

1 AN ACT relating to the repeal of tax expenditures.

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

3 ➔Section 1. KRS 132.020 is amended to read as follows:

- 4 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes
5 at the rate of:
- 6 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
7 of value of all real property directed to be assessed for taxation;
 - 8 (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
9 value of all privately owned leasehold interests in industrial buildings, as
10 defined under KRS 103.200, owned and financed by a tax-exempt
11 governmental unit, or tax-exempt statutory authority under the provisions of
12 KRS Chapter 103, upon the prior approval of the Kentucky Economic
13 Development Finance Authority, except that the rate shall not apply to the
14 proportion of value of the leasehold interest created through any private
15 financing;
 - 16 (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
17 value of all qualifying voluntary environmental remediation property,
18 provided the property owner has corrected the effect of all known releases of
19 hazardous substances, pollutants, contaminants, petroleum, or petroleum
20 products located on the property consistent with a corrective action plan
21 approved by the Energy and Environment Cabinet pursuant to KRS 224.1-
22 400, 224.1-405, or 224.60-135, and provided the cleanup was not financed
23 through a public grant or the petroleum storage tank environmental assurance
24 fund. This rate shall apply for a period of three (3) years following the Energy
25 and Environment Cabinet's issuance of a No Further Action Letter or its
26 equivalent, after which the regular tax rate shall apply;
 - 27 (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of

- 1 value of all tobacco directed to be assessed for taxation;
- 2 (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
3 value of unmanufactured agricultural products;
- 4 (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
5 of all farm implements and farm machinery owned by or leased to a person
6 actually engaged in farming and used in his farm operations;
- 7 (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
8 of all livestock and domestic fowl;
- 9 (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
10 of all tangible personal property located in a foreign trade zone established
11 pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in
12 accordance with the regulations of the United States Customs Service and the
13 Foreign Trade Zones Board;
- 14 (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all
15 machinery actually engaged in manufacturing;
- 16 (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all
17 commercial radio and television equipment used to receive, capture, produce,
18 edit, enhance, modify, process, store, convey, or transmit audio or video
19 content or electronic signals which are broadcast over the air to an antenna,
20 including radio and television towers used to transmit or facilitate the
21 transmission of the signal broadcast and equipment used to gather or transmit
22 weather information, but excluding telephone and cellular communication
23 towers;
- 24 (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all
25 tangible personal property which has been certified as a pollution control
26 facility as defined in KRS 224.1-300. In the case of tangible personal property
27 certified as a pollution control facility which is incorporated into a landfill

1 facility, the tangible personal property shall be presumed to remain tangible
2 personal property for purposes of this paragraph if the tangible personal
3 property is being used for its intended purposes;

4 ~~(l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value~~
5 ~~of all property which has been certified as an alcohol production facility as~~
6 ~~defined in KRS 247.910, or as a fluidized bed energy production facility as~~
7 ~~defined in KRS 211.390;~~

8 ~~(m)~~ Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of
9 motor vehicles qualifying for permanent registration as historic motor vehicles
10 under the provisions of KRS 186.043;

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

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

15 2. Motor vehicles:

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

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

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

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

1 ~~(n)~~~~(o)~~ Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on
2 the operating property of railroads or railway companies that operate solely
3 within the Commonwealth;

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

7 ~~(p)~~~~(q)~~ One and one-half cents (\$0.015) per one hundred dollars (\$100) of
8 assessed value on federally documented vessels not used in the business of
9 transporting persons or property for compensation or hire, or for other
10 commercial purposes; and

11 ~~(q)~~~~(r)~~ Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value
12 of all other property directed to be assessed for taxation shall be paid by the
13 owner or person assessed, except as provided in KRS 132.030, 132.200,
14 136.300, and 136.320, providing a different tax rate for particular property.

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

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

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

22 (c) The assessment from leasehold property which is owned and financed by a
23 tax-exempt governmental unit, or tax-exempt statutory authority under the
24 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
25 one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any
26 year in which the aggregate assessed value of real property is less than the
27 preceding year, the state rate shall be increased to the extent necessary to

1 produce the approximate amount of revenue that was produced in the
2 preceding year from real property.

3 (3) By July 1 each year, the department shall compute the state tax rate applicable to
4 real property for the current year in accordance with the provisions of subsection (2)
5 of this section and certify the rate to the county clerks for their use in preparing the
6 tax bills. If the assessments for all counties have not been certified by July 1, the
7 department shall, when either real property assessments of at least seventy-five
8 percent (75%) of the total number of counties of the Commonwealth have been
9 determined to be acceptable by the department, or when the number of counties
10 having at least seventy-five percent (75%) of the total real property assessment for
11 the previous year have been determined to be acceptable by the department, make
12 an estimate of the real property assessments of the uncertified counties and compute
13 the state tax rate.

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

- 17 (a) The revenue resulting from new property as defined in KRS 132.010(8);
18 (b) The revenue from property which is subject to tax increment financing
19 pursuant to KRS Chapter 65; and
20 (c) The revenue from leasehold property which is owned and financed by a tax-
21 exempt governmental unit, or tax-exempt statutory authority under the
22 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
23 one-half cents (\$0.015) pursuant to subsection (1) of this section;

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

26 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value
27 of unmined coal certified by the department after July 1, 1994, shall not be included

1 with the assessed value of other real property in determining the state real property
2 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also
3 be excluded from the provisions of subsection (2) of this section. The calculated
4 rate shall, however, be applied to unmined coal property, and the state revenue shall
5 be devoted to the program described in KRS 146.550 to 146.570, except that four
6 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to
7 the State Treasury and credited to the Office of Energy Policy for the purpose of
8 public education of coal-related issues.

9 ➔Section 2. KRS 134.810 is amended to read as follows:

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

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

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

27 (4) When a motor vehicle has been transferred before registration renewal or before

1 taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on
2 January 1 of any year shall be liable for the taxes on the motor vehicle, except as
3 hereinafter provided.

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

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

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

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

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

20 on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS
21 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular
22 course of business under the provisions of KRS 132.020(1)(~~m~~)(~~n~~) and 132.220.

23 (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor
24 vehicle becomes delinquent, the state and each county, city, urban-county
25 government, or other taxing district shall have a lien on all motor vehicles owned or
26 acquired by the person who owned the motor vehicle at the time the tax liability
27 arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle

1 transferred while the taxes are due on that vehicle. For the purpose of delinquent ad
2 valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be
3 attached to another vehicle owned by the lessor.

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

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

12 ➔Section 3. KRS 139.195 is amended to read as follows:

13 As used in KRS 139.105, 139.200, 139.215, and 139.775:

14 (1) "Ancillary services" means services that are associated with or incidental to the
15 provision of telecommunications services, including caller ID services, detailed
16 telecommunications billing, directory assistance, vertical services, conference
17 bridging services, and voice mail services;

18 (2) "Air-to-ground radiotelephone service" means a radio service, as defined in 47
19 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio
20 telecommunications service for hire to subscribers in aircraft;

21 (3) "Call-by-call basis" means any method of charging for telecommunications services
22 where the price is measured by individual calls;

23 (4) "Communications channel" means a physical or virtual path of communications
24 over which signals are transmitted between or among customer channel termination
25 points;

26 (5) (a) "Communications service" means telecommunications services and ancillary
27 services.

