

1 AN ACT relating to taxation.

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

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

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

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

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

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

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

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

11 (9) "Agricultural land" means:

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

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

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

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

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

- 1 value, excluding sales representing purchases for farm expansion, better
2 accessibility, and other factors which inflate the purchase price beyond farm use
3 value, if any, considering the following factors as they affect a taxable unit:
- 4 (a) Relative percentages of tillable land, pasture land, and woodland;
 - 5 (b) Degree of productivity of the soil;
 - 6 (c) Risk of flooding;
 - 7 (d) Improvements to and on the land that relate to the production of income;
 - 8 (e) Row crop capability including allotted crops other than tobacco;
 - 9 (f) Accessibility to all-weather roads and markets; and
 - 10 (g) Factors which affect the general agricultural or horticultural economy, such
11 as: interest, price of farm products, cost of farm materials and supplies, labor,
12 or any economic factor which would affect net farm income;
- 13 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural
14 value and the tax based on fair cash value;
- 15 (13) "Homestead" means real property maintained as the permanent residence of the
16 owner with all land and improvements adjoining and contiguous thereto including
17 but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all
18 other land connected thereto;
- 19 (14) "Residential unit" means all or that part of real property occupied as the permanent
20 residence of the owner;
- 21 (15) "Special benefits" are those which are provided by public works not financed
22 through the general tax levy but through special assessments against the benefited
23 property;
- 24 (16) "Mobile home" means a structure, transportable in one (1) or more sections, which
25 when erected on site measures eight (8) body feet or more in width and thirty-two
26 (32) body feet or more in length, and which is built on a permanent chassis and
27 designed to be used as a dwelling, with or without a permanent foundation, when

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

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

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

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

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

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

1 integral part of the completed vehicle;

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

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

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

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

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

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

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

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

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

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

26 1. Direct or indirect familial relationship;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **(28) "Heavy equipment rental agreement" means the short-term rental contract under**
 8 **which qualified heavy equipment is rented without an operator for a period:**

9 **(a) Not to exceed three hundred sixty-five (365) days; or**

10 **(b) That is open-ended under the terms of the contract with no specified end**
 11 **date;**

12 **(29) "Heavy equipment rental company" means an entity that is primarily engaged in**
 13 **a line of business described in Code 532412 or 532310 of the North American**
 14 **Industry Classification System Manual in effect on January 1, 2019; and**

15 **(30) "Qualified heavy equipment" means machinery and equipment, including**
 16 **ancillary equipment and any attachments used in conjunction with the**
 17 **machinery and equipment, that is:**

18 **(a) Primarily used and designed for construction, mining, forestry, or**
 19 **industrial purposes, including but not limited to cranes, earthmoving**
 20 **equipment, well-drilling machinery and equipment, lifts, material handling**
 21 **equipment, pumps, generators, and pollution reducing equipment; and**

22 **(b) Held in a heavy equipment rental company's inventory for:**

23 **1. Rental under a heavy equipment rental agreement; or**

24 **2. Sale in the regular course of business.**

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

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

- 1 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
2 of value of all real property directed to be assessed for taxation;
- 3 (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of
4 all motor vehicles qualifying for permanent registration as historic motor
5 vehicles under KRS 186.043;
- 6 (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
7 1. Machinery actually engaged in manufacturing;
8 2. Commercial radio and television equipment used to receive, capture,
9 produce, edit, enhance, modify, process, store, convey, or transmit
10 audio or video content or electronic signals which are broadcast over
11 the air to an antenna, including radio and television towers used to
12 transmit or facilitate the transmission of the signal broadcast and
13 equipment used to gather or transmit weather information, but
14 excluding telephone and cellular communication towers; and
15 3. Tangible personal property which has been certified as a pollution
16 control facility as defined in KRS 224.1-300. In the case of tangible
17 personal property certified as a pollution control facility which is
18 incorporated into a landfill facility, the tangible personal property
19 shall be presumed to remain tangible personal property for purposes
20 of this paragraph if the tangible personal property is being used for its
21 intended purposes;
- 22 (d) Ten cents (\$0.10) per one hundred dollars (\$100) of value on the operating
23 property of railroads or railway companies that operate solely within the
24 Commonwealth;
- 25 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
26 held for sale in the regular course of business, which includes:
27 1. Machinery and equipment held in a retailer's inventory for sale or

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lease originating under a floor plan financing arrangement;

2. Motor vehicles:

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

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

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

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

5. Qualified heavy equipment;

(f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all;

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

~~2. (e) [One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all]~~Qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all

1 known releases of hazardous substances, pollutants, contaminants,
 2 petroleum, or petroleum products located on the property consistent with
 3 a corrective action plan approved by the Energy and Environment
 4 Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and
 5 provided the cleanup was not financed through a public grant or the
 6 petroleum storage tank environmental assurance fund. This rate shall
 7 apply for a period of three (3) years following the Energy and
 8 Environment Cabinet's issuance of a No Further Action Letter or its
 9 equivalent, after which the regular tax rate shall apply;

10 ~~3.[(d)] [One and one half cents (\$0.015) upon each one hundred dollars~~
 11 ~~(\$100) of value of all]Tobacco directed to be assessed for taxation;~~

12 ~~4.[(e)] [One and one half cents (\$0.015) upon each one hundred dollars~~
 13 ~~(\$100) of value of]Unmanufactured agricultural products;~~

14 **5. Aircraft not used in the business of transporting persons or property**
 15 **for compensation or hire; and**

16 **6. Federally documented vessels not used in the business of transporting**
 17 **persons or property for compensation or hire, or for other commercial**
 18 **purposes;**

19 ~~(g)[(f)]~~ One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of
 20 value of all;

21 **1.** Farm implements and farm machinery owned by or leased to a person
 22 actually engaged in farming and used in his farm operations;

23 ~~2.[(g)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~
 24 ~~(\$100) of value of all]Livestock and domestic fowl;~~

25 ~~3.[(h)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~
 26 ~~(\$100) of value of all]Tangible personal property located in a foreign~~
 27 trade zone established pursuant to 19 U.S.C. sec. 81, provided that the

1 zone is activated in accordance with the regulations of the United States
2 Customs Service and the Foreign Trade Zones Board; and
3 ~~4.(i) [Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of~~
4 ~~value of all machinery actually engaged in manufacturing;~~
5 ~~(j) — Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of~~
6 ~~all commercial radio and television equipment used to receive, capture,~~
7 ~~produce, edit, enhance, modify, process, store, convey, or transmit audio~~
8 ~~or video content or electronic signals which are broadcast over the air to~~
9 ~~an antenna, including radio and television towers used to transmit or~~
10 ~~facilitate the transmission of the signal broadcast and equipment used to~~
11 ~~gather or transmit weather information, but excluding telephone and~~
12 ~~cellular communication towers;~~
13 ~~(k) — Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of~~
14 ~~all tangible personal property which has been certified as a pollution~~
15 ~~control facility as defined in KRS 224.1 300. In the case of tangible~~
16 ~~personal property certified as a pollution control facility which is~~
17 ~~incorporated into a landfill facility, the tangible personal property shall~~
18 ~~be presumed to remain tangible personal property for purposes of this~~
19 ~~paragraph if the tangible personal property is being used for its intended~~
20 ~~purposes;~~
21 ~~(l) — One tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of~~
22 ~~value of all }Property which has been certified as an alcohol production~~
23 ~~facility as defined in KRS 247.910, or as a fluidized bed energy~~
24 ~~production facility as defined in KRS 211.390;{~~
25 ~~(m) — Twenty five cents (\$0.25) upon each one hundred dollars (\$100) of~~
26 ~~value of motor vehicles qualifying for permanent registration as historic~~
27 ~~motor vehicles under the provisions of KRS 186.043;~~

- 1 ~~(n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of~~
2 ~~goods held for sale in the regular course of business, which includes:~~
- 3 ~~1. Machinery and equipment held in a retailer's inventory for sale or lease~~
4 ~~originating under a floor plan financing arrangement;~~
- 5 ~~2. Motor vehicles:~~
- 6 ~~a. Held for sale in the inventory of a licensed motor vehicle dealer,~~
7 ~~including licensed motor vehicle auction dealers, which are not~~
8 ~~currently titled and registered in Kentucky and are held on an~~
9 ~~assignment pursuant to the provisions of KRS 186A.230; or~~
- 10 ~~b. That are in the possession of a licensed motor vehicle dealer,~~
11 ~~including licensed motor vehicle auction dealers, for sale, although~~
12 ~~ownership has not been transferred to the dealer;~~
- 13 ~~3. Raw materials, which includes distilled spirits and distilled spirits~~
14 ~~inventory; and~~
- 15 ~~4. In process materials, which includes distilled spirits and distilled spirits~~
16 ~~inventory, held for incorporation in finished goods held for sale in the~~
17 ~~regular course of business;~~
- 18 ~~(o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on~~
19 ~~the operating property of railroads or railway companies that operate~~
20 ~~solely within the Commonwealth;~~
- 21 ~~(p) One and one half cents (\$0.015) per one hundred dollars (\$100) of~~
22 ~~assessed value on aircraft not used in the business of transporting~~
23 ~~persons or property for compensation or hire;~~
- 24 ~~(q) One and one half cents (\$0.015) per one hundred dollars (\$100) of~~
25 ~~assessed value on federally documented vessels not used in the business~~
26 ~~of transporting persons or property for compensation or hire, or for other~~
27 ~~commercial purposes;] and~~

1 ~~(h)(1)~~ Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value
2 of all other property directed to be assessed for taxation shall be paid by the
3 owner or person assessed, except as provided in KRS 132.030, 132.200,
4 136.300, and 136.320, providing a different tax rate for particular property.

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

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

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

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

20 (3) By July 1 each year, the department shall compute the state tax rate applicable to
21 real property for the current year in accordance with the provisions of subsection (2)
22 of this section and certify the rate to the county clerks for their use in preparing the
23 tax bills. If the assessments for all counties have not been certified by July 1, the
24 department shall, when either real property assessments of at least seventy-five
25 percent (75%) of the total number of counties of the Commonwealth have been
26 determined to be acceptable by the department, or when the number of counties
27 having at least seventy-five percent (75%) of the total real property assessment for

1 the previous year have been determined to be acceptable by the department, make
2 an estimate of the real property assessments of the uncertified counties and compute
3 the state tax rate.

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

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

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

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

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

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

26 ➔Section 3. KRS 132.360 is amended to read as follows:

27 (1) Any assessment of tangible personal property listed with the property valuation

1 administrator or with the department~~[of Revenue]~~ as provided by KRS 132.220
 2 may be reopened by the department~~[of Revenue]~~ within five (5) years after the due
 3 date of the return, unless the assessed value has been established by a court of
 4 competent jurisdiction. If upon reopening the assessment the department finds that
 5 the assessment was less than the fair cash value and should be increased, it shall
 6 provide~~[give]~~ notice~~[thereof]~~ to the taxpayer. **If the taxpayer disagrees with the**
 7 **increase in the assessment, the taxpayer may protest the notice in accordance**
 8 **with KRS 131.110**~~[, who may within forty five (45) days thereafter protest to the~~
 9 ~~department and offer evidence to show that no increase should be made. After the~~
 10 ~~department has disposed of the protest, the taxpayer may appeal from any such~~
 11 ~~additional assessment as provided by KRS 49.220 and 131.110].~~

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

16 ➔Section 4. KRS 134.810 is amended to read as follows:

17 (1) All state, county, city, urban-county government, school, and special taxing district
 18 ad valorem taxes shall be due and payable on or before the earlier of the last day of
 19 the month in which registration renewal is required by law for a motor vehicle
 20 renewed or the last day of the month in which a vehicle is transferred.

21 (2) All state, county, city, urban-county government, school, and special taxing district
 22 ad valorem taxes due on motor vehicles shall become delinquent following the
 23 earlier of the end of the month in which registration renewal is required by law or
 24 the last day of the second calendar month following the month in which a vehicle
 25 was transferred.

26 (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be
 27 subject to a penalty of three percent (3%) on the taxes due. However, this penalty

1 shall be waived if the tax bill is paid within five (5) days of the tax bill being
2 declared delinquent. Any taxes which are not paid within thirty (30) days of
3 becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes
4 due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on
5 said taxes and penalty from the date of delinquency. A penalty or interest shall not
6 accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

7 (4) When a motor vehicle has been transferred before registration renewal or before
8 taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on
9 January 1 of any year shall be liable for the taxes on the motor vehicle, except as
10 hereinafter provided.

11 (5) If an owner obtains a certificate of registration for a motor vehicle valid through the
12 last day of his second birth month following the month and year in which he applied
13 for a certificate of registration, all state, county, city, urban-county government,
14 school, and special tax district ad valorem tax liabilities arising from the assessment
15 date following initial registration shall be due and payable on or before the last day
16 of the first birth month following the assessment date or date of transfer, whichever
17 is earlier. Any taxes due under the provisions of this subsection and not paid as set
18 forth above shall be considered delinquent and subject to the same interest and
19 penalties found in subsection (3) of this section.

