

1 AN ACT relating to the Endow Kentucky tax credit.

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

3 ➔Section 1. KRS 141.438 is amended to read as follows:

4 **(1) For the purposes of this section:**

5 **(a) "Affiliate community foundation" has the same meaning as in KRS**  
 6 **147A.310;**

7 **(b) "County-specific component fund" has the same meaning as in KRS**  
 8 **147A.310;**

9 **(c) "Endowment gift" has the same meaning as in KRS 147A.310;**

10 **(d) "Rural county" means any county with a total population of fifty thousand**  
 11 **(50,000) or less; and**

12 **(e) "Qualified community foundation" has the same meaning as in KRS**  
 13 **147A.310.**

14 ~~(2)~~~~(1)~~ For taxable years beginning on or after January 1, 2011, there is hereby  
 15 established the Endow Kentucky tax credit.

16 ~~(3)~~~~(2)~~ A taxpayer providing an endowment gift to a permanent endowment fund of a  
 17 qualified community foundation, or county-specific component fund, or affiliate  
 18 community foundation, which has been certified under KRS 147A.325, and meeting  
 19 the requirements of subsection ~~(9)~~~~(7)~~ of this section, may claim a credit against  
 20 the taxes imposed by KRS 141.020 or 141.040 and 141.0401. The ordering of the  
 21 credit shall be as provided in KRS 141.0205.

22 ~~(4)~~~~(3)~~ The credit shall be equal to twenty percent (20%) of the value of the  
 23 endowment gift provided by the taxpayer, not to exceed ten thousand dollars  
 24 (\$10,000).

25 ~~(5)~~~~(4)~~ The credit shall be nonrefundable, but any amount of credit that a taxpayer is  
 26 not able to utilize during a particular taxable year may be carried forward for use in  
 27 a subsequent taxable year, for a period not to exceed five (5) years.

1 ~~(6)~~~~(5)~~ No tax credit claimed under this section may be sold or transferred. If the  
2 taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount  
3 of approved credit shall be applied against the tax imposed by KRS 141.0401 at the  
4 entity level, and shall also be distributed to each partner, member, or shareholder  
5 based on the partner's, member's, or shareholder's distributive share of the income of  
6 the pass-through entity.

7 ~~(7)~~~~(6)~~ The total amount of tax credit that may be awarded under this section shall be  
8 limited to:

9 (a) Five hundred thousand dollars (\$500,000) in each fiscal year beginning on or  
10 before July 1, 2015;~~and~~

11 (b) One million dollars (\$1,000,000) in each fiscal year beginning on or after July  
12 1, 2016; and

13 (c) Five million dollars (\$5,000,000) in each fiscal year beginning on or after  
14 July 1, 2020.

15 (8) Twenty percent (20%) of the tax credit cap available under this section shall be  
16 reserved for the permanent endowment funds of:

17 (a) Qualified community foundations;

18 (b) County-specific component funds; or

19 (c) Affiliate community foundations;

20 that exclusively serve rural counties. If by December 31 of each year the entire  
21 twenty percent (20%) of the reserved credit is not distributed, the remaining tax  
22 credits shall be available to any other eligible applicants.

23 ~~(9)~~~~(7)~~ A taxpayer pursuing a tax credit under this section shall:

24 (a) File an application for preliminary authorization of the tax credit with the  
25 department;

26 (b) After receiving preliminary authorization from the department, provide an  
27 endowment gift to a qualified community foundation, county-specific

1 component fund, or affiliate community foundation which has been certified  
2 under KRS 147A.325 within thirty (30) days of the date of the notice of  
3 authorization for the tax credit from the department; and

4 (c) Within ten (10) days of making the gift, report to the department proof of the  
5 endowment gift.

