 shipped by the retailer via the purchasing carrier under a bill of lading, whether the  
20 freight is paid in advance or the shipment is made freight charges collect, to a point  
21 outside this state and the property is actually transported to the out-of-state  
22 destination for use by the carrier in the conduct of its business as a common carrier;

23 (5) Gross receipts from sales of tangible personal property sold through coin-operated  
24 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the  
25 retailer is primarily engaged in making the sales and maintains records satisfactory  
26 to the department. As used in this subsection, "bulk vending machine" means a  
27 vending machine containing unsorted merchandise which, upon insertion of a coin,

1 dispenses the same in approximately equal portions, at random and without  
2 selection by the customer;

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

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

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

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

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

23 3. Classified as "residential" by the governing body of a municipally owned  
24 electric distributor which does not purchase its power from the  
25 Tennessee Valley Authority, if the "residential" classification is  
26 reasonably consistent with the definitions of "residential" contained in  
27 tariff filings accepted and approved by the Public Service Commission

1 with respect to utilities which are subject to Public Service Commission  
2 regulation.

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

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

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

14 (8) Gross receipts from sales to an out-of-state agency, organization, or institution  
15 exempt from sales and use tax in its state of residence when that agency,  
16 organization, or institution gives proof of its tax-exempt status to the retailer and the  
17 retailer maintains a file of the proof;

18 (9) (a) Gross receipts derived from the sale of, the following tangible personal  
19 property to a manufacturer or industrial processor if the property is to be  
20 directly used in the manufacturing or industrial processing process of tangible  
21 personal property at a plant facility and which will be for sale:

22 1. Materials which enter into and become an ingredient or component part  
23 of the manufactured product;

24 2. Other tangible personal property which is directly used in the  
25 manufacturing or industrial processing process, if the property has a  
26 useful life of less than one (1) year. Specifically these items are  
27 categorized as follows:

- 1           a.    Materials. This refers to the raw materials which become an  
2                    ingredient or component part of supplies or industrial tools exempt  
3                    under subdivisions b. and c. below;
- 4           b.    Supplies. This category includes supplies such as lubricating and  
5                    compounding oils, grease, machine waste, abrasives, chemicals,  
6                    solvents, fluxes, anodes, filtering materials, fire brick, catalysts,  
7                    dyes, refrigerants, and explosives. The supplies indicated above  
8                    need not come in direct contact with a manufactured product to be  
9                    exempt. "Supplies" does not include repair, replacement, or spare  
10                  parts of any kind; and
- 11          c.    Industrial tools. This group is limited to hand tools such as jigs,  
12                    dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns  
13                    and to tools attached to a machine such as molds, grinding balls,  
14                    grinding wheels, dies, bits, and cutting blades. Normally, for  
15                    industrial tools to be considered directly used in the manufacturing  
16                    or industrial processing process, they shall come into direct contact  
17                    with the product being manufactured or processed; and
- 18          3.    Materials and supplies that are not reusable in the same manufacturing  
19                    or industrial processing process at the completion of a single  
20                    manufacturing or processing cycle. A single manufacturing cycle shall  
21                    be considered to be the period elapsing from the time the raw materials  
22                    enter into the manufacturing process until the finished product emerges  
23                    at the end of the manufacturing process.
- 24          (b)   The property described in paragraph (a) of this subsection shall be regarded as  
25                    having been purchased for resale.
- 26          (c)   For purposes of this subsection, a manufacturer or industrial processor  
27                    includes an individual or business entity that performs only part of the

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

4 (d) The exemption provided in this subsection does not include repair,  
5 replacement, or spare parts;

6 (10) Any water use fee paid or passed through to the Kentucky River Authority by  
7 facilities using water from the Kentucky River basin to the Kentucky River  
8 Authority in accordance with KRS 151.700 to 151.730 and administrative  
9 regulations promulgated by the authority;

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

17 (a) As used in this subsection:

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

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

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

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

27 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and



1 purchased for storage, use, or other consumption outside this state and delivered by  
2 the retailer's own vehicle to a location outside this state, or delivered to the United  
3 States Postal Service, a common carrier, or a contract carrier for delivery outside  
4 this state, regardless of whether the carrier is selected by the purchaser or retailer or  
5 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the  
6 retailer's shipping point or the purchaser's destination.

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

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

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

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

26 (16) Gross receipts from the sale of tangible personal property or digital property  
27 returned by a purchaser when the full sales price is refunded either in cash or credit.

- 1 This exclusion shall not apply if the purchaser, in order to obtain the refund, is  
2 required to purchase other tangible personal property or digital property at a price  
3 greater than the amount charged for the property that is returned;
- 4 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS  
5 Chapter 138;
- 6 (18) The amount of any tax imposed by the United States upon or with respect to retail  
7 sales, whether imposed on the retailer or the consumer, not including any  
8 manufacturer's excise or import duty;
- 9 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which  
10 is:
- 11 (a) Sold to a Kentucky resident, registered for use on the public highways, and  
12 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 13 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor  
14 vehicle in a state that:
- 15 1. Allows residents of Kentucky to purchase motor vehicles without  
16 payment of that state's sales tax at the time of sale; or
- 17 2. Allows residents of Kentucky to remove the vehicle from that state  
18 within a specific period for subsequent registration and use in Kentucky  
19 without payment of that state's sales tax;
- 20 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and  
21 trailer as defined in KRS 189.010(17);
- 22 (21) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions  
23 to county fairs held in Kentucky in any calendar year by a nonprofit county fair  
24 board;
- 25 (22) Gross receipts from the collection of:
- 26 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 27 (b) The charge imposed by KRS 65.7629(3);

1 (c) The fee imposed by KRS 65.7634; and

2 (d) The service charge imposed by KRS 65.7636; ~~and~~

3 (23) Gross receipts derived from charges for labor or services to apply, install, repair, or  
4 maintain tangible personal property directly used in manufacturing or industrial  
5 processing process, and that is not otherwise exempt under subsection (9) of this  
6 section or KRS 139.480(10), if the charges for labor or services are separately stated  
7 on the invoice, bill of sale, or similar document given to purchaser;

8 **(24) (a) For persons selling services included in subsection (2)(g) to (q) of Section 5**  
9 **of this Act prior to January 1, 2019, gross receipts derived from the sale of**  
10 **those services if the gross receipts were less than twelve thousand dollars**  
11 **(\$12,000) during calendar year 2018. When gross receipts from these**  
12 **services exceed twelve thousand dollars (\$12,000) in a calendar year:**

13 **1. All gross receipts over twelve thousand dollars (\$12,000) are taxable in**  
14 **that calendar year; and**

15 **2. All gross receipts are subject to tax in subsequent calendar years.**

16 **(b) The exemption provided in this subsection shall not apply to a person also**  
17 **engaged in the business of selling tangible personal property, digital**  
18 **property, or services included in subsection (2)(a) to (f) of Section 5 of this**  
19 **Act; and**

20 **(25) (a) For persons that first begin making sales of services included in subsection**  
21 **(2)(g) to (q) of Section 5 of this Act on or after January 1, 2019, gross**  
22 **receipts derived from the sale of those services if the gross receipts are less**  
23 **than twelve thousand dollars (\$12,000) within the first calendar year of**  
24 **operation. When gross receipts from these services exceed twelve thousand**  
25 **dollars (\$12,000) in a calendar year:**

26 **1. All gross receipts over twelve thousand dollars (\$12,000) are taxable in**  
27 **that calendar year; and**

- 1                    **2. All gross receipts are subject to tax in subsequent calendar years.**  
 2                    **(b) The exemption provided in this subsection shall not apply to a person that is**  
 3                    **also engaged in the business of selling tangible personal property, digital**  
 4                    **property, or services included in subsection (2)(a) to (f) of Section 5 of this**  
 5                    **Act.**

6                    ➔Section 12. KRS 139.480 is amended to read as follows:

- 7                    Any other provision of this chapter to the contrary notwithstanding, the terms "sale at  
 8                    retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not  
 9                    include the sale, use, storage, or other consumption of:
- 10                  (1) Locomotives or rolling stock, including materials for the construction, repair, or  
 11                  modification thereof, or fuel or supplies for the direct operation of locomotives and  
 12                  trains, used or to be used in interstate commerce;
- 13                  (2) Coal for the manufacture of electricity;
- 14                  (3) (a) All energy or energy-producing fuels used in the course of manufacturing,  
 15                  processing, mining, or refining and any related distribution, transmission, and  
 16                  transportation services for this energy that are billed to the user, to the extent  
 17                  that the cost of the energy or energy-producing fuels used, and related  
 18                  distribution, transmission, and transportation services for this energy that are  
 19                  billed to the user exceed three percent (3%) of the cost of production.
- 20                  (b) Cost of production shall be computed on the basis of a plant facility, which  
 21                  shall include all operations within the continuous, unbroken, integrated  
 22                  manufacturing or industrial processing process that ends with a product  
 23                  packaged and ready for sale.
- 24                  (c) **As used in this subsection, "toller" means**~~if~~ a person who ~~independently~~  
 25                  performs a manufacturing or industrial processing ~~production~~ activity for a  
 26                  fee~~, applies for the exemption under this subsection,~~ and does not take  
 27                  ownership of the tangible personal property that is incorporated into, or

1 becomes the product of the manufacturing or industrial processing activity.