- 1 (b) "Communications service" does not include the sale of communications
2 service to a communications provider that is buying the communications
3 service for sale or incorporation into a communications service for sale if:
- 4 1. The seller separately itemizes the charges for these services on the bill
5 provided to the purchaser; or
 - 6 2. The seller can identify, by reasonable and verifiable standards, the
7 charges for these services from its books and records kept in the regular
8 course of business for other purposes including nontax purposes. These
9 services include:
 - 10 a. Carrier access charges, excluding user access fees;
 - 11 b. Right of access charges;
 - 12 c. Interconnection charges paid by the provider of mobile
13 telecommunications services or other communications providers;
 - 14 d. Charges for the sale of unbundled network elements as defined in
15 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is
16 provided on an unbundled basis in accordance with 47 U.S.C. sec.
17 251(c)(3); and
 - 18 e. Charges for use of facilities for providing or receiving
19 communications service;
- 20 (6) "Conference bridging services" means an ancillary service that links two (2) or
21 more participants of an audio or video conference call and may include the
22 provision of a telephone number. "Conference bridging services" does not include
23 the telecommunications services used to reach the conference bridge;
- 24 (7) "Customer" means the person or entity that contracts with the seller of
25 communications services. If the end user of communications services is not the
26 contracting party, the end user of the communications service is the customer of the
27 communications service, but only as it applies to the sourcing of the sale of

- 1 communications services as provided in KRS 139.105. "Customer" does not include
2 a reseller of communications service or a serving carrier providing mobile
3 telecommunications service under an agreement to serve the customer outside the
4 home service provider's licensed service area;
- 5 (8) "Customer channel termination point" means the location where the customer or
6 other purchaser either inputs or receives communications;
- 7 (9) "Detailed telecommunications billing service" means an ancillary service of
8 separately stated information pertaining to individual calls on a customer's billing
9 statement;
- 10 (10) "Directory assistance" means an ancillary service of providing telephone number
11 information or address information;
- 12 (11) "End user" means the person who utilized the communications service. In the case
13 of an entity, "end user" means the individual who utilized the service on behalf of
14 the entity;
- 15 (12) "Fixed wireless service" means a telecommunications service that provides radio
16 communications between fixed points;
- 17 (13) "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5);
- 18 (14) "International" means a service that originates or terminates in the United States and
19 terminates or originates outside the United States, respectively. United States
20 includes the District of Columbia or a United States territory or possession;
- 21 (15) "Interstate" means a service that originates in one (1) state of the United States or a
22 United States territory or possession and terminates in a different state of the United
23 States or United States territory or possession;
- 24 (16) "Intrastate" means a service that originates in one (1) state of the United States or a
25 United States territory or possession and terminates in the same state of the United
26 States or a United States territory or possession;
- 27 (17) "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec.

1 124(7);

2 (18) "Mobile wireless service" means a telecommunications service that is transmitted,
3 conveyed, or routed regardless of the technology used, whereby the origination and
4 termination points or the origination or termination points of the transmission,
5 conveyance, or routing are not fixed, including, by the way of example only,
6 telecommunications services that are provided by a commercial mobile radio
7 service provider;

8 (19) "Paging service" means a telecommunications service that provides a transmission
9 of coded radio signals for the purpose of activating specific pagers. Such
10 transmissions may include messages or sounds;

11 ~~(20) "Pay telephone service" means a telecommunications service provided through any~~
12 ~~pay telephone;~~

13 ~~(21)~~ "Place of primary use" means the street address where the customer's or other
14 purchaser's use of the communications service primarily occurs, and that is the
15 residential street address or the primary business street address of the customer or
16 other purchaser. In the case of mobile telecommunications service, "place of
17 primary use" shall be within the licensed service area of the home service provider;

18 (21)~~(22)~~ "Postpaid calling service" means a telecommunications service obtained by
19 making a payment on a call-by-call basis either through the use of a credit card or
20 payment mechanism such as a bank card, travel card, credit card, or debit card, or
21 by charge made to a telephone number not associated with the origination or
22 termination of the telecommunications service. A postpaid calling service includes a
23 telecommunications service, except a prepaid wireless calling service, that would be
24 a prepaid service except that it is not exclusively a telecommunications service;

25 (22)~~(23)~~ "Prepaid calling service" means the right to access exclusively
26 telecommunications services, which are paid for in advance and which enable the
27 origination of calls using an access number or authorization code, whether manually

1 or electronically dialed, and that is sold in predetermined units or dollars of which
2 the number declines with use in a known amount;

3 ~~(23)~~~~(24)~~ "Prepaid wireless calling service" means a telecommunications service that:

4 (a) Provides the right to utilize mobile wireless service as well as other
5 nontelecommunications services, including the download of digital products
6 delivered electronically, content, and ancillary services;

7 (b) Must be paid for in advance; and

8 (c) Is sold in predetermined units of dollars of which the number declines with
9 use in a known amount;

10 ~~(24)~~~~(25)~~ "Private communications service" means a telecommunications service that
11 entitles the customer or other purchaser to exclusive or priority use of a
12 communications channel or group of channels between or among termination
13 points, regardless of the manner in which the channel or channels are connected,
14 and includes switching capacity, extension lines, stations, and any other associated
15 services that are provided in connection with the use of a channel or channels;

16 ~~(25)~~~~(26)~~ (a) "Service address" means the location of communications equipment to
17 which a customer's or other purchaser's call is charged and from which the call
18 originates or terminates, regardless of where the call is billed or paid.

19 (b) If the location of the communications equipment is not known, "service
20 address" means the origination point of the signal of the communications
21 services first identified by either the seller's communications system or in
22 information received by the seller from its service provider, where the system
23 used to transport the signals is not that of the seller.

24 (c) If the location cannot be determined according to the guidelines set forth in
25 paragraphs (a) and (b) of this subsection, "service address" means the location
26 of the customer's or other purchaser's place of primary use;

27 ~~(26)~~~~(27)~~ "Telecommunications nonrecurring charges" means an amount billed for the

1 installation, connection, change, or initiation of telecommunications service
2 received by the customer;

3 ~~(27)~~~~(28)~~ (a) "Telecommunications service" means the electronic transmission,
4 conveyance, or routing of voice, data, audio, video, or any other information
5 or signals to a point, or between or among points.

6 (b) "Telecommunications service" includes but is not limited to:

- 7 1. The transmission, conveyance, or routing in which computer processing
8 applications are used to act on the form, code, or protocol of the content
9 for purposes of transmission, conveyance, or routing without regard to
10 whether the service is referred to as voice over Internet protocol (VOIP)
11 services or is classified by the Federal Communications Commission as
12 enhanced or value-added;
- 13 2. Paging service;
- 14 3. Telegraph and teletypewriter services;
- 15 4. Local and long distance telephone services;
- 16 5. Fixed wireless service;
- 17 6. Mobile wireless service;
- 18 7. Private communications service;
- 19 8. Telecommunications nonrecurring charges;
- 20 9. Value-added nonvoice data service;
- 21 10. 800 service; and
- 22 11. 900 service.

