

1 AN ACT relating to a sales and use tax exemption for certain nonprofit entities and
2 declaring an emergency.

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

4 ➔Section 1. KRS 139.010 is amended to read as follows:

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

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

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

10 (b) The privilege of using facilities or participating in an event or activity,
11 including but not limited to:

- 12 1. Bowling centers;
- 13 2. Skating rinks;
- 14 3. Health spas;
- 15 4. Swimming pools;
- 16 5. Tennis courts;
- 17 6. Weight training facilities;
- 18 7. Fitness and recreational sports centers; and
- 19 8. Golf courses, both public and private;

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

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

- 1 (3) "Business" includes any activity engaged in by any person or caused to be engaged
2 in by that person with the object of gain, benefit, or advantage, either direct or
3 indirect;
- 4 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 5 (5) "Department" means the Department of Revenue;
- 6 (6) (a) "Digital audio-visual works" means a series of related images which, when
7 shown in succession, impart an impression of motion, with accompanying
8 sounds, if any.
- 9 (b) "Digital audio-visual works" includes movies, motion pictures, musical
10 videos, news and entertainment programs, and live events.
- 11 (c) "Digital audio-visual works" shall not include video greeting cards, video
12 games, and electronic games;
- 13 (7) (a) "Digital audio works" means works that result from the fixation of a series of
14 musical, spoken, or other sounds.
- 15 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
16 readings of books or other written materials, speeches, or other sound
17 recordings.
- 18 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
19 mail;
- 20 (8) (a) "Digital books" means works that are generally recognized in the ordinary and
21 usual sense as books, including any literary work expressed in words,
22 numbers, or other verbal or numerical symbols or indicia if the literary work is
23 generally recognized in the ordinary or usual sense as a book.
- 24 (b) "Digital books" shall not include digital audio-visual works, digital audio
25 works, periodicals, magazines, newspapers, or other news or information
26 products, chat rooms, or Web logs;
- 27 (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain

1 one (1) or more types of digital property. A "digital code" may be obtained by
2 any means, including electronic mail messaging or by tangible means,
3 regardless of the code's designation as a song code, video code, or book code.

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

- 5 1. A stored monetary value that is deducted from a total as it is used by the
6 purchaser; or
- 7 2. A redeemable card, gift card, or gift certificate that entitles the holder to
8 select specific types of digital property;

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

- 11 1. Digital audio works;
- 12 2. Digital books;
- 13 3. Finished artwork;
- 14 4. Digital photographs;
- 15 5. Periodicals;
- 16 6. Newspapers;
- 17 7. Magazines;
- 18 8. Video greeting cards;
- 19 9. Audio greeting cards;
- 20 10. Video games;
- 21 11. Electronic games; or
- 22 12. Any digital code related to this property.

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

25 (11) (a) "Direct mail" means printed material delivered or distributed by United States
26 mail or other delivery service to a mass audience or to addressees on a mailing
27 list provided by the purchaser or at the direction of the purchaser when the

1 cost of the items are not billed directly to the recipient.

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

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

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

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

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

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

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

23 (b) "Finished artwork" includes:

- 24 1. Assemblies;
- 25 2. Charts;
- 26 3. Designs;
- 27 4. Drawings;

- 1 5. Graphs;
- 2 6. Illustrative materials;
- 3 7. Lettering;
- 4 8. Mechanicals;
- 5 9. Paintings; and
- 6 10. Paste-ups;

7 **(15) (a) "Fundraising" means the irregular or intermittent sale of tangible personal**
 8 **property, digital property, or services by a resident, nonprofit educational,**
 9 **charitable, or religious institution, which has qualified for exemption from**
 10 **income taxation under Section 501(c)(3) of the Internal Revenue Code for**
 11 **the purpose of obtaining funds from the public for the benefit of the**
 12 **organized purpose of the organization.**

13 **(b) "Fundraising" does not include the sale of tangible personal property,**
 14 **digital property, or services by a resident, nonprofit educational, charitable,**
 15 **or religious organization in an unrelated trade, business, or activity;**