20 (6) For purposes of the state ad valorem tax only, all motor vehicles:

21 (a) Held for sale by a licensed motor vehicle dealer, including licensed motor
22 vehicle auction dealers;

23 (b) That are in the possession of a licensed motor vehicle dealer, including
24 licensed motor vehicle auction dealers, for sale, although ownership has not
25 been transferred to the dealer; and

26 (c) With a salvage title held by an insurance company;

27 on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS

1 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular
2 course of business under the provisions of KRS 132.020(1)(~~e~~)(~~n~~) and 132.220.

3 (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor
4 vehicle becomes delinquent, the state and each county, city, urban-county
5 government, or other taxing district shall have a lien on all motor vehicles owned or
6 acquired by the person who owned the motor vehicle at the time the tax liability
7 arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle
8 transferred while the taxes are due on that vehicle. For the purpose of delinquent ad
9 valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be
10 attached to another vehicle owned by the lessor.

11 (8) The lien required by subsection (7) of this section shall be filed and released by the
12 automatic entry of appropriate information in the AVIS database. For the filing and
13 release of each lien or set of liens arising from motor vehicle ad valorem property
14 tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to
15 the delinquent tax account. The fee shall be collected and retained by the county
16 clerk who collects the delinquent tax.

17 (9) The implementation of the automated lien system provided in this section shall not
18 affect the manner in which commercial liens are recorded or released.

19 ➔Section 5. KRS 136.990 is amended to read as follows:

20 (1) Any corporation that fails to pay its taxes, penalty, and interest as provided in
21 subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty
22 dollars (\$50) for each day the same remains unpaid, to be recovered by indictment
23 or civil action, of which the Franklin Circuit Court shall have jurisdiction.

24 (2) Any public service corporation, or officer thereof, that willfully fails or refuses to
25 make reports as required by KRS 136.130 and 136.140 shall be fined one thousand
26 dollars (\$1,000), and fifty dollars (\$50) for each day the reports are not made after
27 April 30 of each year.

- 1 (3) Any superintendent of schools or county clerk who fails to report as required by
2 KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars
3 (\$50) nor more than one hundred dollars (\$100) for each offense.
- 4 (4) Any company or association that fails or refuses to return the statement or pay the
5 taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars
6 (\$1,000) for each offense.
- 7 (5) Any insurance company that fails or refuses for thirty (30) days to return the
8 statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS
9 136.330 or 136.340, shall forfeit one hundred dollars (\$100) for each offense. The
10 commissioner of insurance shall revoke the authority of the company or its agents to
11 do business in this state, and shall publish the revocation pursuant to KRS Chapter
12 424.
- 13 (6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than
14 one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each
15 offense.
- 16 (7) Where no other penalty is mentioned for failing to do an act required, or for doing
17 an act forbidden by this chapter, the penalty shall be not less than ten dollars (\$10)
18 nor more than five hundred dollars (\$500).
- 19 (8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under
20 subsections (4) to (6) of this section.
- 21 (9) Any person who violates any of the provisions of KRS 136.073~~[or KRS 136.090]~~
22 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- 23 (10) If the tax imposed by~~[KRS 136.070 or]~~ KRS 136.073, whether assessed by the
24 department or the taxpayer, or any installment or portion of the tax, is not paid on or
25 before the date prescribed for its payment, interest shall be collected upon the
26 nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date
27 prescribed for its payment until payment is actually made to the department.

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

4 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
 5 READ AS FOLLOWS:

6 *No class action may be brought against a marketplace provider on behalf of*
 7 *purchasers arising from or in any way related to an overpayment of tax collected by the*
 8 *marketplace provider. This prohibition applies only to sales made as an agent of a*
 9 *marketplace retailer for which the marketplace provider has remitted all taxes collected*
 10 *less any deductions or collection allowances allowed under this chapter.*

11 ➔Section 7. KRS 139.010 is amended to read as follows:

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

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

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

17 2.{(b)} The privilege of using facilities or participating in an event or
 18 activity, including but not limited to:

19 a.{(1)} Bowling centers;

20 b.{(2)} Skating rinks;

21 c.{(3)} Health spas;

22 d.{(4)} Swimming pools;

23 e.{(5)} Tennis courts;

24 f.{(6)} Weight training facilities;

25 g.{(7)} Fitness and recreational sports centers; and

26 h.{(8)} Golf courses, both public and private;

27 regardless of whether the fee paid is per use or in any other form,

1 including but not limited to an initiation fee, monthly fee, membership
 2 fee, or combination thereof.

3 **(b) "Admissions" does not include:**

4 **1. Any fee paid to enter or participate in a fishing tournament;**

5 **2. Any fee paid for the usage of a boat ramp for the purpose of allowing**
 6 **boats to be launched into or hauled out from the water; or**

7 **3. The portion of the fee that is attributable to a donation to a**
 8 **fundraising event held by a nonprofit organization if the amount of**
 9 **donation is separately stated, from the cost of the tangible personal**
 10 **property, digital property, or services received, on the ticket of**
 11 **admission or similar document given to the purchaser;**

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

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

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

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

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

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

27 (c) "Digital audio-visual works" shall not include video greeting cards, video

1 games, and electronic games;

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

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

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

9 (8) (a) "Digital books" means works that are generally recognized in the ordinary and
10 usual sense as books, including any literary work expressed in words,
11 numbers, or other verbal or numerical symbols or indicia if the literary work is
12 generally recognized in the ordinary or usual sense as a book.

13 (b) "Digital books" shall not include digital audio-visual works, digital audio
14 works, periodicals, magazines, newspapers, or other news or information
15 products, chat rooms, or Web logs;

16 (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain
17 one (1) or more types of digital property. A "digital code" may be obtained by
18 any means, including electronic mail messaging or by tangible means,
19 regardless of the code's designation as a song code, video code, or book code.

20 (b) "Digital code" shall not include a code that represents:

21 1. A stored monetary value that is deducted from a total as it is used by the
22 purchaser; or

23 2. A redeemable card, gift card, or gift certificate that entitles the holder to
24 select specific types of digital property;

25 (10) (a) "Digital property" means any of the following which is transferred
26 electronically:

27 1. Digital audio works;

- 1 2. Digital books;
 - 2 3. Finished artwork;
 - 3 4. Digital photographs;
 - 4 5. Periodicals;
 - 5 6. Newspapers;
 - 6 7. Magazines;
 - 7 8. Video greeting cards;
 - 8 9. Audio greeting cards;
 - 9 10. Video games;
 - 10 11. Electronic games; or
 - 11 12. Any digital code related to this property.
- 12 (b) "Digital property" shall not include digital audio-visual works or satellite
13 radio programming;
- 14 (11) (a) "Direct mail" means printed material delivered or distributed by United States
15 mail or other delivery service to a mass audience or to addressees on a mailing
16 list provided by the purchaser or at the direction of the purchaser when the
17 cost of the items are not billed directly to the recipient.
- 18 (b) "Direct mail" includes tangible personal property supplied directly or
19 indirectly by the purchaser to the direct mail retailer for inclusion in the
20 package containing the printed material.
- 21 (c) "Direct mail" does not include multiple items of printed material delivered to
22 a single address;
- 23 (12) "Directly used in the manufacturing or industrial processing process" means the
24 process within a plant facility that commences with the movement of raw materials
25 from storage into a continuous, unbroken, integrated process and ends when the
26 finished product is packaged and ready for sale;
- 27 (13) "Extended warranty services" means services provided through a service contract

1 agreement between the contract provider and the purchaser where the purchaser
2 agrees to pay compensation for the contract and the provider agrees to repair,
3 replace, support, or maintain tangible personal property or digital property
4 according to the terms of the contract if:

5 (a) The service contract agreement is sold or purchased on or after July 1, 2018;
6 and

7 (b) The tangible personal property or digital property for which the service
8 contract agreement is provided is subject to tax under this chapter or under
9 KRS 138.460;

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

12 (b) "Finished artwork" includes:

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

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

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

- 1 4. One (1) of the following criteria is met:
- 2 a. The purchaser presents a coupon, certificate, or other
- 3 documentation to the retailer to claim a price reduction or discount
- 4 where the coupon, certificate, or documentation is authorized,
- 5 distributed, or granted by a third party with the understanding that
- 6 the third party will reimburse any seller to whom the coupon,
- 7 certificate, or documentation is presented;
- 8 b. The price reduction or discount is identified as a third-party price
- 9 reduction or discount on the invoice received by the purchaser or
- 10 on a coupon, certificate, or other documentation presented by the
- 11 purchaser; or
- 12 c. The purchaser identifies himself or herself to the retailer as a
- 13 member of a group or organization entitled to a price reduction or
- 14 discount. A "preferred customer" card that is available to any
- 15 patron does not constitute membership in such a group.
- 16 (c) "Gross receipts" and "sales price" shall not include:
- 17 1. Discounts, including cash, term, or coupons that are not reimbursed by a
- 18 third party and that are allowed by a retailer and taken by a purchaser on
- 19 a sale;
- 20 2. Interest, financing, and carrying charges from credit extended on the sale
- 21 of tangible personal property, digital property, or services, if the amount
- 22 is separately stated on the invoice, bill of sale, or similar document given
- 23 to the purchaser; or
- 24 3. Any taxes legally imposed directly on the purchaser that are separately
- 25 stated on the invoice, bill of sale, or similar document given to the
- 26 purchaser.
- 27 (d) As used in this subsection, "third party" means a person other than the

1 purchaser;

2 (16) "In this state" or "in the state" means within the exterior limits of the
3 Commonwealth and includes all territory within these limits owned by or ceded to
4 the United States of America;

5 (17) "Industrial processing" includes:

6 (a) Refining;

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

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

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

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

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

15 1. Purchase the property; or

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

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

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

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

1 payments; or

2 3. Providing tangible personal property and an operator for the tangible
3 personal property for a fixed or indeterminate period of time. To qualify
4 for this exclusion, the operator must be necessary for the equipment to
5 perform as designed, and the operator must do more than maintain,
6 inspect, or setup the tangible personal property.

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

10 (19) (a) "Machinery for new and expanded industry" means machinery:

11 1. Directly used in the manufacturing or industrial processing process;

12 2. Which is incorporated for the first time into a plant facility established
13 in this state; and

14 3. Which does not replace machinery in the plant facility unless that
15 machinery purchased to replace existing machinery:

16 a. Increases the consumption of recycled materials at the plant
17 facility by not less than ten percent (10%);

18 b. Performs different functions;

19 c. Is used to manufacture a different product; or

20 d. Has a greater productive capacity, as measured in units of
21 production, than the machinery being replaced.

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

26 (20) "Manufacturing" means any process through which material having little or no
27 commercial value for its intended use before processing has appreciable commercial

1 value for its intended use after processing by the machinery;

2 (21) "Marketplace" means any physical or electronic means through which one (1) or
3 more retailers may advertise and sell **tangible personal property, digital property or**
4 **services**, or lease tangible personal property or digital property, such as a catalog,
5 Internet Web site, or television or radio broadcast, regardless of whether the
6 tangible personal property, digital property, or retailer is physically present in this
7 state;

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

11 **1. The person directly or indirectly:**

12 **a. Lists, makes available, or advertises tangible personal property,**
13 **digital property, or services for sale by a marketplace retailer in a**
14 **marketplace owned, operated, or controlled by the person;**

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

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

26 **d. Provides a marketplace for making retail sales of tangible**
27 **personal property, digital property, or services, or otherwise**

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

5 e. Provides software development or research and development
6 activities related to any activity described in this subparagraph, if
7 the software development or research and development activities
8 are directly related to the physical or electronic marketplace
9 provided by a marketplace provider;

10 f. Provides or offers fulfillment or storage services for a
11 marketplace retailer;

12 g. Sets prices for a marketplace retailer's sale of tangible personal
13 property, digital property, or services;

14 h. Provides or offers customer service to a marketplace retailer or a
15 marketplace retailer's customers, or accepts or assists with
16 taking orders, returns, or exchanges of tangible personal
17 property, digital property, or services sold by a marketplace
18 retailer; or

19 i. Brands or otherwise identifies sales as those of the marketplace
20 provider.

21 2. The person directly or indirectly:

22 a. Collects the sales price or purchase price of a retail sale of
23 tangible personal property, digital property, or services;

24 b. Provides payment processing services for a retail sale of tangible
25 personal property, digital property, or services;

26 c. Charges, collects, or otherwise receives selling fees, listing fees,
27 referral fees, closing fees, fees for inserting or making available

1 tangible personal property, digital property, or services on a
2 marketplace, or receives other consideration from the facilitation
3 of a retail sale of tangible personal property, digital property, or
4 services, regardless of ownership or control of the tangible
5 personal property, digital property, or services that are the
6 subject of the retail sale;

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

14 e. Provides a virtual currency that purchasers are allowed or
15 required to use to purchase tangible personal property, digital
16 property, or services.