23 (c) "Telecommunications service" does not include:

- 24 1. Data processing and information services that allow data to be
25 generated, acquired, stored, processed, or retrieved and delivered by an
26 electronic transmission to a purchaser where the purchaser's primary
27 purpose for the underlying transaction is the processed data or

- 1 information;
- 2 2. Installation or maintenance of wiring or equipment on a customer's
- 3 premises;
- 4 3. Tangible personal property or digital property;
- 5 4. Advertising, including but not limited to directory advertising;
- 6 5. Billing and collection services provided to third parties;
- 7 6. Internet access service as defined in 47 U.S.C. sec. 151;
- 8 7. Radio and television audio and video programming services, regardless
- 9 of the medium, including the furnishing of transmission, conveyance,
- 10 and routing of such services by the programming service provider. Radio
- 11 and television audio and video programming services shall include but
- 12 not be limited to cable services as defined in 47 U.S.C. sec. 522(6) and
- 13 audio and video programming services delivered by commercial mobile
- 14 radio service providers, as defined in 47 C.F.R. 20.3;
- 15 8. Ancillary services;
- 16 9. Digital products delivered electronically, including but not limited to
- 17 software, music, video, rating materials, or ring tones; or
- 18 10. Telephone answering services;

19 ~~(28)~~~~(29)~~ "Value-added nonvoice data service" means a service that otherwise meets the

20 definition of telecommunications service in which computer processing applications

21 are used to act on the form, content, code, or protocol of the information or data

22 primarily for the purpose other than transmission, conveyance, or routing;

23 ~~(29)~~~~(30)~~ "Vertical service" means an ancillary service that is offered in connection with

24 one (1) or more telecommunications services, which offers advanced calling

25 features that allow customers to identify callers and to manage multiple calls and

26 call connections, including conference bridging services;

27 ~~(30)~~~~(31)~~ "Voice mail service" means an ancillary service that enables the customer to

1 store, send, or receive recorded messages. "Voice mail service" does not include any
2 vertical services that the customer may be required to have in order to utilize the
3 voice mail service;

4 ~~(31)~~~~(32)~~ "800 service" means a telecommunications service that allows a caller to dial
5 a toll-free number without incurring a charge for the call. The service is typically
6 marketed under the name "800," "855," "866," "877," and "888" toll-free calling,
7 and any subsequent numbers designated by the Federal Communications
8 Commission; and

9 ~~(32)~~~~(33)~~ "900 service" means an inbound toll telecommunications service purchased by
10 a subscriber that allows the subscriber's customers to call in to the subscriber's
11 prerecorded announcement or live serve. "900 service" does not include the charge
12 for collections services provided to the seller of the telecommunications services to
13 the subscriber, or service or product sold by the subscriber to the subscriber's
14 customer. The service is typically marketed under the name "900" service and any
15 subsequent numbers designated by the Federal Communications Commission.

16 ➔Section 4. KRS 139.200 is amended to read as follows:

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

19 (1) Retail sales of:

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

22 (b) Digital property regardless of whether:

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

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

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

26 (2) The furnishing of the following:

27 (a) The rental of any room or rooms, lodgings, campsites, or accommodations

- 1 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
2 recreational vehicle parks, or any other place in which rooms, lodgings,
3 campsites, or accommodations are regularly furnished to transients for a
4 consideration. The tax shall not apply to rooms, lodgings, campsites, or
5 accommodations supplied for a continuous period of thirty (30) days or more
6 to a person;
- 7 (b) Sewer services;
- 8 (c) The sale of admissions, except:
- 9 1. Admissions to racetracks taxed under KRS 138.480;
- 10 2. Admissions to historical sites exempt under KRS 139.482; and
- 11 3. A portion of the admissions to county fairs exempt under KRS 139.470;
- 12 (d) Prepaid calling service and prepaid wireless calling service;
- 13 (e) Intrastate, interstate, and international communications services as defined in
14 KRS 139.195~~[, except the furnishing of pay telephone service as defined in~~
15 ~~KRS 139.195]~~;
- 16 (f) Distribution, transmission, or transportation services for natural gas that is for
17 storage, use, or other consumption in this state, excluding those services
18 furnished:
- 19 1. For natural gas that is classified as residential use as provided in KRS
20 139.470(7); or
- 21 2. To a seller or reseller of natural gas;
- 22 (g) Landscaping services, including but not limited to:
- 23 1. Lawn care and maintenance services;
- 24 2. Tree trimming, pruning, or removal services;
- 25 3. Landscape design and installation services;
- 26 4. Landscape care and maintenance services; and
- 27 5. Snow plowing or removal services;

- 1 (h) Janitorial services, including but not limited to residential and commercial
2 cleaning services, and carpet, upholstery, and window cleaning services;
- 3 (i) Small animal veterinary services, excluding veterinary services for equine,
4 cattle, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;
- 5 (j) Pet care services, including but not limited to grooming and boarding services,
6 pet sitting services, and pet obedience training services;
- 7 (k) Industrial laundry services, including but not limited to industrial uniform
8 supply services, protective apparel supply services, and industrial mat and rug
9 supply services;
- 10 (l) Non-coin-operated laundry and dry cleaning services;
- 11 (m) Linen supply services, including but not limited to table and bed linen supply
12 services and nonindustrial uniform supply services;
- 13 (n) Indoor skin tanning services, including but not limited to tanning booth or
14 tanning bed services and spray tanning services;
- 15 (o) Non-medical diet and weight reducing services;
- 16 (p) Limousine services, if a driver is provided; and
- 17 (q) Extended warranty services.

18 ➔Section 5. KRS 141.019 is amended to read as follows:

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

- 21 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
22 those taxpayers the deductions allowed individuals by Section 62 of the Internal
23 Revenue Code and adjusting as follows:
- 24 (a) Exclude income that is exempt from state taxation by the Kentucky
25 Constitution and the Constitution and statutory laws of the United States;
- 26 (b) Exclude income from supplemental annuities provided by the Railroad
27 Retirement Act of 1937 as amended and which are subject to federal income

- 1 tax by Pub. L. No. 89-699;
- 2 (c) Include interest income derived from obligations of sister states and political
3 subdivisions thereof;
- 4 (d) Exclude employee pension contributions picked up as provided for in KRS
5 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
6 and 161.540 upon a ruling by the Internal Revenue Service or the federal
7 courts that these contributions shall not be included as gross income until such
8 time as the contributions are distributed or made available to the employee;
- 9 (e) Exclude Social Security and railroad retirement benefits subject to federal
10 income tax;
- 11 (f) Exclude any money received because of a settlement or judgment in a lawsuit
12 brought against a manufacturer or distributor of "Agent Orange" for damages
13 resulting from exposure to Agent Orange by a member or veteran of the
14 Armed Forces of the United States or any dependent of such person who
15 served in Vietnam;
- 16 (g) 1. a. For taxable years beginning after December 31, 2005, but before
17 January 1, 2018, exclude up to forty-one thousand one hundred ten
18 dollars (\$41,110) of total distributions from pension plans, annuity
19 contracts, profit-sharing plans, retirement plans, or employee
20 savings plans; and
- 21 b. For taxable years beginning on or after January 1, 2018, exclude
22 up to thirty-one thousand one hundred ten dollars (\$31,110) of
23 total distributions from pension plans, annuity contracts, profit-
24 sharing plans, retirement plans, or employee savings plans.
- 25 2. As used in this paragraph:
- 26 a. "Annuity contract" has the same meaning as set forth in Section
27 1035 of the Internal Revenue Code;

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

- 1 (i) Exclude income received for services performed as a precinct worker for
2 election training or for working at election booths in state, county, and local
3 primaries or regular or special elections;
- 4 ~~(j)~~ Exclude any capital gains income attributable to property taken by eminent
5 domain;
- 6 ~~(k)~~ 1. Exclude all income from all sources for active duty and reserve members
7 and officers of the Armed Forces of the United States or National Guard
8 who are killed in the line of duty, for the year during which the death
9 occurred and the year prior to the year during which the death occurred.
- 10 2. For the purposes of this paragraph, "all income from all sources" shall
11 include all federal and state death benefits payable to the estate or any
12 beneficiaries;
- 13 ~~(k)~~~~(4)~~ Exclude all military pay received by active duty members of the Armed
14 Forces of the United States, members of reserve components of the Armed
15 Forces of the United States, and members of the National Guard, including
16 compensation for state active duty as described in KRS 38.205;
- 17 ~~(l)~~~~(m)~~ 1. Include the amount deducted for depreciation under 26 U.S.C. sec.
18 167 or 168; and
- 19 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and
- 20 ~~(m)~~~~(n)~~ Include the amount deducted under 26 U.S.C. sec. 199A; and
- 21 (2) Net income shall be calculated by subtracting from adjusted gross income all the
22 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
23 modified by KRS 141.0101, except:
- 24 (a) Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;
- 25 (b) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 26 (c) Any deduction allowed by 26 U.S.C. sec. 165 for losses;
- 27 (d) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;