16 **(16)**~~(15)~~ (a) "Gross receipts" and "sales price" mean the total amount or
 17 consideration, including cash, credit, property, and services, for which
 18 tangible personal property, digital property, or services are sold, leased, or
 19 rented, valued in money, whether received in money or otherwise, without any
 20 deduction for any of the following:

- 21 1. The retailer's cost of the tangible personal property or digital property
 22 sold;
- 23 2. The cost of the materials used, labor or service cost, interest, losses, all
 24 costs of transportation to the retailer, all taxes imposed on the retailer, or
 25 any other expense of the retailer;
- 26 3. Charges by the retailer for any services necessary to complete the sale;
- 27 4. Delivery charges, which are defined as charges by the retailer for the

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

1 b. The price reduction or discount is identified as a third-party price
2 reduction or discount on the invoice received by the purchaser or
3 on a coupon, certificate, or other documentation presented by the
4 purchaser; or

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

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

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

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

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

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

22 (17)~~[(16)]~~ "In this state" or "in the state" means within the exterior limits of the
23 Commonwealth and includes all territory within these limits owned by or ceded to
24 the United States of America;

25 (18)~~[(17)]~~ "Industrial processing" includes:

26 (a) Refining;

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

- 1 (c) Mining, quarrying, fabricating, and industrial assembling;
- 2 (d) The processing and packaging of raw materials, in-process materials, and
3 finished products; and
- 4 (e) The processing and packaging of farm and dairy products for sale;
- 5 ~~(18)~~ (19) (a) "Lease or rental" means any transfer of possession or control of tangible
6 personal property for a fixed or indeterminate term for consideration. A lease
7 or rental shall include future options to:
- 8 1. Purchase the property; or
- 9 2. Extend the terms of the agreement and agreements covering trailers
10 where the amount of consideration may be increased or decreased by
11 reference to the amount realized upon sale or disposition of the property
12 as defined in 26 U.S.C. sec. 7701(h)(1).
- 13 (b) "Lease or rental" shall not include:
- 14 1. A transfer of possession or control of property under a security
15 agreement or deferred payment plan that requires the transfer of title
16 upon completion of the required payments;
- 17 2. A transfer of possession or control of property under an agreement that
18 requires the transfer of title upon completion of the required payments
19 and payment of an option price that does not exceed the greater of one
20 hundred dollars (\$100) or one percent (1%) of the total required
21 payments; or
- 22 3. Providing tangible personal property and an operator for the tangible
23 personal property for a fixed or indeterminate period of time. To qualify
24 for this exclusion, the operator must be necessary for the equipment to
25 perform as designed, and the operator must do more than maintain,
26 inspect, or setup the tangible personal property.
- 27 (c) This definition shall apply regardless of the classification of a transaction

1 under generally accepted accounting principles, the Internal Revenue Code, or
2 other provisions of federal, state, or local law;

3 ~~(20)~~~~(19)~~ (a) "Machinery for new and expanded industry" means machinery:

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

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

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

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

11 b. Performs different functions;

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

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

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

19 ~~(21)~~~~(20)~~ "Manufacturing" means any process through which material having little or no
20 commercial value for its intended use before processing has appreciable commercial
21 value for its intended use after processing by the machinery;

22 ~~(22)~~~~(21)~~ "Marketplace" means any physical or electronic means through which one (1)
23 or more retailers may advertise and sell or lease tangible personal property or digital
24 property, such as a catalog, Internet Web site, or television or radio broadcast,
25 regardless of whether the tangible personal property, digital property, or retailer is
26 physically present in this state;

27 ~~(23)~~~~(22)~~ "Marketplace facilitator" means a person that facilitates the retail sale of

1 tangible personal property or digital property by listing or advertising the tangible
2 personal property for sale at retail and either directly or indirectly through
3 agreements or arrangements with third parties, collects the payment from the
4 purchaser, and transmits the payment to the person selling the property;

5 ~~(24)~~~~(23)~~ "Marketplace retailer" means a person that has an agreement with a
6 marketplace facilitator and makes retail sales of tangible personal property or digital
7 property through a marketplace;

8 ~~(25)~~~~(24)~~ (a) "Occasional sale" includes:

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

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

26 ~~(26)~~~~(25)~~ (a) "Other direct mail" means any direct mail that is not advertising and
27 promotional direct mail, regardless of whether advertising and promotional

1 direct mail is included in the same mailing.