2 (d) For periods on or after July 1, 2018, the costs of the tangible personal  
3 property shall be excluded from the toller's cost of production at a plant  
4 facility if the toller:~~[, then all costs of production, including raw material~~  
5 ~~costs, shall be allocated in proportion to all manufacturing or industrial~~  
6 ~~processing operations at the plant facility;]~~

7 1. Maintains an arm's-length transaction through a binding contract  
8 that governs the terms, conditions, and responsibilities with a separate  
9 legal entity, which holds title to the tangible personal property that is  
10 incorporated into, or becomes, the product of the manufacturing or  
11 industrial processing activity;

12 2. Maintains accounting records that show the expenses it incurs to  
13 fulfill the binding contract that include, but are not limited to, energy  
14 or energy-producing fuels, materials, labor, procurement,  
15 depreciation, maintenance, taxes, administration, and office expenses;

16 3. Maintains separate payroll, bank accounts, tax returns, and other  
17 records that demonstrate its independent operations in the  
18 performance of its tolling responsibilities;

19 4. Demonstrates one (1) or more substantial business purposes for the  
20 tolling operation germane to the overall manufacturing, industrial  
21 processing activities, or corporate structure at the plant facility. A  
22 business purpose is a purpose other than the reduction of sales tax  
23 liability for the purchases of energy and energy-producing fuels; and

24 5. Provides information to the department upon request that documents  
25 fulfillment of the requirements in subparagraphs 1. to 4. of this  
26 paragraph and gives an overview of its tolling operations with an  
27 explanation of how the tolling operations relate and connect with all

1                                    *other manufacturing or industrial processing activities occurring at*  
2                                    *the plant facility.*

- 3        (4) Livestock of a kind the products of which ordinarily constitute food for human  
4            consumption, provided the sales are made for breeding or dairy purposes and by or  
5            to a person regularly engaged in the business of farming;
- 6        (5) Poultry for use in breeding or egg production;
- 7        (6) Farm work stock for use in farming operations;
- 8        (7) Seeds, the products of which ordinarily constitute food for human consumption or  
9            are to be sold in the regular course of business, and commercial fertilizer to be  
10           applied on land, the products from which are to be used for food for human  
11           consumption or are to be sold in the regular course of business; provided such sales  
12           are made to farmers who are regularly engaged in the occupation of tilling and  
13           cultivating the soil for the production of crops as a business, or who are regularly  
14           engaged in the occupation of raising and feeding livestock or poultry or producing  
15           milk for sale; and provided further that tangible personal property so sold is to be  
16           used only by those persons designated above who are so purchasing;
- 17        (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be  
18           used in the production of crops as a business, or in the raising and feeding of  
19           livestock or poultry, the products of which ordinarily constitute food for human  
20           consumption;
- 21        (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the  
22           products of which ordinarily constitute food for human consumption;
- 23        (10) Machinery for new and expanded industry;
- 24        (11) Farm machinery. As used in this section, the term "farm machinery":
- 25            (a) Means machinery used exclusively and directly in the occupation of:
- 26                            1. Tilling the soil for the production of crops as a business;
- 27                            2. Raising and feeding livestock or poultry for sale; or

- 1           3.    Producing milk for sale;
- 2           (b) Includes machinery, attachments, and replacements therefor, repair parts, and  
3           replacement parts which are used or manufactured for use on, or in the  
4           operation of farm machinery and which are necessary to the operation of the  
5           machinery, and are customarily so used, including but not limited to combine  
6           header wagons, combine header trailers, or any other implements specifically  
7           designed and used to move or transport a combine head; and
- 8           (c) Does not include:
- 9           1.    Automobiles;
- 10          2.    Trucks;
- 11          3.    Trailers, except combine header trailers; or
- 12          4.    Truck-trailer combinations;
- 13   (12) Tombstones and other memorial grave markers;
- 14   (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,  
15       or handling. The exemption applies to the equipment, machinery, attachments,  
16       repair and replacement parts, and any materials incorporated into the construction,  
17       renovation, or repair of the facilities;
- 18   (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption  
19       shall apply to the equipment, machinery, attachments, repair and replacement parts,  
20       and any materials incorporated into the construction, renovation, or repair of the  
21       facilities. The exemption shall apply but not be limited to vent board equipment,  
22       waterer and feeding systems, brooding systems, ventilation systems, alarm systems,  
23       and curtain systems. In addition, the exemption shall apply whether or not the seller  
24       is under contract to deliver, assemble, and incorporate into real estate the  
25       equipment, machinery, attachments, repair and replacement parts, and any materials  
26       incorporated into the construction, renovation, or repair of the facilities;
- 27   (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively

- 1 and directly to:
- 2 (a) Operate farm machinery as defined in subsection (11) of this section;
- 3 (b) Operate on-farm grain or soybean drying facilities as defined in subsection  
4 (13) of this section;
- 5 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of  
6 this section;
- 7 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 8 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this  
9 section; or
- 10 (f) Operate on-farm dairy facilities;
- 11 (16) Textbooks, including related workbooks and other course materials, purchased for  
12 use in a course of study conducted by an institution which qualifies as a nonprofit  
13 educational institution under KRS 139.495. The term "course materials" means only  
14 those items specifically required of all students for a particular course but shall not  
15 include notebooks, paper, pencils, calculators, tape recorders, or similar student  
16 aids;
- 17 (17) Any property which has been certified as an alcohol production facility as defined in  
18 KRS 247.910;
- 19 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the  
20 direct operation of aircraft in interstate commerce and used exclusively for the  
21 conveyance of property or passengers for hire. Nominal intrastate use shall not  
22 subject the property to the taxes imposed by this chapter;
- 23 (19) Any property which has been certified as a fluidized bed energy production facility  
24 as defined in KRS 211.390;
- 25 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,  
26 modification, or expansion of a blast furnace or any of its components or  
27 appurtenant equipment or structures as part of an approved supplemental



- 1 project, as defined by KRS 154.26-010; and
- 2 2. Materials, supplies, and repair or replacement parts purchased for use in
- 3 the operation and maintenance of a blast furnace and related carbon
- 4 steel-making operations as part of an approved supplemental project, as
- 5 defined by KRS 154.26-010.
- 6 (b) The exemptions provided in this subsection shall be effective for sales made:
- 7 1. On and after July 1, 2018; and
- 8 2. During the term of a supplemental project agreement entered into
- 9 pursuant to KRS 154.26-090;
- 10 (21) Beginning on October 1, 1986, food or food products purchased for human
- 11 consumption with food coupons issued by the United States Department of
- 12 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
- 13 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
- 14 continue participation in the federal food stamp program;
- 15 (22) Machinery or equipment purchased or leased by a business, industry, or
- 16 organization in order to collect, source separate, compress, bale, shred, or otherwise
- 17 handle waste materials if the machinery or equipment is primarily used for recycling
- 18 purposes;
- 19 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
- 20 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
- 21 products, and the following items used in this agricultural pursuit:
- 22 (a) Feed and feed additives;
- 23 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 24 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 25 replacement parts, and any materials incorporated into the construction,
- 26 renovation, or repair of the facilities. The exemption shall apply to incubation
- 27 systems, egg processing equipment, waterer and feeding systems, brooding

1 systems, ventilation systems, alarm systems, and curtain systems. In addition,  
2 the exemption shall apply whether or not the seller is under contract to deliver,  
3 assemble, and incorporate into real estate the equipment, machinery,  
4 attachments, repair and replacement parts, and any materials incorporated into  
5 the construction, renovation, or repair of the facilities;

6 (24) Embryos and semen that are used in the reproduction of livestock, if the products of  
7 these embryos and semen ordinarily constitute food for human consumption, and if  
8 the sale is made to a person engaged in the business of farming;

9 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for  
10 the breeding and production of hides, breeding stock, fiber and wool products, meat,  
11 and llama and alpaca by-products, and the following items used in this pursuit:

12 (a) Feed and feed additives;

13 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;  
14 and

15 (c) On-farm facilities, including equipment, machinery, attachments, repair and  
16 replacement parts, and any materials incorporated into the construction,  
17 renovation, or repair of the facilities. The exemption shall apply to waterer  
18 and feeding systems, ventilation systems, and alarm systems. In addition, the  
19 exemption shall apply whether or not the seller is under contract to deliver,  
20 assemble, and incorporate into real estate the equipment, machinery,  
21 attachments, repair and replacement parts, and any materials incorporated into  
22 the construction, renovation, or repair of the facilities;

23 (26) Baling twine and baling wire for the baling of hay and straw;

24 (27) Water sold to a person regularly engaged in the business of farming and used in the:

25 (a) Production of crops;

26 (b) Production of milk for sale; or

27 (c) Raising and feeding of:

- 1           1.   Livestock or poultry, the products of which ordinarily constitute food for  
2                   human consumption; or
- 3           2.   Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 4 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the  
5           production of hides, breeding stock, meat, and buffalo by-products, and the  
6           following items used in this pursuit:
- 7           (a)   Feed and feed additives;
- 8           (b)   Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 9           (c)   On-farm facilities, including equipment, machinery, attachments, repair and  
10           replacement parts, and any materials incorporated into the construction,  
11           renovation, or repair of the facilities. The exemption shall apply to waterer  
12           and feeding systems, ventilation systems, and alarm systems. In addition, the  
13           exemption shall apply whether or not the seller is under contract to deliver,  
14           assemble, and incorporate into real estate the equipment, machinery,  
15           attachments, repair and replacement parts, and any materials incorporated into  
16           the construction, renovation, or repair of the facilities;
- 17 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the  
18           business of producing products of aquaculture, as defined in KRS 260.960, for sale,  
19           and the following items used in this pursuit:
- 20           (a)   Feed and feed additives;
- 21           (b)   Water;
- 22           (c)   Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 23           and
- 24           (d)   On-farm facilities, including equipment, machinery, attachments, repair and  
25           replacement parts, and any materials incorporated into the construction,  
26           renovation, or repair of the facilities and, any gasoline, special fuels, liquefied  
27           petroleum gas, or natural gas used to operate the facilities. The exemption

1 shall apply, but not be limited to: waterer and feeding systems; ventilation,  
2 aeration, and heating systems; processing and storage systems; production  
3 systems such as ponds, tanks, and raceways; harvest and transport equipment  
4 and systems; and alarm systems. In addition, the exemption shall apply  
5 whether or not the seller is under contract to deliver, assemble, and  
6 incorporate into real estate the equipment, machinery, attachments, repair and  
7 replacement parts, and any materials incorporated into the construction,  
8 renovation, or repair of the facilities;

9 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the  
10 production of hides, breeding stock, meat, and cervid by-products, and the  
11 following items used in this pursuit:

12 (a) Feed and feed additives;

13 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

14 (c) On-site facilities, including equipment, machinery, attachments, repair and  
15 replacement parts, and any materials incorporated into the construction,  
16 renovation, or repair of the facilities. In addition, the exemption shall apply  
17 whether or not the seller is under contract to deliver, assemble, and  
18 incorporate into real estate the equipment, machinery, attachments, repair and  
19 replacement parts, and any materials incorporated into the construction,  
20 renovation, or repair of the facilities;

21 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor  
22 vehicle, including any towed unit, used exclusively in interstate commerce for  
23 the conveyance of property or passengers for hire, provided the motor vehicle  
24 is licensed for use on the highway and its declared gross vehicle weight with  
25 any towed unit is forty-four thousand and one (44,001) pounds or greater.  
26 Nominal intrastate use shall not subject the property to the taxes imposed by  
27 this chapter;

- 1 (b) Repair or replacement parts for the direct operation and maintenance of a  
2 motor vehicle operating under a charter bus certificate issued by the  
3 Transportation Cabinet under KRS Chapter 281, or under similar authority  
4 granted by the United States Department of Transportation; and
- 5 (c) For the purposes of this subsection, "repair or replacement parts" means tires,  
6 brakes, engines, transmissions, drive trains, chassis, body parts, and their  
7 components. "Repair or replacement parts" shall not include fuel, machine  
8 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential  
9 to the operation of the motor vehicle itself, except when sold as part of the  
10 assembled unit, such as cigarette lighters, radios, lighting fixtures not  
11 otherwise required by the manufacturer for operation of the vehicle, or tool or  
12 utility boxes; and

13 (32) Food donated by a retail food establishment or any other entity regulated under KRS  
14 217.127 to a nonprofit organization for distribution to the needy.