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

25 (23) "Marketplace retailer" means a seller that makes retail sales through any
26 marketplace owned, operated, or controlled by a marketplace provider, even if the
27 seller would not have been required to collect and remit sales and use tax had the

1 *sale not been made through the marketplace*~~[person that has an agreement with a~~
2 ~~marketplace facilitator and makes retail sales of tangible personal property or digital~~
3 ~~property through a marketplace];~~

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

- 5 1. A sale of tangible personal property or digital property not held or used
6 by a seller in the course of an activity for which he or she is required to
7 hold a seller's permit, provided such sale is not one (1) of a series of
8 sales sufficient in number, scope, and character to constitute an activity
9 requiring the holding of a seller's permit. In the case of the sale of the
10 entire, or a substantial portion of the nonretail assets of the seller, the
11 number of previous sales of similar assets shall be disregarded in
12 determining whether or not the current sale or sales shall qualify as an
13 occasional sale; or
- 14 2. Any transfer of all or substantially all the tangible personal property or
15 digital property held or used by a person in the course of such an activity
16 when after such transfer the real or ultimate ownership of such property
17 is substantially similar to that which existed before such transfer.

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

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

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

- 26 1. Transactional direct mail that contains personal information specific to
27 the addressee, including but not limited to invoices, bills, statements of

1 account, and payroll advices;

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

4 3. Other nonpromotional direct mail delivered to existing or former
5 shareholders, customers, employees, or agents, including but not limited
6 to newsletters and informational pieces.

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

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

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

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

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

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

27 2. Software designed and developed by the author or other creator to the

1 specifications of a specific purchaser when it is sold to a person other
2 than the original purchaser; or

3 3. Any portion of prewritten computer software that is modified or
4 enhanced in any manner, where the modification or enhancement is
5 designed and developed to the specifications of a specific purchaser,
6 unless there is a reasonable, separately stated charge on an invoice or
7 other statement of the price to the purchaser for the modification or
8 enhancement.

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

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

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

- 18 1. Tangible personal property;
 - 19 2. An extended warranty service; or
 - 20 3. Digital property transferred electronically;
- 21 for a consideration.

22 (b) "Purchase" includes:

- 23 1. When performed outside this state or when the customer gives a resale
24 certificate, the producing, fabricating, processing, printing, or imprinting
25 of tangible personal property for a consideration for consumers who
26 furnish either directly or indirectly the materials used in the producing,
27 fabricating, processing, printing, or imprinting;

1 2. A transaction whereby the possession of tangible personal property or
2 digital property is transferred but the seller retains the title as security for
3 the payment of the price; and

4 3. A transfer for a consideration of the title or possession of tangible
5 personal property or digital property which has been produced,
6 fabricated, or printed to the special order of the customer, or of any
7 publication;

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

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

14 (33) ~~["Referrer" means a person that:~~

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

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

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

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

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

25 (34)~~[(35)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal
26 property used to maintain, restore, mend, or repair machinery or equipment.

27 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or

1 industrial tools;

2 ~~(35)~~~~(36)~~ (a) "Retailer" means:

3 1. Every person engaged in the business of making retail sales of tangible
4 personal property, digital property, or furnishing any services included in
5 KRS 139.200;

6 2. Every person engaged in the business of making sales at auction of
7 tangible personal property or digital property owned by the person or
8 others for storage, use or other consumption, except as provided in
9 paragraph (c) of this subsection;

10 3. Every person making more than two (2) retail sales of tangible personal
11 property or digital property during any twelve (12) month period,
12 including sales made in the capacity of assignee for the benefit of
13 creditors, or receiver or trustee in bankruptcy;

14 4. Any person conducting a race meeting under the provision of KRS
15 Chapter 230, with respect to horses which are claimed during the
16 meeting.

17 (b) When the department determines that it is necessary for the efficient
18 administration of this chapter to regard any salesmen, representatives,
19 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
20 employers under whom they operate or from whom they obtain the tangible
21 personal property, ~~or~~ digital property, or services sold by them, irrespective
22 of whether they are making sales on their own behalf or on behalf of the
23 dealers, distributors, supervisors or employers, the department may so regard
24 them and may regard the dealers, distributors, supervisors or employers as
25 retailers for purposes of this chapter.

26 (c) 1. Any person making sales at a charitable auction for a qualifying entity
27 shall not be a retailer for purposes of the sales made at the charitable

1 auction if:

2 a. The qualifying entity, not the person making sales at the auction, is
3 sponsoring the auction;

4 b. The purchaser of tangible personal property at the auction directly
5 pays the qualifying entity sponsoring the auction for the property
6 and not the person making the sales at the auction; and

7 c. The qualifying entity, not the person making sales at the auction, is
8 responsible for the collection, control, and disbursement of the
9 auction proceeds.

10 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
11 the qualifying entity sponsoring the auction shall be the retailer for
12 purposes of the sales made at the charitable auction.

13 3. For purposes of this paragraph, "qualifying entity" means a resident:

14 a. Church;

15 b. School;

16 c. Civic club; or

17 d. Any other nonprofit charitable, religious, or educational
18 organization;

19 ~~(36)~~~~(37)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
20 sublease, or subrent;

21 ~~(37)~~~~(38)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
22 device and that may be used to alert the customer with respect to a
23 communication.

24 (b) "Ringtones" shall not include ringback tones or other digital files that are not
25 stored on the purchaser's communications device;

26 ~~(38)~~~~(39)~~ (a) "Sale" means:

27 1. The furnishing of any services included in KRS 139.200;

- 1 2. Any transfer of title or possession, exchange, barter, lease, or rental,
2 conditional or otherwise, in any manner or by any means whatsoever, of:
3 a. Tangible personal property; or
4 b. Digital property transferred electronically;
5 for a consideration.
- 6 (b) "Sale" includes but is not limited to:
- 7 1. The producing, fabricating, processing, printing, or imprinting of
8 tangible personal property or digital property for a consideration for
9 purchasers who furnish, either directly or indirectly, the materials used
10 in the producing, fabricating, processing, printing, or imprinting;
- 11 2. A transaction whereby the possession of tangible personal property or
12 digital property is transferred, but the seller retains the title as security
13 for the payment of the price; and
- 14 3. A transfer for a consideration of the title or possession of tangible
15 personal property or digital property which has been produced,
16 fabricated, or printed to the special order of the purchaser.
- 17 (c) This definition shall apply regardless of the classification of a transaction
18 under generally accepted accounting principles, the Internal Revenue Code, or
19 other provisions of federal, state, or local law;
- 20 ~~(39)~~~~(40)~~ "Seller" includes every person engaged in the business of selling tangible
21 personal property, digital property, or services of a kind, the gross receipts from the
22 retail sale of which are required to be included in the measure of the sales tax, and
23 every person engaged in making sales for resale;
- 24 ~~(40)~~~~(41)~~ (a) "Storage" includes any keeping or retention in this state for any purpose
25 except sale in the regular course of business or subsequent use solely outside
26 this state of tangible personal property or digital property purchased from a
27 retailer.

1 (b) "Storage" does not include the keeping, retaining, or exercising any right or
2 power over tangible personal property for the purpose of subsequently
3 transporting it outside the state for use thereafter solely outside the state, or for
4 the purpose of being processed, fabricated, or manufactured into, attached to,
5 or incorporated into, other tangible personal property to be transported outside
6 the state and thereafter used solely outside the state;

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

11 ~~(42)~~~~(43)~~ "Taxpayer" means any person liable for tax under this chapter;

12 ~~(43)~~~~(44)~~ "Transferred electronically" means accessed or obtained by the purchaser by
13 means other than tangible storage media; and

14 ~~(44)~~~~(45)~~ (a) "Use" includes the exercise of:

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

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

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

1 and thereafter used solely outside the state.

2 →Section 8. KRS 139.200 is amended to read as follows:

3 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross
4 receipts derived from:

5 (1) Retail sales of:

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

8 (b) Digital property regardless of whether:

- 9 1. The purchaser has the right to permanently use the property;
- 10 2. The purchaser's right to access or retain the property is not permanent; or
- 11 3. The purchaser's right of use is conditioned upon continued payment; and

12 (2) The furnishing of the following:

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

20 (b) Sewer services;

21 (c) The sale of admissions, except:

- 22 1. Admissions to racetracks taxed under KRS 138.480;
- 23 2. Admissions to historical sites exempt under KRS 139.482;~~and~~
- 24 3. A portion of the admissions to county fairs exempt under KRS 139.470;

25 **and**

26 **4. Admissions charged by nonprofit educational, charitable, or religious**
27 **institutions exempt under Section 17 of this Act;**

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

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

8 ➔Section 9. KRS 139.260 is amended to read as follows:

9 For the purpose of the proper administration of this chapter and to prevent evasion of the
 10 duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that
 11 all gross receipts and all tangible personal property, digital property, and services sold by
 12 any person for delivery or access in this state are subject to the tax until the contrary is
 13 established. The burden of proving the contrary is upon the person who makes the sale of:

14 (1) Tangible personal property or digital property unless the person takes from the
 15 purchaser a certificate to the effect that the property is either:

- 16 (a) Purchased for resale according to the provisions of KRS 139.270;
- 17 (b) Purchased through a fully completed certificate of exemption or fully
 18 completed Streamlined Sales and Use Tax Agreement Certificate of
 19 Exemption in accordance with KRS 139.270; or
- 20 (c) Purchased according to administrative regulations promulgated by the
 21 department governing a direct pay authorization;~~and~~

22 (2) A service **included in paragraphs (a) to (f) in subsection (2) of Section 8 of this**
 23 **Act** unless the person takes from the purchaser a certificate to the effect that the
 24 service is purchased through a fully completed certificate of exemption or fully
 25 completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in
 26 accordance with KRS 139.270; **and**

27 **(3) A service included in paragraphs (g) to (q) in subsection (2) of Section 8 of this**

1 Act unless the person takes from the purchaser a certificate to the effect that the
 2 property is either:

3 (a) Purchased for resale according to the provisions of Section 10 of this Act;

4 or

5 (b) Purchased through a fully completed certificate of exemption or fully
 6 completed Streamlined Sales and Use Tax Agreement Certificate of
 7 Exemption in accordance with Section 10 of this Act.

8 ➔Section 10. 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 11. 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 12. 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 13. 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 or digital property that is
16 delivered or transferred electronically to a purchaser in this state for one (1)
17 or more marketplace retailers that in any sales combination exceeds one
18 hundred thousand dollars (\$100,000) or reaches two hundred (200) or more
19 separate transactions in the immediately preceding calendar year or current
20 calendar year shall be subject to this section.

21 (b) The marketplace provider shall:
22 1. Register for a sales and use tax permit number to report and remit the
23 tax due on the marketplace provider's sales;
24 2. Register for a separate sales and use tax permit number to report and
25 remit the tax due on sales it facilitates for one (1) or more marketplace
26 retailers; and
27 3. Collect tax imposed under this chapter;

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

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

9 (3) (a) A marketplace provider shall be relieved of liability under subsection (2) of
10 this section for failure to collect and remit the tax due on a specific retail
11 sale that was facilitated for a marketplace retailer if the marketplace
12 provider demonstrates to the satisfaction of the department that the:

- 13 1. Marketplace provider is not the retailer;
- 14 2. Marketplace provider and the marketplace retailer are not affiliates;
- 15 3. Marketplace provider has made a reasonable effort to obtain accurate
16 information about the retail sale from the marketplace retailer; and
- 17 4. Failure to collect and remit the correct amount of tax was due to
18 incorrect information provided to the marketplace provider by the
19 marketplace retailer.

20 (b) If the marketplace provider is relieved of the liability for a specific retail
21 sale under paragraph (a) of this subsection, the marketplace retailer and
22 purchaser shall be jointly and severally liable for the amount of uncollected,
23 unpaid , or unremitted tax;

24 (4) Nothing in this section shall be construed to relieve any person of liability for
25 collecting but failing to remit the taxes imposed under this chapter.