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

- 3 1. Transactional direct mail that contains personal information specific to
4 the addressee, including but not limited to invoices, bills, statements of
5 account, and payroll advices;
- 6 2. Any legally required mailings, including but not limited to privacy
7 notices, tax reports, and stockholder reports; and
- 8 3. Other nonpromotional direct mail delivered to existing or former
9 shareholders, customers, employees, or agents, including but not limited
10 to newsletters and informational pieces.

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

14 ~~(27)~~~~(26)~~ "Person" includes any individual, firm, copartnership, joint venture,
15 association, social club, fraternal organization, corporation, estate, trust, business
16 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or
17 agency, or any other group or combination acting as a unit;

18 ~~(28)~~~~(27)~~ "Permanent," as the term applies to digital property, means perpetual or for an
19 indefinite or unspecified length of time;

20 ~~(29)~~~~(28)~~ "Plant facility" means a single location that is exclusively dedicated to
21 manufacturing or industrial processing activities. A location shall be deemed to be
22 exclusively dedicated to manufacturing or industrial processing activities even if
23 retail sales are made there, provided that the retail sales are incidental to the
24 manufacturing or industrial processing activities occurring at the location. The term
25 "plant facility" shall not include any restaurant, grocery store, shopping center, or
26 other retail establishment;

27 ~~(30)~~~~(29)~~ (a) "Prewritten computer software" means:

- 1 1. Computer software, including prewritten upgrades, that are not designed
2 and developed by the author or other creator to the specifications of a
3 specific purchaser;
 - 4 2. Software designed and developed by the author or other creator to the
5 specifications of a specific purchaser when it is sold to a person other
6 than the original purchaser; or
 - 7 3. Any portion of prewritten computer software that is modified or
8 enhanced in any manner, where the modification or enhancement is
9 designed and developed to the specifications of a specific purchaser,
10 unless there is a reasonable, separately stated charge on an invoice or
11 other statement of the price to the purchaser for the modification or
12 enhancement.
- 13 (b) When a person modifies or enhances computer software of which the person
14 is not the author or creator, the person shall be deemed to be the author or
15 creator only of the modifications or enhancements the person actually made.
- 16 (c) The combining of two (2) or more prewritten computer software programs or
17 portions thereof does not cause the combination to be other than prewritten
18 computer software;
- 19 ~~(31)~~~~(30)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
20 lease, or rental, conditional or otherwise, in any manner or by any means
21 whatsoever, of:
- 22 1. Tangible personal property;
 - 23 2. An extended warranty service; or
 - 24 3. Digital property transferred electronically;
- 25 for a consideration.
- 26 (b) "Purchase" includes:
- 27 1. When performed outside this state or when the customer gives a resale

1 certificate, the producing, fabricating, processing, printing, or imprinting
2 of tangible personal property for a consideration for consumers who
3 furnish either directly or indirectly the materials used in the producing,
4 fabricating, processing, printing, or imprinting;

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

8 3. A transfer for a consideration of the title or possession of tangible
9 personal property or digital property which has been produced,
10 fabricated, or printed to the special order of the customer, or of any
11 publication;

12 (32)~~[(31)]~~ "Recycled materials" means materials which have been recovered or diverted
13 from the solid waste stream and reused or returned to use in the form of raw
14 materials or products;

15 (33)~~[(32)]~~ "Recycling purposes" means those activities undertaken in which materials
16 that would otherwise become solid waste are collected, separated, or processed in
17 order to be reused or returned to use in the form of raw materials or products;

18 (34)~~[(33)]~~ "Referrer" means a person that:

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

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

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

27 (35)~~[(34)]~~ (a) "Remote retailer" means a retailer with no physical presence in this state.