- 1 (e) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 2 (f) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
3 deduction;
- 4 (g) Any deduction allowed by the Internal Revenue Code for amounts allowable
5 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
6 the estate of a decedent, unless there is filed with the income return a
7 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 8 (h) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
9 any other deductions in lieu thereof;
- 10 (i) Any deduction allowed for amounts paid to any club, organization, or
11 establishment which has been determined by the courts or an agency
12 established by the General Assembly and charged with enforcing the civil
13 rights laws of the Commonwealth, not to afford full and equal membership
14 and full and equal enjoyment of its goods, services, facilities, privileges,
15 advantages, or accommodations to any person because of race, color, religion,
16 national origin, or sex, except nothing shall be construed to deny a deduction
17 for amounts paid to any religious or denominational club, group, or
18 establishment or any organization operated solely for charitable or educational
19 purposes which restricts membership to persons of the same religion or
20 denomination in order to promote the religious principles for which it is
21 established and maintained; and
- 22 (j) A taxpayer may elect to claim the standard deduction allowed by KRS
23 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
24 and as modified by this section.

25 ➔Section 6. KRS 141.0205 is amended to read as follows:

26 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
27 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of

1 the credits shall be determined as follows:

- 2 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 3 141.020 shall be taken in the following order:
- 4 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 5 (b) The economic development credits computed under KRS 141.347, 141.381,
 6 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
 7 154.12-2088;
- 8 ~~(c) The qualified farming operation credit permitted by KRS 141.412;~~
- 9 ~~(d)~~ The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 10 ~~(d)~~(e) The health insurance credit permitted by KRS 141.062;
- 11 ~~(e)~~(f) The tax paid to other states credit permitted by KRS 141.070;
- 12 ~~(f)~~(g) The credit for hiring the unemployed permitted by KRS 141.065;
- 13 ~~(g)~~(h) The recycling or composting equipment credit permitted by KRS
 14 141.390;
- 15 ~~(h)~~(i) The tax credit for cash contributions in investment funds permitted by
 16 KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by
 17 KRS 154.20-258;
- 18 ~~(i)~~(j) The research facilities credit permitted by KRS 141.395;
- 19 ~~(j)~~(k) ~~The employer High School Equivalency Diploma program incentive~~
 20 ~~credit permitted under KRS 164.0062;~~
- 21 ~~(k)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
- 22 ~~(l)~~(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 23 ~~(l)~~(n) ~~The clean coal incentive credit permitted by KRS 141.428;~~
- 24 ~~(o)~~ The ethanol credit permitted by KRS 141.4242;
- 25 ~~(m)~~(p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 26 ~~(n)~~(q) The energy efficiency credits permitted by KRS 141.436;
- 27 ~~(o)~~(r) The railroad maintenance and improvement credit permitted by KRS

1 141.385;

2 ~~(p)~~~~(s)~~ The Endow Kentucky credit permitted by KRS 141.438;

3 ~~(q)~~~~(t)~~ The New Markets Development Program credit permitted by KRS
4 141.434;

5 ~~(r)~~~~(u)~~ The distilled spirits credit permitted by KRS 141.389;

6 ~~(s)~~~~(v)~~ The angel investor credit permitted by KRS 141.396;

7 ~~(t)~~~~(w)~~ The film industry credit permitted by KRS 141.383 for applications
8 approved on or after April 27, 2018; and

9 ~~(u)~~~~(x)~~ The inventory credit permitted by KRS 141.408.

10 (2) After the application of the nonrefundable credits in subsection (1) of this section,
11 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
12 shall be taken in the following order:

13 (a) The individual credits permitted by KRS 141.020(3);

14 (b) The credit permitted by KRS 141.066;

15 (c) The tuition credit permitted by KRS 141.069; and

16 (d) The household and dependent care credit permitted by KRS 141.067.

17 (3) After the application of the nonrefundable credits provided for in subsection (2) of
18 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
19 taken in the following order:

20 (a) The individual withholding tax credit permitted by KRS 141.350;

21 (b) The individual estimated tax payment credit permitted by KRS 141.305;

22 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
23 171.397(1)(b); and

24 (d) The film industry tax credit permitted by KRS 141.383 for applications
25 approved prior to April 27, 2018.

26 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
27 tax imposed by KRS 141.040.

- 1 (5) The following nonrefundable credits shall be applied against the sum of the tax
2 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
3 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 4 (a) The economic development credits computed under KRS 141.347, 141.381,
5 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
6 154.12-2088;
- 7 ~~(b) The qualified farming operation credit permitted by KRS 141.412;~~
- 8 ~~(c)~~ The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 9 (c)~~(d)~~ The health insurance credit permitted by KRS 141.062;
- 10 (d)~~(e)~~ The unemployment credit permitted by KRS 141.065;
- 11 (e)~~(f)~~ The recycling or composting equipment credit permitted by KRS
12 141.390;
- 13 (f)~~(g)~~ The coal conversion credit permitted by KRS 141.041;
- 14 ~~(h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
15 ending prior to January 1, 2008;~~
- 16 ~~(i)~~ The tax credit for cash contributions to investment funds permitted by KRS
17 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
18 154.20-258;
- 19 (g)~~(j)~~ The research facilities credit permitted by KRS 141.395;
- 20 (h)~~(k)~~ The employer High School Equivalency Diploma program incentive
21 credit permitted by KRS 164.0062;
- 22 ~~(l)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
- 23 (i)~~(m)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 24 (j)~~(n)~~ The clean coal incentive credit permitted by KRS 141.428;
- 25 ~~(o)~~ The ethanol credit permitted by KRS 141.4242;
- 26 (k)~~(p)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- 27 (l)~~(q)~~ The energy efficiency credits permitted by KRS 141.436;

1 subdivisions thereof;

2 ~~(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal~~
3 ~~covered by Section 631(e) of the Internal Revenue Code if the corporation~~
4 ~~does not claim any deduction for percentage depletion, or for expenditures~~
5 ~~attributable to the making and administering of the contract under which such~~
6 ~~disposition occurs or to the preservation of the economic interests retained~~
7 ~~under such contract;~~

8 ~~(e)~~ Include in the gross income of lessors income tax payments made by lessees
9 to lessors, under the provisions of Section 110 of the Internal Revenue Code,
10 and exclude such payments from the gross income of lessees;

11 ~~(e)~~~~(f)~~ Include the amount calculated under KRS 141.205;

12 ~~(f)~~~~(g)~~ Ignore the provisions of Section 281 of the Internal Revenue Code in
13 computing gross income;

14 ~~(g)~~~~(h)~~ Include the amount of depreciation deduction calculated under 26 U.S.C.
15 sec. 167 or 168; and

16 (2) Net income shall be calculated by subtracting from gross income:

17 (a) The deduction for depreciation allowed by KRS 141.0101;

18 (b) Any amount paid for vouchers or similar instruments that provide health
19 insurance coverage to employees or their families; and

20 (c) All the deductions from gross income allowed corporations by Chapter 1 of
21 the Internal Revenue Code, as modified by KRS 141.0101, except:

22 1. Any deduction for a state tax which is computed, in whole or in part, by
23 reference to gross or net income and which is paid or accrued to any
24 state of the United States, the District of Columbia, the Commonwealth
25 of Puerto Rico, any territory or possession of the United States, or to any
26 foreign country or political subdivision thereof;

27 2. The deductions contained in Sections 243, 244, 245, and 247 of the

- 1 Internal Revenue Code;
- 2 3. The provisions of Section 281 of the Internal Revenue Code shall be
- 3 ignored in computing net income;
- 4 4. Any deduction directly or indirectly allocable to income which is either
- 5 exempt from taxation or otherwise not taxed under the provisions of this
- 6 chapter, and nothing in this chapter shall be construed to permit the
- 7 same item to be deducted more than once;
- 8 5. Any deduction for amounts paid to any club, organization, or
- 9 establishment which has been determined by the courts or an agency
- 10 established by the General Assembly and charged with enforcing the
- 11 civil rights laws of the Commonwealth, not to afford full and equal
- 12 membership and full and equal enjoyment of its goods, services,
- 13 facilities, privileges, advantages, or accommodations to any person
- 14 because of race, color, religion, national origin, or sex, except nothing
- 15 shall be construed to deny a deduction for amounts paid to any religious
- 16 or denominational club, group, or establishment or any organization
- 17 operated solely for charitable or educational purposes which restricts
- 18 membership to persons of the same religion or denomination in order to
- 19 promote the religious principles for which it is established and
- 20 maintained;
- 21 6. Any deduction prohibited by KRS 141.205; and
- 22 7. Any dividends-paid deduction of any captive real estate investment trust.

23 ➔Section 8. KRS 141.0401 is amended to read as follows:

- 24 (1) As used in this section:
- 25 (a) "Kentucky gross receipts" means an amount equal to the computation of the
- 26 numerator of the apportionment fraction under KRS 141.120, any
- 27 administrative regulations related to the computation of the sales factor, and

- 1 KRS 141.121 and includes the proportionate share of Kentucky gross receipts
2 of all wholly or partially owned limited liability pass-through entities,
3 including all layers of a multi-layered pass-through structure;
- 4 (b) "Gross receipts from all sources" means an amount equal to the computation
5 of the denominator of the apportionment fraction under KRS 141.120, any
6 administrative regulations related to the computation of the sales factor, and
7 KRS 141.121 and includes the proportionate share of gross receipts from all
8 sources of all wholly or partially owned limited liability pass-through entities,
9 including all layers of a multi-layered pass-through structure;
- 10 (c) "Combined group" means all members of an affiliated group as defined in
11 KRS 141.200(9)(b) and all limited liability pass-through entities that would be
12 included in an affiliated group if organized as a corporation;
- 13 (d) "Cost of goods sold" means:
- 14 1. Amounts that are:
- 15 a. Allowable as cost of goods sold pursuant to the Internal Revenue
16 Code and any guidelines issued by the Internal Revenue Service
17 relating to cost of goods sold, unless modified by this paragraph;
18 and
- 19 b. Incurred in acquiring or producing the tangible product generating
20 the Kentucky gross receipts.
- 21 2. For manufacturing, producing, reselling, retailing, or wholesaling
22 activities, cost of goods sold shall only include costs directly incurred in
23 acquiring or producing the tangible product. In determining cost of
24 goods sold:
- 25 a. Labor costs shall be limited to direct labor costs as defined in
26 paragraph (f) of this subsection;
- 27 b. Bulk delivery costs as defined in paragraph (g) of this subsection

1 may be included; and
2 c. Costs allowable under Section 263A of the Internal Revenue Code
3 may be included only to the extent the costs are incurred in
4 acquiring or producing the tangible product generating the
5 Kentucky gross receipts. Notwithstanding the foregoing, indirect
6 labor costs allowable under Section 263A shall not be included;

7 3. For any activity other than manufacturing, producing, reselling, retailing,
8 or wholesaling, no costs shall be included in cost of goods sold.

9 As used in this paragraph, "guidelines issued by the Internal Revenue Service"
10 includes regulations, private letter rulings, or any other guidance issued by the
11 Internal Revenue Service that may be relied upon by taxpayers under reliance
12 standards established by the Internal Revenue Service;

13 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
14 returns and allowances attributable to Kentucky gross receipts, less the
15 cost of goods sold attributable to Kentucky gross receipts. If the amount
16 of returns and allowances attributable to Kentucky gross receipts and the
17 cost of goods sold attributable to Kentucky gross receipts is zero, then
18 "Kentucky gross profits" means Kentucky gross receipts; and

19 2. "Gross profits from all sources" means gross receipts from all sources
20 reduced by returns and allowances attributable to gross receipts from all
21 sources, less the cost of goods sold attributable to gross receipts from all
22 sources. If the amount of returns and allowances attributable to gross
23 receipts from all sources and the cost of goods sold attributable to gross
24 receipts from all sources is zero, then gross profits from all sources
25 means gross receipts from all sources;

26 (f) "Direct labor" means labor that is incorporated into the tangible product sold
27 or is an integral part of the manufacturing process;

- 1 (g) "Bulk delivery costs" means the cost of delivering the product to the consumer
2 if:
- 3 1. The tangible product is delivered in bulk and requires specialized
4 equipment that generally precludes commercial shipping; and
 - 5 2. The tangible product is taxable under KRS 138.220;
- 6 (h) "Manufacturing" and "producing" means:
- 7 1. Manufacturing, producing, constructing, or assembling components to
8 produce a significantly different or enhanced end tangible product;
 - 9 2. Mining or severing natural resources from the earth; or
 - 10 3. Growing or raising agricultural or horticultural products or animals;
- 11 (i) "Real property" means land and anything growing on, attached to, or erected
12 on it, excluding anything that may be severed without injury to the land;
- 13 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
14 product;
- 15 (k) "Tangible personal property" means property, other than real property, that has
16 physical form and characteristics; and
- 17 (l) "Tangible product" means real property and tangible personal property;
- 18 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
19 liability entity tax shall be paid by every corporation and every limited liability
20 pass-through entity doing business in Kentucky on all Kentucky gross receipts
21 or Kentucky gross profits except as provided in this subsection. A small
22 business exclusion from this tax shall be provided based on the reduction
23 contained in this subsection. The tax shall be the greater of the amount
24 computed under paragraph (b) of this subsection or one hundred seventy-five
25 dollars (\$175), regardless of the application of any tax credits provided under
26 this chapter or any other provisions of the Kentucky Revised Statutes for
27 which the business entity may qualify.

1 (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of
2 this paragraph:

3 1. a. If the corporation's or limited liability pass-through entity's gross
4 receipts from all sources are three million dollars (\$3,000,000) or
5 less, the limited liability entity tax shall be zero;

6 b. If the corporation's or limited liability pass-through entity's gross
7 receipts from all sources are greater than three million dollars
8 (\$3,000,000) but less than six million dollars (\$6,000,000), the
9 limited liability entity tax shall be nine and one-half cents (\$0.095)
10 per one hundred dollars (\$100) of the corporation's or limited
11 liability pass-through entity's Kentucky gross receipts reduced by
12 an amount equal to two thousand eight hundred fifty dollars
13 (\$2,850) multiplied by a fraction, the numerator of which is six
14 million dollars (\$6,000,000) less the amount of the corporation's or
15 limited liability pass-through entity's Kentucky gross receipts for
16 the taxable year, and the denominator of which is three million
17 dollars (\$3,000,000), but in no case shall the result be less than
18 zero;

19 c. If the corporation's or limited liability pass-through entity's gross
20 receipts from all sources are equal to or greater than six million
21 dollars (\$6,000,000), the limited liability entity tax shall be nine
22 and one-half cents (\$0.095) per one hundred dollars (\$100) of the
23 corporation's or limited liability pass-through entity's Kentucky
24 gross receipts.