15 ➔Section 13. KRS 139.495 is amended to read as follows:

- 16 (1) The taxes imposed by this chapter shall apply to:
- 17 (a) Resident, nonprofit educational, charitable, or religious institutions which  
18 have qualified for exemption from income taxation under Section 501(c)(3) of  
19 the Internal Revenue Code; and
- 20 (b) Any resident, single member limited liability company that is:
- 21 1. Wholly owned and controlled by a resident or nonresident, nonprofit  
22 educational, charitable, or religious institution which has qualified for  
23 exemption from income taxation under Section 501(c)(3) of the Internal  
24 Revenue Code; and
- 25 2. Disregarded as an entity separate from the resident or nonresident,  
26 nonprofit educational, charitable, or religious institution for federal  
27 income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2;

1 as provided in this section.

2 (2) Tax does not apply to:

3 (a) 1. Sales of tangible personal property, digital property, or services to these  
4 institutions or limited liability companies described in subsection (1) of  
5 this section, provided the tangible personal property, digital property, or  
6 service is to be used solely in this state within the educational,  
7 charitable, or religious function; ~~[-]~~

8 2. ~~[(3) Tax does not apply to]~~ Sales of food to students in school  
9 cafeterias or lunchrooms; ~~[-]~~

10 3. ~~[(4) Tax does not apply to]~~ Sales by school bookstores of textbooks,  
11 workbooks, and other course materials; ~~[-]~~

12 4. ~~[(5) Tax does not apply to]~~ Sales by nonprofit, school sponsored clubs  
13 and organizations, provided such sales do not include tickets for athletic  
14 events;

15 5. *Sales of admissions by nonprofit educational, charitable, or religious*  
16 *institutions described in subsection (1) of this section; or*

17 6. a. *Fundraising event sales made by nonprofit educational,*  
18 *charitable, or religious institutions and limited liability*  
19 *companies described in subsection (1) of this section.*

20 b. *For the purposes of this subparagraph, "fundraising event*  
21 *sales" does not include sales related to the operation of a retail*  
22 *business, including but not limited to thrift stores, bookstores,*  
23 *surplus property auctions, recycle and reuse stores, or any*  
24 *ongoing operations in competition with for-profit retailers.*

25 (b) *The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of*  
26 *this subsection shall not apply to sales generated by or arising at a tourism*  
27 *development project approved under KRS 148.851 to 148.860.*

1 ~~(3)~~~~(6)~~ An institution shall be entitled to a refund equal to twenty-five percent (25%)  
2 of the tax collected on its sale of donated goods if the refund is used exclusively as  
3 reimbursement for capital construction costs of additional retail locations in this  
4 state, provided the institution:

- 5 (a) Routinely sells donated items;
- 6 (b) Provides job training and employment to individuals with workplace  
7 disadvantages and disabilities;
- 8 (c) Spends at least seventy-five percent (75%) of its annual revenue on job  
9 training, job placement, or other related community services;
- 10 (d) Submits a refund application to the department within sixty (60) days after the  
11 new retail location opens for business; and
- 12 (e) Provides records of capital construction costs for the new retail location and  
13 any other information the department deems necessary to process the refund.

14 The maximum refund allowed for any location shall not exceed one million dollars  
15 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost  
16 of construction of any new facilities or the purchase and renovation of any existing  
17 facilities, but does not include the cost of real property other than real property  
18 designated as a brownfield site as defined in KRS 65.680(4).

19 ~~(4)~~~~(7)~~ Notwithstanding any other provision of law to the contrary, refunds under  
20 subsection ~~(3)~~~~(6)~~ of this section shall be made directly to the institution. Interest  
21 shall not be allowed or paid on the refund. The department may examine any refund  
22 within four (4) years from the date the refund application is received. Any  
23 overpayment shall be subject to the interest provisions of KRS 131.183 and the  
24 penalty provisions of KRS 131.180.

25 ~~(5)~~~~(8)~~ All other sales made by nonprofit educational, charitable, or religious  
26 institutions or limited liability companies described in subsection (1) of this section  
27 are taxable and the tax may be passed on to the purchaser~~customer~~ as provided in

1 KRS 139.210.

2 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO  
3 READ AS FOLLOWS:

4 (1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except  
5 as described in Section 13 of this Act and KRS 139.497, the taxes imposed  
6 by this chapter do not apply to:

7 1. The sale of admissions; or

8 2. a. Fundraising event sales.

9 b. For the purposes of this paragraph, "fundraising event sales"  
10 does not include sales related to the operation of a retail  
11 business, including but not limited to thrift stores, bookstores,  
12 surplus property auctions, recycle and reuse stores, or any  
13 ongoing operations in competition with for-profit retailers.

14 (b) The exemption provided in subparagraph 1. of paragraph (a) of this  
15 subsection shall not apply to the sale of admissions to a public facility that  
16 qualifies for a sales tax rebate under KRS 139.533.

17 (2) All other sales made by organizations referred to in subsection (1) of this section  
18 are taxable.

19 ➔Section 15. KRS 139.496 is amended to read as follows:

20 (1) ~~[Notwithstanding any other provisions of this chapter,]~~The taxes imposed in this  
21 chapter~~[herein]~~ do not apply to the first one thousand dollars (\$1,000) of sales made  
22 in any calendar year by individuals~~[or nonprofit organizations]~~ not engaged in the  
23 business of selling. This exemption is limited to ~~[the following types of transactions~~  
24 ~~or activities:~~

25 ~~(a)~~ ~~]~~garage or yard sales of household items by an individual or family which are  
26 in no way associated with or related to the operation of a business~~;~~

27 ~~(b)~~ ~~Fundraising event held by nonprofit civic, governmental, or other nonprofit~~



1 ~~organizations, except as set forth in KRS 139.497].~~

2 (2) The exemption does not apply to activities in which all or substantially all the  
3 household goods of a person are offered for sale~~[or where nonprofit organizations~~  
4 ~~conduct regular selling activities in competition with private business].~~

5 ➔Section 16. KRS 139.550 is amended to read as follows:

6 (1) On or before the twentieth day of the month following each calendar month, a  
7 return for the preceding month shall be filed with the department in a form the  
8 department may prescribe.

9 (2) (a) For purposes of the sales tax, a return shall be filed by every retailer or seller.

10 (b) For purposes of the use tax, a return shall be filed by every retailer engaged in  
11 business in the state and by every person purchasing tangible personal  
12 property, digital property, or an extended warranty service, the storage, use or  
13 other consumption of which is subject to the use tax, who has not paid the use  
14 tax due to a retailer required to collect the tax.

15 (c) If a retailer's responsibilities have been assumed by a certified service provider  
16 as defined by KRS 139.795, the certified service provider shall file the return.

17 ***(d) When a remote retailer's product is sold through a marketplace, then the***  
18 ***marketplace provider that facilitated the sale shall file the return and remit***  
19 ***the tax due on those sales.***

20 (3) Returns shall be signed by the person required to file the return or by a duly  
21 authorized agent but need not be verified by oath.

22 (4) Persons not regularly engaged in selling at retail and not having a permanent place  
23 of business, but who are temporarily engaged in selling from trucks, portable  
24 roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall  
25 report and remit the tax on a nonpermit basis, under rules as the department shall  
26 provide for the efficient collection of the sales tax on sales.

27 (5) The return shall show the amount of the taxes for the period covered by the return

1 and other information the department deems necessary for the proper administration  
2 of this chapter.

3 ➔Section 17. KRS 141.010 is amended to read as follows:

4 As used in this chapter, for taxable years beginning on or after January 1, 2018:

5 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means  
6 the amount calculated in KRS 141.019;

7 (2) "Captive real estate investment trust" means a real estate investment trust as defined  
8 in Section 856 of the Internal Revenue Code that meets the following requirements:

9 (a) 1. The shares or other ownership interests of the real estate investment trust  
10 are not regularly traded on an established securities market; or

11 2. The real estate investment trust does not have enough shareholders or  
12 owners to be required to register with the Securities and Exchange  
13 Commission;

14 (b) 1. The maximum amount of stock or other ownership interest that is owned  
15 or constructively owned by a corporation equals or exceeds:

16 a. Twenty-five percent (25%), if the corporation does not occupy  
17 property owned, constructively owned, or controlled by the real  
18 estate investment trust; or

19 b. Ten percent (10%), if the corporation occupies property owned,  
20 constructively owned, or controlled by the real estate investment  
21 trust.

22 The total ownership interest of a corporation shall be determined by  
23 aggregating all interests owned or constructively owned by a  
24 corporation; and

25 2. For the purposes of this paragraph:

26 a. "Corporation" means a corporation taxable under KRS 141.040,  
27 and includes an affiliated group as defined in KRS 141.200, that is

1 required to file a consolidated return pursuant to KRS 141.200;  
2 and

3 b. "Owned or constructively owned" means owning shares or having  
4 an ownership interest in the real estate investment trust, or owning  
5 an interest in an entity that owns shares or has an ownership  
6 interest in the real estate investment trust. Constructive ownership  
7 shall be determined by looking across multiple layers of a  
8 multilayer pass-through structure; and

9 (c) The real estate investment trust is not owned by another real estate investment  
10 trust;

11 (3) "Commissioner" means the commissioner of the department;

12 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal  
13 Revenue Code;

14 (5) "Department" means the Department of Revenue;

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

17 (7) "Doing business in this state" includes but is not limited to:

18 (a) Being organized under the laws of this state;

19 (b) Having a commercial domicile in this state;

20 (c) Owning or leasing property in this state;

21 (d) Having one (1) or more individuals performing services in this state;

22 (e) Maintaining an interest in a pass-through entity doing business in this state;

23 (f) Deriving income from or attributable to sources within this state, including  
24 deriving income directly or indirectly from a trust doing business in this state,  
25 or deriving income directly or indirectly from a single-member limited  
26 liability company that is doing business in this state and is disregarded as an  
27 entity separate from its single member for federal income tax purposes; or

1 (g) Directing activities at Kentucky customers for the purpose of selling them  
2 goods or services.