26 (5) The marketplace provider is an agent of any marketplace retailer making retail
27 sales through a marketplace of the marketplace provider.~~Except as provided in~~

1 subsection (8) of this section, every retailer that:

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

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

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

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

12 (c) ~~A retailer shall not advertise, state, display, or imply on the retailer's Internet~~
13 ~~Web site or retail catalog that there is no Kentucky tax due on the purchases~~
14 ~~made from the retailer.~~

15 (3) ~~The use tax notification required by subsection (2) of this section shall contain the~~
16 ~~following language:~~

17 (a) ~~"The retailer is not required to and does not collect Kentucky sales or use~~
18 ~~tax.";~~

19 (b) ~~"The purchase may be subject to Kentucky use tax unless the purchase is~~
20 ~~exempt from taxation in Kentucky.";~~

21 (c) ~~"The purchase is not exempt merely because it is made over the Internet, by~~
22 ~~catalog, or by other remote means."; and~~

23 (d) ~~"The Commonwealth of Kentucky requires Kentucky purchasers to report all~~
24 ~~purchases of tangible personal property or digital property that are not taxed~~
25 ~~by the retailer and pay use tax on those purchases unless exempt under~~
26 ~~Kentucky law. The tax may be reported and paid on the Kentucky individual~~
27 ~~income tax return or by filing a consumer use tax return with the Kentucky~~

1 Department of Revenue. These forms and corresponding instructions may be
2 found on the Kentucky Department of Revenue's Internet Web site."

3 ~~(4) Except as provided in subsection (5) of this section, the retailer shall include the~~
4 ~~exact required use tax notification language provided in subsection (3) of this~~
5 ~~section on the:~~

6 ~~(a) Internet Web site page necessary to facilitate an online sales transaction;~~

7 ~~(b) Electronic order confirmation or, if an electronic order confirmation is not~~
8 ~~issued, the required use tax notification shall be included on the purchase~~
9 ~~order, invoice, bill, receipt, sales slip, order form, or packing statement; and~~

10 ~~(c) Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing~~
11 ~~statement.~~

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

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

24 ~~(7) Except for the notification requirement on invoices in subsection (4)(c) of this~~
25 ~~section, subsections (2) to (8) of this section shall also apply to online auction Web~~
26 ~~sites. For purposes of this section, "online auction Web site" means a collection of~~
27 ~~Internet Web pages that allows persons to display tangible personal property or~~

1 digital property for sale that is purchased through a competitive process where
2 participants place bids with the highest bidder purchasing the item when the bidding
3 period ends.

4 ~~(8) Any retailer that made total gross sales of less than one hundred thousand dollars
5 (\$100,000) to Kentucky residents or businesses located in Kentucky, and that
6 reasonably expects that its Kentucky sales in the current calendar year will be less
7 than one hundred thousand dollars (\$100,000), shall be exempt from subsections (2)
8 to (8) of this section.~~

9 ➔Section 14. KRS 139.480 is amended to read as follows:

10 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
11 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
12 include the sale, use, storage, or other consumption of:

13 (1) Locomotives or rolling stock, including materials for the construction, repair, or
14 modification thereof, or fuel or supplies for the direct operation of locomotives and
15 trains, used or to be used in interstate commerce;

16 (2) Coal for the manufacture of electricity;

17 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
18 processing, mining, or refining and any related distribution, transmission, and
19 transportation services for this energy that are billed to the user, to the extent
20 that the cost of the energy or energy-producing fuels used, and related
21 distribution, transmission, and transportation services for this energy that are
22 billed to the user exceed three percent (3%) of the cost of production.

23 (b) Cost of production shall be computed on the basis of a plant facility, which
24 shall include all operations within the continuous, unbroken, integrated
25 manufacturing or industrial processing process that ends with a product
26 packaged and ready for sale.

27 (c) ~~[If]~~A person who ~~[independently]~~ performs a manufacturing or industrial

1 processing~~[production]~~ activity for a fee~~[, applies for the exemption under~~
2 ~~this subsection,]~~ and does not take ownership of the tangible personal property
3 that is incorporated into, or becomes the product of the manufacturing or
4 industrial processing activity ***is a toller. For periods on or after July 1, 2018,***
5 ***the costs of the tangible personal property shall be excluded from the***
6 ***toller's cost of production at a plant facility with tolling operations in place***
7 ***as of July 1, 2018. This exclusion from the toller's cost of production shall***
8 ***apply to the tollers, their successors, and assigns.***

9 ***(d) For plant facilities that begin tolling operation after July 1, 2018, the costs***
10 ***of tangible personal property shall be excluded from the toller's cost of***
11 ***production if the toller:***~~[, then all costs of production, including raw material~~
12 ~~costs, shall be allocated in proportion to all manufacturing or industrial~~
13 ~~processing operations at the plant facility;]~~

14 ***1. Maintains a binding contract for periods after July 1, 2018, that governs the***
15 ***terms, and conditions, and responsibilities with a separate legal entity,***
16 ***which holds title to the tangible personal property that is incorporated into,***
17 ***or becomes the product of the manufacturing or industrial processing***
18 ***activity;***

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

23 ***3. Maintains separate payroll, bank accounts, tax returns, and other***
24 ***records that demonstrate its independent operations in the***
25 ***performance of its tolling responsibilities;***

26 ***4. Demonstrates one (1) or more substantial business purposes for the***
27 ***tolling operation germane to the overall manufacturing, industrial***

1 processing activities, or corporate structure at the plant facility. A
2 business purpose is a purpose other than the reduction of sales tax
3 liability for the purchases of energy and energy-producing fuels; and
4 5. Provides information to the department upon request that documents
5 fulfillment of the requirements in subparagraphs 1. to 4. of this
6 paragraph and gives an overview of its tolling operations with an
7 explanation of how the tolling operations relate and connect with all
8 other manufacturing or industrial processing activities occurring at
9 the plant facility.

10 (4) Livestock of a kind the products of which ordinarily constitute food for human
11 consumption, provided the sales are made for breeding or dairy purposes and by or
12 to a person regularly engaged in the business of farming;

13 (5) Poultry for use in breeding or egg production;

14 (6) Farm work stock for use in farming operations;

15 (7) Seeds, the products of which ordinarily constitute food for human consumption or
16 are to be sold in the regular course of business, and commercial fertilizer to be
17 applied on land, the products from which are to be used for food for human
18 consumption or are to be sold in the regular course of business; provided such sales
19 are made to farmers who are regularly engaged in the occupation of tilling and
20 cultivating the soil for the production of crops as a business, or who are regularly
21 engaged in the occupation of raising and feeding livestock or poultry or producing
22 milk for sale; and provided further that tangible personal property so sold is to be
23 used only by those persons designated above who are so purchasing;

24 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
25 used in the production of crops as a business, or in the raising and feeding of
26 livestock or poultry, the products of which ordinarily constitute food for human
27 consumption;

- 1 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
2 products of which ordinarily constitute food for human consumption;
- 3 (10) Machinery for new and expanded industry;
- 4 (11) Farm machinery. As used in this section, the term "farm machinery":
- 5 (a) Means machinery used exclusively and directly in the occupation of:
- 6 1. Tilling the soil for the production of crops as a business;
- 7 2. Raising and feeding livestock or poultry for sale; or
- 8 3. Producing milk for sale;
- 9 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
10 replacement parts which are used or manufactured for use on, or in the
11 operation of farm machinery and which are necessary to the operation of the
12 machinery, and are customarily so used, including but not limited to combine
13 header wagons, combine header trailers, or any other implements specifically
14 designed and used to move or transport a combine head; and
- 15 (c) Does not include:
- 16 1. Automobiles;
- 17 2. Trucks;
- 18 3. Trailers, except combine header trailers; or
- 19 4. Truck-trailer combinations;
- 20 (12) Tombstones and other memorial grave markers;
- 21 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
22 or handling. The exemption applies to the equipment, machinery, attachments,
23 repair and replacement parts, and any materials incorporated into the construction,
24 renovation, or repair of the facilities;
- 25 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
26 shall apply to the equipment, machinery, attachments, repair and replacement parts,
27 and any materials incorporated into the construction, renovation, or repair of the

- 1 facilities. The exemption shall apply but not be limited to vent board equipment,
2 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
3 and curtain systems. In addition, the exemption shall apply whether or not the seller
4 is under contract to deliver, assemble, and incorporate into real estate the
5 equipment, machinery, attachments, repair and replacement parts, and any materials
6 incorporated into the construction, renovation, or repair of the facilities;
- 7 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
8 and directly to:
- 9 (a) Operate farm machinery as defined in subsection (11) of this section;
 - 10 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
11 (13) of this section;
 - 12 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
13 this section;
 - 14 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - 15 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
16 section; or
 - 17 (f) Operate on-farm dairy facilities;
- 18 (16) Textbooks, including related workbooks and other course materials, purchased for
19 use in a course of study conducted by an institution which qualifies as a nonprofit
20 educational institution under KRS 139.495. The term "course materials" means only
21 those items specifically required of all students for a particular course but shall not
22 include notebooks, paper, pencils, calculators, tape recorders, or similar student
23 aids;
- 24 (17) Any property which has been certified as an alcohol production facility as defined in
25 KRS 247.910;
- 26 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
27 direct operation of aircraft in interstate commerce and used exclusively for the

- 1 conveyance of property or passengers for hire. Nominal intrastate use shall not
2 subject the property to the taxes imposed by this chapter;
- 3 (19) Any property which has been certified as a fluidized bed energy production facility
4 as defined in KRS 211.390;
- 5 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
6 modification, or expansion of a blast furnace or any of its components or
7 appurtenant equipment or structures as part of an approved supplemental
8 project, as defined by KRS 154.26-010; and
- 9 2. Materials, supplies, and repair or replacement parts purchased for use in
10 the operation and maintenance of a blast furnace and related carbon
11 steel-making operations as part of an approved supplemental project, as
12 defined by KRS 154.26-010.
- 13 (b) The exemptions provided in this subsection shall be effective for sales made:
- 14 1. On and after July 1, 2018; and
- 15 2. During the term of a supplemental project agreement entered into
16 pursuant to KRS 154.26-090;
- 17 (21) Beginning on October 1, 1986, food or food products purchased for human
18 consumption with food coupons issued by the United States Department of
19 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
20 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
21 continue participation in the federal food stamp program;
- 22 (22) Machinery or equipment purchased or leased by a business, industry, or
23 organization in order to collect, source separate, compress, bale, shred, or otherwise
24 handle waste materials if the machinery or equipment is primarily used for recycling
25 purposes;
- 26 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
27 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-

- 1 products, and the following items used in this agricultural pursuit:
- 2 (a) Feed and feed additives;
- 3 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 4 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 5 replacement parts, and any materials incorporated into the construction,
- 6 renovation, or repair of the facilities. The exemption shall apply to incubation
- 7 systems, egg processing equipment, waterer and feeding systems, brooding
- 8 systems, ventilation systems, alarm systems, and curtain systems. In addition,
- 9 the exemption shall apply whether or not the seller is under contract to deliver,
- 10 assemble, and incorporate into real estate the equipment, machinery,
- 11 attachments, repair and replacement parts, and any materials incorporated into
- 12 the construction, renovation, or repair of the facilities;
- 13 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
- 14 these embryos and semen ordinarily constitute food for human consumption, and if
- 15 the sale is made to a person engaged in the business of farming;
- 16 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
- 17 the breeding and production of hides, breeding stock, fiber and wool products, meat,
- 18 and llama and alpaca by-products, and the following items used in this pursuit:
- 19 (a) Feed and feed additives;
- 20 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 21 and
- 22 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 23 replacement parts, and any materials incorporated into the construction,
- 24 renovation, or repair of the facilities. The exemption shall apply to waterer
- 25 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 26 exemption shall apply whether or not the seller is under contract to deliver,
- 27 assemble, and incorporate into real estate the equipment, machinery,

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

- 1 (b) Water;
- 2 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 3 and
- 4 (d) On-farm facilities, including equipment, machinery, attachments, repair and
- 5 replacement parts, and any materials incorporated into the construction,
- 6 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
- 7 petroleum gas, or natural gas used to operate the facilities. The exemption
- 8 shall apply, but not be limited to: waterer and feeding systems; ventilation,
- 9 aeration, and heating systems; processing and storage systems; production
- 10 systems such as ponds, tanks, and raceways; harvest and transport equipment
- 11 and systems; and alarm systems. In addition, the exemption shall apply
- 12 whether or not the seller is under contract to deliver, assemble, and
- 13 incorporate into real estate the equipment, machinery, attachments, repair and
- 14 replacement parts, and any materials incorporated into the construction,
- 15 renovation, or repair of the facilities;
- 16 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
- 17 production of hides, breeding stock, meat, and cervid by-products, and the
- 18 following items used in this pursuit:
- 19 (a) Feed and feed additives;
- 20 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 21 (c) On-site facilities, including equipment, machinery, attachments, repair and
- 22 replacement parts, and any materials incorporated into the construction,
- 23 renovation, or repair of the facilities. In addition, the exemption shall apply
- 24 whether or not the seller is under contract to deliver, assemble, and
- 25 incorporate into real estate the equipment, machinery, attachments, repair and
- 26 replacement parts, and any materials incorporated into the construction,
- 27 renovation, or repair of the facilities;