6 ~~(10)~~~~(8)~~ (a) The department shall:

7 1. Create the application required to be filed by the taxpayer seeking  
8 preliminary approval for the tax credit; and

9 2. Publish on its Web site the amount of total credit allocated to date, *the*  
10 *amount of the unreserved credit and reserved credit allocated to date,*  
11 the date the last processed application for preliminary approval was  
12 received, and the remaining credit available *for each category.*

13 (b) 1. Upon receipt of an application for preliminary approval submitted under  
14 subsection ~~(9)~~~~(7)~~ of this section, the department shall review the  
15 application and, if approved, the department shall issue a notice of  
16 preliminary approval to the requesting taxpayer.

17 2. The notice of preliminary approval shall include the amount of credit,  
18 shall notify the taxpayer that the proposed gift must be made within  
19 thirty (30) days of the date reflected on the notice of authorization, and  
20 that the taxpayer must notify the department that the gift has been made,  
21 in the form and format determined by the department, within ten (10)  
22 days of making the gift.

23 3. Upon preliminary approval of an application for credit, the department  
24 shall reduce the outstanding available credit cap amount to reflect the  
25 preliminary approved credit.

26 (c) Upon timely receipt of notification from a taxpayer preliminarily approved for  
27 a credit that the investment has been timely made, the department shall verify

1 the information provided and, if the information is accurate, the department  
2 shall issue a final tax credit letter to the taxpayer.

3 (d) If a taxpayer fails to make the required investment or provide proof of the  
4 investment to the department within the time frames established by this  
5 subsection and subsection ~~(9)~~~~(7)~~ of this section, the department shall void  
6 the preliminary approval and shall restore the allocated amounts to the tax  
7 credit cap.

8 **(11) In order for the General Assembly to evaluate the effect of the tax credit under**  
9 **this section, the department shall provide to the Interim Joint Committee on**  
10 **Appropriations and Revenue the following information, on a cumulative basis for**  
11 **each taxable year to provide a historical impact of the tax credit to the**  
12 **Commonwealth. The report shall be submitted no later than December 1, 2021,**  
13 **and on or before each December 1 thereafter:**

14 **(a) The number of tax returns claiming the credit for each taxable year;**

15 **(b) The total amount of the credits claimed for each taxable year;**

16 **(c) The cumulative total of the reduced tax liability by county, based on the**  
17 **mailing address on the return claiming the credit, for each taxable year;**

18 **(d) The cumulative amount of the tax credit carried forward to the next taxable**  
19 **year;**

20 **(e) 1. In the case of taxpayers other than corporations and based on ranges**  
21 **of adjusted gross income of no larger than five thousand dollars**  
22 **(\$5,000), the total amount of the reduced tax liability for each adjusted**  
23 **gross income range for each taxable year; and**

24 **2. In the case of corporations and based on ranges of taxable net income**  
25 **of no larger than fifty thousand dollars (\$50,000), the total amount of**  
26 **the reduced tax liability for each taxable net income range for each**  
27 **taxable year.**

1           ➔Section 2. KRS 131.190 is amended to read as follows:

2       (1) No present or former commissioner or employee of the department, present or  
3       former member of a county board of assessment appeals, present or former property  
4       valuation administrator or employee, present or former secretary or employee of the  
5       Finance and Administration Cabinet, former secretary or employee of the Revenue  
6       Cabinet, or any other person, shall intentionally and without authorization inspect or  
7       divulge any information acquired by him of the affairs of any person, or information  
8       regarding the tax schedules, returns, or reports required to be filed with the  
9       department or other proper officer, or any information produced by a hearing or  
10      investigation, insofar as the information may have to do with the affairs of the  
11      person's business.

12      (2) The prohibition established by subsection (1) of this section shall not extend to:

13      (a) Information required in prosecutions for making false reports or returns of  
14      property for taxation, or any other infraction of the tax laws;

15      (b) Any matter properly entered upon any assessment record, or in any way made  
16      a matter of public record;

17      (c) Furnishing any taxpayer or his properly authorized agent with information  
18      respecting his own return;

19      (d) Testimony provided by the commissioner or any employee of the department  
20      in any court, or the introduction as evidence of returns or reports filed with the  
21      department, in an action for violation of state or federal tax laws or in any  
22      action challenging state or federal tax laws;