3 Nothing in this subsection shall be interpreted in a manner that goes beyond the  
4 limitations imposed and protections provided by the United States Constitution or  
5 Pub. L. No. 86-272;

6 (8) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue  
7 Code;

8 (9) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue  
9 Code;

10 (10) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue  
11 Code;

12 (11) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal  
13 Revenue Code;

14 (12) "Gross income":

15 (a) In the case of taxpayers other than corporations, has the same meaning as in  
16 Section 61 of the Internal Revenue Code; and

17 (b) In the case of corporations, means the amount calculated in KRS 141.039;

18 (13) "Individual" means a natural person;

19 (14) "Internal Revenue Code" means:

20 (a) For taxable years beginning on or after January 1, 2018, but before  
21 January 1, 2019, the Internal Revenue Code in effect on December 31, 2017,  
22 including the provisions contained in Pub. L. No. 115-97 apply to the same  
23 taxable year as the provisions apply for federal purposes, exclusive of any  
24 amendments made subsequent to that date, other than amendments that extend  
25 provisions in effect on December 31, 2017, that would otherwise terminate;  
26 and

27 (b) For taxable years beginning on or after January 1, 2019, the Internal

1           Revenue Code in effect on December 31, 2018, exclusive of any  
2           amendments made subsequent to that date, other than amendments that  
3           extend provisions in effect on December 31, 2018, that would otherwise  
4           terminate;

5           (15) "Limited liability pass-through entity" means any pass-through entity that affords  
6           any of its partners, members, shareholders, or owners, through function of the laws  
7           of this state or laws recognized by this state, protection from general liability for  
8           actions of the entity;

9           (16) "Modified gross income" means the greater of:

10           (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any  
11           amendments in effect on December 31 of the taxable year, and adjusted as  
12           follows:

13                 1. Include interest income derived from obligations of sister states and  
14                 political subdivisions thereof; and

15                 2. Include lump-sum pension distributions taxed under the special  
16                 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

17           (b) Adjusted gross income as defined in subsection (1) of this section and  
18           adjusted to include lump-sum pension distributions taxed under the special  
19           transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

20           (17) "Net income":

21                 (a) In the case of taxpayers other than corporations, means the amount calculated  
22                 in KRS 141.019; and

23                 (b) In the case of corporations, means the amount calculated in KRS 141.039;

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

25           (19) "Number of withholding exemptions claimed" means the number of withholding  
26           exemptions claimed in a withholding exemption certificate in effect under KRS  
27           141.325, except that if no such certificate is in effect, the number of withholding

- 1 exemptions claimed shall be considered to be zero;
- 2 (20) "Part-year resident" means any individual that has established or abandoned  
3 Kentucky residency during the calendar year;
- 4 (21) "Pass-through entity" means any partnership, S corporation, limited liability  
5 company, limited liability partnership, limited partnership, or similar entity  
6 recognized by the laws of this state that is not taxed for federal purposes at the  
7 entity level, but instead passes to each partner, member, shareholder, or owner their  
8 proportionate share of income, deductions, gains, losses, credits, and any other  
9 similar attributes;
- 10 (22) "Payroll period" has the same meaning as in Section 3401(b) of the Internal  
11 Revenue Code;
- 12 (23) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue  
13 Code;
- 14 (24) "Resident" means an individual domiciled within this state or an individual who is  
15 not domiciled in this state, but maintains a place of abode in this state and spends in  
16 the aggregate more than one hundred eighty-three (183) days of the taxable year in  
17 this state;
- 18 (25) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue  
19 Code;
- 20 (26) "State" means a state of the United States, the District of Columbia, the  
21 Commonwealth of Puerto Rico, or any territory or possession of the United States;
- 22 (27) "Taxable net income":
- 23 (a) In the case of corporations that are taxable in this state, means "net income" as  
24 defined in subsection (17) of this section;
- 25 (b) In the case of corporations that are taxable in this state and taxable in another  
26 state, means "net income" as defined in subsection (17) of this section and as  
27 allocated and apportioned under KRS 141.120;

1 (c) For homeowners' associations as defined in Section 528(c) of the Internal  
2 Revenue Code, means "taxable income" as defined in Section 528(d) of the  
3 Internal Revenue Code. Notwithstanding the provisions of subsection (14) of  
4 this section, the Internal Revenue Code sections referred to in this paragraph  
5 shall be those code sections in effect for the applicable tax year; and

6 (d) For a corporation that meets the requirements established under Section 856  
7 of the Internal Revenue Code to be a real estate investment trust, means "real  
8 estate investment trust taxable income" as defined in Section 857(b)(2) of the  
9 Internal Revenue Code, except that a captive real estate investment trust shall  
10 not be allowed any deduction for dividends paid;

11 (28) "Taxable year" means the calendar year or fiscal year ending during such calendar  
12 year, upon the basis of which net income is computed, and in the case of a return  
13 made for a fractional part of a year under the provisions of this chapter or under  
14 administrative regulations prescribed by the commissioner, "taxable year" means  
15 the period for which the return is made; and

16 (29) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code  
17 and includes other income subject to withholding as provided in Section 3401(f)  
18 and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

19 ➔Section 18. KRS 141.019 is amended to read as follows:

20 For taxable years beginning on or after January 1, 2018, in the case of taxpayers other  
21 than corporations:

22 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
23 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
24 Revenue Code and adjusting as follows:

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

27 (b) Exclude income from supplemental annuities provided by the Railroad

- 1 Retirement Act of 1937 as amended and which are subject to federal income  
2 tax by Pub. L. No. 89-699;
- 3 (c) Include interest income derived from obligations of sister states and political  
4 subdivisions thereof;
- 5 (d) Exclude employee pension contributions picked up as provided for in KRS  
6 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
7 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
8 courts that these contributions shall not be included as gross income until such  
9 time as the contributions are distributed or made available to the employee;
- 10 (e) Exclude Social Security and railroad retirement benefits subject to federal  
11 income tax;
- 12 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
13 brought against a manufacturer or distributor of "Agent Orange" for damages  
14 resulting from exposure to Agent Orange by a member or veteran of the  
15 Armed Forces of the United States or any dependent of such person who  
16 served in Vietnam;
- 17 (g) 1. a. For taxable years beginning after December 31, 2005, but before  
18 January 1, 2018, exclude up to forty-one thousand one hundred ten  
19 dollars (\$41,110) of total distributions from pension plans, annuity  
20 contracts, profit-sharing plans, retirement plans, or employee  
21 savings plans; and
- 22 b. For taxable years beginning on or after January 1, 2018, exclude  
23 up to thirty-one thousand one hundred ten dollars (\$31,110) of  
24 total distributions from pension plans, annuity contracts, profit-  
25 sharing plans, retirement plans, or employee savings plans.
- 26 2. As used in this paragraph:
- 27 a. "Annuity contract" has the same meaning as set forth in Section



- 1 1035 of the Internal Revenue Code;
- 2 b. "Distributions" includes but is not limited to any lump-sum  
3 distribution from pension or profit-sharing plans qualifying for the  
4 income tax averaging provisions of Section 402 of the Internal  
5 Revenue Code; any distribution from an individual retirement  
6 account as defined in Section 408 of the Internal Revenue Code;  
7 and any disability pension distribution; and
- 8 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
9 savings plans" means any trust or other entity created or organized  
10 under a written retirement plan and forming part of a stock bonus,  
11 pension, or profit-sharing plan of a public or private employer for  
12 the exclusive benefit of employees or their beneficiaries and  
13 includes plans qualified or unqualified under Section 401 of the  
14 Internal Revenue Code and individual retirement accounts as  
15 defined in Section 408 of the Internal Revenue Code;
- 16 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
17 income from an S corporation subject to the franchise tax imposed  
18 under KRS 136.505 or the capital stock tax imposed under KRS  
19 136.300; and
- 20 b. Exclude the portion of the distributive share of a shareholder's net  
21 income from an S corporation related to a qualified subchapter S  
22 subsidiary subject to the franchise tax imposed under KRS  
23 136.505 or the capital stock tax imposed under KRS 136.300.
- 24 2. The shareholder's basis of stock held in an S corporation where the S  
25 corporation or its qualified subchapter S subsidiary is subject to the  
26 franchise tax imposed under KRS 136.505 or the capital stock tax  
27 imposed under KRS 136.300 shall be the same as the basis for federal

- 1 income tax purposes;
- 2 (i) Exclude income received for services performed as a precinct worker for  
3 election training or for working at election booths in state, county, and local  
4 primaries or regular or special elections;
- 5 (j) Exclude any capital gains income attributable to property taken by eminent  
6 domain;
- 7 (k) 1. Exclude all income from all sources for active duty and reserve members  
8 and officers of the Armed Forces of the United States or National Guard  
9 who are killed in the line of duty, for the year during which the death  
10 occurred and the year prior to the year during which the death occurred.
- 11 2. For the purposes of this paragraph, "all income from all sources" shall  
12 include all federal and state death benefits payable to the estate or any  
13 beneficiaries;
- 14 (l) Exclude all military pay received by active duty members of the Armed Forces  
15 of the United States, members of reserve components of the Armed Forces of  
16 the United States, and members of the National Guard, including  
17 compensation for state active duty as described in KRS 38.205;
- 18 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
19 or 168; and
- 20 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and
- 21 (n) Include the amount deducted under 26 U.S.C. sec. 199A; and
- 22 (2) Net income shall be calculated by subtracting from adjusted gross income all the  
23 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
24 modified by KRS 141.0101, except:
- 25 (a) ~~Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;~~
- 26 (b) ~~Any deduction allowed by 26 U.S.C. sec. 164 for taxes;~~
- 27 (b) ~~(e)~~ Any deduction allowed by 26 U.S.C. sec. 165 for losses, except

1                   *wagering losses allowed under Section 165(d) of the Internal Revenue*

2                   *Code;*

3                   ~~(c)~~~~(d)~~ Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;

4                   ~~(d)~~~~(e)~~ Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;

5                   ~~(e)~~~~(f)~~ Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
6                   deduction;

7                   ~~(f)~~~~(g)~~ Any deduction allowed by the Internal Revenue Code for amounts  
8                   allowable under KRS 140.090(1)(h) in calculating the value of the distributive  
9                   shares of the estate of a decedent, unless there is filed with the income return a  
10                  statement that the deduction has not been claimed under KRS 140.090(1)(h);

11                  ~~(g)~~~~(h)~~ Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions  
12                  and any other deductions in lieu thereof;

13                  ~~(h)~~~~(i)~~ Any deduction allowed for amounts paid to any club, organization, or  
14                  establishment which has been determined by the courts or an agency  
15                  established by the General Assembly and charged with enforcing the civil  
16                  rights laws of the Commonwealth, not to afford full and equal membership  
17                  and full and equal enjoyment of its goods, services, facilities, privileges,  
18                  advantages, or accommodations to any person because of race, color, religion,  
19                  national origin, or sex, except nothing shall be construed to deny a deduction  
20                  for amounts paid to any religious or denominational club, group, or  
21                  establishment or any organization operated solely for charitable or educational  
22                  purposes which restricts membership to persons of the same religion or  
23                  denomination in order to promote the religious principles for which it is  
24                  established and maintained; and

25                  ~~(i)~~~~(j)~~ A taxpayer may elect to claim the standard deduction allowed by KRS  
26                  141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
27                  and as modified by this section.

