

1 AN ACT relating to the taxation of pension income, making an appropriation  
2 therefor, and declaring an emergency.

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

4 ➔Section 1. KRS 141.019 is amended to read as follows:

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

- 7 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
8 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
9 Revenue Code and adjusting as follows:
- 10 (a) Exclude income that is exempt from state taxation by the Kentucky  
11 Constitution and the Constitution and statutory laws of the United States;
  - 12 (b) Exclude income from supplemental annuities provided by the Railroad  
13 Retirement Act of 1937 as amended and which are subject to federal income  
14 tax by Pub. L. No. 89-699;
  - 15 (c) Include interest income derived from obligations of sister states and political  
16 subdivisions thereof;
  - 17 (d) Exclude employee pension contributions picked up as provided for in KRS  
18 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
19 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
20 courts that these contributions shall not be included as gross income until such  
21 time as the contributions are distributed or made available to the employee;
  - 22 (e) Exclude Social Security and railroad retirement benefits subject to federal  
23 income tax;
  - 24 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
25 brought against a manufacturer or distributor of "Agent Orange" for damages  
26 resulting from exposure to Agent Orange by a member or veteran of the  
27 Armed Forces of the United States or any dependent of such person who

1 served in Vietnam;

2 (g) 1. ~~[a.—]For taxable years beginning after December 31, 2005[, but before~~  
3 ~~January 1, 2018]~~, exclude up to forty-one thousand one hundred ten  
4 dollars (\$41,110) of total distributions from pension plans, annuity  
5 contracts, profit-sharing plans, retirement plans, or employee savings  
6 plans~~]; and~~

7 ~~b.—For taxable years beginning on or after January 1, 2018, exclude~~  
8 ~~up to thirty one thousand one hundred ten dollars (\$31,110) of~~  
9 ~~total distributions from pension plans, annuity contracts, profit-~~  
10 ~~sharing plans, retirement plans, or employee savings plans].~~

11 2. As used in this paragraph:

12 a. "Annuity contract" has the same meaning as set forth in Section  
13 1035 of the Internal Revenue Code;

14 b. "Distributions" includes but is not limited to any lump-sum  
15 distribution from pension or profit-sharing plans qualifying for the  
16 income tax averaging provisions of Section 402 of the Internal  
17 Revenue Code; any distribution from an individual retirement  
18 account as defined in Section 408 of the Internal Revenue Code;  
19 and any disability pension distribution; and

20 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
21 savings plans" means any trust or other entity created or organized  
22 under a written retirement plan and forming part of a stock bonus,  
23 pension, or profit-sharing plan of a public or private employer for  
24 the exclusive benefit of employees or their beneficiaries and  
25 includes plans qualified or unqualified under Section 401 of the  
26 Internal Revenue Code and individual retirement accounts as  
27 defined in Section 408 of the Internal Revenue Code;

- 1 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
2 income from an S corporation subject to the franchise tax imposed  
3 under KRS 136.505 or the capital stock tax imposed under KRS  
4 136.300; and
- 5 b. Exclude the portion of the distributive share of a shareholder's net  
6 income from an S corporation related to a qualified subchapter S  
7 subsidiary subject to the franchise tax imposed under KRS  
8 136.505 or the capital stock tax imposed under KRS 136.300.
- 9 2. The shareholder's basis of stock held in an S corporation where the S  
10 corporation or its qualified subchapter S subsidiary is subject to the  
11 franchise tax imposed under KRS 136.505 or the capital stock tax  
12 imposed under KRS 136.300 shall be the same as the basis for federal  
13 income tax purposes;
- 14 (i) Exclude income received for services performed as a precinct worker for  
15 election training or for working at election booths in state, county, and local  
16 primaries or regular or special elections;
- 17 (j) Exclude any capital gains income attributable to property taken by eminent  
18 domain;
- 19 (k) 1. Exclude all income from all sources for active duty and reserve members  
20 and officers of the Armed Forces of the United States or National Guard  
21 who are killed in the line of duty, for the year during which the death  
22 occurred and the year prior to the year during which the death occurred.
- 23 2. For the purposes of this paragraph, "all income from all sources" shall  
24 include all federal and state death benefits payable to the estate or any  
25 beneficiaries;
- 26 (l) Exclude all military pay received by active duty members of the Armed Forces  
27 of the United States, members of reserve components of the Armed Forces of

- 1           the United States, and members of the National Guard, including  
2           compensation for state active duty as described in KRS 38.205;
- 3           (m) 1.    Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
4                    or 168; and
- 5                    2.    Exclude the amounts allowed by KRS 141.0101 for depreciation; and
- 6           (n)    Include the amount deducted under 26 U.S.C. sec. 199A; and
- 7    (2) Net income shall be calculated by subtracting from adjusted gross income all the  
8           deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
9           modified by KRS 141.0101, except:
- 10           (a)   Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;
- 11           (b)   Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 12           (c)   Any deduction allowed by 26 U.S.C. sec. 165 for losses;
- 13           (d)   Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 14           (e)   Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 15           (f)   Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
16                    deduction;
- 17           (g)   Any deduction allowed by the Internal Revenue Code for amounts allowable  
18                    under KRS 140.090(1)(h) in calculating the value of the distributive shares of  
19                    the estate of a decedent, unless there is filed with the income return a  
20                    statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 21           (h)   Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and  
22                    any other deductions in lieu thereof;
- 23           (i)   Any deduction allowed for amounts paid to any club, organization, or  
24                    establishment which has been determined by the courts or an agency  
25                    established by the General Assembly and charged with enforcing the civil  
26                    rights laws of the Commonwealth, not to afford full and equal membership  
27                    and full and equal enjoyment of its goods, services, facilities, privileges,

1 advantages, or accommodations to any person because of race, color, religion,  
2 national origin, or sex, except nothing shall be construed to deny a deduction  
3 for amounts paid to any religious or denominational club, group, or  
4 establishment or any organization operated solely for charitable or educational  
5 purposes which restricts membership to persons of the same religion or  
6 denomination in order to promote the religious principles for which it is  
7 established and maintained; and

8 (j) A taxpayer may elect to claim the standard deduction allowed by KRS  
9 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
10 and as modified by this section.

11 ➔Section 2. The provisions of Section 1 of this Act shall apply retroactively for  
12 taxable years beginning on or after January 1, 2018. The Department of Revenue shall  
13 automatically issue refunds of excess income tax paid for any individual who files an  
14 individual income tax return before Section 1 of this Act is integrated into the tax return  
15 form.

16 ➔Section 3. Whereas relief from excessive taxation of pension income is vital to  
17 many citizens of the Commonwealth, an emergency is declared to exist, and this Act  
18 takes effect upon its passage and approval by the Governor or upon its otherwise  
19 becoming a law.