- 1 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
2 vehicle, including any towed unit, used exclusively in interstate commerce for
3 the conveyance of property or passengers for hire, provided the motor vehicle
4 is licensed for use on the highway and its declared gross vehicle weight with
5 any towed unit is forty-four thousand and one (44,001) pounds or greater.
6 Nominal intrastate use shall not subject the property to the taxes imposed by
7 this chapter;
- 8 (b) Repair or replacement parts for the direct operation and maintenance of a
9 motor vehicle operating under a charter bus certificate issued by the
10 Transportation Cabinet under KRS Chapter 281, or under similar authority
11 granted by the United States Department of Transportation; and
- 12 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
13 brakes, engines, transmissions, drive trains, chassis, body parts, and their
14 components. "Repair or replacement parts" shall not include fuel, machine
15 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
16 to the operation of the motor vehicle itself, except when sold as part of the
17 assembled unit, such as cigarette lighters, radios, lighting fixtures not
18 otherwise required by the manufacturer for operation of the vehicle, or tool or
19 utility boxes; and
- 20 (32) Food donated by a retail food establishment or any other entity regulated under KRS
21 217.127 to a nonprofit organization for distribution to the needy.
- 22 ➔Section 15. KRS 160.613 is amended to read as follows:
- 23 (1) There is hereby authorized a utility gross receipts license tax for schools not to
24 exceed three percent (3%) of the gross receipts derived from the furnishing, within
25 the district, of utility services, except that "gross receipts" shall not include:
- 26 (a) Amounts received for furnishing energy or energy-producing fuels to a person
27 engaged in manufacturing or industrial processing if that person provides

1 *the utility services provider with a copy of its utility gross receipts license tax*
 2 *energy direct pay authorization, as provided in subsection (3) of this section,*
 3 *and the utility service provider retains a copy of the authorization in its*
 4 *records*~~[, used in the course of manufacturing, processing, mining, or refining~~
 5 ~~to the extent that the cost of the energy or energy-producing fuels used~~
 6 ~~exceeds three percent (3%) of the cost of production]; or~~

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

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

15 (3) ~~[[If]A person engaged in manufacturing *or industrial*], processing *whose cost of*,~~
 16 ~~mining, or refining chooses to claim that the] energy or energy-producing fuels *used*~~
 17 *in the course of manufacturing or industrial processing*~~[purchased from a utility~~
 18 ~~services provider] exceeds an amount equal to three percent (3%) of the cost of~~
 19 ~~production *may apply to the department for a utility gross receipts license tax*~~
 20 *energy direct pay authorization. Cost of production shall be computed on the*
 21 *basis of a plant facility, which shall include all operations within the continuous,*
 22 *unbroken, integrated manufacturing or processing production process that ends*
 23 *with a product packaged and ready for sale. If the person*~~[as provided in~~
 24 ~~subsection (1)(a) of this section and] receives confirmation of eligibility from the~~
 25 department, the person shall:

26 (a) Provide the utility services provider with a copy of the *utility gross receipts*
 27 *license tax* energy direct pay authorization issued by the department *for all*

1 purchases of energy and energy-producing fuels; and

2 (b) Report and pay directly to the department, in accordance with the provisions
3 of KRS 160.615, the utility gross receipts license tax due.

4 (4) A person who performs a manufacturing or industrial processing activity for a
5 fee and does not take ownership of the tangible personal property that is
6 incorporated into, or becomes the product of the manufacturing or industrial
7 processing activity is a toller. For periods on or after July 1, 2018, the costs of the
8 tangible personal property shall be excluded from the toller's cost of production
9 at a plant facility with tolling operations in place as of July 1, 2018. This
10 exclusion from the toller's cost of production shall apply to the tollers, their
11 successors, and assigns.

12 (5) For plant facilities that begin tolling operation after July 1, 2018, the costs of
13 tangible personal property shall be excluded from the toller's cost of production if
14 the toller:

15 (a) Maintains a binding contract for periods after July 1, 2018, that governs the
16 terms, conditions, and responsibilities with a separate legal entity, which
17 holds title to the tangible personal property that is incorporated into, or
18 becomes the product of the manufacturing or industrial processing activity;

19 (b) Maintains accounting records that show the expenses it incurs to fulfill the
20 binding contract that include, but are not limited to, energy or energy-
21 producing fuels, materials, labor, procurement, depreciation, maintenance,
22 taxes, administration, and office expenses;

23 (c) Maintains separate payroll, bank accounts, tax returns, and other records
24 that demonstrate its independent operations in the performance of its tolling
25 responsibilities;

26 (d) Demonstrates one (1) or more substantial business purposes for the tolling
27 operation germane to the overall manufacturing, industrial processing

1 activities, or corporate structure at the plant facility. A business purpose is a
 2 purpose other than the reduction of utility gross receipts license tax liability
 3 for the purchases of energy and energy-producing fuels; and
 4 (e) Provides information to the department upon request that documents
 5 fulfillment of the requirements in paragraphs (a) to (d) of this subsection
 6 and gives an overview of its tolling operations with an explanation of how
 7 the tolling operations relate and connect with all other manufacturing or
 8 industrial processing activities occurring at the plant facility.

9 ➔Section 16. KRS 160.6131 is amended to read as follows:

10 As used in KRS 160.613 to 160.617:

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

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

- 1 telecommunications services or other communications providers;
- 2 d. Charges for the sale of unbundled network elements as defined in
- 3 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is
- 4 provided on an unbundled basis in accordance with 47 U.S.C. sec.
- 5 251(c)(3); and
- 6 e. Charges for use of facilities for providing or receiving
- 7 communications service;
- 8 8. The sale of communications services provided to the public by means of
- 9 a pay phone;
- 10 9. Prepaid calling services and prepaid wireless calling service;
- 11 10. Interstate telephone service, if the interstate charge is separately itemized
- 12 for each call; and
- 13 11. If the interstate calls are not itemized, the portion of telephone charges
- 14 identified and set out on the customer's bill as interstate as supported by
- 15 the provider's books and records;
- 16 (3) "Gross cost" means the total cost of utility services including the cost of the tangible
- 17 personal property and any services associated with obtaining the utility services
- 18 regardless from whom purchased;
- 19 (4) "Gross receipts" means all amounts received in money, credits, property, or other
- 20 money's worth in any form, as consideration for the furnishing of utility services;
- 21 (5) "Utility services" means the furnishing of communications services, electric power,
- 22 water, and natural, artificial, and mixed gas;
- 23 (6) "Cable service" has the same meaning as ~~provided~~ in KRS 136.602;
- 24 (7) "Satellite broadcast and wireless cable service" has the same meaning as ~~provided~~
- 25 in KRS 136.602;
- 26 (8) "Ring tones" has the same meaning as ~~provided~~ in KRS 136.602;~~and~~
- 27 (9) "Multichannel video programming service" has the same meaning as in KRS

1 136.602;

2 **(10) "Industrial processing" has the same meaning as in Section 7 of this Act;**

3 **(11) "Manufacturing" has the same meaning as in Section 7 of this Act; and**

4 **(12) "Plant facility" has the same meaning as in Section 7 of this Act.**

5 ➔Section 17. KRS 139.495 is amended to read as follows:

6 (1) The taxes imposed by this chapter shall apply to:

7 (a) Resident, nonprofit educational, charitable, or religious institutions which
8 have qualified for exemption from income taxation under Section 501(c)(3) of
9 the Internal Revenue Code; and

10 (b) Any resident, single member limited liability company that is:

11 1. Wholly owned and controlled by a resident or nonresident, nonprofit
12 educational, charitable, or religious institution which has qualified for
13 exemption from income taxation under Section 501(c)(3) of the Internal
14 Revenue Code; and

15 2. Disregarded as an entity separate from the resident or nonresident,
16 nonprofit educational, charitable, or religious institution for federal
17 income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2;

18 as provided in this section.

19 (2) Tax does not apply to:

20 **(a)** Sales of tangible personal property, digital property, or services to these
21 institutions or limited liability companies described in subsection (1) of this
22 section, provided the tangible personal property, digital property, or service is
23 to be used solely in this state within the educational, charitable, or religious
24 function;[-]

25 **(b)** ~~[(3) Tax does not apply to]~~ Sales of food to students in school cafeterias or
26 lunchrooms;[-]

27 **(c)** ~~[(4) Tax does not apply to]~~ Sales by school bookstores of textbooks,

1 workbooks, and other course materials;~~[-]~~

2 ~~(d) [(5) Tax does not apply to]~~ Sales by nonprofit, school sponsored clubs and
3 organizations, provided such sales do not include tickets for athletic events;

4 (e) Sales of admissions by nonprofit educational, charitable, or religious
5 institutions; or

6 (f) The first ten thousand dollars (\$10,000) in sales of tangible personal
7 property and digital property made by nonprofit education, charitable, or
8 religious institutions in a calendar year.

9 ~~(3) [(6)]~~ An institution shall be entitled to a refund equal to twenty-five percent (25%)
10 of the tax collected on its sale of donated goods if the refund is used exclusively as
11 reimbursement for capital construction costs of additional retail locations in this
12 state, provided the institution:

13 (a) Routinely sells donated items;

14 (b) Provides job training and employment to individuals with workplace
15 disadvantages and disabilities;

16 (c) Spends at least seventy-five percent (75%) of its annual revenue on job
17 training, job placement, or other related community services;

18 (d) Submits a refund application to the department within sixty (60) days after the
19 new retail location opens for business; and

20 (e) Provides records of capital construction costs for the new retail location and
21 any other information the department deems necessary to process the refund.

22 The maximum refund allowed for any location shall not exceed one million dollars
23 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost
24 of construction of any new facilities or the purchase and renovation of any existing
25 facilities, but does not include the cost of real property other than real property
26 designated as a brownfield site as defined in KRS 65.680(4).

27 ~~(4) [(7)]~~ Notwithstanding any other provision of law to the contrary, refunds under

1 subsection ~~(3)~~~~(6)~~ of this section shall be made directly to the institution. Interest
 2 shall not be allowed or paid on the refund. The department may examine any refund
 3 within four (4) years from the date the refund application is received. Any
 4 overpayment shall be subject to the interest provisions of KRS 131.183 and the
 5 penalty provisions of KRS 131.180.

6 ~~(5)~~~~(8)~~ All other sales made by nonprofit educational, charitable, or religious
 7 institutions or limited liability companies described in subsection (1) of this section
 8 are taxable and the tax may be passed on to the purchaser~~customer~~ as provided in
 9 KRS 139.210.

10 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
 11 READ AS FOLLOWS:

12 *For nonprofit civic, governmental, or other nonprofit organizations, except as*
 13 *described in Section 17 of this Act and KRS 139.497, the taxes imposed by this chapter*
 14 *do not apply to the first ten thousand dollars (\$10,000) in sales of tangible personal*
 15 *property and digital property made by these organizations in a calendar year. All other*
 16 *sales of tangible personal property and digital property and all sales of admissions*
 17 *made by these organizations in a calendar year are taxable and the tax may be passed*
 18 *on to the purchaser as provided in KRS 139.210.*

19 ➔Section 19. 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 20. 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 21. KRS 139.720 is amended to read as follows:

4 (1) Every seller, every retailer, and every person storing, using and otherwise
5 consuming in this state tangible personal property, digital property, or services
6 included in Section 8 of this Act~~[an extended warranty service]~~ purchased from a
7 retailer shall keep such records, receipts, invoices, and other pertinent papers in
8 such form as the department may require.

9 (2) Every such seller, retailer, or person who files the returns required under this
10 chapter shall keep such records for not less than four (4) years from the making of
11 such records unless the department in writing sooner authorizes their destruction.

12 ➔Section 22. KRS 141.010 is amended to read as follows:

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

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

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

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

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

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

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

1 b. Ten percent (10%), if the corporation occupies property owned,
2 constructively owned, or controlled by the real estate investment
3 trust.

4 The total ownership interest of a corporation shall be determined by
5 aggregating all interests owned or constructively owned by a
6 corporation; and

7 2. For the purposes of this paragraph:

8 a. "Corporation" means a corporation taxable under KRS 141.040,
9 and includes an affiliated group as defined in KRS 141.200, that is
10 required to file a consolidated return pursuant to KRS 141.200;
11 and

12 b. "Owned or constructively owned" means owning shares or having
13 an ownership interest in the real estate investment trust, or owning
14 an interest in an entity that owns shares or has an ownership
15 interest in the real estate investment trust. Constructive ownership
16 shall be determined by looking across multiple layers of a
17 multilayer pass-through structure; and

18 (c) The real estate investment trust is not owned by another real estate investment
19 trust;

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

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

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

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

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

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

- 1 (b) Having a commercial domicile in this state;
- 2 (c) Owning or leasing property in this state;
- 3 (d) Having one (1) or more individuals performing services in this state;
- 4 (e) Maintaining an interest in a pass-through entity doing business in this state;
- 5 (f) Deriving income from or attributable to sources within this state, including
- 6 deriving income directly or indirectly from a trust doing business in this state,
- 7 or deriving income directly or indirectly from a single-member limited
- 8 liability company that is doing business in this state and is disregarded as an
- 9 entity separate from its single member for federal income tax purposes; or
- 10 (g) Directing activities at Kentucky customers for the purpose of selling them
- 11 goods or services.