25 2. a. If the corporation's or limited liability pass-through entity's gross
26 profits from all sources are three million dollars (\$3,000,000) or
27 less, the limited liability entity tax shall be zero;

- 1 b. If the corporation's or limited liability pass-through entity's gross
2 profits from all sources are at least three million dollars
3 (\$3,000,000) but less than six million dollars (\$6,000,000), the
4 limited liability entity tax shall be seventy-five cents (\$0.75) per
5 one hundred dollars (\$100) of the corporation's or limited liability
6 pass-through entity's Kentucky gross profits, reduced by an amount
7 equal to twenty-two thousand five hundred dollars (\$22,500)
8 multiplied by a fraction, the numerator of which is six million
9 dollars (\$6,000,000) less the amount of the corporation's or limited
10 liability pass-through entity's Kentucky gross profits, and the
11 denominator of which is three million dollars (\$3,000,000), but in
12 no case shall the result be less than zero;
- 13 c. If the corporation's or limited liability pass-through entity's gross
14 profits from all sources are equal to or greater than six million
15 dollars (\$6,000,000), the limited liability entity tax shall be
16 seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of
17 the corporation's or limited liability pass-through entity's Kentucky
18 gross profits.

19 In determining eligibility for the reductions contained in this paragraph, a
20 member of a combined group shall consider the combined gross receipts and
21 the combined gross profits from all sources of the entire combined group,
22 including eliminating entries for transactions among the group.

- 23 (c) A credit shall be allowed against the tax imposed under paragraph (a) of this
24 subsection for the current year to a corporation or limited liability pass-
25 through entity that owns an interest in a limited liability pass-through entity.
26 The credit shall be the proportionate share of tax calculated under this
27 subsection by the lower-level pass-through entity, as determined after the

1 amount of tax calculated by the pass-through entity has been reduced by the
2 minimum tax of one hundred seventy-five dollars (\$175). The credit shall
3 apply across multiple layers of a multi-layered pass-through entity structure.
4 The credit at each layer shall include the credit from each lower layer, after
5 reduction for the minimum tax of one hundred seventy-five dollars (\$175) at
6 each layer.

7 (d) The department may promulgate administrative regulations to establish a
8 method for calculating the cost of goods sold attributable to Kentucky.

9 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
10 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
11 credit amount shall be determined as follows:

12 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
13 shall be equal to the amount of tax calculated under subsection (2) of this
14 section for the current year after subtraction of any credits identified in KRS
15 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
16 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
17 paid by wholly or partially owned limited liability pass-through entities. The
18 amount of credit allowed to a corporation based on the amount of tax paid
19 under subsection (2) of this section for the current year shall be applied to the
20 income tax due from the corporation's activities in this state. Any remaining
21 credit from the corporation shall be disallowed.

22 (b) The credit allowed members, shareholders, or partners of a limited liability
23 pass-through entity shall be the members', shareholders', or partners'
24 proportionate share of the tax calculated under subsection (2) of this section
25 for the current year after subtraction of any credits identified in KRS
26 141.0205, as determined after the amount of tax paid has been reduced by the
27 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed

1 to members, shareholders, or partners of a limited liability pass-through entity
2 shall be applied to income tax assessed on income from the limited liability
3 pass-through entity. Any remaining credit from the limited liability pass-
4 through entity shall be disallowed.

5 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms
6 prepared by the department, on or before the fifteenth day of the fourth month
7 following the close of the taxpayer's taxable year. Any tax remaining due after
8 making the payments required in KRS 141.042 shall be paid by the original due
9 date of the return.

10 (5) The department shall prescribe forms and promulgate administrative regulations as
11 needed to administer the provisions of this section.

12 (6) The tax imposed by subsection (2) of this section shall not apply to:

13 (a) Financial institutions, as defined in KRS 136.500, except banker's banks
14 organized under KRS 287.135 or 286.3-135;

15 (b) Savings and loan associations organized under the laws of this state and under
16 the laws of the United States and making loans to members only;

17 (c) Banks for cooperatives;

18 (d) Production credit associations;

19 (e) Insurance companies, including farmers' or other mutual hail, cyclone,
20 windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

21 (f) Corporations or other entities exempt under Section 501 of the Internal
22 Revenue Code;

23 (g) Religious, educational, charitable, or like corporations not organized or
24 conducted for pecuniary profit;

25 (h) ~~Corporations whose only owned or leased property located in this state is~~
26 ~~located at the premises of a printer with which it has contracted for printing,~~
27 ~~provided that:~~

- 1 1. ~~The property consists of the final printed product, or copy from which~~
2 ~~the printed product is produced; and~~
- 3 2. ~~The corporation has no individuals receiving compensation in this state~~
4 ~~as provided in KRS 141.901;~~
- 5 ~~(i)}~~ Public service corporations subject to tax under KRS 136.120;
- 6 ~~(j)}~~ ~~Open end registered investment companies organized under the laws of this~~
7 ~~state and registered under the Investment Company Act of 1940;~~
- 8 ~~(k)}~~ ~~Any property or facility which has been certified as a fluidized bed energy~~
9 ~~production facility as defined in KRS 211.390;~~
- 10 ~~(l)}~~ ~~An alcohol production facility as defined in KRS 247.910;~~
- 11 ~~(m)}~~ Real estate investment trusts as defined in Section 856 of the Internal Revenue
12 Code;
- 13 ~~(n)}~~ ~~Regulated investment companies as defined in Section 851 of the~~
14 ~~Internal Revenue Code;~~
- 15 ~~(o)}~~ ~~Real estate mortgage investment conduits as defined in Section 860D of the~~
16 ~~Internal Revenue Code;~~
- 17 ~~(p)}~~ Personal service corporations as defined in Section 269A(b)(1) of the Internal
18 Revenue Code[;]
- 19 ~~(q)}~~ ~~Cooperatives described in Sections 521 and 1381 of the Internal Revenue~~
20 ~~Code, including farmers' agricultural and other cooperatives organized or~~
21 ~~recognized under KRS Chapter 272, advertising cooperatives, purchasing~~
22 ~~cooperatives, homeowners associations including those described in Section~~
23 ~~528 of the Internal Revenue Code, political organizations as defined in~~
24 ~~Section 527 of the Internal Revenue Code, and rural electric and rural~~
25 ~~telephone cooperatives; or~~
- 26 ~~(r)}~~ ~~Publicly traded partnerships as defined by Section 7704(b) of the Internal~~
27 ~~Revenue Code that are treated as partnerships for federal tax purposes under~~

1 ~~Section 7704(c) of the Internal Revenue Code, or their publicly traded~~
2 ~~partnership affiliates. "Publicly traded partnership affiliates" shall include any~~
3 ~~limited liability company or limited partnership for which at least eighty~~
4 ~~percent (80%) of the limited liability company member interests or limited~~
5 ~~partner interests are owned directly or indirectly by the publicly traded~~
6 ~~partnership].~~

7 (7) (a) As used in this subsection, "qualified exempt organization" means an entity
8 listed in subsection (6)(a) to ~~(j)(r)~~ of this section and shall not include any
9 entity whose exempt status has been disallowed by the Internal Revenue
10 Service.

11 (b) Notwithstanding any other provisions of this section, any limited liability
12 pass-through entity that is owned in whole or in part by a qualified exempt
13 organization shall, in calculating its Kentucky gross receipts or Kentucky
14 gross profits, exclude the proportionate share of its Kentucky gross receipts or
15 Kentucky gross profits attributable to the ownership interest of the qualified
16 exempt organization.