1           ➔Section 19. KRS 141.021 is amended to read as follows:

2 Notwithstanding the provisions of KRS 141.010, federal retirement annuities, and local  
3 government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to  
4 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to  
5 95.784, 95.851 to 95.884, or 96.180, shall be excluded from gross income. Except federal  
6 retirement annuities and local government retirement annuities accrued or accruing on or  
7 after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent  
8 provided in KRS 141.019~~[141.010]~~ and 141.0215.

9           ➔Section 20. KRS 141.0215 is amended to read as follows:

10 (1) Notwithstanding the provisions of KRS 141.010~~(12)~~~~(9)~~, for tax years commencing  
11 on or after January 1, 1998, the amount of all previously untaxed distributions from  
12 a retirement plan paid pursuant to KRS Chapters 6, 16, 21, 61, 67A, 78, 90, 95, 96,  
13 161, and 164, and the amount of all previously untaxed distributions paid from a  
14 retirement plan by the federal government, which are excluded from gross income  
15 pursuant to KRS 141.021, shall be included in gross income as follows:

16 (a) Multiply the total annual government retirement payments by a fraction whose  
17 numerator is the number of full or partial years of service performed for the  
18 governmental unit making the retirement payments after January 1, 1998, and  
19 whose denominator is the total number of full or partial years of service  
20 performed for the governmental unit making retirement payments, including  
21 purchased service credit. Purchased service credits shall be included in the  
22 numerator of the fraction only if the services for which credits are being  
23 purchased were provided after January 1, 1998.

24 (b) The resulting number shall be the amount included in gross income.

25 (2) Any taxpayer receiving government retirement payments from more than one (1)  
26 governmental unit shall separately determine the payment amount attributable to  
27 each unit to be included in gross income, using the formula set forth in subsection

1 (1) of this section.

2 ➔Section 21. KRS 141.170 is amended to read as follows:

- 3 (1) The department~~[of Revenue]~~ may grant any taxpayer other than a corporation a  
4 reasonable extension of time for filing an income tax return whenever good cause  
5 exists, and shall keep a record of every extension. Except in the case of an  
6 individual who is abroad, no extension shall be granted for more than six (6)  
7 months. In the case of an individual who is abroad, the extension shall not be  
8 granted for more than one (1) year.
- 9 (2) A corporation may be granted an extension of not more than seven (7)~~[six (6)]~~  
10 months for filing its income tax return, provided the corporation, on or before the  
11 date prescribed for payment of the tax, requests the extension and pays the amount  
12 properly estimated as its tax.
- 13 (3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax,  
14 an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax  
15 shown due on the return, but not previously paid, from the time the tax was due  
16 until the return is actually filed with the department.

17 ➔Section 22. KRS 141.402 is amended to read as follows:

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

- 19 (a) "Approved company" shall have the same meaning as set forth in KRS  
20 154.25-010;
- 21 (b) "Jobs retention project" shall have the same meaning as set forth in KRS  
22 154.25-010;
- 23 (c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS  
24 141.0401;
- 25 (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS  
26 141.0401; and
- 27 (e) "Tax credit" means the tax credit allowed in KRS 154.25-030.

1 (2) An approved company shall determine the income tax credit as provided in this  
2 section.

3 (3) An approved company which is an individual sole proprietorship subject to tax  
4 under KRS 141.020 or a corporation or pass-through entity treated as a corporation  
5 for federal income tax purposes subject to tax under KRS 141.040(1) shall:

6 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS  
7 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or  
8 taxable net income as defined by KRS 141.010~~[(14)]~~, including income  
9 from the jobs retention project;

10 2. Compute the limited liability entity tax imposed under KRS 141.0401,  
11 including Kentucky gross profits or Kentucky gross receipts from the  
12 jobs retention project; and

13 3. Add the amounts computed under subparagraphs 1. and 2. of this  
14 paragraph and, if applicable, subtract the credit permitted by KRS  
15 141.0401(3) from that sum. The resulting amount shall be the net tax for  
16 purposes of this paragraph.

17 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS  
18 141.020 or 141.040 on net income as defined by KRS 141.010~~[(11)]~~ or  
19 taxable net income as defined by KRS 141.010~~[(14)]~~, excluding net  
20 income attributable to the jobs retention project;

21 2. Using the same method used under subparagraph 2. of paragraph (a) of  
22 this subsection, compute the limited liability entity tax imposed under  
23 KRS 141.0401, excluding Kentucky gross profits or Kentucky gross  
24 receipts from the jobs retention project; and

25 3. Add the amounts computed under subparagraphs 1. and 2. of this  
26 paragraph and, if applicable, subtract the credit permitted by KRS  
27 141.0401(3) from that sum. The resulting amount shall be the net tax for

1 purposes of this paragraph.

2 (c) The tax credit shall be the amount by which the net tax computed under  
3 paragraph (a)3. of this subsection exceeds the tax computed under paragraph  
4 (b)3. of this subsection; however, the credit shall not exceed the limits set  
5 forth in KRS 154.25-030.

6 (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
7 which is a pass-through entity not subject to the tax imposed by KRS 141.040  
8 or trust not subject to the tax imposed by KRS 141.040 shall be subject to  
9 income tax on the net income attributable to a jobs retention project at the  
10 rates provided in KRS 141.020(2).

11 (b) The amount of the tax credit shall be determined as provided in subsection (3)  
12 of this section. Upon the annual election of the approved company, in lieu of  
13 the tax credit, an amount shall be applied as an estimated tax payment equal to  
14 the tax computed in this section. Any estimated tax payment made pursuant to  
15 this paragraph shall be in satisfaction of the tax liability of the partners,  
16 members, shareholders, or beneficiaries of the pass-through entity or trust, and  
17 shall be paid on behalf of the partners, members, shareholders, or  
18 beneficiaries.

19 (c) The tax credit or estimated payment shall not exceed the limits set forth in  
20 KRS 154.25-030.

21 (d) If the tax computed in this section exceeds the tax credit, the difference shall  
22 be paid by the pass-through entity or trust at the times provided by KRS  
23 141.160 for filing the returns.

24 (e) Any estimated tax payment made by the pass-through entity or trust in  
25 satisfaction of the tax liability of partners, members, shareholders, or  
26 beneficiaries shall not be treated as taxable income subject to Kentucky  
27 income tax by the partner, member, shareholder, or beneficiary.

- 1 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
2 the tax credit, and the estimated tax payment determined under subsection (4) of  
3 this section shall be excluded in determining each partner's, member's,  
4 shareholder's, or beneficiary's distributive share of net income or credit of a pass-  
5 through entity or trust.
- 6 (6) (a) Net income attributable to the project for the purposes of subsections (3), (4),  
7 and (5) of this section shall be determined under the separate accounting  
8 method reflecting only the gross income, deductions, expenses, gains, and  
9 losses allowed under KRS Chapter 141 directly attributable to the facility and  
10 overhead expenses apportioned to the facility; and
- 11 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project  
12 for purposes of subsection (3) of this section shall be determined under the  
13 separate accounting method reflecting only the Kentucky gross receipts or  
14 Kentucky gross profits directly attributable to the facility.
- 15 (7) If an approved company can show to the satisfaction of the Department of Revenue  
16 that the nature of the operations and activities of the approved company are such  
17 that it is not practical to use the separate accounting method to determine the net  
18 income, Kentucky gross receipts, or Kentucky gross profits from the facility at  
19 which the jobs retention project is located, the approved company shall determine  
20 net income, Kentucky gross receipts, or Kentucky gross profits from the jobs  
21 retention project using an alternative method approved by the Department of  
22 Revenue.
- 23 (8) The Department of Revenue may promulgate administrative regulations and require  
24 the filing of forms designed by the Department of Revenue to reflect the intent of  
25 this section and KRS 154.25-010 to 154.25-050 and the allowable income tax credit  
26 which an approved company may retain under this section and KRS 154.25-010 to  
27 154.25-050.



1           ➔Section 23. KRS 141.421 is amended to read as follows:

2       (1) As used in this section:

3           (a) "Approved company" has the same meaning as in KRS 154.27-010;

4           (b) "Eligible project" has the same meaning as in KRS 154.27-010;

5           (c) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

6           (d) "Kentucky gross profits" has the same meaning as in KRS 141.0401; and

7           (e) "Tax credit" means the tax credit allowed in KRS 154.27-080.

8       (2) An approved company shall compute the income tax credit as provided in this  
9       section.

10       (3) An approved company which is an individual sole proprietorship subject to tax  
11       under KRS 141.020 or a corporation or pass-through entity treated as a corporation  
12       for federal income tax purposes subject to tax under KRS 141.040(1) shall:

13           (a) 1. Compute the tax due at the applicable tax rates as provided by KRS  
14               141.020 or 141.040 on net income as defined by KRS 141.010~~{(11)}~~ or  
15               taxable net income as defined by KRS 141.010~~{(14)}~~, including income  
16               from the eligible project;

17               2. Compute the limited liability entity tax imposed under KRS 141.0401,  
18               including Kentucky gross profits or Kentucky gross receipts from the  
19               eligible project; and

20               3. Add the amounts computed under subparagraphs 1. and 2. of this  
21               paragraph and, if applicable, subtract the credit permitted by KRS  
22               141.0401(3) from that sum. The resulting amount shall be the net tax for  
23               purposes of this paragraph.

24           (b) 1. Compute the tax due at the applicable tax rates as provided by KRS  
25               141.020 or 141.040 on net income as defined by KRS 141.010~~{(11)}~~ or  
26               taxable net income as defined by KRS 141.010~~{(14)}~~, excluding net  
27               income attributable to the eligible project;

- 1           2. Using the same method used under paragraph (a)2. of this subsection,  
2           compute the limited liability entity tax imposed under KRS 141.0401,  
3           excluding Kentucky gross profits or Kentucky gross receipts from the  
4           eligible project; and
- 5           3. Add the amounts computed under subparagraphs 1. and 2. of this  
6           paragraph and, if applicable, subtract the credit permitted by KRS  
7           141.0401(3) from that sum. The resulting amount shall be the net tax for  
8           purposes of this paragraph.
- 9           (c) The tax credit shall be the amount by which the net tax computed under  
10          paragraph (a)3. of this subsection exceeds the tax computed under paragraph  
11          (b)3. of this subsection; however, the credit shall not exceed the limits set  
12          forth in KRS 154.27-020.
- 13       (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
14          which is a pass-through entity not subject to the tax imposed by KRS 141.040  
15          or trust not subject to the tax imposed by KRS 141.040 shall be subject to  
16          income tax on the net income attributable to an eligible project at the rates  
17          provided in KRS 141.020(2).
- 18          (b) The amount of the tax credit shall be determined as provided in subsection (3)  
19          of this section. Upon the annual election of the approved company, in lieu of  
20          the tax credit, an amount shall be applied as an estimated tax payment equal to  
21          the tax computed in this section. Any estimated tax payment made pursuant to  
22          this paragraph shall be in satisfaction of the tax liability of the partners,  
23          members, shareholders, or beneficiaries of the pass-through entity or trust and  
24          shall be paid on behalf of the partners, members, shareholders, or  
25          beneficiaries.
- 26          (c) The tax credit or estimated payment shall not exceed the limits set forth in  
27          KRS 154.27-020.