12 Nothing in this subsection shall be interpreted in a manner that goes beyond the

13 limitations imposed and protections provided by the United States Constitution or

14 Pub. L. No. 86-272;

15 (8) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue

16 Code;

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

18 Code;

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

20 Code;

21 (11) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal

22 Revenue Code;

23 (12) "Gross income":

24 (a) In the case of taxpayers other than corporations, has the same meaning as in

25 Section 61 of the Internal Revenue Code; and

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

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

1 (14) "Internal Revenue Code" means:

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

9 (b) For taxable years beginning on or after January 1, 2019, the Internal
10 Revenue Code in effect on December 31, 2018, exclusive of any
11 amendments made subsequent to that date, other than amendments that
12 extend provisions in effect on December 31, 2018, that would otherwise
13 terminate;

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

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

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

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

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

26 (b) Adjusted gross income as defined in subsection (1) of this section and
27 adjusted to include lump-sum pension distributions taxed under the special

- 1 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 2 (17) "Net income":
- 3 (a) In the case of taxpayers other than corporations, means the amount calculated
- 4 in KRS 141.019; and
- 5 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 6 (18) "Nonresident" means any individual not a resident of this state;
- 7 (19) "Number of withholding exemptions claimed" means the number of withholding
- 8 exemptions claimed in a withholding exemption certificate in effect under KRS
- 9 141.325, except that if no such certificate is in effect, the number of withholding
- 10 exemptions claimed shall be considered to be zero;
- 11 (20) "Part-year resident" means any individual that has established or abandoned
- 12 Kentucky residency during the calendar year;
- 13 (21) "Pass-through entity" means any partnership, S corporation, limited liability
- 14 company, limited liability partnership, limited partnership, or similar entity
- 15 recognized by the laws of this state that is not taxed for federal purposes at the
- 16 entity level, but instead passes to each partner, member, shareholder, or owner their
- 17 proportionate share of income, deductions, gains, losses, credits, and any other
- 18 similar attributes;
- 19 (22) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
- 20 Revenue Code;
- 21 (23) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
- 22 Code;
- 23 (24) "Resident" means an individual domiciled within this state or an individual who is
- 24 not domiciled in this state, but maintains a place of abode in this state and spends in
- 25 the aggregate more than one hundred eighty-three (183) days of the taxable year in
- 26 this state;
- 27 (25) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue

1 Code;

2 (26) "State" means a state of the United States, the District of Columbia, the
3 Commonwealth of Puerto Rico, or any territory or possession of the United States;

4 (27) "Taxable net income":

5 (a) In the case of corporations that are taxable in this state, means "net income" as
6 defined in subsection (17) of this section;

7 (b) In the case of corporations that are taxable in this state and taxable in another
8 state, means "net income" as defined in subsection (17) of this section and as
9 allocated and apportioned under KRS 141.120;

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

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

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

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

1 ➔Section 23. KRS 141.170 is amended to read as follows:

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

16 ➔Section 24. KRS 241.010 is amended to read as follows:

17 As used in KRS Chapters 241 to 244, unless the context requires otherwise:

- 18 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
19 whatever source or by whatever process it is produced;
- 20 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
21 patented or not, containing alcohol in an amount in excess of more than one percent
22 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
23 spurious or imitation liquor sold as, or under any name commonly used for,
24 alcoholic beverages, whether containing any alcohol or not. It does not include the
25 following products:
- 26 (a) Medicinal preparations manufactured in accordance with formulas prescribed
27 by the United States Pharmacopoeia, National Formulary, or the American

- 1 Institute of Homeopathy;
- 2 (b) Patented, patent, and proprietary medicines;
- 3 (c) Toilet, medicinal, and antiseptic preparations and solutions;
- 4 (d) Flavoring extracts and syrups;
- 5 (e) Denatured alcohol or denatured rum;
- 6 (f) Vinegar and preserved sweet cider;
- 7 (g) Wine for sacramental purposes; and
- 8 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
- 9 use;
- 10 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
- 11 or process that mixes liquor, spirits, or any other alcohol product with pure
- 12 oxygen or by any other means produces a vaporized alcoholic product used for
- 13 human consumption;
- 14 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
- 15 nebulizer, atomizer, or other device that is designed and intended by the
- 16 manufacturer to dispense a prescribed or over-the-counter medication or a
- 17 device installed and used by a licensee under this chapter to demonstrate the
- 18 aroma of an alcoholic beverage;
- 19 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
- 20 seating capacity of at least thirty thousand (30,000) people;
- 21 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 22 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
- 23 occupied for sleeping purposes by persons not members of the single-family
- 24 unit;
- 25 (b) Holds a permit under KRS Chapter 219; and
- 26 (c) Has an innkeeper who resides on the premises or property adjacent to the
- 27 premises during periods of occupancy;

- 1 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
2 241.030;
- 3 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
4 use and sale of alcoholic beverages at retail;
- 5 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
6 carries on, works, or conducts any brewery, either alone or through an agent;
- 7 (9) "Brewery" means any place or premises where malt beverages are manufactured for
8 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
9 and storerooms connected with the premises; or where any part of the process of the
10 manufacture of malt beverages is carried on; or where any apparatus connected with
11 manufacture is kept or used; or where any of the products of brewing or
12 fermentation are stored or kept;
- 13 (10) "Building containing licensed premises" means the licensed premises themselves
14 and includes the land, tract of land, or parking lot in which the premises are
15 contained, and any part of any building connected by direct access or by an entrance
16 which is under the ownership or control of the licensee by lease holdings or
17 ownership;
- 18 (11) "Caterer" means a person operating a food service business that prepares food in a
19 licensed and inspected commissary, transports the food and alcoholic beverages to
20 the caterer's designated and inspected banquet hall or to an agreed location, and
21 serves the food and alcoholic beverages pursuant to an agreement with another
22 person;
- 23 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
24 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
25 501(c)) or any organization having been established and continuously operating
26 within the Commonwealth of Kentucky for charitable purposes for three (3) years
27 and which expends at least sixty percent (60%) of its gross revenue exclusively for

- 1 religious, educational, literary, civic, fraternal, or patriotic purposes;
- 2 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or
3 more alcohol by volume and includes hard cider and perry cider;
- 4 (14) "City administrator" means city alcoholic beverage control administrator;
- 5 (15) "Commercial airport" means an airport through which more than five hundred
6 thousand (500,000) passengers arrive or depart annually;
- 7 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)
8 pairs of fully operative pedals for propulsion by means of human muscular power
9 exclusively and which:
- 10 (a) Has four (4) wheels;
- 11 (b) Is operated in a manner similar to that of a bicycle;
- 12 (c) Is equipped with a minimum of thirteen (13) seats for passengers;
- 13 (d) Has a unibody design;
- 14 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
- 15 (f) Is used for commercial tour purposes; and
- 16 (g) Is operated by the vehicle owner or an employee of the owner;
- 17 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
18 Control;
- 19 (18) "Convention center" means any facility which, in its usual and customary business,
20 provides seating for a minimum of one thousand (1,000) people and offers
21 convention facilities and related services for seminars, training and educational
22 purposes, trade association meetings, conventions, or civic and community events
23 or for plays, theatrical productions, or cultural exhibitions;
- 24 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
25 guilty, the decision of a court, or the finding of a jury, irrespective of a
26 pronouncement of judgment or the suspension of the judgment;
- 27 (20) "County administrator" means county alcoholic beverage control administrator;

- 1 (21) "Department" means the Department of Alcoholic Beverage Control;
- 2 (22) "Dining car" means a railroad passenger car that serves meals to consumers on any
3 railroad or Pullman car company;
- 4 (23) "Discount in the usual course of business" means price reductions, rebates, refunds,
5 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
6 an agreement made at the time of the sale of the merchandise involved and are
7 considered a part of the sales transaction, constituting reductions in price pursuant
8 to the terms of the sale, irrespective of whether the quantity discount was:
- 9 (a) Prorated and allowed on each delivery;
- 10 (b) Given in a lump sum after the entire quantity of merchandise purchased had
11 been delivered; or
- 12 (c) Based on dollar volume or on the quantity of merchandise purchased;
- 13 (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a
14 human being which contains alcohol in excess of the amount permitted by KRS
15 Chapter 242 obtained by distilling, mixed with water or other substances in
16 solution, except wine, hard cider, and malt beverages;
- 17 (25) "Distiller" means any person who is engaged in the business of manufacturing
18 distilled spirits at any distillery in the state and is registered in the Office of the
19 Collector of Internal Revenue for the United States at Louisville, Kentucky;
- 20 (26) "Distillery" means any place or premises where distilled spirits are manufactured for
21 sale, and which are registered in the office of any collector of internal revenue for
22 the United States. It includes any United States government bonded warehouse;
- 23 (27) "Distributor" means any person who distributes malt beverages for the purpose of
24 being sold at retail;
- 25 (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all
26 forms of retail alcohol sales through a local option election held under KRS Chapter
27 242;

- 1 (29) "Election" means:
- 2 (a) An election held for the purpose of taking the sense of the people as to the
- 3 application or discontinuance of alcoholic beverage sales under KRS Chapter
- 4 242; or
- 5 (b) Any other election not pertaining to alcohol;
- 6 (30) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
- 7 KRS Chapter 230;
- 8 (31) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
- 9 designed primarily to serve transient patrons;
- 10 (32) "Investigator" means any employee or agent of the department who is regularly
- 11 employed and whose primary function is to travel from place to place for the
- 12 purpose of visiting licensees, and any employee or agent of the department who is
- 13 assigned, temporarily or permanently, by the commissioner to duty outside the main
- 14 office of the department at Frankfort, in connection with the administration of
- 15 alcoholic beverage statutes;
- 16 (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 17 (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS
- 18 Chapters 241 to 244;
- 19 (35) "Limited restaurant" means:
- 20 (a) A facility where the usual and customary business is the preparation and
- 21 serving of meals to consumers, which has a bona fide kitchen facility, which
- 22 receives at least seventy percent (70%) of its food and alcoholic beverage
- 23 receipts from the sale of food, which maintains a minimum seating capacity of
- 24 fifty (50) persons for dining, which has no open bar, which requires that
- 25 alcoholic beverages be sold in conjunction with the sale of a meal, and which
- 26 is located in a wet or moist territory under KRS 242.1244; or
- 27 (b) A facility where the usual and customary business is the preparation and

1 serving of meals to consumers, which has a bona fide kitchen facility, which
2 receives at least seventy percent (70%) of its food and alcoholic beverage
3 receipts from the sale of food, which maintains a minimum seating capacity of
4 one hundred (100) persons of dining, and which is located in a wet or moist
5 territory under KRS 242.1244;

6 (36) "Local administrator" means a city alcoholic beverage administrator, county
7 alcoholic beverage administrator, or urban-county alcoholic beverage control
8 administrator;

9 (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or
10 description, manufactured from malt wholly or in part, or from any substitute for
11 malt, and includes weak cider;

12 (38) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

13 (39) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person
14 engaged in the production or bottling of alcoholic beverages;

15 (40) "Minor" means any person who is not twenty-one (21) years of age or older;

16 (41) "Moist" means a territory in which a majority of the electorate voted to permit
17 limited alcohol sales by any one (1) or a combination of special limited local option
18 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
19 242.1243, 242.1244, or 242.1292;

20 (42) "Population" means the population figures established by the federal decennial
21 census for a census year of the current yearly population estimates prepared by the
22 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
23 Louisville, Kentucky, for all other years;

24 (43) "Premises" means the land and building in and upon which any business regulated
25 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
26 as a single unit two (2) or more separate businesses of one (1) owner on the same
27 lot or tract of land, in the same or in different buildings if physical and permanent

1 separation of the premises is maintained, excluding employee access by keyed entry
2 and emergency exits equipped with crash bars, and each has a separate public
3 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
4 an alcoholic beverage license on July 15, 1998, shall not, by reason of this
5 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
6 of the license;

7 (44) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
8 producer, owner of the commodity at the time it becomes a marketable product,
9 bottler, or authorized agent of the brand owner. In the case of imported products, the
10 primary source of supply means either the foreign producer, owner, bottler, or agent
11 of the prime importer from, or the exclusive agent in, the United States of the
12 foreign distiller, producer, bottler, or owner;

13 (45) "Private club" means a nonprofit social, fraternal, military, or political organization,
14 club, or entity maintaining or operating a club room, club rooms, or premises from
15 which the general public is excluded;