17 (c) Any limited liability pass-through entity that reduces Kentucky gross receipts
18 or Kentucky gross profits in accordance with paragraph (b) of this subsection
19 shall disregard the ownership interest of the qualified exempt organization in
20 determining the amount of credit available under subsection (3) of this
21 section.

22 (d) The Department of Revenue may promulgate an administrative regulation to
23 further define "qualified exempt organization" to include an entity for which
24 exemption is constitutionally or legally required, or to exclude any entity
25 created primarily for tax avoidance purposes with no legitimate business
26 purpose.

27 (8) The credit permitted by subsection (3) of this section shall flow through multiple

1 layers of limited liability pass-through entities and shall be claimed by the taxpayer
2 who ultimately pays the tax on the income of the limited liability pass-through
3 entity.

4 ➔Section 9. KRS 141.206 is amended to read as follows:

- 5 (1) Every pass-through entity doing business in this state shall, on or before the
6 fifteenth day of the fourth month following the close of its annual accounting
7 period, file a copy of its federal tax return with the form prescribed and furnished by
8 the department.
- 9 (2) Pass-through entities shall determine net income in the same manner as in the case
10 of an individual under KRS 141.010 and the adjustment required under Sections
11 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under
12 this section and the computation of the partner's, member's, or shareholder's
13 distributive share shall be computed as nearly as practicable identical with those
14 required for federal income tax purposes except to the extent required by
15 differences between this chapter and the federal income tax law and regulations.
- 16 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
17 member, or shareholder in a pass-through entity shall be liable for income tax only
18 in their individual, fiduciary, or corporate capacities, and no income tax shall be
19 assessed against the net income of any pass-through entity, except as required for S
20 corporations by KRS 141.040.
- 21 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
22 section, except publicly traded partnerships~~[as defined in KRS~~
23 ~~141.0401(6)(e)]~~, shall withhold Kentucky income tax on the distributive share,
24 whether distributed or undistributed, of each:
- 25 1. Nonresident individual partner, member, or shareholder; and
 - 26 2. Corporate partner or member that is doing business in Kentucky only
27 through its ownership interest in a pass-through entity.

1 (b) Withholding shall be at the maximum rate provided in KRS 141.020 or
2 141.040.

3 (5) (a) Effective for taxable years beginning after December 31, 2011, every pass-
4 through entity required to withhold Kentucky income tax as provided by
5 subsection (4) of this section shall make a declaration and payment of
6 estimated tax for the taxable year if:

7 1. For a nonresident individual partner, member, or shareholder, the
8 estimated tax liability can reasonably be expected to exceed five
9 hundred dollars (\$500); or

10 2. For a corporate partner or member that is doing business in Kentucky
11 only through its ownership interest in a pass-through entity, the
12 estimated tax liability can reasonably be expected to exceed five
13 thousand dollars (\$5,000).

14 (b) The declaration and payment of estimated tax shall contain the information
15 and shall be filed as provided in KRS 141.207.

16 (6) (a) If a pass-through entity demonstrates to the department that a partner,
17 member, or shareholder has filed an appropriate tax return for the prior year
18 with the department, then the pass-through entity shall not be required to
19 withhold on that partner, member, or shareholder for the current year unless
20 the exemption from withholding has been revoked pursuant to paragraph (b)
21 of this subsection.

22 (b) An exemption from withholding shall be considered revoked if the partner,
23 member, or shareholder does not file and pay all taxes due in a timely manner.
24 An exemption so revoked shall be reinstated only with permission of the
25 department. If a partner, member, or shareholder who has been exempted from
26 withholding does not file a return or pay the tax due, the department may
27 require the pass-through entity to pay to the department the amount that

1 should have been withheld, up to the amount of the partner's, member's, or
2 shareholder's ownership interest in the entity. The pass-through entity shall be
3 entitled to recover a payment made pursuant to this paragraph from the
4 partner, member, or shareholder on whose behalf the payment was made.

5 (7) In determining the tax under this chapter, a resident individual, estate, or trust that is
6 a partner, member, or shareholder in a pass-through entity shall take into account
7 the partner's, member's, or shareholder's total distributive share of the pass-through
8 entity's items of income, loss, deduction, and credit.

9 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
10 that is a partner, member, or shareholder in a pass-through entity required to file a
11 return under subsection (1) of this section shall take into account:

12 (a) 1. If the pass-through entity is doing business only in this state, the
13 partner's, member's, or shareholder's total distributive share of the pass-
14 through entity's items of income, loss, and deduction; or

15 2. If the pass-through entity is doing business both within and without this
16 state, the partner's, member's, or shareholder's distributive share of the
17 pass-through entity's items of income, loss, and deduction multiplied by
18 the apportionment fraction of the pass-through entity as prescribed in
19 subsection (11) of this section; and

20 (b) The partner's, member's, or shareholder's total distributive share of credits of
21 the pass-through entity.

22 (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member
23 in a pass-through entity shall take into account the corporation's distributive share of
24 the pass-through entity's items of income, loss, and deduction and:

25 (a) 1. For taxable years beginning on or after January 1, 2007, but prior
26 to January 1, 2018, shall include the proportionate share of the sales,
27 property, and payroll of the limited liability pass-through entity or

- 1 general partnership in computing its own apportionment factor; and
- 2 2. For taxable years beginning on or after January 1, 2018, shall include the
- 3 proportionate share of the sales of the limited liability pass-through
- 4 entity or general partnership in computing its own apportionment factor;
- 5 and
- 6 (b) Credits from the partnership.
- 7 (10) (a) If a pass-through entity is doing business both within and without this state,
- 8 the pass-through entity shall compute and furnish to each partner, member, or
- 9 shareholder the numerator and denominator of each factor of the
- 10 apportionment fraction determined in accordance with subsection (11) of this
- 11 section.
- 12 (b) For purposes of determining an apportionment fraction under paragraph (a) of
- 13 this subsection, if the pass-through entity is:
- 14 1. Doing business both within and without this state; and
- 15 2. A partner or member in another pass-through entity;
- 16 then the pass-through entity shall be deemed to own the pro rata share of the
- 17 property owned or leased by the other pass-through entity, and shall also
- 18 include its pro rata share of the other pass-through entity's payroll and sales.
- 19 (c) The phrases "a partner or member in another pass-through entity" and "doing
- 20 business both within and without this state" shall extend to each level of
- 21 multiple-tiered pass-through entities.
- 22 (d) The attribution to the pass-through entity of the pro rata share of property,
- 23 payroll and sales from its role as a partner or member in another pass-through
- 24 entity will also apply when determining the pass-through entity's ultimate
- 25 apportionment factor for property, payroll and sales as required under
- 26 subsection (11) of this section.
- 27 (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity

1 doing business within and without the state shall compute an apportionment
2 fraction, the numerator of which is the property factor, representing twenty-
3 five percent (25%) of the fraction, plus the payroll factor, representing twenty-
4 five percent (25%) of the fraction, plus the sales factor, representing fifty
5 percent (50%) of the fraction, with each factor determined in the same manner
6 as provided in KRS 141.901, and the denominator of which is four (4),
7 reduced by the number of factors, if any, having no denominator, provided
8 that if the sales factor has no denominator, then the denominator shall be
9 reduced by two (2).

10 (b) For taxable years beginning on or after January 1, 2018, a pass-through entity
11 doing business within and without the state shall compute an apportionment
12 fraction as provided in KRS 141.120.