- 1 (d) If the tax computed in this section exceeds the tax credit, the difference shall  
2 be paid by the pass-through entity or trust at the times provided by KRS  
3 141.160 for filing the returns.
- 4 (e) Any estimated tax payment made by the pass-through entity or trust in  
5 satisfaction of the tax liability of partners, members, shareholders, or  
6 beneficiaries shall not be treated as taxable income subject to Kentucky  
7 income tax by the partner, member, shareholder, or beneficiary.
- 8 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
9 tax credit, and estimated tax payment determined under subsection (4) of this  
10 section shall be excluded in determining each partner's, member's, shareholder's, or  
11 beneficiary's distributive share of net income or credit of a pass-through entity or  
12 trust.
- 13 (6) (a) Net income attributable to the project for the purposes of subsections (3), (4),  
14 and (5) of this section shall be determined under the separate accounting  
15 method reflecting only the gross income, deductions, expenses, gains, and  
16 losses allowed under this chapter directly attributable to the facility and  
17 overhead expenses apportioned to the facility; and
- 18 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project  
19 for purposes of subsection (3) of this section shall be determined under the  
20 separate accounting method reflecting only the Kentucky gross receipts or  
21 Kentucky gross profits directly attributable to the facility.
- 22 (7) If an approved company can show to the satisfaction of the department that the  
23 nature of the operations and activities of the approved company are such that it is  
24 not practical to use the separate accounting method to determine the net income,  
25 Kentucky gross receipts, or Kentucky gross profits from the facility at which the  
26 eligible project is located, the approved company shall determine net income,  
27 Kentucky gross receipts, or Kentucky gross profits from the eligible project using an

1 alternative method approved by the department.

2 (8) The department may promulgate administrative regulations and require the filing of  
3 forms designed by the department to reflect the intent of this section and KRS  
4 154.27-080 and the allowable income tax credit which an approved company may  
5 retain under this section and KRS 154.27-080.

6 ➔Section 24. KRS 141.428 is amended to read as follows:

7 (1) As used in this section:

8 (a) "Clean coal facility" means an electric generation facility beginning  
9 commercial operation on or after January 1, 2005, at a cost greater than one  
10 hundred fifty million dollars (\$150,000,000) that is located in the  
11 Commonwealth of Kentucky and is certified by the Energy and Environment  
12 Cabinet as reducing emissions of pollutants released during generation of  
13 electricity through the use of clean coal equipment and technologies;

14 (b) "Clean coal equipment" means equipment purchased and installed for  
15 commercial use in a clean coal facility to aid in reducing the level of  
16 pollutants released during the generation of electricity from eligible coal;

17 (c) "Clean coal technologies" means technologies incorporated for use within a  
18 clean coal facility to lower emissions of pollutants released during the  
19 generation of electricity from eligible coal;

20 (d) "Eligible coal" means coal that is subject to the tax imposed under KRS  
21 143.020;

22 (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and

23 (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).

24 (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable,  
25 nontransferable credit shall be allowed for:

26 (a) Any electric power company subject to tax under KRS 136.120 and certified  
27 as a clean coal facility or any taxpayer that owns or operates a clean coal

- 1 facility and purchases eligible coal that is used by the taxpayer in a certified  
2 clean coal facility; or
- 3 (b) A parent company of an entity identified in paragraph (a) of this subsection if  
4 the subsidiary is wholly owned.
- 5 (3) (a) The credit may be taken against the taxes imposed by:
- 6 1. ~~1. KRS 136.070;~~  
7 ~~2. KRS 136.120;~~ or  
8 ~~3. KRS 141.020 or 141.040, and 141.0401.~~
- 9 (b) The credit shall not be carried forward and must be used on the tax return filed  
10 for the period during which the eligible coal was purchased. The Energy and  
11 Environment Cabinet must approve and certify use of the clean coal  
12 equipment and technologies within a clean coal facility before any taxpayer  
13 may claim the credit.
- 14 (c) The credit allowed under paragraph (a) of this subsection shall be applied both  
15 to the income tax imposed under KRS 141.020 or 141.040 and to the limited  
16 liability entity tax imposed under KRS 141.0401, with the ordering of credits  
17 as provided in KRS 141.0205.
- 18 (4) The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal  
19 purchased that is used to generate electric power at a certified clean coal facility~~;~~  
20 ~~except that no credit shall be allowed if the eligible coal has been used to generate a~~  
21 ~~credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary].~~
- 22 (5) Each taxpayer eligible for the credit provided under subsection (2) of this section  
23 shall file a clean coal incentive credit claim on forms prescribed by the department~~[~~  
24 ~~of Revenue]~~. At the time of filing for the credit, the taxpayer shall submit an  
25 electronic report verifying the tons of coal subject to the tax imposed by KRS  
26 143.020 purchased for each year in which the credit is claimed. The department~~[of~~  
27 ~~Revenue]~~ shall determine the amount of the approved credit and issue a credit

1 certificate to the taxpayer.

2 (6) Corporations and pass-through entities subject to the tax imposed under KRS  
3 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed  
4 under this section, the approved credit against its liability for the taxes, in  
5 consecutive order as follows:

6 (a) The credit shall first be applied against both the tax imposed by KRS  
7 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering  
8 of credits as provided in KRS 141.0205;

9 (b) The credit shall then be applied to the tax imposed by KRS 136.120.

10 The credit shall meet the entirety of the taxpayer's liability under the first tax listed  
11 in consecutive order before applying any remaining credit to the next tax listed. The  
12 taxpayer's total liability under each preceding tax must be fully met before the  
13 remaining credit can be applied to the subsequent tax listed in consecutive order.

14 (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the  
15 amount of approved credit shall be applied against the tax imposed by KRS  
16 141.0401 at the entity level, and shall also be distributed to each partner, member,  
17 or shareholder based on the partner's, member's, or shareholder's distributive share  
18 of the income of the pass-through entity. The credit shall be claimed in the same  
19 manner as specified in subsection (6) of this section. Each pass-through entity shall  
20 notify the department~~[of Revenue]~~ electronically of all partners, members, or  
21 shareholders who may claim any amount of the approved credit. Failure to provide  
22 information to the department~~[of Revenue]~~ in a manner prescribed by regulation  
23 may constitute the forfeiture of available credits to all partners, members, or  
24 shareholders associated with the pass-through entity.

25 (8) The taxpayer shall maintain all records associated with the credit for a period of five  
26 (5) years. Acceptable verification of eligible coal purchased shall include invoices  
27 that indicate the tons of eligible coal purchased from a Kentucky supplier of coal

1 and proof of remittance for that purchase.

2 (9) The department~~[of Revenue]~~ shall develop the forms required under this section,  
3 specifying the procedure for claiming the credit, and applying the credit against the  
4 taxpayer's liability in the order provided under subsections (6) and (7) of this  
5 section.

6 (10) The Office of Energy Policy within the Energy and Environment Cabinet and the  
7 department~~[of Revenue]~~ shall promulgate administrative regulations necessary to  
8 administer this section.

9 (11) This section shall be known as the Kentucky Clean Coal Incentive Act.

10 ➔Section 25. KRS 154.20-232 is amended to read as follows:

11 (1)~~[(a) Beginning on April 14, 2018, the authority shall not accept any new~~  
12 ~~applications for the Kentucky Angel Investment Act until on or after July 1,~~  
13 ~~2022.~~

14 ~~(b)]~~ KRS 154.20-230 to 154.20-240 shall be known as the "Kentucky Angel Investment  
15 Act."

16 (2) The purpose of KRS 141.396 and 154.20-230 to 154.20-240 is to encourage capital  
17 investment in the Commonwealth by individual investors that will further the  
18 establishment or expansion of small businesses, create additional jobs, and foster  
19 the development of new products and technologies, by providing tax credits for  
20 certain investments in small businesses located in the Commonwealth, operating in  
21 the fields of knowledge-based, high-tech, and research and development, and  
22 showing a potential for rapid growth.

23 (3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-  
24 240:

25 (a) Small businesses and individual investors shall request certification from the  
26 authority pursuant to KRS 154.20-236. To be qualified, the small businesses  
27 and individual investors shall fulfill the requirements outlined in KRS 154.20-

1           234; and

2           (b) Once certified, qualified investors may make investments in qualified small  
3           businesses, and may apply to the authority for a credit in return for making the  
4           investment if that investment qualifies under KRS 154.20-234.

5           (4) Any qualified investment made in a qualified small business under KRS 154.20-230  
6           to 154.20-240 shall be used by that business, insofar as possible, to leverage  
7           additional capital investments from other sources.

8           ➔Section 26. KRS 154.20-250 is amended to read as follows:

9           ~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or~~  
10           ~~make preliminary approvals for the Kentucky Investment Fund until on or after July~~  
11           ~~1, 2022.~~

12           ~~(2)~~—The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital  
13           investment in the Commonwealth of Kentucky, to encourage the establishment or  
14           expansion of small businesses in Kentucky, to provide additional jobs, and to encourage  
15           the development of new products and technologies in the state through capital  
16           investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment  
17           preference to Kentucky small businesses showing a potential for rapid growth. Insofar as  
18           possible, any investment made in a Kentucky small business under the provisions of KRS  
19           154.20-250 to 154.20-284 shall be used by that business to leverage additional capital  
20           investments from other sources.

21           ➔Section 27. KRS 154.20-258 is amended to read as follows:

22           (1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%)  
23           of the investor's proportional ownership share of all qualified investments made by  
24           its investment fund and verified by the authority. The aggregate tax credit available  
25           to any investor shall not exceed forty percent (40%) of the cash contribution made  
26           by the investor to its investment fund. The credit may be applied against:

27           (a) Both the income tax imposed by KRS 141.020 or 141.040, and the limited



1 liability entity tax imposed by KRS 141.0401, with the ordering of the credits  
2 as provided in KRS 141.0205;

3 ~~(b) [The corporation license tax imposed by KRS 136.070;~~

4 ~~(c)]~~ The insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270; and

5 ~~(c)]~~ ~~(d)]~~ The taxes on financial institutions imposed by KRS 136.300, 136.310,  
6 and 136.505.