16 (46) "Public nuisance" means a condition that endangers safety or health, is offensive to
17 the senses, or obstructs the free use of property so as to interfere with the
18 comfortable enjoyment of life or property by a community or neighborhood or by
19 any considerable number of persons;

20 (47) "Qualified historic site" means:

21 (a) A contributing property with dining facilities for at least fifty (50) persons at
22 tables, booths, or bars where food may be served within a commercial district
23 listed in the National Register of Historic Places;

24 (b) A site that is listed as a National Historic Landmark or in the National
25 Register of Historic Places with dining facilities for at least fifty (50) persons
26 at tables, booths, or bars where food may be served;

27 (c) A distillery which is listed as a National Historic Landmark and which

- 1 conducts souvenir retail package sales under KRS 243.0305; or
- 2 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
- 3 Places;
- 4 (48) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
- 5 wine by any process other than as provided for on distillery premises, and every
- 6 person who, without rectifying, purifying, or refining distilled spirits by mixing
- 7 alcoholic beverages with any materials, manufactures any imitations of or
- 8 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
- 9 spirits, cordials, bitters, or any other name;
- 10 (49) "Repackaging" means the placing of alcoholic beverages in any retail container
- 11 irrespective of the material from which the container is made;
- 12 (50) "Restaurant" means a facility where the usual and customary business is the
- 13 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
- 14 and that receives at least fifty percent (50%) of its food and alcoholic beverage
- 15 receipts from the sale of food at the premises;
- 16 (51) "Retail container" means any bottle, can, barrel, or other container which, without a
- 17 separable intermediate container, holds alcoholic beverages and is suitable and
- 18 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer
- 19 or not;
- 20 (52) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- 21 (53) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
- 22 consumers, except for producers with limited retail sale privileges;
- 23 (54) "Riverboat" means any boat or vessel with a regular place of mooring in this state
- 24 that is licensed by the United States Coast Guard to carry one hundred (100) or
- 25 more passengers for hire on navigable waters in or adjacent to this state;
- 26 (55) "Sale" means any transfer, exchange, or barter for consideration, and includes all
- 27 sales made by any person, whether principal, proprietor, agent, servant, or

- 1 employee, of any alcoholic beverage;
- 2 (56) "Service bar" means a bar, counter, shelving, or similar structure used for storing or
3 stocking supplies of alcoholic beverages that is a workstation where employees
4 prepare alcoholic beverage drinks to be delivered to customers away from the
5 service bar;
- 6 (57) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with
7 intent to sell, and the delivery of any alcoholic beverage;
- 8 (58) "Small farm winery" means a winery whose wine production is not less than two
9 hundred fifty (250) gallons and not greater than ~~five~~ hundred thousand
10 (500,000)~~(100,000)~~ gallons in a calendar year;
- 11 (59) "Souvenir package" means a special package of distilled spirits available from a
12 licensed retailer that is:
- 13 (a) Available for retail sale at a licensed Kentucky distillery where the distilled
14 spirits were produced or bottled; or
- 15 (b) Available for retail sale at a licensed Kentucky distillery but produced or
16 bottled at another of that distiller's licensed distilleries in Kentucky;
- 17 (60) "State administrator" or "administrator" means the distilled spirits administrator or
18 the malt beverages administrator, or both, as the context requires;
- 19 (61) "State park" means a state park that has a:
- 20 (a) Nine (9) or eighteen (18) hole golf course; or
- 21 (b) Full-service lodge and dining room;
- 22 (62) "Supplemental bar" means a bar, counter, shelving, or similar structure used for
23 serving and selling distilled spirits or wine by the drink for consumption on the
24 licensed premises to guests and patrons from additional locations other than the
25 main bar;
- 26 (63) "Territory" means a county, city, district, or precinct;
- 27 (64) "Urban-county administrator" means an urban-county alcoholic beverage control

- 1 administrator;
- 2 (65) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
3 move alcoholic beverages or any products, equipment, or appurtenances used to
4 manufacture, bottle, or sell these beverages;
- 5 (66) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- 6 (a) Are in their original manufacturer's unopened container;
- 7 (b) Are not owned by a distillery; and
- 8 (c) Are not otherwise available for purchase from a licensed wholesaler within
9 the Commonwealth;
- 10 (67) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 11 (68) "Weak cider" means any fermented fruit-based beverage containing more than one
12 percent (1%) but less than seven percent (7%) alcohol by volume;
- 13 (69) "Wet" means a territory in which a majority of the electorate voted to permit all
14 forms of retail alcohol sales by a local option election under KRS 242.050 or
15 242.125 on the following question: "Are you in favor of the sale of alcoholic
16 beverages in (name of territory)?";
- 17 (70) "Wholesale sale" means a sale to any person for the purpose of resale;
- 18 (71) "Wholesaler" means any person who distributes alcoholic beverages for the purpose
19 of being sold at retail, but it shall not include a subsidiary of a manufacturer or
20 cooperative of a retail outlet;
- 21 (72) "Wine" means the product of the normal alcoholic fermentation of the juices of
22 fruits, with the usual processes of manufacture and normal additions, and includes
23 champagne and sparkling and fortified wine of an alcoholic content not to exceed
24 twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry
25 cider and also includes preparations or mixtures vended in retail containers if these
26 preparations or mixtures contain not more than fifteen percent (15%) of alcohol by
27 volume. It does not include weak cider; and

1 (73) "Winery" means any place or premises in which wine is manufactured from any
2 fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are
3 compounded, except a place or premises that manufactures wine for sacramental
4 purposes exclusively.

5 ➔Section 25. KRS 243.884 is amended to read as follows:

- 6 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
7 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
8 and distilled spirits, all distributors of beer, and all microbreweries selling
9 malt beverages under KRS 243.157.
- 10 (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent
11 (11%) of the gross receipts of any such wholesaler or distributor derived from
12 "sales at wholesale" or "wholesale sales" made within the Commonwealth,
13 except as provided in subsection (3) of this section. For the purposes of this
14 section, the gross receipts of a microbrewery making "wholesale sales" shall
15 be calculated by determining the dollar value amount that the microbrewer
16 would have collected had it conveyed to a distributor the same volume sold to
17 a consumer as allowed under KRS 243.157 (3)(b) and (c).
- 18 (c) On and after July 1, 2015, the following rates shall apply:
- 19 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at
20 wholesale; and
- 21 2. For wine and beer:
- 22 a. Ten and three-quarters of one percent (10.75%) for wholesale sales
23 or sales at wholesale made on or after July 1, 2015, and before
24 June 1, 2016;
- 25 b. Ten and one-half of one percent (10.5%) for wholesale sales or
26 sales at wholesale made on or after June 1, 2016, and before June
27 1, 2017;

- 1 c. Ten and one-quarter of one percent (10.25%) for wholesale sales
2 or sales at wholesale made on or after June 1, 2017, and before
3 June 1, 2018; and
- 4 d. Ten percent (10%) for wholesale sales or sales at wholesale made
5 on or after June 1, 2018.
- 6 (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, and
7 microbreweries shall pay and report the tax levied by this section on or before the
8 twentieth day of the calendar month next succeeding the month in which possession
9 or title of the distilled spirits, wine, or malt beverages is transferred from the
10 wholesaler or distributor to retailers, or by microbreweries to consumers in this
11 state, in accordance with rules and regulations of the Department of Revenue
12 designed reasonably to protect the revenues of the Commonwealth.
- 13 (3) Gross receipts from sales at wholesale or wholesale sales shall not include the
14 following sales:
- 15 (a) Sales made between wholesalers or between distributors; and
- 16 (b) **Beginning January 1, 2019,** sales **during each calendar year of the first fifty**
17 **thousand (50,000) gallons of wine** made by a:
- 18 **1.** Small farm winery; or
- 19 **2.** Wholesaler of wine produced by a small farm winery~~[, if that small farm~~
20 ~~winery produces no more than fifty thousand (50,000) gallons of wine~~
21 ~~per year].~~
- 22 ➔Section 26. KRS 141.408 is amended to read as follows:
- 23 (1) There shall be allowed a nonrefundable and nontransferable credit against the tax
24 imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits
25 as provided in KRS 141.0205, for any taxpayer that, on or after January 1, 2018,
26 timely pays an ad valorem tax to the Commonwealth or any political subdivision
27 thereof for property described in KRS 132.020(1)(~~e~~)(~~n~~) or 132.099.

- 1 (2) The credit allowed under subsection (1) of this section shall be in an amount equal
2 to:
- 3 (a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable
4 years beginning on or after January 1, 2018, and before January 1, 2019;
- 5 (b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years
6 beginning on or after January 1, 2019, and before January 1, 2020;
- 7 (c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable
8 years beginning on or after January 1, 2020, and before January 1, 2021; and
- 9 (d) One hundred percent (100%) of the ad valorem taxes timely paid, for taxable
10 years beginning on or after January 1, 2021.
- 11 (3) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
12 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
13 through to its members, partners, or shareholders in the same proportion as the
14 distributive share of income or loss is passed through.
- 15 (4) No later than October 1, 2019, and annually thereafter, the department shall report
16 to the Interim Joint Committee on Appropriations and Revenue:
- 17 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
18 this section;
- 19 (b) The location of the property upon which the credit was allowed; and
- 20 (c) The amount of credit taken by that taxpayer.
- 21 ➔Section 27. KRS 141.428 is amended to read as follows:
- 22 (1) As used in this section:
- 23 (a) "Clean coal facility" means an electric generation facility beginning
24 commercial operation on or after January 1, 2005, at a cost greater than one
25 hundred fifty million dollars (\$150,000,000) that is located in the
26 Commonwealth of Kentucky and is certified by the Energy and Environment
27 Cabinet as reducing emissions of pollutants released during generation of

- 1 electricity through the use of clean coal equipment and technologies;
- 2 (b) "Clean coal equipment" means equipment purchased and installed for
3 commercial use in a clean coal facility to aid in reducing the level of
4 pollutants released during the generation of electricity from eligible coal;
- 5 (c) "Clean coal technologies" means technologies incorporated for use within a
6 clean coal facility to lower emissions of pollutants released during the
7 generation of electricity from eligible coal;
- 8 (d) "Eligible coal" means coal that is subject to the tax imposed under KRS
9 143.020;
- 10 (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and
11 (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).
- 12 (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable,
13 nontransferable credit shall be allowed for:
- 14 (a) Any electric power company subject to tax under KRS 136.120 and certified
15 as a clean coal facility or any taxpayer that owns or operates a clean coal
16 facility and purchases eligible coal that is used by the taxpayer in a certified
17 clean coal facility; or
- 18 (b) A parent company of an entity identified in paragraph (a) of this subsection if
19 the subsidiary is wholly owned.
- 20 (3) (a) The credit may be taken against the taxes imposed by:
- 21 1. ~~—KRS 136.070;~~
22 ~~2.~~ KRS 136.120; or
23 ~~2.~~~~3.~~ KRS 141.020 or 141.040, and 141.0401.
- 24 (b) The credit shall not be carried forward and must be used on the tax return filed
25 for the period during which the eligible coal was purchased. The Energy and
26 Environment Cabinet must approve and certify use of the clean coal
27 equipment and technologies within a clean coal facility before any taxpayer

1 may claim the credit.

2 (c) The credit allowed under paragraph (a) of this subsection shall be applied both
3 to the income tax imposed under KRS 141.020 or 141.040 and to the limited
4 liability entity tax imposed under KRS 141.0401, with the ordering of credits
5 as provided in KRS 141.0205.

6 (4) The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal
7 purchased that is used to generate electric power at a certified clean coal facility~~],~~
8 ~~except that no credit shall be allowed if the eligible coal has been used to generate a~~
9 ~~credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary].~~

10 (5) Each taxpayer eligible for the credit provided under subsection (2) of this section
11 shall file a clean coal incentive credit claim on forms prescribed by the Department
12 of Revenue. At the time of filing for the credit, the taxpayer shall submit an
13 electronic report verifying the tons of coal subject to the tax imposed by KRS
14 143.020 purchased for each year in which the credit is claimed. The Department of
15 Revenue shall determine the amount of the approved credit and issue a credit
16 certificate to the taxpayer.