13 (12) Resident individuals, estates, or trusts that are partners in a partnership, members of
14 a limited liability company electing partnership tax treatment for federal income tax
15 purposes, owners of single member limited liability companies, or shareholders in
16 an S corporation which does not do business in this state are subject to tax under
17 KRS 141.020 on federal net income, gain, deduction, or loss passed through the
18 partnership, limited liability company, or S corporation.

19 (13) An S corporation election made in accordance with Section 1362 of the Internal
20 Revenue Code for federal tax purposes is a binding election for Kentucky tax
21 purposes.

22 (14) (a) Nonresident individuals shall not be taxable on investment income distributed
23 by a qualified investment partnership. For purposes of this subsection, a
24 "qualified investment partnership" means a pass-through entity that, during the
25 taxable year, holds only investments that produce income that would not be
26 taxable to a nonresident individual if held or owned individually.

27 (b) A qualified investment partnership shall be subject to all other provisions

1 relating to a pass-through entity under this section and shall not be subject to
2 the tax imposed under KRS 141.040 or 141.0401.

- 3 (15) (a) 1. A pass-through entity may file a composite income tax return on behalf
4 of electing nonresident individual partners, members, or shareholders.
- 5 2. The pass-through entity shall report and pay on the composite income
6 tax return income tax at the highest marginal rate provided in this
7 chapter on any portion of the partners', members', or shareholders' pro
8 rata or distributive shares of income of the pass-through entity from
9 doing business in this state or deriving income from sources within this
10 state. Payments made pursuant to subsection (5) of this section shall be
11 credited against any tax due.
- 12 3. The pass-through entity filing a composite return shall still make
13 estimated tax payments if required to do so by subsection (5) of this
14 section, and shall remain subject to any penalty provided by KRS
15 131.180 or 141.990 for any declaration underpayment or any installment
16 not paid on time.
- 17 4. The partners', members', or shareholders' pro rata or distributive share of
18 income shall include all items of income or deduction used to compute
19 adjusted gross income on the Kentucky return that is passed through to
20 the partner, member, or shareholder by the pass-through entity, including
21 but not limited to interest, dividend, capital gains and losses, guaranteed
22 payments, and rents.
- 23 (b) A nonresident individual partner, member, or shareholder whose only source
24 of income within this state is distributive share income from one (1) or more
25 pass-through entities may elect to be included in a composite return filed
26 pursuant to this section.
- 27 (c) A nonresident individual partner, member, or shareholder that has been

1 included in a composite return may file an individual income tax return and
2 shall receive credit for tax paid on the partner's behalf by the pass-through
3 entity.

4 (d) A pass-through entity shall deliver to the department a return upon a form
5 prescribed by the department showing the total amounts paid or credited to its
6 electing nonresident individual partners, members, or shareholders, the
7 amount paid in accordance with this subsection, and any other information the
8 department may require. A pass-through entity shall furnish to its nonresident
9 partner, member, or shareholder annually, but not later than the fifteenth day
10 of the fourth month after the end of its taxable year, a record of the amount of
11 tax paid on behalf of the partner, member, or shareholder on a form prescribed
12 by the department.

13 ➔Section 10. KRS 141.408 is amended to read as follows:

14 (1) There shall be allowed a nonrefundable and nontransferable credit against the tax
15 imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits
16 as provided in KRS 141.0205, for any taxpayer that, on or after January 1, 2018,
17 timely pays an ad valorem tax to the Commonwealth or any political subdivision
18 thereof for property described in KRS 132.020(1)(m)(~~n~~) or 132.099.

19 (2) The credit allowed under subsection (1) of this section shall be in an amount equal
20 to:

21 (a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable
22 years beginning on or after January 1, 2018, and before January 1, 2019;

23 (b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years
24 beginning on or after January 1, 2019, and before January 1, 2020;

25 (c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable
26 years beginning on or after January 1, 2020, and before January 1, 2021; and

27 (d) One hundred percent (100%) of the ad valorem taxes timely paid, for taxable

1 years beginning on or after January 1, 2021.

2 (3) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
3 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
4 through to its members, partners, or shareholders in the same proportion as the
5 distributive share of income or loss is passed through.

6 (4) No later than October 1, 2019, and annually thereafter, the department shall report
7 to the Interim Joint Committee on Appropriations and Revenue:

8 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
9 this section;

10 (b) The location of the property upon which the credit was allowed; and

11 (c) The amount of credit taken by that taxpayer.

12 ➔Section 11. KRS 164.0062 is amended to read as follows:

13 The General Assembly recognizes the critical condition of the educational level of
14 Kentucky's adult population and seeks to stimulate the attendance at, and successful
15 completion of, programs that provide a High School Equivalency Diploma. Incentives
16 shall be provided to full-time employees who complete a High School Equivalency
17 Diploma program within one (1) year and their employers.

18 (1) The Kentucky Adult Education Program within the Council on Postsecondary
19 Education shall promulgate administrative regulations to establish the operational
20 procedures for this section. The administrative regulations shall include but not be
21 limited to the criteria for:

22 (a) A learning contract that includes the process to develop a learning contract
23 between the student and the adult education instructor with the employer's
24 agreement to participate and support the student;

25 (b) Attendance reports that validate that the student is enrolled and studying for
26 the High School Equivalency Diploma during the release time from work;

27 (c) Final reports that qualify the student for the tuition discounts under subsection

1 (2)(a) of this section ~~[and that qualify the employer for tax credits under~~
2 ~~subsection (3) of the section]~~.

3 (2) (a) An individual who has been out of secondary school for at least three (3)
4 years, develops and successfully completes a learning contract that requires a
5 minimum of five (5) hours per week to study for the High School Equivalency
6 Diploma program, and successfully earns a High School Equivalency Diploma
7 shall earn a tuition discount of two hundred fifty dollars (\$250) per semester
8 for a maximum of four (4) semesters at one (1) of Kentucky's public
9 postsecondary institutions.

10 (b) The program shall work with the postsecondary institutions to establish
11 notification procedures for students who qualify for the tuition discount.

12 ~~[(3) An employer who assists an individual to complete his or her learning contract~~
13 ~~under the provisions of this section shall receive a state tax credit against the~~
14 ~~income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax~~
15 ~~imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a~~
16 ~~portion of the released time given to the employee to study for the tests. The~~
17 ~~application for the tax credit shall be supported with attendance documentation~~
18 ~~provided by the Kentucky Adult Education Program and calculated by multiplying~~
19 ~~fifty percent (50%) of the hours released for study by the student's hourly salary, and~~
20 ~~not to exceed a credit of one thousand two hundred fifty dollars (\$1250).]~~

21 ➔Section 12. The following KRS sections are repealed:

22 139.505 Refundable credit of portion of sales tax paid on interstate business
23 communications service.

24 139.537 Exemption for coal-based near zero emission power plant.

25 143.023 Limitation of tax on coal severance for coal used in burning solid waste.

26 ➔Section 13. The following KRS sections are repealed:

27 141.041 Tax credit for corporations for installing, modifying or utilizing coal for

1 manufacturing or heating.

2 141.412 Tax credit for qualified farming operation.

3 141.414 Computation of tax and credit.

4 141.428 Kentucky Clean Coal Incentive Act -- Definitions -- Tax credit --
5 Administrative regulations.

6 ➔Section 14. Sections 1 and 2 of this Act apply to property assessed on or after
7 January 1, 2019.

8 ➔Section 15. Sections 3, 4, and 12 of this Act apply to transactions occurring on
9 or after July 1, 2019.

10 ➔Section 16. Sections 5 to 11 and 13 of this Act apply to taxable years beginning
11 on or after January 1, 2019.