1 (b) "Remote retailer" does not include a marketplace facilitator or a referrer;

2 ~~(36)~~~~(35)~~ (a) "Repair, replacement, or spare parts" means any tangible personal
3 property used to maintain, restore, mend, or repair machinery or equipment.

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

6 ~~(37)~~~~(36)~~ (a) "Retailer" means:

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

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

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

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

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

1 may regard the dealers, distributors, supervisors or employers as retailers for
2 purposes of this chapter.

3 (c) 1. Any person making sales at a charitable auction for a qualifying entity
4 shall not be a retailer for purposes of the sales made at the charitable
5 auction if:

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

8 b. The purchaser of tangible personal property at the auction directly
9 pays the qualifying entity sponsoring the auction for the property
10 and not the person making the sales at the auction; and

11 c. The qualifying entity, not the person making sales at the auction, is
12 responsible for the collection, control, and disbursement of the
13 auction proceeds.

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

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

18 a. Church;

19 b. School;

20 c. Civic club; or

21 d. Any other nonprofit charitable, religious, or educational
22 organization;

23 ~~(38)~~~~(37)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
24 sublease, or subrent;

25 ~~(39)~~~~(38)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
26 device and that may be used to alert the customer with respect to a
27 communication.

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

3 ~~(40)~~~~(39)~~ (a) "Sale" means:

- 4 1. The furnishing of any services included in KRS 139.200;
- 5 2. Any transfer of title or possession, exchange, barter, lease, or rental,
6 conditional or otherwise, in any manner or by any means whatsoever, of:
- 7 a. Tangible personal property; or
- 8 b. Digital property transferred electronically;
- 9 for a consideration.

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

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

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

24 ~~(41)~~~~(40)~~ "Seller" includes every person engaged in the business of selling tangible
25 personal property, digital property, or services of a kind, the gross receipts from the
26 retail sale of which are required to be included in the measure of the sales tax, and
27 every person engaged in making sales for resale;

1 ~~(42)~~~~(41)~~ (a) "Storage" includes any keeping or retention in this state for any purpose
2 except sale in the regular course of business or subsequent use solely outside
3 this state of tangible personal property or digital property purchased from a
4 retailer.

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

11 ~~(43)~~~~(42)~~ "Tangible personal property" means personal property which may be seen,
12 weighed, measured, felt, or touched, or which is in any other manner perceptible to
13 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
14 and prewritten computer software;

15 ~~(44)~~~~(43)~~ "Taxpayer" means any person liable for tax under this chapter;

16 ~~(45)~~~~(44)~~ "Transferred electronically" means accessed or obtained by the purchaser by
17 means other than tangible storage media; and

18 ~~(46)~~~~(45)~~ (a) "Use" includes the exercise of:

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

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

- 26 1. Selling tangible personal property or digital property in the regular
27 course of business; or

- 1 2. Subsequently transporting tangible personal property outside the state
2 for use thereafter solely outside the state, or for the purpose of being
3 processed, fabricated, or manufactured into, attached to, or incorporated
4 into, other tangible personal property to be transported outside the state
5 and thereafter used solely outside the state.

6 ➔Section 2. KRS 139.200 is amended to read as follows:

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

9 (1) Retail sales of:

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

12 (b) Digital property regardless of whether:

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

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

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

16 (2) The furnishing of the following:

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

24 (b) Sewer services;

25 (c) The sale of admissions, except:

26 1. Admissions to racetracks taxed under KRS 138.480;

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

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

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

10 ➔Section 3. KRS 139.495 is amended to read as follows:

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

23 as provided in this section.