17 (6) Corporations and pass-through entities subject to the tax imposed under KRS
18 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed
19 under this section, the approved credit against its liability for the taxes, in
20 consecutive order as follows:

21 (a) The credit shall first be applied against both the tax imposed by KRS
22 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering
23 of credits as provided in KRS 141.0205;

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

25 The credit shall meet the entirety of the taxpayer's liability under the first tax listed
26 in consecutive order before applying any remaining credit to the next tax listed. The
27 taxpayer's total liability under each preceding tax must be fully met before the

- 1 remaining credit can be applied to the subsequent tax listed in consecutive order.
- 2 (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the
3 amount of approved credit shall be applied against the tax imposed by KRS
4 141.0401 at the entity level, and shall also be distributed to each partner, member,
5 or shareholder based on the partner's, member's, or shareholder's distributive share
6 of the income of the pass-through entity. The credit shall be claimed in the same
7 manner as specified in subsection (6) of this section. Each pass-through entity shall
8 notify the Department of Revenue electronically of all partners, members, or
9 shareholders who may claim any amount of the approved credit. Failure to provide
10 information to the Department of Revenue in a manner prescribed by regulation
11 may constitute the forfeiture of available credits to all partners, members, or
12 shareholders associated with the pass-through entity.
- 13 (8) The taxpayer shall maintain all records associated with the credit for a period of five
14 (5) years. Acceptable verification of eligible coal purchased shall include invoices
15 that indicate the tons of eligible coal purchased from a Kentucky supplier of coal
16 and proof of remittance for that purchase.
- 17 (9) The Department of Revenue shall develop the forms required under this section,
18 specifying the procedure for claiming the credit, and applying the credit against the
19 taxpayer's liability in the order provided under subsections (6) and (7) of this
20 section.
- 21 (10) The Office of Energy Policy within the Energy and Environment Cabinet and the
22 Department of Revenue shall promulgate administrative regulations necessary to
23 administer this section.
- 24 (11) This section shall be known as the Kentucky Clean Coal Incentive Act.
- 25 ➔Section 28. KRS 154.20-232 is amended to read as follows:
- 26 (1) ~~(a) Beginning on April 14, 2018, the authority shall not accept any new~~
27 ~~applications for the Kentucky Angel Investment Act until on or after July 1,~~

1 ~~2022.~~

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

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

11 (3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-
12 240:

13 (a) Small businesses and individual investors shall request certification from the
14 authority pursuant to KRS 154.20-236. To be qualified, the small businesses
15 and individual investors shall fulfill the requirements outlined in KRS 154.20-
16 234; and

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

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

23 ➔Section 29. KRS 154.20-250 is amended to read as follows:

24 ~~[(1) Beginning on April 14, 2018, the authority shall not accept any new applications or~~
25 ~~make preliminary approvals for the Kentucky Investment Fund until on or after July~~
26 ~~1, 2022.~~

27 ~~(2)~~ The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital

1 investment in the Commonwealth of Kentucky, to encourage the establishment or
2 expansion of small businesses in Kentucky, to provide additional jobs, and to encourage
3 the development of new products and technologies in the state through capital
4 investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment
5 preference to Kentucky small businesses showing a potential for rapid growth. Insofar as
6 possible, any investment made in a Kentucky small business under the provisions of KRS
7 154.20-250 to 154.20-284 shall be used by that business to leverage additional capital
8 investments from other sources.

9 →Section 30. KRS 154.20-258 is amended to read as follows:

- 10 (1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%)
11 of the investor's proportional ownership share of all qualified investments made by
12 its investment fund and verified by the authority. The aggregate tax credit available
13 to any investor shall not exceed forty percent (40%) of the cash contribution made
14 by the investor to its investment fund. The credit may be applied against:
- 15 (a) Both the income tax imposed by KRS 141.020 or 141.040, and the limited
16 liability entity tax imposed by KRS 141.0401, with the ordering of the credits
17 as provided in KRS 141.0205;
- 18 (b)~~—The corporation license tax imposed by KRS 136.070;~~
- 19 ~~(c)}~~ The insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270; and
- 20 (c)~~(d)}~~ The taxes on financial institutions imposed by KRS 136.300, 136.310,
21 and 136.505.
- 22 (2) The tax credit amount that may be claimed by an investor in any tax year shall not
23 exceed fifty percent (50%) of the initial aggregate credit amount approved by the
24 authority for the investment fund which would be proportionally available to the
25 investor. An investor may first claim the credit granted in subsection (1) of this
26 section in the year following the year in which the credit is granted.
- 27 (3) If the credit amount that may be claimed in any tax year, as determined under

1 subsections (1) and (2) of this section, exceeds the investor's combined tax
2 liabilities against which the credit may be claimed for that year, the investor may
3 carry the excess tax credit forward until the tax credit is used, but the carry-forward
4 of any excess tax credit shall not increase the fifty percent (50%) limitation
5 established by subsection (2) of this section. Any tax credits not used within fifteen
6 (15) years of the approval by the authority of the aggregate tax credit amount
7 available to the investor shall be lost.

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

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

13 (a) A nonprofit entity may transfer, for some or no consideration, any or all of the
14 credits it receives under this section and any related benefits, rights,
15 responsibilities, and liabilities. Within thirty (30) days of the date of any
16 transfer of credits pursuant to this subsection, the nonprofit entity shall notify
17 the authority and the Department of Revenue of:

- 18 1. The name, address, and Social Security number or employer
19 identification number, as may be applicable, of the party to which the
20 nonprofit entity transferred its credits;
- 21 2. The amount of credits transferred; and
- 22 3. Any additional information the authority or the Department of Revenue
23 deems necessary.

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

27 (c) If an individual investor dies, the tax credits shall pass to the investor's estate

1 or beneficiaries in a manner consistent with the transfer of ownership of the
2 investor's interest in the investment fund.

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

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

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

14 The authority shall, within sixty (60) days of approval of credits, notify the
15 Department of Revenue of the information required pursuant to this subsection and
16 notify each investor of the amount of credits granted to that investor, and the year
17 the credits may first be claimed.

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

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

25 ➔Section 31. KRS 154.26-085 is amended to read as follows:

26 (1) If, prior to July 13, 2004, the authority has given its preliminary approval
27 designating an eligible company as a preliminarily approved company and

1 authorizing the undertaking of an economic revitalization project, but has not
 2 entered into a final agreement with the company, the company shall have the one-
 3 time option to:

- 4 (a) Operate under the existing agreement as preliminarily approved; or
 5 (b) Request the authority to amend the agreement to comply with the amendments
 6 to KRS 154.26-090, 154.26-100,~~136.0704,~~ and 141.310 in 2004 Ky. Acts
 7 ch. 105, secs. 12, 13, 14, and 21.

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

- 11 (a) Operate under the existing final agreement; or
 12 (b) Request the authority to amend only the employee assessment portion of the
 13 final agreement to comply with the amendment to KRS 154.26-100 in 2004
 14 Ky. Acts ch. 105, sec. 13.

15 ➔Section 32. KRS 154.26-095 is amended to read as follows:

16 ~~{(1) Beginning on April 14, 2018, the authority shall not accept any new applications or~~
 17 ~~make preliminary approvals of a revitalization agreement until on or after July 1,~~
 18 ~~2022.~~

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

- 23 ~~(1)~~~~{(a)}~~ The name of each approved company and the location of each economic
 24 revitalization project;
 25 ~~(2)~~~~{(b)}~~ The amount of approved costs for each economic revitalization project;
 26 ~~(3)~~~~{(c)}~~ The date the agreement was approved;
 27 ~~(4)~~~~{(d)}~~ Whether an assessment fee authorized by KRS 154.26-100 was a part of the

1 agreement;

2 ~~(5)(e)~~ The number of employees employed in manufacturing, the number of
 3 employees employed in coal mining and processing, or the number of employees
 4 employed in agribusiness operations;

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

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

9 ➔Section 33. KRS 154.26-115 is amended to read as follows:

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

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

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

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

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

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

26 ➔Section 34. KRS 155.170 is amended to read as follows:

27 (1) An annual excise tax is hereby levied on every corporation organized under this

1 chapter for the privilege of transacting business in this Commonwealth during the
2 calendar year, according to or measured by its entire net income, as defined herein,
3 received or accrued from all sources during the preceding calendar year, hereinafter
4 referred to as taxable year, at the rate of four and one-half percent (4.5%) of such
5 entire net income. The minimum tax assessable to any one (1) such corporation
6 shall be ten dollars (\$10). The liability for the tax imposed by this section shall arise
7 upon the first day of each calendar year, and shall be based upon and measured by
8 the entire net income of each such corporation for the preceding calendar year,
9 including all income received from government securities in such year. As used in
10 this section the words "taxable year" mean the calendar year next preceding the
11 calendar year for which and during which the excise tax is levied.

12 (2) The excise tax levied under subsection (1) of this section shall be in lieu of ~~the~~
13 ~~corporation license tax imposed by KRS 136.070,~~ the taxes imposed by KRS
14 141.040, and the taxes imposed by KRS 141.0401. It is the purpose and intent of the
15 General Assembly to levy taxes on corporations organized pursuant to this chapter
16 so that all such corporations will be taxed uniformly in a just and equitable manner
17 in accordance with the provisions of the Constitution of the Commonwealth of
18 Kentucky. The intent of this section is for the General Assembly to exercise the
19 powers of classification and of taxation on property, franchises, and trades
20 conferred by Section 171 of the Constitution of the Commonwealth.

21 (3) On or before June 1 of each year, the executive officer or officers of each
22 corporation shall file with the commissioner of the Department of Revenue a full
23 and accurate report of all income received or accrued during the taxable year, and
24 also an accurate record of the legal deductions in the same calendar year to the end
25 that the correct entire net income of the corporation may be determined. This report
26 shall be in such form and contain such information as the commissioner of the
27 Department of Revenue may specify. At the time of making such report by each

1 corporation, the taxes levied by this section with respect to an excise tax on
2 corporations organized pursuant to this chapter shall be paid to the commissioner of
3 the Department of Revenue.

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

8 (5) Any stockholder, member, or other holder of any securities, evidences of
9 indebtedness, or shares of the capital stock of the corporation who realizes a loss
10 from the sale, redemption, or other disposition of any securities, evidences of
11 indebtedness, or shares of the capital stock of the corporation, including any such
12 loss realized on a partial or complete liquidation of the corporation, and who is not
13 entitled to deduct such loss in computing any of such stockholder's, member's, or
14 other holder's taxes to the Commonwealth shall be entitled to credit against any
15 taxes subsequently becoming due to the Commonwealth from such stockholder,
16 member, or other holder, a percentage of such loss equivalent to the highest rate of
17 tax assessed for the year in which the loss occurs upon mercantile and business
18 corporations.

19 ➔Section 35. KRS 272.333 is amended to read as follows:

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

23 ➔Section 36. KRS 141.021 is amended to read as follows:

24 Notwithstanding the provisions of KRS 141.010, federal retirement annuities, and local
25 government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to
26 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to
27 95.784, 95.851 to 95.884, or 96.180, shall be excluded from gross income. Except federal

1 retirement annuities and local government retirement annuities accrued or accruing on or
2 after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
3 provided in KRS ~~141.019~~~~[141.010]~~ and 141.0215.

4 ➔Section 37. KRS 141.0215 is amended to read as follows:

5 (1) Notwithstanding the provisions of KRS 141.010~~(12)~~~~[(9)]~~, for tax years commencing
6 on or after January 1, 1998, the amount of all previously untaxed distributions from
7 a retirement plan paid pursuant to KRS Chapters 6, 16, 21, 61, 67A, 78, 90, 95, 96,
8 161, and 164, and the amount of all previously untaxed distributions paid from a
9 retirement plan by the federal government, which are excluded from gross income
10 pursuant to KRS 141.021, shall be included in gross income as follows:

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

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

20 (2) Any taxpayer receiving government retirement payments from more than one (1)
21 governmental unit shall separately determine the payment amount attributable to
22 each unit to be included in gross income, using the formula set forth in subsection
23 (1) of this section.

24 ➔Section 38. The following KRS sections are repealed:

25 136.078 Disposition of receipts.

26 136.090 Reports of corporations for license tax purposes -- Subject matter.

27 136.100 Time of filing reports -- Period covered -- Change of period.

1 ➔Section 39. Section 2 of this Act applies to qualified heavy equipment assessed
2 on or after January 1, 2020.

3 ➔Section 40. Sections 9 to 11 of this Act apply to transactions occurring on or
4 after July 1, 2019.

5 ➔Section 41. No claim for refund or credit of a tax overpayment for any taxable
6 period ending prior to July 1, 2018, made by an amended return, tax refund application,
7 or any other method after June 30, 2018, and based on the amendments to subsection (3)
8 of Section 14 of this Act or based on the amendments to Sections 15 or 16 of this Act,
9 shall be recognized for any purpose.

10 ➔Section 42. Notwithstanding KRS 449.090, the amendments to subsection (3)
11 of Section 14 of this Act and the amendments to Sections 15 and 16 of this Act are not
12 severable. If any amendment made to subsection (3) of Section 14 of this Act or any
13 amendment to Sections 15 or 16 of this Act is declared invalid for any reason, then all
14 amendments to subsection (3) of Section 14 of this Act and the amendments to Sections
15 15 and 16 of this Act shall also be invalid.