7 (2) The tax credit amount that may be claimed by an investor in any tax year shall not  
8 exceed fifty percent (50%) of the initial aggregate credit amount approved by the  
9 authority for the investment fund which would be proportionally available to the  
10 investor. An investor may first claim the credit granted in subsection (1) of this  
11 section in the year following the year in which the credit is granted.

12 (3) If the credit amount that may be claimed in any tax year, as determined under  
13 subsections (1) and (2) of this section, exceeds the investor's combined tax  
14 liabilities against which the credit may be claimed for that year, the investor may  
15 carry the excess tax credit forward until the tax credit is used, but the carry-forward  
16 of any excess tax credit shall not increase the fifty percent (50%) limitation  
17 established by subsection (2) of this section. Any tax credits not used within fifteen  
18 (15) years of the approval by the authority of the aggregate tax credit amount  
19 available to the investor shall be lost.

20 (4) The tax credits allowed by this section shall not apply to any liability an investor  
21 may have for interest, penalties, past due taxes, or any other additions to the  
22 investor's tax liability. The holder of the tax credit shall assume any and all  
23 liabilities and responsibilities of the credit.

24 (5) The tax credits allowed by this section are not transferable, except that:

25 (a) A nonprofit entity may transfer, for some or no consideration, any or all of the  
26 credits it receives under this section and any related benefits, rights,  
27 responsibilities, and liabilities. Within thirty (30) days of the date of any

1 transfer of credits pursuant to this subsection, the nonprofit entity shall notify  
2 the authority and the Department of Revenue of:

- 3 1. The name, address, and Social Security number or employer  
4 identification number, as may be applicable, of the party to which the  
5 nonprofit entity transferred its credits;
- 6 2. The amount of credits transferred; and
- 7 3. Any additional information the authority or the Department of Revenue  
8 deems necessary.

9 (b) If an investor is an entity and is a party to a merger, acquisition, consolidation,  
10 dissolution, liquidation, or similar corporate reorganization, the tax credits  
11 shall pass through to the investor's successor.

12 (c) If an individual investor dies, the tax credits shall pass to the investor's estate  
13 or beneficiaries in a manner consistent with the transfer of ownership of the  
14 investor's interest in the investment fund.

15 (6) The tax credit amount that may be claimed by an investor shall reflect only the  
16 investor's participation in qualified investments properly reported to the authority by  
17 the investment fund manager. No tax credit authorized by this section shall become  
18 effective until the Department of Revenue receives notification from the authority  
19 that includes:

20 (a) A statement that a qualified investment has been made that is in compliance  
21 with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

22 (b) A list of each investor in the investment fund that owns a portion of the small  
23 business in which a qualified investment has been made by virtue of an  
24 investment in the investment fund, and each investor's amount of credit  
25 granted to the investor for each qualified investment.

26 The authority shall, within sixty (60) days of approval of credits, notify the  
27 Department of Revenue of the information required pursuant to this subsection and

1 notify each investor of the amount of credits granted to that investor, and the year  
2 the credits may first be claimed.

3 (7) After the date on which investors in an investment fund have cumulatively received  
4 an amount of credits equal to the amount of credits allocated to the investment fund  
5 by the authority, no investor shall receive additional credits by virtue of its  
6 investment in that investment fund unless the investment fund's allocation of credits  
7 is increased by the authority pursuant to an amended application.

8 (8) The maximum amount of credits to be authorized by the authority shall be three  
9 million dollars (\$3,000,000) for each of fiscal years 2002-03 and 2003-04.

10 ➔Section 28. KRS 154.26-085 is amended to read as follows:

11 (1) If, prior to July 13, 2004, the authority has given its preliminary approval  
12 designating an eligible company as a preliminarily approved company and  
13 authorizing the undertaking of an economic revitalization project, but has not  
14 entered into a final agreement with the company, the company shall have the one-  
15 time option to:

16 (a) Operate under the existing agreement as preliminarily approved; or

17 (b) Request the authority to amend the agreement to comply with the amendments  
18 to KRS 154.26-090, 154.26-100,~~136.0704,~~ and 141.310 in 2004 Ky. Acts  
19 ch. 105, secs. 12, 13, 14, and 21.

20 (2) If, prior to July 13, 2004, the authority has entered into a final agreement with an  
21 eligible company, and if the final agreement is still in effect, the company shall have  
22 the one-time option to:

23 (a) Operate under the existing final agreement; or

24 (b) Request the authority to amend only the employee assessment portion of the  
25 final agreement to comply with the amendment to KRS 154.26-100 in 2004  
26 Ky. Acts ch. 105, sec. 13.

27 ➔Section 29. KRS 154.26-095 is amended to read as follows:

1 ~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or~~  
 2 ~~make preliminary approvals of a revitalization agreement until on or after July 1,~~  
 3 ~~2022.~~

4 ~~(2)~~ By July 1, 2019, and by each July 1 thereafter, the authority and the Department of  
 5 Revenue shall jointly provide a report to the Interim Joint Committee on Appropriations  
 6 and Revenue for each project approved under this subchapter. The report shall contain the  
 7 following information:

8 ~~(1)(a)~~ The name of each approved company and the location of each economic  
 9 revitalization project;

10 ~~(2)(b)~~ The amount of approved costs for each economic revitalization project;

11 ~~(3)(c)~~ The date the agreement was approved;

12 ~~(4)(d)~~ Whether an assessment fee authorized by KRS 154.26-100 was a part of the  
 13 agreement;

14 ~~(5)(e)~~ The number of employees employed in manufacturing, the number of  
 15 employees employed in coal mining and processing, or the number of employees  
 16 employed in agribusiness operations;

17 ~~(6)(f)~~ Whether the project was a supplemental project; and

18 ~~(7)(g)~~ By taxable year, the amount of tax credit claimed on the taxpayer's return, any  
 19 amount denied by the department, and the amount of any tax credit remaining to be  
 20 carried forward.

21 ➔ Section 30. KRS 154.26-115 is amended to read as follows:

22 (1) If, prior to July 13, 2004, the authority has given its preliminary approval  
 23 designating an eligible company as a preliminarily approved company and  
 24 authorizing the undertaking of an economic revitalization project, but has not  
 25 entered into a final agreement with the company, the company shall have the one-  
 26 time option to:

27 (a) Operate under the existing agreement as preliminarily approved; or

1 (b) Request the authority to amend the agreement to comply with the amendments  
2 to KRS 154.26-090, 154.26-100,~~136.0704,~~ and 141.310 in 2004 Ky. Acts  
3 ch. 18, secs. 1, 2, 4, and 5.

4 (2) If, prior to July 13, 2004, the authority has entered into a final agreement with an  
5 eligible company, and if the final agreement is still in effect, the company shall have  
6 the one-time option to:

7 (a) Operate under the existing final agreement; or

8 (b) Request the authority to amend only the employee assessment portion of the  
9 final agreement to comply with the amendment to KRS 154.26-100 in 2004  
10 Ky. Acts ch. 18, sec. 2.

11 ➔Section 31. KRS 155.170 is amended to read as follows:

12 (1) An annual excise tax is hereby levied on every corporation organized under this  
13 chapter for the privilege of transacting business in this Commonwealth during the  
14 calendar year, according to or measured by its entire net income, as defined herein,  
15 received or accrued from all sources during the preceding calendar year, hereinafter  
16 referred to as taxable year, at the rate of four and one-half percent (4.5%) of such  
17 entire net income. The minimum tax assessable to any one (1) such corporation  
18 shall be ten dollars (\$10). The liability for the tax imposed by this section shall arise  
19 upon the first day of each calendar year, and shall be based upon and measured by  
20 the entire net income of each such corporation for the preceding calendar year,  
21 including all income received from government securities in such year. As used in  
22 this section the words "taxable year" mean the calendar year next preceding the  
23 calendar year for which and during which the excise tax is levied.

24 (2) The excise tax levied under subsection (1) of this section shall be in lieu of~~the~~  
25 ~~corporation license tax imposed by KRS 136.070,~~ the taxes imposed by KRS  
26 141.040, and the taxes imposed by KRS 141.0401. It is the purpose and intent of the  
27 General Assembly to levy taxes on corporations organized pursuant to this chapter

1 so that all such corporations will be taxed uniformly in a just and equitable manner  
2 in accordance with the provisions of the Constitution of the Commonwealth of  
3 Kentucky. The intent of this section is for the General Assembly to exercise the  
4 powers of classification and of taxation on property, franchises, and trades  
5 conferred by Section 171 of the Constitution of the Commonwealth.

6 (3) On or before June 1 of each year, the executive officer or officers of each  
7 corporation shall file with the commissioner of the Department of Revenue a full  
8 and accurate report of all income received or accrued during the taxable year, and  
9 also an accurate record of the legal deductions in the same calendar year to the end  
10 that the correct entire net income of the corporation may be determined. This report  
11 shall be in such form and contain such information as the commissioner of the  
12 Department of Revenue may specify. At the time of making such report by each  
13 corporation, the taxes levied by this section with respect to an excise tax on  
14 corporations organized pursuant to this chapter shall be paid to the commissioner of  
15 the Department of Revenue.

16 (4) The securities, evidences of indebtedness, and shares of the capital stock issued by  
17 the corporation established under the provisions of this chapter, their transfer, and  
18 income therefrom and deposits of financial institutions invested therein, shall at all  
19 times be free from taxation within the Commonwealth.

20 (5) Any stockholder, member, or other holder of any securities, evidences of  
21 indebtedness, or shares of the capital stock of the corporation who realizes a loss  
22 from the sale, redemption, or other disposition of any securities, evidences of  
23 indebtedness, or shares of the capital stock of the corporation, including any such  
24 loss realized on a partial or complete liquidation of the corporation, and who is not  
25 entitled to deduct such loss in computing any of such stockholder's, member's, or  
26 other holder's taxes to the Commonwealth shall be entitled to credit against any  
27 taxes subsequently becoming due to the Commonwealth from such stockholder,

1 member, or other holder, a percentage of such loss equivalent to the highest rate of  
 2 tax assessed for the year in which the loss occurs upon mercantile and business  
 3 corporations.

4 ➔Section 32. KRS 160.613 is amended to read as follows:

5 (1) There is hereby authorized a utility gross receipts license tax for schools not to  
 6 exceed three percent (3%) of the gross receipts derived from the furnishing, within  
 7 the district, of utility services, except that "gross receipts" shall not include:

8 (a) Amounts received for furnishing energy or energy-producing fuels ***to a person***  
 9 ***engaged in manufacturing or industrial processing if that person provides***  
 10 ***the utility services provider with a copy of its utility gross receipts license tax***  
 11 ***energy direct pay authorization, as provided in subsection (3) of this section,***  
 12 ***and the utility service provider retains a copy of the authorization in its***  
 13 ***records***~~[, used in the course of manufacturing, processing, mining, or refining~~  
 14 ~~to the extent that the cost of the energy or energy-producing fuels used~~  
 15 ~~exceeds three percent (3%) of the cost of production]; or~~

16 (b) Amounts received for furnishing utility services which are to be resold.