- 24 (2) Tax does not apply to:
- 25 (a) Sales of tangible personal property, digital property, or services to these
- 26 institutions or limited liability companies described in subsection (1) of this
- 27 section, provided the tangible personal property, digital property, or service is

1 to be used solely in this state within the educational, charitable, or religious
2 function; ~~[-]~~

3 **(b) Fundraising sales of tangible personal property, digital property, or services**
4 **by these institutions or limited liability companies described in subsection**
5 **(1) of this section;**

6 **(c)** ~~[(3) Tax does not apply to]~~ Sales of food to students in school cafeterias or
7 lunchrooms; ~~[-]~~

8 **(d)** ~~[(4) Tax does not apply to]~~ Sales by school bookstores of textbooks,
9 workbooks, and other course materials; **or** ~~[-]~~

10 **(e)** ~~[(5) Tax does not apply to]~~ Sales by nonprofit, school sponsored clubs and
11 organizations, provided such sales do not include tickets for athletic events.

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

16 (a) Routinely sells donated items;

17 (b) Provides job training and employment to individuals with workplace
18 disadvantages and disabilities;

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

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

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

25 The maximum refund allowed for any location shall not exceed one million dollars
26 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost
27 of construction of any new facilities or the purchase and renovation of any existing

1 facilities, but does not include the cost of real property other than real property
2 designated as a brownfield site as defined in KRS 65.680(4).

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

9 ~~(5)~~~~(8)~~ All other sales made by nonprofit educational, charitable, or religious
10 institutions or limited liability companies described in subsection (1) of this section
11 are taxable and the tax may be passed on to the customer as provided in KRS
12 139.210.

13 ➔Section 4. KRS 139.496 is amended to read as follows:

14 (1) Notwithstanding any other provisions of this chapter, the taxes imposed herein do
15 not apply to the first one thousand dollars (\$1,000) of sales made in any calendar
16 year by individuals or nonprofit organizations not engaged in the business of
17 selling. This exemption is limited to the following types of transactions or activities:

18 (a) Garage or yard sales of household items by an individual or family which are
19 in no way associated with or related to the operation of a business;

20 (b) ~~An Fundraising~~ event held by nonprofit civic, governmental, or other
21 nonprofit organizations **for the purpose of raising moneys to be used to**
22 **further the mission of the organization**, except as set forth in **Sections 3 and**
23 **5 of this Act**~~[KRS 139.497].~~

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

27 ➔Section 5. KRS 139.497 is amended to read as follows:

1 Notwithstanding any other provisions of this chapter, the taxes imposed herein do not
2 apply to:

3 (1) Sales by elementary or secondary schools or nonprofit elementary or secondary
4 school-sponsored clubs and organizations or any nonprofit, elementary, or
5 secondary school-affiliated groups such as parent-teacher organizations and booster
6 clubs, whose membership may be composed of individuals other than students,
7 provided the net proceeds from the sales are used solely for the benefit of the
8 elementary or secondary school or its students. Nontaxable sales shall include sales
9 resulting from agreements or contracts entered into with resident or nonresident
10 organizations to participate in ~~fund-raising~~ campaigns **for the purpose of raising**
11 **moneys** for a percentage of the gross receipts where students act as agents or
12 salesmen for the organizations by selling or taking orders for the sale of tangible
13 personal property, and no one shall be required to pay sales or use taxes on such
14 sales;

15 (2) Sales made by nonprofit educational youth programs affiliated with a land grant
16 university cooperative extension service, if the net proceeds from the sales are used
17 solely for the benefit of the affiliated programs; or

18 (3) (a) Sales of tangible personal property made by a federally chartered corporation
19 at the corporation's annual national convention held in the Commonwealth.

20 (b) As used in this subsection, "federally chartered corporation" means a
21 corporation federally chartered under Title 36 of the United States Code and
22 whose stated purpose is to serve students and former students of vocational
23 agriculture in middle and secondary schools to develop character, train for
24 useful citizenship, and foster patriotism.

25 (c) The exemption provided in this subsection applies to sales made on and after
26 October 1, 2014, but before December 31, 2021.

27 ➔Section 6. Whereas reducing the tax impact on nonprofit organizations is

1 essential for charitable missions within Kentucky, an emergency is declared to exist, and
2 this Act takes effect on the first day of the first month after its passage and approval by
3 the Governor or its otherwise becoming a law.