23      (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
24      energy resources assessed under KRS 132.820, or owners of surface land  
25      under which the unmined minerals lie, factual information about the owner's  
26      property derived from third-party returns filed for that owner's property, under  
27      the provisions of KRS 132.820, that is used to determine the owner's

- 1 assessment. This information shall be provided to the owner on a confidential  
2 basis, and the owner shall be subject to the penalties provided in KRS  
3 131.990(2). The third-party filer shall be given prior notice of any disclosure  
4 of information to the owner that was provided by the third-party filer;
- 5 (f) Providing to a third-party purchaser pursuant to an order entered in a  
6 foreclosure action filed in a court of competent jurisdiction, factual  
7 information related to the owner or lessee of coal, oil, gas reserves, or any  
8 other mineral resources assessed under KRS 132.820. The department may  
9 promulgate an administrative regulation establishing a fee schedule for the  
10 provision of the information described in this paragraph. Any fee imposed  
11 shall not exceed the greater of the actual cost of providing the information or  
12 ten dollars (\$10);
- 13 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
14 the Kentucky Supreme Court under KRS 131.1817;
- 15 (h) Statistics of gasoline and special fuels gallonage reported to the department  
16 under KRS 138.210 to 138.448;
- 17 (i) Providing any utility gross receipts license tax return information that is  
18 necessary to administer the provisions of KRS 160.613 to 160.617 to  
19 applicable school districts on a confidential basis;
- 20 (j) Providing documents, data, or other information to a third party pursuant to an  
21 order issued by a court of competent jurisdiction; or
- 22 (k) Providing information to the Legislative Research Commission under:
- 23 1. KRS 139.519 for purposes of the sales and use tax refund on building  
24 materials used for disaster recovery;
  - 25 2. KRS 141.436 for purposes of the energy efficiency products credits;
  - 26 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
27 ENERGY STAR manufactured home credits;

- 1           4.    KRS 148.544 for purposes of the film industry incentives;
- 2           5.    KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 3                tax credits and the job assessment fees;
- 4           6.    KRS 141.068 for purposes of the Kentucky investment fund;
- 5           7.    KRS 141.396 for purposes of the angel investor tax credit;
- 6           8.    KRS 141.389 for purposes of the distilled spirits credit;
- 7           9.    KRS 141.408 for purposes of the inventory credit; ~~and~~
- 8           10.   KRS 141.390 for purposes of the recycling and composting credit; **and**
- 9           **11. Section 1 of this Act for purposes of the Endow Kentucky tax credit.**

10   (3)   The commissioner shall make available any information for official use only and on  
11       a confidential basis to the proper officer, agency, board or commission of this state,  
12       any Kentucky county, any Kentucky city, any other state, or the federal government,  
13       under reciprocal agreements whereby the department shall receive similar or useful  
14       information in return.

15   (4)   Access to and inspection of information received from the Internal Revenue Service  
16       is for department use only, and is restricted to tax administration purposes.  
17       Information received from the Internal Revenue Service shall not be made available  
18       to any other agency of state government, or any county, city, or other state, and shall  
19       not be inspected intentionally and without authorization by any present secretary or  
20       employee of the Finance and Administration Cabinet, commissioner or employee of  
21       the department, or any other person.

22   (5)   Statistics of crude oil as reported to the Department of Revenue under the crude oil  
23       excise tax requirements of KRS Chapter 137 and statistics of natural gas production  
24       as reported to the Department of Revenue under the natural resources severance tax  
25       requirements of KRS Chapter 143A may be made public by the department by  
26       release to the Energy and Environment Cabinet, Department for Natural Resources.

27   (6)   Notwithstanding any provision of law to the contrary, beginning with mine-map

1        submissions for the 1989 tax year, the department may make public or divulge only  
2        those portions of mine maps submitted by taxpayers to the department pursuant to  
3        KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
4        out parcel areas. These electronic maps shall not be relied upon to determine actual  
5        boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
6        required under KRS Chapters 350 and 352 shall not be construed to constitute land  
7        surveying or boundary surveys as defined by KRS 322.010 and any administrative  
8        regulations promulgated thereto.