17 (2) If any user of utility services purchases the utility services directly from any supplier  
 18 who is exempt either by state or federal law from the utility gross receipts license  
 19 tax, then the user of the utility services, if the tax has been levied in the user's  
 20 ***school*** district, shall be liable for the tax and shall ***register with and*** pay directly to  
 21 the department, in accordance with the provisions of KRS 160.615, a utility gross  
 22 receipts license tax for schools computed by multiplying the gross cost of all utility  
 23 services received by the tax rate levied under the provisions of this section.

24 (3) ~~[[f]A person engaged in manufacturing ***or industrial*** processing ***whose cost of***,~~  
 25 ~~mining, or refining chooses to claim that the] energy or energy-producing fuels ***used***~~  
 26 ***in the course of manufacturing or industrial processing***~~[purchased from a utility~~  
 27 ~~services provider] exceeds an amount equal to three percent (3%) of the cost of~~

1 production may apply to the department for a utility gross receipts license tax  
 2 energy direct pay authorization. Cost of production shall be computed on the  
 3 basis of a plant facility, which shall include all operations within the continuous,  
 4 unbroken, integrated manufacturing or processing production process that ends  
 5 with a product packaged and ready for sale. If the person~~as provided in~~  
 6 ~~subsection (1)(a) of this section and~~ receives confirmation of eligibility from the  
 7 department, the person shall:

- 8 (a) Provide the utility services provider with a copy of the utility gross receipts  
 9 license tax energy direct pay authorization issued by the department for all  
 10 purchases of energy and energy-producing fuels; and  
 11 (b) Report and pay directly to the department, in accordance with the provisions  
 12 of KRS 160.615, the utility gross receipts license tax due.

13 (4) As used in this section, "toller" means a person who performs a manufacturing  
 14 or industrial processing activity for a fee and does not take ownership of the  
 15 tangible personal property that is incorporated into, or becomes the product of  
 16 the manufacturing or industrial processing activity.

17 (5) For periods on or after July 1, 2018, the costs of the tangible personal property  
 18 shall be excluded from the toller's cost of production at a plant facility if the  
 19 toller:

20 (a) Maintains an arm's-length transaction through a binding contract that  
 21 governs the terms, conditions, and responsibilities with a separate legal  
 22 entity, which holds title to the tangible personal property that is  
 23 incorporated into, or becomes, the product of the manufacturing or  
 24 industrial processing activity;

25 (b) Maintains accounting records that show the expenses it incurs to fulfill the  
 26 binding contract that include, but are not limited to, energy or energy-  
 27 producing fuels, materials, labor, procurement, depreciation, maintenance,



- 1           taxes, administration, and office expenses;
- 2           (c) Maintains separate payroll, bank accounts, tax returns, and other records
- 3           that demonstrate its independent operations in the performance of its tolling
- 4           responsibilities;
- 5           (d) Demonstrates one (1) or more substantial business purposes for the tolling
- 6           operation germane to the overall manufacturing, industrial processing
- 7           activities, or corporate structure at the plant facility. A business purpose is a
- 8           purpose other than the reduction of utility gross receipts license tax liability
- 9           for the purchases of energy and energy-producing fuels; and
- 10          (e) Provides information to the department upon request that documents
- 11          fulfillment of the requirements in paragraphs (a) to (d) of this subsection
- 12          and gives an overview of its tolling operations with an explanation of how
- 13          the tolling operations relate and connect with all other manufacturing or
- 14          industrial processing activities occurring at the plant facility.

15           ➔Section 33. KRS 160.6131 is amended to read as follows:

16          As used in KRS 160.613 to 160.617:

- 17          (1) "Department" means the Department of Revenue;
- 18          (2) "Communications service" means the provision, transmission, conveyance, or
- 19          routing, for consideration, of voice, data, video, or any other information signals of
- 20          the purchaser's choosing to a point or between or among points specified by the
- 21          purchaser, by or through any electronic, radio, light, fiber optic, or similar medium
- 22          or method now in existence or later devised.
- 23          (a) "Communications service" includes but is not limited to:
- 24                  1. Local and long-distance telephone services;
- 25                  2. Telegraph and teletypewriter services;
- 26                  3. Postpaid calling services;
- 27                  4. Private communications services involving a direct channel specifically

- 1 dedicated to a customer's use between specific points;
- 2 5. Channel services involving a path of communications between two (2)
- 3 or more points;
- 4 6. Data transport services involving the movement of encoded information
- 5 between points by means of any electronic, radio, or other medium or
- 6 method;
- 7 7. Caller ID services, ring tones, voice mail, and other electronic
- 8 messaging services;
- 9 8. Mobile wireless telecommunications service and fixed wireless service
- 10 as defined in KRS 139.195; and
- 11 9. Voice over Internet Protocol (VOIP).
- 12 (b) "Communications service" does not include any of the following if the
- 13 charges are separately itemized on the bill provided to the purchaser:
- 14 1. Information services;
- 15 2. Internet access as defined in 47 U.S.C. sec. 151;
- 16 3. Installation, reinstallation, or maintenance of wiring or equipment on a
- 17 customer's premises. This exclusion does not apply to any charge
- 18 attributable to the connection, movement, change, or termination of a
- 19 communications service;
- 20 4. The sale of directory and other advertising and listing services;
- 21 5. Billing and collection services provided to another communications
- 22 service provider;
- 23 6. Cable service, satellite broadcast, satellite master antenna television,
- 24 wireless cable service, including direct-to-home satellite service as
- 25 defined in Section 602 of the federal Telecommunications Act of 1996,
- 26 and Internet protocol television provided through wireline facilities
- 27 without regard to delivery technology;

- 1           7. The sale of communications service to a communications provider that  
2           is buying the communications service for sale or incorporation into a  
3           communications service for sale, including:
- 4           a. Carrier access charges, excluding user access fees;
  - 5           b. Right of access charges;
  - 6           c. Interconnection charges paid by the provider of mobile  
7           telecommunications services or other communications providers;
  - 8           d. Charges for the sale of unbundled network elements as defined in  
9           47 U.S.C. sec. 153(29) on January 1, 2001, to which access is  
10          provided on an unbundled basis in accordance with 47 U.S.C. sec.  
11          251(c)(3); and
  - 12          e. Charges for use of facilities for providing or receiving  
13          communications service;
- 14          8. The sale of communications services provided to the public by means of  
15          a pay phone;
- 16          9. Prepaid calling services and prepaid wireless calling service;
- 17          10. Interstate telephone service, if the interstate charge is separately itemized  
18          for each call; and
- 19          11. If the interstate calls are not itemized, the portion of telephone charges  
20          identified and set out on the customer's bill as interstate as supported by  
21          the provider's books and records;
- 22   (3) "Gross cost" means the total cost of utility services including the cost of the tangible  
23          personal property and any services associated with obtaining the utility services  
24          regardless from whom purchased;
- 25   (4) "Gross receipts" means all amounts received in money, credits, property, or other  
26          money's worth in any form, as consideration for the furnishing of utility services;
- 27   (5) "Utility services" means the furnishing of communications services, electric power,

1 water, and natural, artificial, and mixed gas;

2 (6) "Cable service" has the same meaning as ~~provided~~ in KRS 136.602;

3 (7) "Satellite broadcast and wireless cable service" has the same meaning as ~~provided~~  
4 in KRS 136.602;

5 (8) "Ring tones" has the same meaning as ~~provided~~ in KRS 136.602; ~~and~~

6 (9) "Multichannel video programming service" has the same meaning as in KRS  
7 136.602;

8 **(10) "Industrial processing" has the same meaning as in Section 4 of this Act;**

9 **(11) "Manufacturing" has the same meaning as in Section 4 of this Act; and**

10 **(12) "Plant facility" has the same meaning as in Section 4 of this Act.**

11 ➔Section 34. KRS 272.333 is amended to read as follows:

12 The provisions of KRS 136.060 ~~and 136.070~~ shall not apply to the issuance of  
13 membership certificates, shares of stock or any other evidence of member, shareholder, or  
14 patron interest by any such agricultural cooperative association.

15 ➔SECTION 35. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO  
16 READ AS FOLLOWS:

17 **No class action may be brought against a marketplace provider on behalf of**  
18 **purchasers arising from or in any way related to an overpayment of tax collected by the**  
19 **marketplace provider.**

20 ➔Section 36. KRS 139.720 is amended to read as follows:

21 (1) Every seller, every retailer, and every person storing, using and otherwise  
22 consuming in this state tangible personal property, digital property, or **services**  
23 **included in Section 5 of this Act**~~an extended warranty service~~ purchased from a  
24 retailer shall keep such records, receipts, invoices, and other pertinent papers in  
25 such form as the department may require.

26 (2) Every such seller, retailer, or person who files the returns required under this  
27 chapter shall keep such records for not less than four (4) years from the making of

1 such records unless the department in writing sooner authorizes their destruction.

2 ➔Section 37. The following KRS sections are repealed:

3 136.078 Disposition of receipts.

4 136.090 Reports of corporations for license tax purposes -- Subject matter.

5 136.100 Time of filing reports -- Period covered -- Change of period.

6 ➔Section 38. Sections 25 to 30 of this Act apply retroactively to April 14, 2018.

7 ➔Section 39. Sections 6 to 10 and 13 to 16 of this Act apply to transactions  
8 occurring on or after July 1, 2019.

9 ➔Section 40. Section 11 of this Act applies to transactions occurring on or after  
10 January 1, 2019.

11 ➔Section 41. Section 18 of this Act applies to taxable years beginning on or after  
12 January 1, 2019.

13 ➔Section 42. No claim for refund or credit of a tax overpayment for any taxable  
14 period ending prior to July 1, 2018, made by an amended return, tax refund application,  
15 or any other method after June 30, 2018, and based on the amendments to subsection (3)  
16 of Section 12 of this Act or based on the amendments to Sections 32 or 33 of this Act,  
17 shall be recognized for any purpose.

18 ➔Section 43. Notwithstanding KRS 446.090, the amendments to subsection (3)  
19 of Section 12 of this Act and the amendments to Sections 32 and 33 of this Act are not  
20 severable. If the amendment made to subsection (3) of Section 12 of this Act or the  
21 amendments to Sections 32 or 33 of this Act is declared invalid for any reason, then all  
22 amendments to subsection (3) of Section 12 of this Act and the amendments to Sections  
23 32 and 33 of this Act shall also be invalid.